

**Tab 1 CS/CS/SB 328 by IS, JU, Brandes; (Similar to CS/CS/H 00337) Courts**

867520	A	S	RS	ACJ, Brandes	Delete L.73 - 245:	04/16 08:57 PM
405216	SA	S	RCS	ACJ, Brandes	Delete L.66 - 245:	04/16 08:57 PM

**Tab 2 CS/SB 624 by CJ, Montford (CO-INTRODUCERS) Thurston; (Similar to H 00755) Youth in Solitary Confinement**

514928	A	S	RS	ACJ, Montford	Delete L.262 - 373.	04/16 08:57 PM
626484	SA	S	RCS	ACJ, Montford	Delete L.262 - 513:	04/16 08:57 PM

**Tab 3 CS/SB 642 by CJ, Brandes (CO-INTRODUCERS) Gruters, Rouson, Perry, Broxson, Taddeo; (Similar to H 00705) Criminal Justice**

271420	D	S	RCS	ACJ, Brandes	Delete everything after	04/16 08:58 PM
892512	AA	S	RCS	ACJ, Brandes	Delete L.301 - 306:	04/16 08:58 PM
261344	AA	S	RCS	ACJ, Brandes	Delete L.1083 - 1120:	04/16 08:58 PM
160412	AA	S	RCS	ACJ, Bracy	btw L.3326 - 3327:	04/16 08:58 PM
439964	AA	S	RCS	ACJ, Brandes	Delete L.3422 - 3456.	04/16 08:58 PM
736318	AA	S	WD	ACJ, Bracy	Delete L.3675 - 3924:	04/16 08:58 PM
425892	A	S	WD	ACJ, Bracy	Delete L.140 - 188:	04/16 08:58 PM
516056	A	S	WD	ACJ, Bracy	Delete L.336 - 544:	04/16 08:58 PM
335422	A	S	WD	ACJ, Bracy	Delete L.352 - 357:	04/16 08:58 PM

**Tab 4 CS/SB 762 by JU, Gruters; (Identical to CS/H 00639) Duties and Obligations of Sheriffs**

**Tab 5 CS/SB 768 by JU, Perry; (Compare to CS/H 00297) Attorney Fees**

**Tab 6 CS/SB 876 by CJ, Powell (CO-INTRODUCERS) Rouson; (Similar to CS/H 00575) Direct Filing of an Information**

**Tab 7 CS/SB 916 by CJ, Pizzo; (Similar to CS/CS/H 00669) Technology Crimes**

**Tab 8 CS/SB 1074 by CJ, Brandes; Sentencing**

**Tab 9 SB 1764 by Baxley; (Compare to CS/H 07081) Fees/Foreign Language Court Reporter/Fingerprint Processing**

846562	T	S	RCS	ACJ, Baxley	In title, delete L.4:	04/16 08:58 PM
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The Florida Senate  
**COMMITTEE MEETING EXPANDED AGENDA**  
**APPROPRIATIONS SUBCOMMITTEE ON CRIMINAL AND CIVIL JUSTICE**  
**Senator Brandes, Chair**  
**Senator Bracy, Vice Chair**

**MEETING DATE:** Tuesday, April 16, 2019  
**TIME:** 9:00 a.m.—12:00 noon  
**PLACE:** *Mallory Horne Committee Room, 37 Senate Building*

**MEMBERS:** Senator Brandes, Chair; Senator Bracy, Vice Chair; Senators Gainer, Gruters, Harrell, Perry, Rouson, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/CS/SB 328</b> Infrastructure and Security / Judiciary / Brandes (Similar CS/H 337)	Courts; Requiring specified filing fees for appeals from certain county courts; increasing the jurisdictional limit for actions at law by county courts on specified dates; providing county court civil filing fees for claims of specified values; authorizing certain defendants to demand that a court issue a ruling related to proper court venue, etc.  JU 02/04/2019 Fav/CS IS 04/09/2019 Fav/CS ACJ 04/16/2019 Fav/CS AP	Fav/CS Yeas 8 Nays 0
2	<b>CS/SB 624</b> Criminal Justice / Montford (Similar H 755, Compare H 499, S 110)	Youth in Solitary Confinement; Prohibiting the Department of Corrections from placing a youth in solitary confinement except under certain circumstances; authorizing a youth to be placed in emergency confinement if certain conditions are met; requiring that, within a specified timeframe and at specified intervals, a mental health clinician conduct certain evaluations of a youth who is in emergency confinement, etc.  CJ 03/04/2019 Fav/CS ACJ 04/16/2019 Fav/CS AP	Fav/CS Yeas 7 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations Subcommittee on Criminal and Civil Justice  
 Tuesday, April 16, 2019, 9:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	<b>CS/SB 642</b> Criminal Justice / Brandes (Similar H 705, Compare H 859, CS/H 953, CS/H 963, H 7125, S 400, CS/S 1334)	Criminal Justice; Citing this act as the Florida First Step Act; requiring that the court impose, for an offense relating to trafficking in certain substances, a sentence pursuant to the Criminal Punishment Code and without regard to any statutory minimum sentence if the court makes specified findings under certain circumstances; authorizing the Correctional Education Program to establish a Prison Entrepreneurship Program and adopt procedures for admitting student inmates; requiring a probation officer to determine whether a probationer or offender on community control who commits a technical violation is eligible for a certain alternative sanctioning program, etc.  CJ 03/04/2019 Fav/CS ACJ 04/09/2019 Temporarily Postponed ACJ 04/16/2019 Fav/CS AP	Fav/CS Yeas 8 Nays 0
4	<b>CS/SB 762</b> Judiciary / Gruters (Identical CS/H 639)	Duties and Obligations of Sheriffs; Requiring each sheriff to coordinate with certain boards of county commissioners and chief judges to develop a comprehensive plan for security of trial court facilities; specifying that sheriffs and their deputies, employees, and contractors are officers of the court under specified circumstances, etc.  JU 03/25/2019 Fav/CS IS 04/02/2019 Favorable ACJ 04/16/2019 Favorable AP	Favorable Yeas 8 Nays 0
5	<b>CS/SB 768</b> Judiciary / Perry (Compare CS/H 297)	Attorney Fees; Prohibiting the awarding of attorney fees for a violation of specified provisions, etc.  JU 04/01/2019 Fav/CS ACJ 04/16/2019 Favorable AP	Favorable Yeas 8 Nays 0
6	<b>CS/SB 876</b> Criminal Justice / Powell (Similar CS/H 575, Compare H 339, H 1293, H 6051, H 7125, S 850, S 1260)	Direct Filing of an Information; Revising provisions concerning the housing of children held in detention; prohibiting a child who has been transferred to adult court for criminal prosecution pursuant to direct file from being held in a jail or other facility used for the detention of adults prior to a hearing to determine if the child should remain in adult court; deleting references to the state attorney's discretion to direct file a juvenile, etc.  CJ 04/08/2019 Fav/CS ACJ 04/16/2019 Favorable AP	Favorable Yeas 8 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**Appropriations Subcommittee on Criminal and Civil Justice  
Tuesday, April 16, 2019, 9:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	<b>CS/SB 916</b> Criminal Justice / Pizzo (Similar CS/CS/H 669, Compare H 7125)	Technology Crimes; Redefining the term “cyberstalk” as the term relates to prohibited acts; providing that a person commits an offense against users of certain electronic devices if he or she willfully, knowingly, and exceeding authorization performs specified acts, etc.  CJ 03/11/2019 Fav/CS ACJ 04/16/2019 Favorable AP	Favorable Yeas 8 Nays 0
8	<b>CS/SB 1074</b> Criminal Justice / Brandes	Sentencing; Creating a conditional sentence for substance use and mental health offenders in accordance with s. 948.012, F.S.; authorizing a court to sentence an offender to a conditional sentence; authorizing the sentencing court to have the Department of Corrections provide a presentence investigation report in accordance with s. 921.231, F.S., to provide the court with certain information to determine the type of probation most appropriate for the offender; requiring an offender to comply with specified terms of drug offender or mental health probation, etc.  CJ 03/18/2019 Fav/CS ACJ 04/09/2019 Temporarily Postponed ACJ 04/16/2019 Favorable AP	Favorable Yeas 8 Nays 0
9	<b>SB 1764</b> Baxley (Compare CS/H 7081, Linked CS/S 656)	Fees/Foreign Language Court Reporter/Fingerprint Processing; Requiring applicants for certification as a foreign language court reporter or a mediator, respectively, to pay fees relating to fingerprint processing; specifying the cost for fingerprint processing, etc.  JU 04/01/2019 Favorable ACJ 04/16/2019 Fav/CS AP	Fav/CS Yeas 8 Nays 0

Other Related Meeting Documents

**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 Subcommittee on Criminal and Civil Justice

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**BILL:** PCS/CS/CS/SB 328 (885374)

**INTRODUCER:** Appropriations Subcommittee on Criminal and Civil Justice; Infrastructure and Security Committee; Judiciary Committee; and Senator Brandes

**SUBJECT:** Courts

**DATE:** April 19, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tulloch	Cibula	JU	<b>Fav/CS</b>
2.	Price	Miller	IS	<b>Fav/CS</b>
3.	Dale	Jameson	ACJ	<b>Recommend: Fav/CS</b>
4.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

PCS/CS/CS/SB 328 amends and creates substantive provisions relating to the court system. The bill: (1) amends provisions affecting the jurisdiction of the county and circuit courts; (2) adjusts county and circuit court filing fees based on jurisdiction amounts; and (3) limits when the \$1 mediation/arbitration fee may be collected by the court clerks.

(1) *Jurisdiction*—The bill gradually raises the county courts’ maximum jurisdictional amount for civil cases demanding money as follows:

- For cases filed on or before December 31, 2019, \$15,000;
- For cases filed on or after January 1, 2020, \$30,000; and
- For cases filed on or after January 1, 2022, \$50,000.

The bill effectively raises the circuit courts’ original jurisdiction to amounts exceeding the county court’s new jurisdictional amounts. The bill also explicitly clarifies that the circuit courts have appellate jurisdiction over county court decisions involving the county court’s new jurisdictional amounts.

The amendments to the jurisdiction of a court made by the bill apply with respect to the date of filing the cause of action, regardless of when the cause of action accrued.

The bill also authorizes a defendant in any civil action in which the court's jurisdiction is dependent on the amount in controversy to demand proof of the reasonableness of the amount in controversy within 30 days after the complaint is filed.

Additionally, the bill requires the State Courts Administrator to submit recommendations by March 1, 2021 regarding the adjustment of county court jurisdiction, including, but not limited to, consideration of the claim value of filings in county court and circuit court, case events, timeliness in processing cases, and any fiscal impact to the state as a result of adjusted jurisdictional limits. The report must include a review of fees to ensure that the court system is adequately funded, and a review of the appellate jurisdiction of the district courts and the circuit court.

(2) *Filing Fees*—The bill adjusts the filing fees in sections 28.241 and 34.041, Florida Statutes, with the intent to maintain the current applicable filing fees and their statutory distribution to various funds, based on the case's monetary value. Specifically, effective January 1, 2020, although the county courts will now have jurisdiction over cases demanding between \$15,000 and \$30,000, the current circuit court filing fee of \$395 will still apply based on the amount demanded. Likewise, although circuit courts will now have appellate jurisdiction over cases demanding between \$15,000 and \$30,000, the current district court of appeal filing fee of \$400 will continue to apply based on the amount demanded.

(3) *Mediation/Arbitration Fee*—The bill provides that the \$1 filing fee levied on all county and civil court cases to fund mediation and arbitration may not be levied on appeals from the county to the circuit court for claims exceeding \$15,000.

The fiscal impact of the bill is indeterminate. See Section V.

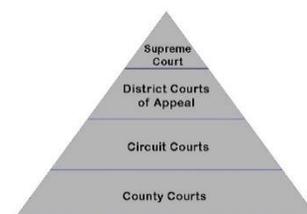
The bill takes effect January 1, 2020.

## II. Present Situation:

### Florida's Court System

The Florida Constitution vests all judicial power in:

- The supreme court;
- The district courts of appeal;
- The circuit courts; and
- The county courts.<sup>1</sup>



The Constitution provides that “[n]o other courts may be established by the state, any political subdivision or any municipality.”<sup>2</sup> Additionally, the Constitution vests the Florida Supreme Court with broad authority to administer the state courts system and establish court rules of procedure.<sup>3</sup>

<sup>1</sup> FLA. CONST. art. V., s. 1.

<sup>2</sup> *Id.* (although the Constitution permits the Legislature to establish quasi-judicial, administrative courts and a civil traffic infraction hearing officer system).

<sup>3</sup> FLA. CONST. art. V, s. 2.

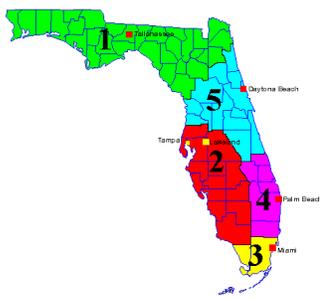
**Legislative Powers Concerning Court Jurisdiction**

The Constitution confers some authority over the jurisdiction of the courts to the Legislature. Although the territorial and subject matter jurisdiction of the Florida Supreme Court is primarily defined by the Constitution, the Legislature has constitutional authority to provide for the territorial jurisdiction and the subject matter jurisdiction of the courts.<sup>4</sup>

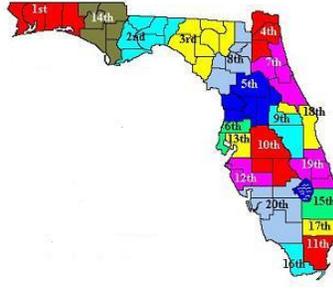
***Territorial Jurisdiction***

The Legislature is constitutionally required to establish the territorial or geographic jurisdiction of the appellate court districts and the judicial circuits “following county lines.”<sup>5</sup> Currently, there are five district courts of appeal,<sup>6</sup> 20 judicial circuits,<sup>6</sup> and 67 county courts, one in each of Florida’s 67 counties<sup>7</sup> as constitutionally required.<sup>8</sup>

The following maps illustrate the territorial jurisdictions of these courts:<sup>9</sup>



Five District Courts of Appeal



Twenty Judicial Circuits



Sixty-Seven Counties

***Subject Matter Jurisdiction***

The Legislature’s authority over the subject matter jurisdiction of the Florida Supreme Court and district courts of appeal is fairly limited. With a few exceptions,<sup>10</sup> the Constitution sets out the subject matter jurisdiction of the Supreme Court and the appellate courts.

<sup>4</sup> “Jurisdiction” is defined as “[a] government’s general power to exercise authority over all persons and things within its territory; esp., a state’s power to create interests that will be recognized under common-law principles as valid in other states <New Jersey’s jurisdiction>.” BLACK’S LAW DICTIONARY (10th ed. 2014). For courts, jurisdiction is defined as “[a] court’s power to decide a case or issue a decree <the constitutional grant of federal-question jurisdiction>.” *Id.* Additionally, jurisdiction is defined geographically: “A geographic area within which political or judicial authority may be exercised <the accused fled to another jurisdiction>.” *Id.*

<sup>5</sup> FLA. CONST. art. V, s. 1.

<sup>6</sup> Florida Courts, *Court System Organization & Structure*, <http://www.flcourts.org/florida-courts/> (last visited April 11, 2019). The First District sits in Tallahassee; the Second District sits in Lakeland; the Third District sits in Miami; the Fourth District sits in West Palm Beach; and the Fifth District sits in Daytona Beach. Florida Courts, *District Courts of Appeal*, <https://www.flcourts.org/Florida-Courts/District-Courts-of-Appeal> (last visited Jan. 29, 2019).

<sup>7</sup> Florida Courts, *Court System Organization & Structure*, <http://www.flcourts.org/florida-courts/> (last visited April 11, 2019).

<sup>8</sup> FLA. CONST. art. V, s. 6(a) (“There shall be a county court in each county.”).

<sup>9</sup> Ron DeSantis, 46<sup>th</sup> Governor of Florida, Judicial and Judicial Nominating Commission Information, *The Florida Court System*, <https://www.flgov.com/judicial-and-judicial-nominating-commission-information/> (last visited April 11, 2019).

<sup>10</sup> See Art. V, s. 3(b)(2), FLA. CONST. (“When provided by *general law*, [the supreme court] shall hear appeals from final judgments entered in proceedings for the validation of bonds or certificates of indebtedness and shall review action of

On the other hand, under the Constitution, the Legislature is granted broad authority to define the jurisdiction<sup>11</sup> of the county courts: “The county courts shall exercise the jurisdiction *prescribed by general law*. Such jurisdiction shall be uniform throughout the state.”<sup>12</sup>

Because the jurisdiction of the circuit court is limited by the jurisdiction of the county courts under the Constitution, the Legislature’s authority to define the jurisdiction of the circuit courts is also fairly broad:

The circuit courts shall have original jurisdiction not vested in the county courts, and jurisdiction of appeals *when provided by general law*. They shall have the power to issue writs of mandamus, quo warranto, certiorari, prohibition and habeas corpus, and all writs necessary or proper to the complete exercise of their jurisdiction. Jurisdiction of the circuit court shall be uniform throughout the state. They shall have the power of direct review of administrative action *prescribed by general law*.<sup>13</sup>

### ***County Court Jurisdiction***

As provided by the Legislature in s. 34.01, F.S., the county court is a trial court that has jurisdiction over the following types of cases within its jurisdictional (monetary) amount of \$15,000:

- All criminal misdemeanor cases not cognizable by the circuit courts;
- All violations of municipal and county ordinances;
- All actions at law involving damages up to \$15,000, not including interest, costs, and attorney’s fees, unless the cause of action is within the exclusive jurisdiction of the circuit courts;
- Concurrent jurisdiction with the circuit courts over disputes between homeowners’ associations and parcel owners;
- Concurrent jurisdiction with circuit courts to hear uncontested dissolution of marriage petitions under the simplified dissolution procedures;
- Any subject matter jurisdiction previously exercised by the county courts prior to the adoption of the 1968 Constitution, including that of the small claims courts; and

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statewide agencies relating to rates or service of utilities providing electric, gas, or telephone service.”) (emphasis added); FLA. CONST. art. V, s. 4(b)(2) (“District courts of appeal shall have the power of direct review of administrative action, *as prescribed by general law*.”) (emphasis added).

<sup>11</sup>*See Alexdex Corp. v. Nachon Enterprises, Inc.*, 641 So. 2d 858, 861 (Fla. 1994) (“The jurisdiction of the courts of the state is broadly defined by our State Constitution; however, the legislature may further define a court’s jurisdiction so long as the jurisdiction, as redefined, is not in conflict with the Constitution. . . . Absent a constitutional prohibition or restriction, the legislature is free to vest courts with exclusive, concurrent, original, appellate, or final jurisdiction.”) (citing *State v. Sullivan*, 95 Fla. 191, 116 So. 255 (1928)).

<sup>12</sup> FLA. CONST. art. V, s. 6(b) (emphasis added). Additionally, the Legislature establishes the number of judges to serve in each county. *Id.* at s. 6(a).

<sup>13</sup> FLA. CONST. art. V, s. 5(b) (emphasis added).

- Any matter in equity (such as an eviction)<sup>14</sup> that is within the jurisdictional amount of the county court.

The effective date of the last increase to the monetary limit on the jurisdiction of the county courts was July 1, 1992.<sup>15</sup> If adjusted for inflation, the \$15,000 jurisdictional limit would be \$26,822.03 in today's dollars (as of December 2018).<sup>16</sup>

The county court is also the small claims court. Small claims courts are not separate, constitutionally recognized courts;<sup>17</sup> rather, they are the county courts functioning under the Florida Small Claims Rules of procedure adopted by the Supreme Court.<sup>18</sup> The goal of the Small Claims Rules is to “reach a ‘simple, speedy, and inexpensive’ resolution of [small claims] cases” in which the parties often represent themselves.<sup>19</sup> The court rules apply to civil actions in county courts where money is demanded,<sup>20</sup> and set the jurisdictional limit of small claims demands at \$5,000,<sup>21</sup> where it has remained since January 1, 1997.<sup>22</sup> If adjusted for inflation to December 2018, the jurisdictional limit of the Small Claims Rules would be \$7,895.44.<sup>23</sup>

### ***Circuit Court Jurisdiction***

Because the circuit courts have exclusive jurisdiction over “all actions at law not cognizable by the county courts,” the circuit court’s current jurisdictional amount is \$15,000 or above for cases demanding money judgments.<sup>24</sup>

Additionally, with two exceptions, the circuit court has appellate jurisdiction over county court cases. Under the two exceptions, the district court of appeal has appellate jurisdiction when a county court either (1) declares a statute or constitutional provision invalid or (2) certifies a question of great public importance.<sup>25</sup> Additionally, if the law applied by the circuit court sitting

<sup>14</sup> Section 34.011, F.S. (providing that county and circuit courts generally have concurrent jurisdiction over landlord tenant cases, although county court will have exclusive jurisdiction over proceedings relating to the right of possession so long as matter is under \$15,000.).

<sup>15</sup> Chapter 90-269, Laws of Fla.

<sup>16</sup> The inflation adjusted figure was determined by the Bureau of Labor Statistics, United States Department of Labor, CPI Inflation Calculator, which is available at [https://www.bls.gov/data/inflation\\_calculator.htm](https://www.bls.gov/data/inflation_calculator.htm) (last visited April 11, 2019).

<sup>17</sup> *LaSalla v. Pools by George of Pinellas County, Inc.*, 125 So. 3d 1016, 1016 (Fla. 2d DCA 2013) (“[F]or purposes of the concept of subject matter jurisdiction, a county court that applies the Florida Small Claims Rules in a particular proceeding is not a separate court from a county court that applies the Florida Rules of Civil Procedure. This is true even if a county court has elected to create a ‘small claims division’ to handle cases under the Florida Small Claims Rules. To the extent that *Tax Certificate Redemption’s, Inc. v. Meitz*, 705 So. 2d 64 (Fla. 4th DCA 1997), discusses the ‘jurisdiction’ of a small claims court as distinct from the jurisdiction of county court, we believe that discussion is incorrect.”).

<sup>18</sup> *Id.* at 1017 (The Small Claims Rules “do not create a ‘small claims court.’ They simply create rules of procedure for use in county court when the amount in controversy is small.”). When the amount in controversy exceeds the jurisdictional limits of the Small Claims Rules, the more complex requirements of the Rules of Civil Procedure apply. *See Hilton v. Florio*, 317 So. 2d 83 (Fla. 3d DCA 1975).

<sup>19</sup> *In re Amendments to Florida Small Claims Rule 7.090*, 64 So. 3d 1196 (Fla. 2011); Fla. Sm. Cl. R. 7.010(a).

<sup>20</sup> *In re Amendments to Florida Small Claims Rules*, 123 So. 3d 41, 43 (Fla. 2013) (amending Fla. Sm. Cl. R. 7.010).

<sup>21</sup> Fla. Sm. Cl. R. 7.010(b).

<sup>22</sup> *In re Amendments to the Florida Small Claims Rules*, 682 So. 2d 1075, 1076 (Fla. 1996) (raising amount from \$2,500 to \$5,000).

<sup>23</sup> The inflation adjusted figure was determined by the Bureau of Labor Statistics, United States Department of Labor, CPI Inflation Calculator, which is available at [https://www.bls.gov/data/inflation\\_calculator.htm](https://www.bls.gov/data/inflation_calculator.htm) (last visited April 11, 2019).

<sup>24</sup> Section 26.012(2)(a), F.S.

<sup>25</sup> Section 26.012(1), F.S.

in its appellate capacity is in question, a party may seek review by the appropriate district court of appeal by filing a petition for writ of certiorari.<sup>26</sup>

Notably, foreclosure cases, which are cases in equity, are not one of the subject areas statutorily defined as being within the exclusive jurisdiction of the circuit court.<sup>27</sup> Rather, in resolving a conflict between the statutes setting forth the county court’s and the circuit court’s equity jurisdiction in foreclosure cases, the Florida Supreme court concluded in *Alexdex Corp. v. Nachon Enterprises, Inc.* that “the legislature intended to provide concurrent equity jurisdiction in circuit and county courts, except that equity cases filed in county courts must fall within the county court’s monetary jurisdiction, as set by statute.”<sup>28</sup>

***Jurisdictional Amount in Controversy/Transfer of Actions***

The Florida rules of Civil Procedure currently provide for the transfer of actions that appear to be pending in the wrong court of any county. Rule 1.060, *Transfer of Actions*, provides “If it should appear at any time that an action is pending in the wrong court of any county, it may be transferred to the proper court within said county by the same method as provided in rule 1.170(j).”<sup>29</sup> The referenced method relates to the transfer of actions if the demand of any counterclaim or crossclaim exceeds the jurisdiction of the court in which the action is pending. This method is as follows:

- If the party asserting the demand exceeding the jurisdiction deposits with the court having jurisdiction the applicable clerk’s service charge<sup>30</sup> in the court to which the action is transferred, the court must order the transfer of the action, along with transmittal of all documents in it, to the proper court.
- The original documents and deposit must then be filed with a certified copy of the order to the transferee court, at which time such court “shall have full power and jurisdiction over the demands of all parties.”<sup>31</sup>

***Filing Fees***

Filing fees are constitutionally required to fund the clerks of the circuit and county courts,<sup>32</sup> and vary depending on the court. In **county court**, the filing fee for civil actions at law demanding money judgments vary based on the amount:

- For all claims less than \$100..... \$50.
- For all claims of \$100 or more but not more than \$500..... \$75.
- For all claims of more than \$500 but not more than \$2,500..... \$170.

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<sup>26</sup> FLA. CONST. art. V, s. 4(b)(3) (authorizing district courts of appeal to issue writs of certiorari among others). Philip J. Padovano, *Appellate Practice*, 2 Fla. Prac., § 30:5 (2017 ed.) (“A party may file a petition for writ of certiorari to review . . . an appellate decision of a lower court[.]”). On petition for writ of certiorari, the district court reviews for whether the circuit court departed from the essential requirements of the law; or, put another way, whether the circuit court “(1) afforded the parties due process of law[,] and (2) applied the correct law.” *Id.*

<sup>27</sup> Section 26.012(2), F.S.

<sup>28</sup> 641 So. 2d 858, 862 (Fla. 1994).

<sup>29</sup> See Florida Rules, available at <https://floridarules.net/civil-procedure/> (last visited April 11, 2019).

<sup>30</sup> See ss. 28.231 and 28.24, F.S.

<sup>31</sup> Fla.R.Civ.P. 1.170(j), *supra* note 29.

<sup>32</sup> FLA. CONST. art. V, s. 14(b) (requiring that all funding for clerks of circuit and county courts come from adequate filing fees).

- For all claims of more than \$2,500..... \$295.<sup>33</sup>

The clerk of court also collects an additional \$4 filing fee.<sup>34</sup>

When the clerk of court collects the \$295 filing fee, the fee is distributed as follows:

- The first \$15 of the filing fee is deposited in the State Courts Revenue Trust Fund.
- \$3.50 is transferred to the Department of Revenue (DOR) for deposit in the Court Education Trust Fund.
- Another \$0.50 is transferred to the DOR for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk education provided by the Florida Clerks of Court Operations Corporation.<sup>35</sup>

Additionally, when any portion of the fees for court functions collected in the prior month exceeds one-twelfth of the clerk’s total budget, the overage is transferred to the DOR for deposit into the Clerks of the Court Trust Fund.<sup>36</sup>

In **circuit court**, the filing fee for civil actions at law demanding money judgments vary based on the type of action filed<sup>37</sup> and the number of defendants, but is generally \$395 for the first five defendants.<sup>38</sup> Additionally, there are graduated filing fees for real property and mortgage foreclosure cases which can reach as high as \$1,900 for claims valued at \$250,000 and higher.<sup>39</sup>

The filing fee collected by the clerk of court is distributed as follows:

- Of the first \$200 in filing fees, \$195 must be remitted to the DOR for deposit into the State Courts Revenue Trust Fund.
- \$4 must be remitted to the DOR for deposit into the Administrative Trust Fund within the Department of Financial Services and used to fund the contract with the Florida Clerks of Court Operations Corporation.
- \$1 must be remitted to the DOR for deposit into the Administrative Trust Fund within the Department of Financial Services to fund audits of individual clerks’ court-related expenditures conducted by the Department of Financial Services.<sup>40</sup>

Additionally, as in county court, when any portion of the circuit court fees collected in the prior month exceeds one-twelfth of the clerk’s total budget, the overage is transferred to the DOR for deposit into the Clerks of the Court Trust Fund.<sup>41</sup>

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<sup>33</sup> Section 34.041(1)(a), F.S.

<sup>34</sup> Section 34.041(1)(b), F.S.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> Section 28.241(1)(a)1.a., F.S. The filing fee is only \$295 for civil suits filed under chapters 39 (dependency), 61 (family law), 741 (domestic violence), 742 (determination of parentage), 747 (conservatorship), 752 (grandparental visitation rights), or 753 (supervised visitation). Section 28.241(1)(a)1.b., F.S. Additionally, there are graduated filing fees for real property and mortgage foreclosure cases which can reach as high as \$1,900 for claims valued at \$250,000 and higher. Section 28.241(1)(a)2, F.S.

<sup>38</sup> *Id.* It is \$2.50 per defendant in excess of five. *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> Section 28.241(1)(a)1.a., F.S.

<sup>41</sup> *Id.*

The clerk of court also collects an additional \$4 fee. Of that \$4 fee, \$3.50 is transferred to the DOR for deposit into the Court Education Trust Fund. The other \$0.50 is also transferred to the DOR for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk education provided by the Florida Clerks of Court Operations Corporation.<sup>42</sup>

Effective January 1, 2019, \$50 of the \$100 fee collected by the clerk of the circuit court from each attorney appearing *pro hac vice* (an attorney licensed in another state permitted to specially appear in a case by court order) will be deposited into the State Courts Revenue Trust Fund.<sup>43</sup>

Additionally, the clerks of court collect a \$1 filing fee in all proceedings, whether filed in circuit or county court, to fund **mediation and arbitration services**. The fee is deposited in the State Courts Revenue Trust Fund<sup>44</sup> to be used to provide access to mediation and arbitration for all parties “regardless of financial status.”<sup>45</sup> This fee goes toward the state-funded mediation program, which is available to parties in county civil cases (under \$15,000) for free or reduced costs, but not in circuit civil cases.<sup>46</sup> This fee is not levied in appellate proceedings filed in the District Courts of Appeal or the Florida Supreme Court.

Currently, the per-person, per-scheduled session fee for court-ordered mediation services provided by a circuit-court’s mediation program is \$60 in county court cases.

For **appeals** from the **county to the circuit court**, the clerk of the circuit court may collect up to \$280.<sup>47</sup>

For appeals to the **district court of appeal**, the circuit court charges a \$100 fee for filing a notice of appeal,<sup>48</sup> and the clerk of the district court of appeal collects a filing fee of \$300 for civil cases.<sup>49</sup> Of the \$100 circuit court fee, \$80 is retained by the clerk and \$20 is deposited into the General Revenue Fund.<sup>50</sup> Of the district court filing fee, \$50 is deposited into the State Courts Revenue Trust Fund and the remaining \$250 is deposited into the State Treasury to be credited to the General Revenue Fund.<sup>51</sup>

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<sup>42</sup> Section 28.241(1)(a)1.c., F.S.

<sup>43</sup> Section 28.241(6), F.S. All \$100 was deposited into the general revenue fund prior to January 1, 2019. *Id.*

<sup>44</sup> Section 44.108(1), F.S.

<sup>45</sup> *Id.*; see also Fla. Att’y Gen. Op. 2002-09 (2002) (“Funds generated from filing fees designated solely for mediation or alternative dispute resolutions may be used only for those purposes”).

<sup>46</sup> Section 44.108(1), F.S.; Office of the State Courts Administrator, *Senate Bill 328 Judicial Impact Statement* (Jan. 31, 2019)(on filed with the Senate Judiciary Committee).

<sup>47</sup> Section 28.241(2), F.S.

<sup>48</sup> *Id.*

<sup>49</sup> Section 35.22(2)(a), F.S.

<sup>50</sup> Page 17 Lines 94-97 Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs and Fines, Including a Fee Schedule for Recording

[https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/public\\_documents\\_/2018\\_distribution\\_schedule\\_1.pdf](https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/public_documents_/2018_distribution_schedule_1.pdf) (last visited April 11, 2019).

<sup>51</sup> Section 35.22(5), F.S. The clerk of the district court of appeal also collects \$295 for cross-appeals or additional parties, and this fee is remitted entirely to the DOR for deposit into the General Revenue fund. Section 35.255(2)(b), F.S.

### III. Effect of Proposed Changes:

#### **Raised Jurisdictional Amounts of the County and Circuit Courts**

Section 2 of the bill gradually raises the maximum jurisdictional amount of the county courts (except for those actions within the exclusive jurisdiction of the circuit courts). If an action is filed on or before June 30, 2019, the jurisdictional amount remains at \$15,000. Thereafter:

- For cases filed on or after January 1, 2020, \$30,000.
- For cases filed on or after January 1, 2022, \$50,000.

Section 7 provides that the amendments to the jurisdiction of a court made by the bill apply with respect to the date of filing the cause of action, regardless of when the cause of action accrued.

Because the circuit courts have exclusive jurisdiction over “all actions at law not cognizable by the county courts,” the bill also effectively raises the jurisdictional amount of the circuit courts from \$15,000 or above for cases demanding money judgments to \$30,000 or above for cases filed on or after January 1, 2020 and to \$50,000 or above for cases filed on or after January 1, 2022.<sup>52</sup>

The bill also directs the Office of State Court Administrator (OSCA) by March 1, 2021, to make recommendations regarding the adjustment of county court jurisdiction, including, but not limited to, consideration of the claim value of filings in county court and circuit court, case events, timeliness in processing cases, and any fiscal impact to the state as a result of adjusted jurisdictional limits. The OSCA must also include a review of fees to ensure that the court system is adequately funded and a review of the appellate jurisdiction of the district courts and the circuit courts.

#### ***Jurisdictional Amount in Controversy/Transfer of Actions***

Section 5 of the bill creates a new provision of law authorizing a defendant, as a matter of right in any civil action in which the court’s jurisdiction is dependent on the amount in controversy, to file a demand for proof of the reasonableness of the amount in controversy within 30 days after the complaint is filed. The bill deems such a demand to be a responsive pleading for the purposes of the rules of procedure and requires the following:

- The court must promptly hold a hearing to determine whether the amount in controversy as alleged in the complaint is reasonable.
- At the hearing, the plaintiff must demonstrate, by a preponderance of the evidence, a reasonable likelihood of recovering at least the amount alleged in the complaint.
- If the court finds that the plaintiff has not made the required demonstration, the court must transfer the matter to the appropriate court.

#### **Filing Fees**

Sections 1 and 3 of the bill adjust the filing fees based on the new jurisdictional amounts of the circuit and county courts with the intent to maintain the current level of fees and distribution of fees. Section 1 adjusts the appellate filing fees collected by the clerks’ offices and subsequently

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<sup>52</sup> Section 26.012(2)(a), F.S.

distributed to various funds based on the new jurisdiction of circuit courts over county court appeals valued over \$15,000 (until December 31, 2019; \$30,000 on or after January 1, 2020; and \$50,000 on or after January 1, 2022). The bill aligns the circuit court's appellate filing fees for county court appeals over \$15,000 with the district court of appeals' fees and the statutory distribution of those fees.

Likewise, section 3 adjusts the case filing fees collected by the clerks' offices and subsequently distributed to various funds based on the new jurisdiction of county courts over cases exceeding \$15,000 (until December 31, 2019; \$30,000 on or after January 1, 2020; and \$50,000 on or after January 1, 2022). The bill aligns the county court's filing fees for cases valued over \$15,000 with the circuit court fees and the statutory distribution of those fees.

### **Mediation and Arbitration Fee**

Section 4 of the bill amends s. 44.108, F.S., to limit the \$1 filing fee levied and collected by the clerk of court in all county and civil proceedings. The bill provides that the \$1 filing fee will not be levied on appeals in cases involving \$15,000 or more from the county court to circuit court. This limitation appears to make appellate filing fees in the circuit court consistent with those of the district courts of appeal and the Florida Supreme Court, neither of which levy the \$1 fee on appellate filings. This section of the bill also clarifies that the existing \$60 per person, per scheduled session fee for court-ordered mediation services provided by a circuit court's mediation program applies in county court cases *involving an amount in controversy not exceeding \$15,000*.

**Effective Date:** Section 7 provides the bill takes effect January 1, 2020.

## **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:**

Under the 2018 amendment to the Florida Constitution, Article VII, Section 19 requires "a supermajority vote" of 2/3 of the membership of each house to pass legislation which will "raise" or increase a state tax or fee.<sup>53</sup> A "fee" is defined as "any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for

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<sup>53</sup> FLA. CONST. art. VII, s. 19(b).

service.”<sup>54</sup> The term “raise” means, in pertinent part, “[t]o increase or authorize an increase in the amount of a state tax of fee imposed on a flat or fixed amount basis[.]”<sup>55</sup>

It does not appear that the adjustment to the court filing fees is a “raise” in these fees for purposes of requiring a supermajority vote. The adjustment to the fees is intended to maintain the status quo in terms of how those fees are distributed to fund the state courts system and the county clerks of court. The adjustment relates the fees and statutory fee distribution to the monetary value of the case rather than to the court where it is filed. In other words, although the court with jurisdiction to hear a case worth over \$15,000 will change, the filing fee charged for cases worth over \$15,000 will remain the same, as will the current distribution of that fee to various funds.<sup>56</sup>

E. Other Constitutional Issues:

**Jurisdictional Amount in Controversy/Transfer of Actions**

Article V, section (2)(a) of the Florida Constitution provides:

The supreme court shall adopt rules for the practice and procedure in all courts including the time for seeking appellate review, the administrative supervision of all courts, *the transfer to the court having jurisdiction of any proceeding when the jurisdiction of another court has been improvidently invoked*, and a requirement that no cause shall be dismissed because an improper remedy has been sought. The supreme court shall adopt rules to allow the court and the district courts of appeal to submit questions relating to military law to the federal Court of Appeals for the Armed Forces for an advisory opinion. Rules of court may be repealed by general law enacted by two-thirds vote of the membership of each house of the legislature.<sup>57</sup>

Section 5 of the bill creates a new provision of law authorizing a defendant, as a matter of right in any civil action in which the court’s jurisdiction is dependent on the amount in controversy, to file within 30 days after the complaint is filed a demand for proof of the reasonableness of the amount in controversy. The plaintiff must demonstrate, by a preponderance of the evidence, a reasonable likelihood of recovering at least the amount alleged in the complaint. This section of the bill may contain both substantive and procedural elements.

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<sup>54</sup> FLA. CONST. art. VII, s. 19(d)(1).

<sup>55</sup> FLA. CONST. art. VII, s. 19(d)(2)b.

<sup>56</sup> Email from Sarah Naf Biehl, Chief of Legislative Affairs, Office of the State Courts Administrator, on February 4, 2019 (“We took the approach of keeping the filing fees exactly as they are today, thereby avoiding any negative impact to the courts and others who are funded by a portion of the existing fees. The amendment would not raise fees - it would maintain the same filing fee amount for each case value as currently required. The only change would be by which judge affected cases are heard. However, the judicial branch has not taken an official position on this issue.”).

<sup>57</sup> Emphasis added.

“Florida law is well-settled [sic] that substantive statutes may permissibly include procedural elements without violating the separation of powers clause.”<sup>58</sup> However, whether this section of the bill is an impermissible inclusion of procedural elements in the granting of the substantive right of a defendant to make a demand for proof is unclear. This section of the bill may be subject to constitutional challenge on grounds that the statute, if enacted, unconstitutionally encroaches upon the Supreme Court’s authority to adopt rules for court practice and procedure.

## V. Fiscal Impact Statement:

### A. Tax/Fee Issues:

None.

### B. Private Sector Impact:

Section 5 of the bill creates a new provision of law authorizing a defendant to file as a matter of right within 30 days after the complaint is filed, a demand for proof of the reasonableness of the amount in controversy. Under the bill, the plaintiff is required to demonstrate a reasonable likelihood of recovering at least the amount alleged in the complaint. The process set out in the bill may increase expenses for plaintiffs, as the bill requires a hearing that may include the testimony of witnesses and introduction of other evidence on the part of the plaintiff.

The bill will likely result in an increase in the jurisdictional limit of the Small Claims Courts, which will permit more cases to be expeditiously resolved in the county courts under the simplified Small Claims Rules. Based on a similar proposed bill considered in the 2017 Regular Session, the Florida Supreme Court formed the Work Group on County Court Jurisdiction and directed the Work Group to study and make recommendations on, among other issues, how the Small Claims jurisdictional amount should be adjusted.<sup>59</sup> The Work Group recommended that the jurisdiction of the Small Claims Court be raised from \$5,000 to \$8,000, assuming the jurisdiction of the county court was raised to \$25,000.<sup>60</sup>

The Florida Supreme Court supports the Work Group’s recommendation.<sup>61</sup>

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<sup>58</sup> See *State Farm Florida Ins. Co. v. Buitrago*, 100 So.3d 85 (Fla. 2d DCA 2012), citing *Morejon v. Am. Sec. Ins. Co.*, 829 F.Supp.2d 1258, 1260 (M.D.Fla. 2011).

<sup>59</sup> *In re: Work Group on County Court Jurisdiction*, Fla. Admin. Order No. AOSC18-39 (Aug. 1, 2018), available at <https://www.floridasupremecourt.org/content/download/421915/4558246/AOSC18-39.pdf>. See also *In re: Certification of Need for Additional Judges*, 44 Fla. L. Weekly S53 (Fla. Dec. 28, 2018) (noting Legislature’s interest in increasing county court jurisdiction may be a factor in determining the need for additional judges)(citing AOSC18-39), 44 Fla. L. Weekly S53 (Fla. Dec. 28, 2018).

<sup>60</sup> Florida Supreme Court, *Recommendations from the Judicial Management Council’s Work Group on County Court Jurisdictions*, pp. 4-6, 18-21 (Interim Report)(Nov. 30, 2019) (updated to reflect Supreme Court actions in December 2018)(on file with the Senate Judiciary Committee).

<sup>61</sup> *Id.*

**C. Government Sector Impact:****County and Circuit Court Jurisdictional Adjustments**

*Work Group on County Court Jurisdiction Recommendations and Reports*—Based on proposed legislation in 2018,<sup>62</sup> the Florida Supreme Court created the Work Group on County Court Jurisdiction to evaluate the impact of raising the jurisdictional amount of the county courts.<sup>63</sup> The full impacts could not be determined but the Work Group noted that the distribution of filing fees could result in a loss of funding for the judiciary, while positively impacting the clerk's offices.<sup>64</sup>

In one of the Work Group's preliminary reports explaining its recommendation that the county courts' jurisdiction should increase to \$25,000, the Work Group noted that county courts are not as well equipped currently as the circuit courts to carry out long, complex trials. The Work Group noted that certain types of complex cases which frequently go to trial, such as insurance cases (especially those with water damage claims), should not exceed \$25,000 so as to minimize the impact on county court resources.<sup>65</sup>

Section 5 of the bill creates a new provision of law authorizing a defendant to file as a matter of right within 30 days after the complaint is filed a demand for proof of the reasonableness of the amount in controversy. Under the bill, the plaintiff is required to demonstrate a reasonable likelihood of recovering at least the amount alleged in the complaint. The process set out in the bill may increase expenses for courts, as the bill requires a hearing that may include the testimony of witnesses and introduction of other evidence on the part of the plaintiff.

**VI. Technical Deficiencies:**

As previously noted, the circuit court charges a \$100 fee for filing a notice of appeal. As per the most recently published Clerks of Court distribution schedule, \$80 is retained by the clerks and \$20 is distributed to the General Revenue Fund.<sup>66</sup> As currently drafted in CS/CS/SB 328, s. 28.241(2)(a)(3) does not specify distribution for the \$100. Therefore this could be interpreted as a change allowing the clerks to retain the entire \$100. The projected impact is as follows:

Jurisdictional Limit of \$30,000  
Estimated # of Appeals 360 x \$20 = \$7,200

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<sup>62</sup> See SB 1384, SB 1396.

<sup>63</sup> See n. 71, *supra*.

<sup>64</sup> See n. 72, *supra*.

<sup>65</sup> Florida Courts, Trial Court Budget Commission, *Agenda Item 1: Work Group on County Court Jurisdiction- Provision of Comments*, p. 5, *Types of Cases Impacted* (Nov. 15, 2018), available at <https://www.flcourts.org/content/download/411958/3703779/11.15.18-tcbc-final-meeting-packet.pdf> (Last visited April 11, 2019).

<sup>66</sup> Page 17 Lines 94-97 Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs and Fines, Including a Fee Schedule for Recording [https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/public\\_documents\\_/2018\\_distribution\\_schedule\\_1.pdf](https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/public_documents_/2018_distribution_schedule_1.pdf) (Last visited April 11, 2019).

Jurisdictional Limit of \$50,000  
Estimated # of Appeals 840 x \$20 = \$16,800

An amendment increasing the \$250 on line 40 of CS/CS/SB 328 to \$270 would retain the current distribution of funds for appellate filing fees.

## VII. Related Issues:

None.

## VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 28.241, 34.01, 34.041, and 44.108.

The bill creates section 45.21, 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.)

### **Recommended CS/CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on April 16, 2019:**

- The committee substitute gives the court system more time to implement the change to the jurisdictional limits by changing the effective date for the jurisdictional increase to \$30,000 to January 1, 2020 (from July 1, 2019), and the effective date of the jurisdictional increase to \$50,000 to January 1, 2020 (from July 1, 2021).
- The recommended CS also clarifies the content of the future report that the court system is required to submit regarding the adjustment of county court jurisdiction.

### **CS by Infrastructure and Security on April 9, 2019:**

The Committee Substitute removes from the bill provisions:

- Allowing Supreme Court justices to have a remote headquarters.
- Revising the appellate jurisdiction of the circuit courts related to insurance cases carved out of county court jurisdiction.
- Relating to courthouse security.
- Allowing refunds of qualifying fees for candidates for circuit or county court judge who run unopposed.

The Committee Substitute also:

- Revises the phase-in of the increase of the county court monetary jurisdiction.
- Adds to the reporting requirements for the OSCA to include a review of fees to ensure that the court system is adequately funded, and a review of the appellate jurisdiction of the district courts and the circuit court.

- Authorizes a defendant to dispute the reasonableness of the amounts in controversy for the purpose of the court determining whether a case was filed in the proper court.
- Further revises filing fees for higher value cases in the county courts to maintain the current applicable filing fees based on the case's monetary value.

**CS by Judiciary on February 4, 2019:**

The Committee Substitute:

- Corrects a technical problem in the new jurisdictional language in 34.01, F.S.
- Further amends the new jurisdictional language of section 34.01, F.S., to provide for a two-step increase in the county courts' jurisdictional amount (to only \$30,000 by 2020; then to \$50,000 by 2022).
- Adds two additional sections to the bill, sections 6 and 7, amending sections 28.241 and 34.041, F.S. to adjust the case filing fee amounts and the statutory distribution of those fees to align with the current fee structure for cases worth more than \$15,000.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/16/2019	.	
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Appropriations Subcommittee on Criminal and Civil Justice  
(Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 73 - 245

and insert:

By March 1, 2021, the Office of the State Courts Administrator shall make recommendations regarding the adjustment of county court jurisdiction to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must make recommendations regarding the adjustment of county court jurisdiction, including, but not limited to, consideration of



11 the claim value of filings in county court and circuit court,  
12 case events, timeliness in processing cases, and any fiscal  
13 impact to the state as a result of adjusted jurisdictional  
14 limits. The clerks of the circuit court and county court shall  
15 provide claim value data and necessary case event data to the  
16 office to be used in development of the report. The report must  
17 also include a review of fees to ensure that the court system is  
18 adequately funded and a review of the appellate jurisdiction of  
19 the district courts and the circuit courts.

20 Section 3. Paragraphs (a), (b), and (c) of subsection (1)  
21 of section 34.041, Florida Statutes, are amended, and paragraph  
22 (e) is added to that subsection, to read:

23 34.041 Filing fees.—

24 (1) (a) Filing fees are due at the time a party files a  
25 pleading to initiate a proceeding or files a pleading for  
26 relief. Reopen fees are due at the time a party files a pleading  
27 to reopen a proceeding if at least 90 days have elapsed since  
28 the filing of a final order or final judgment with the clerk. If  
29 a fee is not paid upon the filing of the pleading as required  
30 under this section, the clerk shall pursue collection of the fee  
31 pursuant to s. 28.246. Upon the institution of any civil action,  
32 suit, or proceeding in county court, the party shall pay the  
33 following filing fee, not to exceed:

- 34 1. For all claims less than \$100.....\$50.  
35 2. For all claims of \$100 or more but not more than  
36 \$500.....\$75.  
37 3. For all claims of more than \$500 but not more than  
38 \$2,500.....\$170.  
39 4. For all claims of more than \$2,500 but not more than



40 \$15,000.....\$295.  
41 5. For all claims more than \$15,000.....\$395.  
42 ~~6.5~~ In addition, for all proceedings of garnishment,  
43 attachment, replevin, and distress.....\$85.  
44 ~~7.6~~ Notwithstanding subparagraphs 3. and ~~6.5~~, for all  
45 claims of not more than \$1,000 filed simultaneously with an  
46 action for replevin of property that is the subject of the  
47 claim.....\$125.  
48 ~~8.7~~ For removal of tenant action.....\$180.

49  
50 The filing fee in subparagraph ~~7.6~~ is the total fee due under  
51 this paragraph for that type of filing, and no other filing fee  
52 under this paragraph may be assessed against such a filing.

53 (b) The first \$15 of the filing fee collected under  
54 subparagraph (a)4. and the first \$10 of the filing fee collected  
55 under subparagraph (a)8. ~~subparagraph (a)7.~~ shall be deposited  
56 in the State Courts Revenue Trust Fund. By the 10th day of each  
57 month, the clerk shall submit that portion of the fees collected  
58 in the previous month which is in excess of one-twelfth of the  
59 clerk's total budget for the performance of court-related  
60 functions to the Department of Revenue for deposit into the  
61 Clerks of the Court Trust Fund. An additional filing fee of \$4  
62 shall be paid to the clerk. The clerk shall transfer \$3.50 to  
63 the Department of Revenue for deposit into the Court Education  
64 Trust Fund and shall transfer 50 cents to the Department of  
65 Revenue for deposit into the Administrative Trust Fund within  
66 the Department of Financial Services to fund clerk education  
67 provided by the Florida Clerks of Court Operations Corporation.  
68 Postal charges incurred by the clerk of the county court in



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69 making service by mail on defendants or other parties shall be  
70 paid by the party at whose instance service is made. Except as  
71 provided in this section, filing fees and service charges for  
72 performing duties of the clerk relating to the county court  
73 shall be as provided in ss. 28.24 and 28.241. Except as  
74 otherwise provided in this section, all filing fees shall be  
75 retained as fee income of the office of the clerk of the circuit  
76 court. Filing fees imposed by this section may not be added to  
77 any penalty imposed by chapter 316 or chapter 318.

78 (c) A party in addition to a party described in paragraph  
79 (a) who files a pleading in an original civil action in the  
80 county court for affirmative relief by cross-claim,  
81 counterclaim, counterpetition, or third-party complaint, or who  
82 files a notice of cross-appeal or notice of joinder or motion to  
83 intervene as an appellant, cross-appellant, or petitioner, shall  
84 pay the clerk of court a fee of \$295 if the relief sought by the  
85 party under this paragraph exceeds \$2,500 but is not more than  
86 \$15,000 and \$395 if the relief sought by the party under this  
87 paragraph exceeds \$15,000. The clerk shall remit the fee if the  
88 relief sought by the party under this paragraph exceeds \$2,500  
89 but is not more than \$15,000 to the Department of Revenue for  
90 deposit into the General Revenue Fund. This fee does not apply  
91 if the cross-claim, counterclaim, counterpetition, or third-  
92 party complaint requires transfer of the case from county to  
93 circuit court. However, the party shall pay to the clerk the  
94 standard filing fee for the court to which the case is to be  
95 transferred.

96 (e) Of the first \$200 in filing fees payable under  
97 subparagraph (a)5., \$195 must be remitted to the Department of



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98 Revenue for deposit into the State Courts Revenue Trust Fund, \$4  
99 must be remitted to the Department of Revenue for deposit into  
100 the Administrative Trust Fund within the Department of Financial  
101 Services and used to fund the contract with the Florida Clerks  
102 of Court Operations Corporation created in s. 28.35, and \$1 must  
103 be remitted to the Department of Revenue for deposit into the  
104 Administrative Trust Fund within the Department of Financial  
105 Services to fund audits of individual clerks' court-related  
106 expenditures conducted by the Department of Financial Services.  
107 By the 10th day of each month, the clerk shall submit that  
108 portion of the filing fees collected pursuant to this subsection  
109 in the previous month which is in excess of one-twelfth of the  
110 clerk's total budget to the Department of Revenue for deposit  
111 into the Clerks of the Court Trust Fund.

112 Section 4. Section 44.108, Florida Statutes, is amended to  
113 read:

114 44.108 Funding of mediation and arbitration.—

115 (1) Mediation and arbitration should be accessible to all  
116 parties regardless of financial status. A filing fee of \$1 is  
117 levied on all proceedings in the circuit or county courts to  
118 fund mediation and arbitration services which are the  
119 responsibility of the Supreme Court pursuant to the provisions  
120 of s. 44.106. However, the filing fee may not be levied upon an  
121 appeal from the county court to the circuit court for a claim  
122 that is greater than \$15,000. The clerk of the court shall  
123 forward the moneys collected to the Department of Revenue for  
124 deposit in the State Courts Revenue Trust Fund.

125 (2) When court-ordered mediation services are provided by a  
126 circuit court's mediation program, the following fees, unless



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127 otherwise established in the General Appropriations Act, shall  
128 be collected by the clerk of court:

129 (a) One-hundred twenty dollars per person per scheduled  
130 session in family mediation when the parties' combined income is  
131 greater than \$50,000, but less than \$100,000 per year;

132 (b) Sixty dollars per person per scheduled session in  
133 family mediation when the parties' combined income is less than  
134 \$50,000; or

135 (c) Sixty dollars per person per scheduled session in  
136 county court cases involving an amount in controversy not  
137 exceeding \$15,000.

138  
139 No mediation fees shall be assessed under this subsection in  
140 residential eviction cases, against a party found to be  
141 indigent, or for any small claims action. Fees collected by the  
142 clerk of court pursuant to this section shall be remitted to the  
143 Department of Revenue for deposit into the State Courts Revenue  
144 Trust Fund to fund court-ordered mediation. The clerk of court  
145 may deduct \$1 per fee assessment for processing this fee. The  
146 clerk of the court shall submit to the chief judge of the  
147 circuit and to the Office of the State Courts Administrator, no  
148 later than 30 days after the end of each quarter of the fiscal  
149 year, a report specifying the amount of funds collected and  
150 remitted to the State Courts Revenue Trust Fund under this  
151 section and any other section during the previous quarter of the  
152 fiscal year. In addition to identifying the total aggregate  
153 collections and remissions from all statutory sources, the  
154 report must identify collections and remissions by each  
155 statutory source.



156 Section 5. Section 45.21, Florida Statutes, is created to  
157 read:

158 45.21 Reasonableness of amount in controversy; procedures.—

159 (1) In any civil action in which the court's jurisdiction  
160 is dependent on the amount in controversy, the defendant may, as  
161 a matter of right, demand proof of the reasonableness of the  
162 amount in controversy within 30 days after the complaint is  
163 filed. The defendant need not offer any evidence or argument to  
164 support the demand.

165 (2) A demand pursuant to subsection (1) is deemed a  
166 responsive pleading for purposes of the rules of procedure and  
167 the following procedures shall apply:

168 (a) The court must promptly hold a hearing to determine  
169 whether the amount in controversy as alleged in the complaint is  
170 reasonable.

171 (b) At the hearing, the plaintiff must demonstrate, by a  
172 preponderance of the evidence, a reasonable likelihood of  
173 recovering at least the amount alleged in the complaint.

174 (c) If the court finds that the plaintiff has not made the  
175 showing as required in paragraph (b), the court must transfer  
176 the matter to the appropriate court.

177 Section 6. The amendments to the jurisdiction of a court  
178 made by this act shall apply with respect to the date of filing  
179 the cause of action, regardless of when the cause of action  
180 accrued.

181 Section 7. This act shall take effect January 1, 2020.

182  
183 ===== T I T L E A M E N D M E N T =====

184 And the title is amended as follows:



867520

185       Delete lines 6 - 9  
186 and insert:  
187       by county courts on specified dates; requiring the  
188       Office of the State Courts Administrator to make  
189       certain recommendations to the Governor and the  
190       Legislature; requiring the office to consider certain  
191       information in developing the recommendations;  
192       requiring the clerks of the circuit and county court  
193       to provide certain information to the office;



405216

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2019	.	
	.	
	.	
	.	

---

Appropriations Subcommittee on Criminal and Civil Justice  
(Brandes) recommended the following:

**Senate Substitute for Amendment (867520)**

Delete lines 66 - 245

and insert:

1. If filed on or before December 31, 2019, the sum of  
\$15,000.

2. If filed on or after January 1, 2020, the sum of  
\$30,000.

3. If filed on or after January 1, 2022, the sum of  
\$50,000.



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11 (d) Of disputes occurring in the homeowners' associations  
12 as described in s. 720.311(2) (a), which shall be concurrent with  
13 jurisdiction of the circuit courts.

14  
15 By March 1, 2021, the Office of the State Courts Administrator  
16 shall submit a report to the Governor, the President of the  
17 Senate, and the Speaker of the House of Representatives. The  
18 report must make recommendations regarding the adjustment of  
19 county court jurisdiction, including, but not limited to,  
20 consideration of the claim value of filings in county court and  
21 circuit court, case events, timeliness in processing cases, and  
22 any fiscal impact to the state as a result of adjusted  
23 jurisdictional limits. The clerks of the circuit court and  
24 county court shall provide claim value data and necessary case  
25 event data to the office to be used in development of the  
26 report. The report must also include a review of fees to ensure  
27 that the court system is adequately funded and a review of the  
28 appellate jurisdiction of the district courts and the circuit  
29 courts.

30 Section 3. Paragraphs (a), (b), and (c) of subsection (1)  
31 of section 34.041, Florida Statutes, are amended, and paragraph  
32 (e) is added to that subsection, to read:

33 34.041 Filing fees.—

34 (1) (a) Filing fees are due at the time a party files a  
35 pleading to initiate a proceeding or files a pleading for  
36 relief. Reopen fees are due at the time a party files a pleading  
37 to reopen a proceeding if at least 90 days have elapsed since  
38 the filing of a final order or final judgment with the clerk. If  
39 a fee is not paid upon the filing of the pleading as required



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40 under this section, the clerk shall pursue collection of the fee  
41 pursuant to s. 28.246. Upon the institution of any civil action,  
42 suit, or proceeding in county court, the party shall pay the  
43 following filing fee, not to exceed:

- 44 1. For all claims less than \$100.....\$50.
- 45 2. For all claims of \$100 or more but not more than  
46 \$500.....\$75.
- 47 3. For all claims of more than \$500 but not more than  
48 \$2,500.....\$170.
- 49 4. For all claims of more than \$2,500 but not more than  
50 \$15,000.....\$295.
- 51 5. For all claims more than \$15,000.....\$395.
- 52 ~~6.5.~~ In addition, for all proceedings of garnishment,  
53 attachment, replevin, and distress.....\$85.
- 54 ~~7.6.~~ Notwithstanding subparagraphs 3. and ~~6. 5.~~, for all  
55 claims of not more than \$1,000 filed simultaneously with an  
56 action for replevin of property that is the subject of the  
57 claim.....\$125.
- 58 ~~8.7.~~ For removal of tenant action.....\$180.

59  
60 The filing fee in subparagraph ~~7. 6.~~ is the total fee due under  
61 this paragraph for that type of filing, and no other filing fee  
62 under this paragraph may be assessed against such a filing.

63 (b) The first \$15 of the filing fee collected under  
64 subparagraph (a)4. and the first \$10 of the filing fee collected  
65 under subparagraph (a)8. ~~subparagraph (a)7.~~ shall be deposited  
66 in the State Courts Revenue Trust Fund. By the 10th day of each  
67 month, the clerk shall submit that portion of the fees collected  
68 in the previous month which is in excess of one-twelfth of the



69 clerk's total budget for the performance of court-related  
70 functions to the Department of Revenue for deposit into the  
71 Clerks of the Court Trust Fund. An additional filing fee of \$4  
72 shall be paid to the clerk. The clerk shall transfer \$3.50 to  
73 the Department of Revenue for deposit into the Court Education  
74 Trust Fund and shall transfer 50 cents to the Department of  
75 Revenue for deposit into the Administrative Trust Fund within  
76 the Department of Financial Services to fund clerk education  
77 provided by the Florida Clerks of Court Operations Corporation.  
78 Postal charges incurred by the clerk of the county court in  
79 making service by mail on defendants or other parties shall be  
80 paid by the party at whose instance service is made. Except as  
81 provided in this section, filing fees and service charges for  
82 performing duties of the clerk relating to the county court  
83 shall be as provided in ss. 28.24 and 28.241. Except as  
84 otherwise provided in this section, all filing fees shall be  
85 retained as fee income of the office of the clerk of the circuit  
86 court. Filing fees imposed by this section may not be added to  
87 any penalty imposed by chapter 316 or chapter 318.

88 (c) A party in addition to a party described in paragraph  
89 (a) who files a pleading in an original civil action in the  
90 county court for affirmative relief by cross-claim,  
91 counterclaim, counterpetition, or third-party complaint, or who  
92 files a notice of cross-appeal or notice of joinder or motion to  
93 intervene as an appellant, cross-appellant, or petitioner, shall  
94 pay the clerk of court a fee of \$295 if the relief sought by the  
95 party under this paragraph exceeds \$2,500 but is not more than  
96 \$15,000 and \$395 if the relief sought by the party under this  
97 paragraph exceeds \$15,000. The clerk shall remit the fee if the



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98 relief sought by the party under this paragraph exceeds \$2,500  
99 but is not more than \$15,000 to the Department of Revenue for  
100 deposit into the General Revenue Fund. This fee does not apply  
101 if the cross-claim, counterclaim, counterpetition, or third-  
102 party complaint requires transfer of the case from county to  
103 circuit court. However, the party shall pay to the clerk the  
104 standard filing fee for the court to which the case is to be  
105 transferred.

106 (e) Of the first \$200 in filing fees payable under  
107 subparagraph (a)5., \$195 must be remitted to the Department of  
108 Revenue for deposit into the State Courts Revenue Trust Fund, \$4  
109 must be remitted to the Department of Revenue for deposit into  
110 the Administrative Trust Fund within the Department of Financial  
111 Services and used to fund the contract with the Florida Clerks  
112 of Court Operations Corporation created in s. 28.35, and \$1 must  
113 be remitted to the Department of Revenue for deposit into the  
114 Administrative Trust Fund within the Department of Financial  
115 Services to fund audits of individual clerks' court-related  
116 expenditures conducted by the Department of Financial Services.  
117 By the 10th day of each month, the clerk shall submit that  
118 portion of the filing fees collected pursuant to this subsection  
119 in the previous month which is in excess of one-twelfth of the  
120 clerk's total budget to the Department of Revenue for deposit  
121 into the Clerks of the Court Trust Fund.

122 Section 4. Section 44.108, Florida Statutes, is amended to  
123 read:

124 44.108 Funding of mediation and arbitration.—

125 (1) Mediation and arbitration should be accessible to all  
126 parties regardless of financial status. A filing fee of \$1 is



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127 levied on all proceedings in the circuit or county courts to  
128 fund mediation and arbitration services which are the  
129 responsibility of the Supreme Court pursuant to the provisions  
130 of s. 44.106. However, the filing fee may not be levied upon an  
131 appeal from the county court to the circuit court for a claim  
132 that is greater than \$15,000. The clerk of the court shall  
133 forward the moneys collected to the Department of Revenue for  
134 deposit in the State Courts Revenue Trust Fund.

135 (2) When court-ordered mediation services are provided by a  
136 circuit court's mediation program, the following fees, unless  
137 otherwise established in the General Appropriations Act, shall  
138 be collected by the clerk of court:

139 (a) One-hundred twenty dollars per person per scheduled  
140 session in family mediation when the parties' combined income is  
141 greater than \$50,000, but less than \$100,000 per year;

142 (b) Sixty dollars per person per scheduled session in  
143 family mediation when the parties' combined income is less than  
144 \$50,000; or

145 (c) Sixty dollars per person per scheduled session in  
146 county court cases involving an amount in controversy not  
147 exceeding \$15,000.

148  
149 No mediation fees shall be assessed under this subsection in  
150 residential eviction cases, against a party found to be  
151 indigent, or for any small claims action. Fees collected by the  
152 clerk of court pursuant to this section shall be remitted to the  
153 Department of Revenue for deposit into the State Courts Revenue  
154 Trust Fund to fund court-ordered mediation. The clerk of court  
155 may deduct \$1 per fee assessment for processing this fee. The



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156 clerk of the court shall submit to the chief judge of the  
157 circuit and to the Office of the State Courts Administrator, no  
158 later than 30 days after the end of each quarter of the fiscal  
159 year, a report specifying the amount of funds collected and  
160 remitted to the State Courts Revenue Trust Fund under this  
161 section and any other section during the previous quarter of the  
162 fiscal year. In addition to identifying the total aggregate  
163 collections and remissions from all statutory sources, the  
164 report must identify collections and remissions by each  
165 statutory source.

166 Section 5. Section 45.21, Florida Statutes, is created to  
167 read:

168 45.21 Reasonableness of amount in controversy; procedures.-

169 (1) In any civil action in which the court's jurisdiction  
170 is dependent on the amount in controversy, the defendant may, as  
171 a matter of right, demand proof of the reasonableness of the  
172 amount in controversy within 30 days after the complaint is  
173 filed. The defendant need not offer any evidence or argument to  
174 support the demand.

175 (2) A demand pursuant to subsection (1) is deemed a  
176 responsive pleading for purposes of the rules of procedure and  
177 the following procedures shall apply:

178 (a) The court must promptly hold a hearing to determine  
179 whether the amount in controversy as alleged in the complaint is  
180 reasonable.

181 (b) At the hearing, the plaintiff must demonstrate, by a  
182 preponderance of the evidence, a reasonable likelihood of  
183 recovering at least the amount alleged in the complaint.

184 (c) If the court finds that the plaintiff has not made the



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185 showing as required in paragraph (b), the court must transfer  
186 the matter to the appropriate court.

187       Section 6. The amendments to the jurisdiction of a court  
188 made by this act shall apply with respect to the date of filing  
189 the cause of action, regardless of when the cause of action  
190 accrued.

191       Section 7. This act shall take effect January 1, 2020.

By the Committees on Infrastructure and Security; and Judiciary;  
and Senator Brandes

596-04062-19

2019328c2

1                   A bill to be entitled  
2       An act relating to courts; amending s. 28.241, F.S.;  
3       requiring specified filing fees for appeals from  
4       certain county courts; amending s. 34.01, F.S.;  
5       increasing the jurisdictional limit for actions at law  
6       by county courts on specified dates; requiring the  
7       State Courts Administrator to submit a report  
8       containing certain recommendations and reviews to the  
9       Governor and the Legislature by a specified date;  
10      amending s. 34.041, F.S.; providing county court civil  
11      filing fees for claims of specified values; providing  
12      for distribution of the fees; amending s. 44.108,  
13      F.S.; prohibiting the levy of certain fees for  
14      mediation and arbitration services in certain cases;  
15      creating s. 45.21, F.S., authorizing certain  
16      defendants to demand that a court issue a ruling  
17      related to proper court venue; authorizing a court to  
18      transfer certain civil cases if specified criteria are  
19      met; providing applicability; providing an effective  
20      date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24       Section 1. Subsection (2) of section 28.241, Florida  
25 Statutes, is amended to read:

26       28.241 Filing fees for trial and appellate proceedings.—  
27       (2) (a) Upon the institution of any appellate proceeding  
28       from any lower court to the circuit court of any such county,  
29       including appeals filed by a county or municipality as provided

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2019328c2

30 in s. 34.041(5), or from the circuit court to an appellate court  
31 of the state, the clerk shall charge and collect from the party  
32 or parties instituting such appellate proceedings:

33 1. A filing fee not to exceed \$280 for filing a notice of  
34 appeal from the county court to the circuit court, excluding a  
35 civil case in which the matter in controversy was more than  
36 \$15,000.

37 2. A filing fee not to exceed \$400 for filing a notice of  
38 appeal from the county court to the circuit court for a civil  
39 case in which the matter in controversy was more than \$15,000.  
40 The clerk shall remit \$250 of each filing fee collected under  
41 this subparagraph to the Department of Revenue for deposit into  
42 the General Revenue Fund and the clerk shall remit \$50 of each  
43 filing fee to the Department of Revenue for deposit into the  
44 State Courts Revenue Trust Fund to fund court operations as  
45 authorized in the General Appropriations Act. The clerk shall  
46 retain an accounting of each such remittance. ~~and,~~

47 3. In addition to the filing fee required under s. 25.241  
48 or s. 35.22, \$100 for filing a notice of appeal from the circuit  
49 court to the district court of appeal or to the Supreme Court.

50 (b) If the party is determined to be indigent, the clerk  
51 shall defer payment of the fee otherwise required by this  
52 subsection.

53 Section 2. Subsection (1) of section 34.01, Florida  
54 Statutes, is amended to read:

55 34.01 Jurisdiction of county court.—

56 (1) County courts shall have original jurisdiction:

57 (a) In all misdemeanor cases not cognizable by the circuit  
58 courts. ~~†~~

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2019328c2

59 (b) Of all violations of municipal and county ordinances.7

60 (c) Of all actions at law, except those within the  
61 exclusive jurisdiction of the circuit courts, in which the  
62 matter in controversy does not exceed ~~the sum of \$15,000,~~  
63 exclusive of interest, costs, and attorney ~~attorney's~~ fees;  
64 ~~except those within the exclusive jurisdiction of the circuit~~  
65 ~~courts; and~~

66 1. If filed on or before June 30, 2019, the sum of \$15,000.

67 2. If filed on or after July 1, 2019, the sum of \$30,000.

68 3. If filed on or after July 1, 2021, the sum of \$50,000.

69 (d) Of disputes occurring in the homeowners' associations  
70 as described in s. 720.311(2)(a), which shall be concurrent with  
71 jurisdiction of the circuit courts.

72  
73 By March 1, 2021, the State Courts Administrator shall submit a  
74 report to the Governor, the President of the Senate, and the  
75 Speaker of the House of Representatives. The report must make  
76 recommendations regarding the adjustment of county court  
77 jurisdiction, including, but not limited to, an analysis of  
78 workflow, timely access to court by litigants, and any resulting  
79 fiscal impact to the state as a result of adjusted  
80 jurisdictional limits. The report must also include a review of  
81 fees to ensure that the court system is adequately funded and a  
82 review of the appellate jurisdiction of the district courts and  
83 the circuit courts.

84 Section 3. Paragraphs (a), (b), and (c) of subsection (1)  
85 of section 34.041, Florida Statutes, are amended, and paragraph  
86 (e) is added to that subsection, to read:

87 34.041 Filing fees.—

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88 (1) (a) Filing fees are due at the time a party files a  
 89 pleading to initiate a proceeding or files a pleading for  
 90 relief. Reopen fees are due at the time a party files a pleading  
 91 to reopen a proceeding if at least 90 days have elapsed since  
 92 the filing of a final order or final judgment with the clerk. If  
 93 a fee is not paid upon the filing of the pleading as required  
 94 under this section, the clerk shall pursue collection of the fee  
 95 pursuant to s. 28.246. Upon the institution of any civil action,  
 96 suit, or proceeding in county court, the party shall pay the  
 97 following filing fee, not to exceed:

- 98 1. For all claims less than \$100.....\$50.
- 99 2. For all claims of \$100 or more but not more than  
 100 \$500.....\$75.
- 101 3. For all claims of more than \$500 but not more than  
 102 \$2,500.....\$170.
- 103 4. For all claims of more than \$2,500 but not more than  
 104 \$15,000.....\$295.
- 105 5. For all claims more than \$15,000.....\$395.
- 106 6.5. In addition, for all proceedings of garnishment,  
 107 attachment, replevin, and distress.....\$85.
- 108 7.6. Notwithstanding subparagraphs 3. and 6. 5., for all  
 109 claims of not more than \$1,000 filed simultaneously with an  
 110 action for replevin of property that is the subject of the  
 111 claim.....\$125.
- 112 8.7. For removal of tenant action.....\$180.

113  
 114 The filing fee in subparagraph 7. 6. is the total fee due under  
 115 this paragraph for that type of filing, and no other filing fee  
 116 under this paragraph may be assessed against such a filing.

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117 (b) The first \$15 of the filing fee collected under  
118 subparagraph (a)4. and the first \$10 of the filing fee collected  
119 under subparagraph (a)8. ~~subparagraph (a)7.~~ shall be deposited  
120 in the State Courts Revenue Trust Fund. By the 10th day of each  
121 month, the clerk shall submit that portion of the fees collected  
122 in the previous month which is in excess of one-twelfth of the  
123 clerk's total budget for the performance of court-related  
124 functions to the Department of Revenue for deposit into the  
125 Clerks of the Court Trust Fund. An additional filing fee of \$4  
126 shall be paid to the clerk. The clerk shall transfer \$3.50 to  
127 the Department of Revenue for deposit into the Court Education  
128 Trust Fund and shall transfer 50 cents to the Department of  
129 Revenue for deposit into the Administrative Trust Fund within  
130 the Department of Financial Services to fund clerk education  
131 provided by the Florida Clerks of Court Operations Corporation.  
132 Postal charges incurred by the clerk of the county court in  
133 making service by mail on defendants or other parties shall be  
134 paid by the party at whose instance service is made. Except as  
135 provided in this section, filing fees and service charges for  
136 performing duties of the clerk relating to the county court  
137 shall be as provided in ss. 28.24 and 28.241. Except as  
138 otherwise provided in this section, all filing fees shall be  
139 retained as fee income of the office of the clerk of the circuit  
140 court. Filing fees imposed by this section may not be added to  
141 any penalty imposed by chapter 316 or chapter 318.

142 (c) A party in addition to a party described in paragraph  
143 (a) who files a pleading in an original civil action in the  
144 county court for affirmative relief by cross-claim,  
145 counterclaim, counterpetition, or third-party complaint, or who

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146 files a notice of cross-appeal or notice of joinder or motion to  
147 intervene as an appellant, cross-appellant, or petitioner, shall  
148 pay the clerk of court a fee of \$295 if the relief sought by the  
149 party under this paragraph exceeds \$2,500 but is not more than  
150 \$15,000 and \$395 if the relief sought by the party under this  
151 paragraph exceeds \$15,000. The clerk shall remit the fee if the  
152 relief sought by the party under this paragraph exceeds \$2,500  
153 but is not more than \$15,000 to the Department of Revenue for  
154 deposit into the General Revenue Fund. This fee does not apply  
155 if the cross-claim, counterclaim, counterpetition, or third-  
156 party complaint requires transfer of the case from county to  
157 circuit court. However, the party shall pay to the clerk the  
158 standard filing fee for the court to which the case is to be  
159 transferred.

160 (e) Of the first \$200 in filing fees payable under  
161 subparagraph (a)5., \$195 must be remitted to the Department of  
162 Revenue for deposit into the State Courts Revenue Trust Fund, \$4  
163 must be remitted to the Department of Revenue for deposit into  
164 the Administrative Trust Fund within the Department of Financial  
165 Services and used to fund the contract with the Florida Clerks  
166 of Court Operations Corporation created in s. 28.35, and \$1 must  
167 be remitted to the Department of Revenue for deposit into the  
168 Administrative Trust Fund within the Department of Financial  
169 Services to fund audits of individual clerks' court-related  
170 expenditures conducted by the Department of Financial Services.  
171 By the 10th day of each month, the clerk shall submit that  
172 portion of the filing fees collected pursuant to this subsection  
173 in the previous month which is in excess of one-twelfth of the  
174 clerk's total budget to the Department of Revenue for deposit

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2019328c2

175 into the Clerks of the Court Trust Fund.

176 Section 4. Section 44.108, Florida Statutes, is amended to  
177 read:

178 44.108 Funding of mediation and arbitration.—

179 (1) Mediation and arbitration should be accessible to all  
180 parties regardless of financial status. A filing fee of \$1 is  
181 levied on all proceedings in the circuit or county courts to  
182 fund mediation and arbitration services which are the  
183 responsibility of the Supreme Court pursuant to the provisions  
184 of s. 44.106. However, the filing fee may not be levied upon an  
185 appeal from the county court to the circuit court for a claim  
186 that is greater than \$15,000. The clerk of the court shall  
187 forward the moneys collected to the Department of Revenue for  
188 deposit in the State Courts Revenue Trust Fund.

189 (2) When court-ordered mediation services are provided by a  
190 circuit court's mediation program, the following fees, unless  
191 otherwise established in the General Appropriations Act, shall  
192 be collected by the clerk of court:

193 (a) One-hundred twenty dollars per person per scheduled  
194 session in family mediation when the parties' combined income is  
195 greater than \$50,000, but less than \$100,000 per year;

196 (b) Sixty dollars per person per scheduled session in  
197 family mediation when the parties' combined income is less than  
198 \$50,000; or

199 (c) Sixty dollars per person per scheduled session in  
200 county court cases involving an amount in controversy not  
201 exceeding \$15,000.

202  
203 No mediation fees shall be assessed under this subsection in

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2019328c2

204 residential eviction cases, against a party found to be  
205 indigent, or for any small claims action. Fees collected by the  
206 clerk of court pursuant to this section shall be remitted to the  
207 Department of Revenue for deposit into the State Courts Revenue  
208 Trust Fund to fund court-ordered mediation. The clerk of court  
209 may deduct \$1 per fee assessment for processing this fee. The  
210 clerk of the court shall submit to the chief judge of the  
211 circuit and to the Office of the State Courts Administrator, no  
212 later than 30 days after the end of each quarter of the fiscal  
213 year, a report specifying the amount of funds collected and  
214 remitted to the State Courts Revenue Trust Fund under this  
215 section and any other section during the previous quarter of the  
216 fiscal year. In addition to identifying the total aggregate  
217 collections and remissions from all statutory sources, the  
218 report must identify collections and remissions by each  
219 statutory source.

220 Section 5. Section 45.21, Florida Statutes, is created to  
221 read:

222 45.21 Reasonableness of amount in controversy; procedures.-

223 (1) In any civil action in which the court's jurisdiction  
224 is dependent on the amount in controversy, the defendant may, as  
225 a matter of right, demand proof of the reasonableness of the  
226 amount in controversy within 30 days after the complaint is  
227 filed. The defendant need not offer any evidence or argument to  
228 support the demand.

229 (2) A demand pursuant to subsection (1) is deemed a  
230 responsive pleading for purposes of the rules of procedure and  
231 the following procedures shall apply:

232 (a) The court must promptly hold a hearing to determine

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233 whether the amount in controversy as alleged in the complaint is  
234 reasonable.

235 (b) At the hearing, the plaintiff must demonstrate, by a  
236 preponderance of the evidence, a reasonable likelihood of  
237 recovering at least the amount alleged in the complaint.

238 (c) If the court finds that the plaintiff has not made the  
239 showing as required in paragraph (b), the court must transfer  
240 the matter to the appropriate court.

241 Section 6. The amendments to the jurisdiction of a court  
242 made by this act shall apply with respect to the date of filing  
243 the cause of action, regardless of when the cause of action  
244 accrued.

245 Section 7. This act shall take effect July 1, 2019.

THE FLORIDA SENATE  
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

April 16, 2019  
Meeting Date

Topic Court Jurisdiction

Bill Number SB 328  
(if applicable)

Name William Lage

Amendment Barcode 405216 SA  
(if applicable)

Job Title President

Address 210 S. Monroe Street

Phone 850.222.0170

Street

Tallahassee FL 32301

City

State

Zip

E-mail William.Lage@justice.org

Speaking:  For  Against  Information

Representing Florida Justice Reform Institute

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

16 April 2017  
*Meeting Date*

Topic Courts

Bill Number 328  
*(if applicable)*

Name William Lerge

Amendment Barcode H05216  
*(if applicable)*

Job Title President

Address 210 S. Monroe Street

Phone 850.222.0170

*Street*

Tallahassee FL 32301

*City*

*State*

*Zip*

E-mail William@Justice.org

Speaking:  For  Against  Information

Representing Florida Justice Reform Institute

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

328

Bill Number (if applicable)

Topic Court Jurisdiction

Amendment Barcode (if applicable)

Name William Cotterall

Job Title Attorney

Address 218 S. Monroe St

Phone \_\_\_\_\_

Street

Tallahassee FL 32301

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Justice Assoc.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4.16.19

328

*Meeting Date*

*Bill Number (if applicable)*

Topic Courts

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

*Street*

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Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Smart Justice Alliance

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

**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 Subcommittee on Criminal and Civil Justice

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BILL: PCS/CS/SB 624 (896404)

INTRODUCER: Appropriations Subcommittee on Criminal and Civil Justice; Criminal Justice Committee and Senator Montford

SUBJECT: Youth in Solitary Confinement

DATE: April 19, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cox</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Forbes</u>	<u>Jameson</u>	<u>ACJ</u>	<u>Recommend: Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/CS/SB 624 creates sections 945.425, Florida Statutes, which prohibits a youth from being placed in isolation by the Department of Corrections (DOC) except in specified circumstances.

Additionally, the bill amends section 951.23, Florida Statutes, and requires each sheriff and chief correctional officer to adopt the model standards for county and municipal detention facilities applicable to the confinement of prisoners by classification of on the basis of age and a strict prohibition on the solitary confinement of prisoners under 19 years of age, in compliance with section 945.425, Florida Statutes.

The bill prohibits solitary confinement and limits the circumstances for placing a youth into isolation to emergency or medical confinement. A placement of a youth into one of these two types of confinement is limited to specific periods of time. For emergency confinement, a youth may not be placed in confinement for longer than 24 hours, or 48 hours, if a one-time extension is granted and only if specific conditions are met. For medical confinement, a youth may not be placed in confinement for a period of time exceeding the time that is necessary for recovering from his or her illness or to prevent the spread of a communicable illness to the facility.

The bill requires that all less restrictive means for resolving the issues requiring the youth to be placed in confinement must be exhausted prior to placing the youth into emergency or medical confinement. Additionally, the bill requires that any placement of a youth in confinement in

accordance with the bill must be documented and specific guidelines for monitoring a youth that is placed in either type of confinement are established. The bill specifically prohibits the use of emergency or medical confinement for the purposes of punishment or discipline.

The bill will have an indeterminate positive fiscal impact (i.e. an unquantifiable increase in costs) to the Department of Corrections. See Section V.

The bill is effective July 1, 2019.

## II. Present Situation:

Solitary confinement is the most extreme form of isolation in a detention setting and can include physical and social isolation in a cell for 22 to 24 hours per day. The American Academy of Child and Adolescent Psychiatry says that juveniles placed in solitary confinement can experience a number of negative impacts, including, but not limited to, depression, anxiety, sleeplessness, psychosis, and long lasting trauma. This type of isolation can be particularly harmful for adolescents who need social interaction for ongoing developmental progress.<sup>1</sup> The National Conference of State Legislatures (NCSL) reports that 16 states and the District of Columbia currently prohibit or limit the use of solitary confinement with youth.<sup>2</sup>

### Federal First Step Act

In December, 2018, the United States Congress passed, and President Trump signed into law, the “Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person Act” or the “FIRST STEP Act” (First Step Act).<sup>3</sup> The law makes a number of changes to the federal criminal justice system and procedures applicable to inmates in the Federal Bureau of Prisons (BOP), including, in part, imposing a prohibition on placing youth in solitary confinement. A “juvenile” is defined in federal law to mean a person who is less than 18 years of age.<sup>4</sup>

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<sup>1</sup> The National Conference of State Legislatures, Anne Tiegen, *States that Limit or Prohibit Juvenile Shackling and Solitary Confinement*, August 16, 2018, available at <http://www.ncsl.org/research/civil-and-criminal-justice/states-that-limit-or-prohibit-juvenile-shackling-and-solitary-confinement635572628.aspx> (hereinafter cited as “The NCSL State Data”); See also USA Today, Jessica Feerman and Jenny Lutz, *Placing juvenile in solitary confinement doesn’t fix them. In fact, it makes them worse*, January 11, 2019, available at <https://www.usatoday.com/story/opinion/policing/2019/01/11/policing-usa-juvenile-detention-solitary-confinement-mental-illness/2505702002/> (all cites last visited February 27, 2019).

<sup>2</sup> The NCSL State Data includes a map detailing the 16 states, which include Alaska, Arizona, California, Colorado, Connecticut, Maine, Massachusetts, Nevada, New Jersey, New York, Oklahoma, Tennessee, Texas, Vermont, Virginia, and West Virginia.

<sup>3</sup> The First Step Act of 2018, Pub. L. No. 115-391 (2018).

<sup>4</sup> The United States Department of Justice, “*Juvenile*” defined, available at <https://www.justice.gov/jm/criminal-resource-manual-38-juvenile-defined> (last visited March 1, 2019).

The First Step Act specifically provides that a covered juvenile<sup>5</sup> may not be placed on room confinement<sup>6</sup> at a juvenile facility<sup>7</sup> for discipline, punishment, retaliation, or any reason other than as a temporary response to a covered juvenile's behavior that poses a serious and immediate risk of physical harm to any individual, including the covered juvenile.<sup>8</sup>

Additionally, the First Step Act requires a staff member to attempt to use less restrictive techniques<sup>9</sup> prior to placing a covered juvenile in room confinement. If, after attempting to use less restrictive techniques, a staff member of a juvenile facility decides to place a covered juvenile in room confinement, the staff member is required to explain to the covered juvenile the reasons for the room confinement and inform the covered juvenile of the conditions that will lead to the release from room confinement.<sup>10</sup>

The First Step Act imposes restrictions on the maximum amount of time a covered juvenile may be placed in confinement. If a covered juvenile is placed in room confinement, the First Step Act requires the covered juvenile to be released:

- Immediately when the covered juvenile has sufficiently gained control so as to no longer engage in behavior that threatens serious and immediate risk of physical harm to himself or herself, or to others; or
- If a covered juvenile does not sufficiently gain control, release from confinement must occur not later than:
  - Three hours after being placed in room confinement, in the case of a covered juvenile who poses a serious and immediate risk of physical harm to others; or
  - Thirty minutes after being placed in room confinement, in the case of a covered juvenile who poses a serious and immediate risk of physical harm only to himself or herself.<sup>11</sup>

Additionally, the First Step Act provides that if, after the above-mentioned maximum period of time has expired, the covered juvenile continues to pose a serious and immediate risk of physical harm then he or she must:

- Be transferred to another juvenile facility or internal location where services can be provided to the covered juvenile without relying on room confinement; or
- If a qualified mental health professional believes the level of crisis service needed is not currently available, a staff member of the juvenile facility is required to initiate a referral to a location that can meet the needs of the covered juvenile.<sup>12</sup>

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<sup>5</sup> The First Step Act defines a “covered juvenile” to mean a juvenile who is being prosecuted for an alleged act of juvenile delinquency under ch. 403, U.S.C., or has been adjudicated delinquent under ch. 403, U.S.C., or who is being proceeded against as an adult in a district court of the United States for an alleged criminal offense. Pub. L. No. 115-391, s. 613 (2018).

<sup>6</sup> The First Step Act defines “room confinement” to mean the involuntary placement of a covered juvenile alone in a cell, room, or other area for any reason.

<sup>7</sup> The First Step Act defines “juvenile facility” to mean any facility where covered juveniles are committed pursuant to an adjudication of delinquency under ch. 403, U.S.C., or detained prior to disposition or conviction.

<sup>8</sup> *Supra*, n. 3.

<sup>9</sup> *Id.* For example, the First Step Act lists talking with the covered juvenile in an attempt to de-escalate the situation and permitting a qualified mental health professional to talk to the covered juvenile as less restrictive techniques.

<sup>10</sup> *Id.*

<sup>11</sup> *Supra*, n. 3.

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

The First Step Act also specifically prohibits the use of consecutive periods of room confinement to evade the spirit and purpose of the act.<sup>13</sup>

The BOP reports that there are eight inmates under the age of 18 years and 1,961 inmates between the ages of 18 years and 21 years imprisoned in its facilities.<sup>14</sup>

## **Youth in Confinement in Florida's Correctional Facilities**

### ***Department of Corrections***

#### **Confinement - General**

Inmates in the custody of the DOC may be placed in confinement status based on specified conditions, which are detailed in the DOC's rules. Confinement status types used by the DOC include administrative or disciplinary confinement and protective management. "Administrative confinement" means the temporary removal of an inmate from the general inmate population in order to provide for security and safety until such time as more permanent inmate management processes can be concluded.<sup>15</sup> "Disciplinary confinement" means a form of punishment in which inmates found guilty of committing violations of the DOC rules are confined for specified periods of time to individual cells based upon authorized penalties for prohibited conduct.<sup>16</sup> "Protective management" means a special management status for the protection of inmates from other inmates in an environment as representative of that of the general population as is safely possible.<sup>17</sup>

All inmates, regardless of age, are subject to the same consideration for placement in administrative or disciplinary confinement.<sup>18</sup> These types of confinement may limit conditions and privileges to assist with promoting the security, order, and effective management of the institution, but otherwise the treatment of inmates in confinement is as near to that of the general population as assignment to confinement permits.<sup>19</sup> For protective management, other privileges may be restricted on a daily case-by-case basis when such restrictions are necessary for the security, order, or effective management of the institution.<sup>20</sup> However, if a youth is housed in a

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<sup>13</sup> Pub. L. No. 115-391, s. 613 (2018).

<sup>14</sup> The BOP, *Statistics, Inmate Age*, available at [https://www.bop.gov/about/statistics/statistics\\_inmate\\_age.jsp](https://www.bop.gov/about/statistics/statistics_inmate_age.jsp) (last visited February 27, 2019).

<sup>15</sup> Fla. Admin. Code R. 33-602.220(1)(a).

<sup>16</sup> Fla. Admin. Code R. 33-602.222(1)(f).

<sup>17</sup> Fla. Admin. Code R. 33-602.221(1)(j). Protective management is not disciplinary in nature and, to the extent possible, all less restrictive avenues to address protection needs must be employed.

<sup>18</sup> The DOC, *SB 624 Agency Analysis*, p. 3 and 4, February 28, 2019 (hereinafter cited as "The DOC SB 624 Agency Analysis") (on file with the Senate Committee on Criminal Justice). All inmates, regardless of age, are subject to the same penalties stated in Rule 33-601.314 of the Florida Administrative Code related to prohibited conduct and penalties for infractions of such conduct.

<sup>19</sup> The DOC, *SB 624 Agency Analysis*, p. 3 and 5. *See also* Fla. Admin. Code R. 33-602.220(5); Fla. Admin. Code R. 33-602.221(2)(a) and (4); and Fla. Admin. Code R. 33-602.222(4).

<sup>20</sup> Fla. Admin. Code R. 33-602.221(4)(t). All such restrictions must be documented on a specified form and reported to the Institutional Classification Team (ICT). The ICT is authorized to restrict privileges on a continuing basis after a determination that such restrictions are necessary for the security, order or effective management of the institution. The ICT's decision for continuing restriction must also be documented on a specified form.

protective management unit they may be subject to more restrictions than a non-youth inmate for their safety and security.<sup>21</sup>

Certain procedures appear to apply consistently across all types of confinement, such as:

- Prior to placing the inmate in confinement, the inmate is given a pre-confinement health assessment or medical evaluation.<sup>22</sup>
- The ability to house inmates in confinement with other inmates, subject to the inmates being interviewed by the housing supervisor to ensure that none of the inmates constitute a threat to each other prior to placing inmates in the same cell.<sup>23</sup>
- The number of inmates housed in an administrative confinement cell must not exceed the number of bunks in the cell.<sup>24</sup>

Inmates in confinement retain certain modified privileges, as mentioned above. For example, such inmates are provided:

- Exercise, which occurs either in the inmate's cell if confined on a 24-hour basis or, if confinement extends beyond a 30-day period, three hours per week of exercise at a minimum out of doors.
- Showers at least three times per week and on days that the inmate works.
- Normal institution meals.<sup>25</sup>
- The same clothing and clothing exchange as is provided to the general inmate population.<sup>26</sup>
- Out of cell time is permitted for regularly scheduled mental health services, unless, within the past four hours, the inmate has displayed hostile, threatening, or other behavior that could present a danger to others.
- Correspondence opportunities which are the same as the general inmate population.
- Telephone privileges for emergency situations, when necessary to ensure the inmate's access to courts, or in any other circumstance when a call is authorized by the warden or duty warden.
- Visits, when authorized by the warden or his or her designated representative.
- Legal visits, unless there is evidence that the visit is a threat to security and order.<sup>27</sup>

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<sup>21</sup> The DOC SB 624 Agency Analysis, p. 5.

<sup>22</sup> See Fla. Admin. Code R. 33-602.220(2)(b) and (c) and Fla. Admin. Code R. 33-602.222(2)(a). An inmate does not have to be given the pre-confinement evaluation if he or she is currently in another confinement status that required a pre-confinement medical assessment. Rule 33-602.221, related to protective management is silent on whether a pre-confinement evaluation is necessary.

<sup>23</sup> Fla. Admin. Code R. 33-602.220(4)(a); Fla. Admin. Code R. 33-602.221(3)(a); and Fla. Admin. Code R. 33-602.222(3).

<sup>24</sup> Fla. Admin. Code R. 33-602.220(4)(a) and (d); Fla. Admin. Code R. 33-602.221(3). Fla. Admin. Code R. 33-602.222(3)(a).

<sup>25</sup> The exception to this is when an item on the normal menu creates a security problem in the confinement unit, in which case, another item of comparable quality is substituted. Utilization of the special management meal is authorized for any inmate in administrative confinement who uses food or food service equipment in a manner that is hazardous to him or herself, staff, or other inmates.

<sup>26</sup> The exception to this is when there is an individual factual basis that exceptions are necessary for the welfare of the inmate or the security of the institution.

<sup>27</sup> The warden or his or her designee must approve all legal visits in advance.

- Legal materials in the same manner as in general population as long as security concerns permit.<sup>28, 29</sup>

#### Administrative Confinement

The DOC's rules provide that an inmate may be placed into administrative confinement for the following reasons:

- Disciplinary charges are pending and the inmate needs to be temporarily removed from the general inmate population in order to provide for security or safety until such time as the disciplinary hearing is held.
- Outside charges are pending against the inmate and the presence of the inmate in the general population would present a danger to the security or order of the institution.
- Pending review of an inmate's request for protection from other inmates.
- An inmate has presented a signed written statement alleging that they are in fear of staff and has provided specific information to support this claim.
- An investigation, evaluation for change of status, or transfer is pending and the presence of the inmate in the general population might interfere with that investigation or present a danger to the inmate, other inmates, or to the security and order of the institution.
- An inmate is received from another institution when classification staff is not available to review the inmate file and classify the inmate into general population.<sup>30</sup>

Staff are required to conduct regular visits to administrative confinement. These visits are to be conducted a minimum of:

- At least every 30 minutes by a correctional officer, but on an irregular schedule.
- Daily by the housing supervisor.
- Daily by the shift supervisor on duty for all shifts except in the case of riot or other institutional emergency.
- Weekly by the Chief of Security, when on duty at the facility, except in the case of riot or other institutional emergency.
- Daily by a clinical health care person.
- Weekly by the chaplain, warden, assistant wardens, a classification officer, and a member of the Institutional Classification Team (ICT).<sup>31</sup>

An inmate is assessed weekly to determine the appropriateness of placement with the goal of returning the inmate to general population as soon as the facts of the case indicate that such return can be done safely.<sup>32</sup> Other assessment requirements that are applicable to inmates who have been confined for more than 30 days include:

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<sup>28</sup> An inmate in confinement may be required to conduct legal business by correspondence rather than a personal visit to the law library if security requirements prevent a personal visit. However, all steps are taken to ensure the inmate is not denied needed access while in administrative confinement.

<sup>29</sup> The DOC SB 624 Agency Analysis, p. 3-5; Fla. Admin. Code R. 33-602.220(5); 33-602.221(4); and 33-602.222(4).

<sup>30</sup> The DOC SB 624 Agency Analysis, p. 3; Fla. Admin. Code R. 33-602.220(3).

<sup>31</sup> Fla. Admin. Code R. 33-602.220(4).

<sup>32</sup> Fla. Admin. Code R. 63-602.220(8)(a).

- A psychological screening assessment by a mental health professional to determine his or her mental condition.<sup>33</sup>
- An interview by the ICT, who must prepare a formal assessment and evaluation report after each 30 day period in administrative confinement.<sup>34</sup>

### Disciplinary Confinement

Staff are required to conduct regular visits to disciplinary confinement in the same frequency as mentioned above related to administrative confinement, with the addition of specific visits as follows:

- As frequently as necessary, but not less than once every 30 days, by a member of the ICT to ensure that the inmate's welfare is properly provided for and to determine the time and method of release.
- As frequently as necessary by the State Classification Officer (SCO) to ensure that the inmate's welfare is provided for and to determine if the inmate should be released if said inmate is housed in disciplinary confinement for longer than 60 consecutive days.<sup>35</sup>

### *County Detention Facilities*

The Florida Model Jail Standards (FMJS) are minimum standards which jails across Florida must meet to ensure the constitutional rights of those incarcerated are upheld. The FMJS Committee is required to develop and continually enforce model standards adopted by the group.<sup>36</sup>

The FMJS defines terms such as administrative confinement and disciplinary confinement, but does not include policies specific to youth regarding such types of confinement. "Administrative confinement" is defined to mean the segregation of an inmate for investigation, protection, or some cause other than disciplinary action.<sup>37</sup> "Disciplinary confinement" is defined to mean the segregation of an inmate for disciplinary reasons.<sup>38</sup>

The FMJS provides that inmates may be placed in administrative confinement for the purpose of ensuring immediate control and supervision when it is determined they constitute a threat to themselves, to others, or to the safety and security of the detention facility. The Rule requires an incident report or disciplinary report to follow the action that prompted placement in

<sup>33</sup> Fla. Admin. Code R. 33.602.220(8)(b). The assessment includes a personal interview if determined necessary by mental health staff. All such assessments are documented in the inmate's mental health record. The psychologist or psychological specialist prepares a report and presents it to the ICT regarding the results of the assessment with recommendations. The ICT then makes the decision about whether to continue administrative confinement. If the decision is to continue confinement, a psychological screening assessment is completed at least every 90-day period.

<sup>34</sup> Fla. Admin. Code R. 33-602.220(8)(c) and (d). Additionally, the SCO reviews the reports provided by mental health and the ICT, and may interview the inmate, to determine the final disposition of the inmate's administrative confinement status.

<sup>35</sup> Fla. Admin. Code R. 33-602.222(7). Fla. Admin. Code R. 33-602.222(1)(l) provides that the SCO refers to the office or office staff at the central office level that is responsible for the review of inmate classification decisions. Duties include approving, disapproving, or modifying ICT recommendations.

<sup>36</sup> The Florida Sheriff's Association (FSA), *Florida Model Jail Standards, What is FMJS?*, available at <https://www.flsheriffs.org/law-enforcement-programs/training/florida-model-jail-standards> (last visited February 27, 2019) (hereinafter cited as "FMJS Rule").

<sup>37</sup> The FMJS Rule 1.2.

<sup>38</sup> The FMJS Rule 1.17.

administrative confinement. Additionally, the time of release for inmates in disciplinary or administrative confinement must be recorded and filed in the inmate's file.<sup>39</sup>

Each inmate in administrative confinement must receive housing, food, clothing, medical care, exercise, visitation, showers, and other services and privileges comparable to those available to the general population, except as justified by his or her classification status or special inmates.<sup>40</sup> Further, special inmates should be checked by medical staff at intervals not exceeding 72 hours and inmates in administrative or disciplinary confinement must bathe twice weekly.<sup>41</sup> The FMJS provides that the Officer-in-Charge or his or her designee must see and talk to each inmate in disciplinary or administrative confinement at least once each morning and once each afternoon and document the inmate's general condition and attitude at each visit.<sup>42</sup>

Additionally, the FMJS requires that an inmate confined in an isolation cell used for medical purposes be examined by a physician or his or her designee within 48 hours following his or her confinement in such area or cell. A physician or his or her designee must determine when the inmate will be returned to the general population. The inmate must remain in isolation if the physician or his or her designee:

- Finds that the inmate presents a serious risk to himself or others; or
- Continues to provide the inmate with follow-up medical care and treatment during the entire time that the inmate remains confined in such area or cell as deemed necessary.<sup>43</sup>

While the FMJS has some model standards related to confinement as described above, the only portion that is specific to youth provides that a youth may not be confined in isolation for medical purposes unless the order is made by a medical professional and approved by a medical doctor. In addition, the model standards provide that each youth should be examined by a physician or designee within 8-12 hours of his or her confinement.<sup>44</sup>

It is unknown whether and to what extent consistent standards similar to those in The Florida Model Jail Standards (FMJS), are used in local detention facilities related to the use of solitary confinement for administrative or disciplinary purposes with youth.

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

The bill creates ss. 945.425, F.S., to deal with youth in the DOC's custody to prohibit youth from being placed in isolation, except in specified circumstances.

Additionally, the bill amends s. 951.23, F.S., to require each sheriff and chief correctional officer to adopt the model standards for county and municipal detention facilities applicable to the confinement of prisoners by classification on the basis of age and a strict prohibition on the solitary confinement of prisoners under 19 years of age, in compliance with s. 945.425, F.S.

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<sup>39</sup> The FMJS Rule 13.13.

<sup>40</sup> *Id.*

<sup>41</sup> The FMJS Rule 5.04.

<sup>42</sup> The FMJS Rule 13.14.

<sup>43</sup> The FMJS Rule 7.23.

<sup>44</sup> The FMJS Rule 21.11(e).

The bill provides a general prohibition against a youth being placed in solitary confinement. The bill establishes criteria for placing a youth in emergency or medical confinement and guidelines for monitoring a youth that is placed in either type of confinement. The bill prohibits the use of emergency or medical confinement for the purposes of punishment or discipline.

### **Definitions**

The bill provides definitions relevant to the provisions of the bill, including:

- “Youth,” which means a person in the custody of the DOC, who is under the age of 19 years.<sup>45</sup>
- “Emergency confinement,” which means a type of confinement that involves the involuntary placement of a youth in an isolated room to separate him or her from others in the facility and to remove him or her from a situation in which he or she presents an immediate and serious danger to the security or safety of himself or herself or others.
- “Medical confinement,” which means a type of confinement that involves the involuntary placement of a youth in an isolated room to separate him or her from others in the facility to allow him or her to recover from illness or to prevent the spread of a communicable illness.
- “Mental health clinician,” which means a licensed psychiatrist, psychologist, social worker, mental health counselor, nurse practitioner, or physician’s assistant.
- “Solitary confinement,” which means the involuntary placement of a youth in an isolated room to separate him or her from others in the facility for any period of time.

### **Emergency Confinement**

The bill provides that a youth may be placed in emergency confinement if all of the following conditions are met:

- A nonphysical intervention with the youth would not be effective in preventing harm or danger to the youth or others.
- There is imminent risk of the youth physically harming himself or herself, staff, or others or that he or she is engaged in major property destruction that is likely to compromise the security of the program or jeopardize the safety of himself or herself or others.
- All less-restrictive means have been exhausted.

The bill also requires that facility staff document the placement of a youth in emergency confinement, including the justification for the placement and a description of the less-restrictive options that the facility staff exercised before the youth was placed in emergency confinement.

The bill requires a mental health clinician to evaluate a youth who is placed in emergency confinement within one hour of such placement to ensure that the confinement is not detrimental to his or her mental or physical health. Subsequent to the initial evaluation, a mental health clinician must conduct a face-to-face evaluation of the youth every two hours thereafter to determine whether he or she should remain in emergency confinement. The mental health clinician must document each evaluation and provide justification for continued placement in emergency confinement.

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<sup>45</sup> The term “youth” is used in s. 945.425, F.S.

The bill prohibits a youth from being placed in emergency confinement for more than 24 hours unless an extension is sought and obtained by a mental health clinician. A one-time extension of 24 hours for continued placement may be granted if a mental health clinician determines that release of the youth would imminently threaten the safety of the youth, or others. However, if, at the conclusion of the 48-hour window, a mental health clinician determines that it is not safe for the youth to be released from emergency confinement, the facility staff must prepare to transfer the youth to a facility that is able to provide specialized treatment to address his or her needs.

The bill requires a youth placed in emergency confinement to have access to the same meals and drinking water, clothing, medical treatment, contact with parents and legal guardians, and legal assistance as provided to others in the general inmate population.

### **Medical Confinement**

The bill provides that a youth may be placed in medical confinement if all the following conditions are met:

- Isolation from the general inmate population and staff is required to allow the youth to rest and recover from illness or to prevent the spread of a communicable illness.
- A medical professional deems such placement necessary.
- The use of other less-restrictive means would not be sufficient to allow the youth to recover from illness or to prevent the spread of a communicable illness.

The bill prohibits a youth from being placed in medical confinement for a period of time exceeding the time that is necessary for recovering from his or her illness or to prevent the spread of a communicable illness to others in the facility. Additionally, facility staff is required to document the placement of a youth in medical confinement and include a medical professional's justification for the placement.

Subsequent to a youth being placed in medical confinement, a medical professional must evaluate the youth or child face-to-face at least once every 12 hours to determine whether he or she should remain in medical confinement. The medical professional must document each evaluation and provide justification for continued placement in medical confinement.

### **Implementation**

The bill requires the DOC to review their policies and procedures relating to youth in confinement to determine whether such policies and procedures comply with the bill. Further, the DOC are required to certify compliance with the provisions of this bill in a report that must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2020.

The bill also amends s. 944.09(1), F.S., to require the DOC to adopt rules relating to youth in confinement in compliance with s. 945.425, F.S. Lastly, the bill reenacts s. 944.279, F.S., for purposes of incorporating changes made in the act.

The bill is effective July 1, 2019.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

Article VII, section 18(a) of the Florida Constitution provides that a county or municipality is not bound by any law requiring a county or municipality to take an action requiring the expenditure of funds unless the legislature has determined the law fulfills an important state interest and unless, among other things, the expenditure is required to comply with a law that applies to all similarly situated persons, including the state and local governments. Criminal laws are exempt from the requirements of this provision of the constitution.

The bill requires all state correctional facilities and county or municipal detention facilities to comply with specified standards for youth held in confinement. As a result, counties and municipalities may be required to make expenditures to implement the standards for confinement of such youth as specified in the bill. However, the standards prescribed by this legislation apply to all similarly situated persons, including state and local governments. Furthermore, the standards established in the bill apply to the confinement of youth who have violated or been accused of violating criminal laws.

**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 bill requires the DOC correctional facilities, and county and municipal detention facilities, to comply with specified standards for the placement of youth in confinement, including requirements that staff with specified qualifications conduct assessments of youth on regular intervals for the entirety of the time that they are in emergency or medical confinement.

The DOC reports that the overall impact of the bill is indeterminate, but will likely result in a positive, significant fiscal impact (i.e. a significant increase in DOC's costs). The department cannot estimate the number of inmates that will be placed into confinement and exactly when they will be released. The DOC further states that it is unable to determine how many additional mental health and correctional staff will be necessary to implement the standards required by this bill, but that it is anticipated to be significant.<sup>46</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 944.09, 951.23.

This bill creates the following section of the Florida Statutes: 945.425. The bill reenacts section 944.279 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.)

**Recommended CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on April 16, 2019:**

The committee substitute:

- Removes section 3 of the bill relating to confinement in detention facilities, to remove all references to children in the custody of the DJJ.
- Removes section 4 of the bill relating to confinement in residential facilities, to remove all references to children in the custody of the DJJ.

**CS by Criminal Justice on March, 4, 2019:**

The Committee Substitute:

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<sup>46</sup> The DOC SB 624 Agency Analysis, p. 9.

- Removes the term “solitary” from any places in the bill that may lead to confusion about the new standards for confinement of youth.
- Clarifies that the mental health clinicians required to conduct certain checks under the bill must be licensed.
- Adds physician assistants and mental health counselors to the definition of “mental health clinician.”

B. Amendments:

None.



514928

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/16/2019	.	
	.	
	.	
	.	

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Appropriations Subcommittee on Criminal and Civil Justice  
(Montford) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 262 - 373.

Delete lines 491 - 513.

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

And the title is amended as follows:

Delete lines 33 - 63

and insert:

relating to youth; creating s.



514928

11           Delete lines 91 - 93  
12 and insert:  
13           the Department of Corrections to adopt rules;  
14           reenacting s. 944.279(1),



626484

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2019	.	
	.	
	.	
	.	

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Appropriations Subcommittee on Criminal and Civil Justice  
(Montford) recommended the following:

1       **Senate Substitute for Amendment (514928) (with title**  
2 **amendment)**

3  
4       Delete lines 262 - 513  
5 and insert:

6       Section 3. Paragraph (s) is added to subsection (1) of  
7 section 944.09, Florida Statutes, to read:

8       944.09 Rules of the department; offenders, probationers,  
9 and parolees.—

10       (1) The department has authority to adopt rules pursuant to



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11 ss. 120.536(1) and 120.54 to implement its statutory authority.  
12 The rules must include rules relating to:  
13 (s) Youth in confinement in compliance with s. 945.425.  
14

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

16 And the title is amended as follows:

17 Delete lines 33 - 93

18 and insert:

19 relating to youth; amending s. 944.09, F.S.;  
20 authorizing the Department of Corrections to adopt  
21 rules; reenacting s. 944.279(1),

By the Committee on Criminal Justice; and Senator Montford

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1                                   A bill to be entitled  
2           An act relating to youth in solitary confinement;  
3           creating s. 945.425, F.S.; defining terms; prohibiting  
4           the Department of Corrections from placing a youth in  
5           solitary confinement except under certain  
6           circumstances; authorizing a youth to be placed in  
7           emergency confinement if certain conditions are met;  
8           requiring facility staff to document such placement;  
9           requiring that, within a specified timeframe and at  
10          specified intervals, a mental health clinician conduct  
11          certain evaluations of a youth who is in emergency  
12          confinement; limiting the allowable length of time for  
13          emergency confinement; requiring specific treatment  
14          for a youth who is in emergency confinement;  
15          prohibiting the use of emergency confinement for  
16          certain purposes; authorizing a youth to be placed in  
17          medical confinement under certain circumstances;  
18          limiting the allowable length of time for medical  
19          confinement; requiring facility staff to document such  
20          confinement; requiring that, within a specified  
21          timeframe and at specified intervals, a medical  
22          professional conduct certain evaluations of a youth  
23          who is in medical confinement; prohibiting the use of  
24          medical confinement for certain purposes; requiring  
25          the department to review its policies and procedures  
26          relating to youth in confinement; requiring the  
27          department to certify compliance in a report to the  
28          Governor and Legislature by a specified date;  
29          requiring the department to adopt policies and

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30 procedures; providing applicability; amending s.  
31 951.23, F.S.; requiring sheriffs and chief  
32 correctional officers to adopt model standards  
33 relating to youth; creating s. 985.28, F.S.; defining  
34 terms; prohibiting the Department of Juvenile Justice  
35 from placing a child in solitary confinement except  
36 under certain circumstances; authorizing a child to be  
37 placed in emergency confinement if certain conditions  
38 are met; requiring facility staff to document such  
39 placement; requiring that, within a specified  
40 timeframe and at specified intervals, a mental health  
41 clinician conduct certain evaluations of a child who  
42 is in emergency confinement; limiting the allowable  
43 length of time for the use of emergency confinement;  
44 requiring specific treatment for a child who is in  
45 emergency confinement; prohibiting the use of  
46 emergency confinement for certain purposes;  
47 authorizing a youth to be placed in medical  
48 confinement under certain circumstances; limiting the  
49 allowable length of time for medical confinement;  
50 requiring facility staff to document such placement;  
51 requiring that, within a specified timeframe and at  
52 specified intervals, a medical professional conduct  
53 certain evaluations of a child who is in medical  
54 confinement; prohibiting the use of medical  
55 confinement for certain purposes; requiring the  
56 department and the board of county commissioners of  
57 each county that administers a detention facility to  
58 review policies and procedures relating to

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59 disciplinary treatment; requiring the department and  
60 the board of county commissioners of each county that  
61 administers a detention facility to certify compliance  
62 in a report to the Governor and Legislature by a  
63 specified date; providing applicability; creating s.  
64 985.4415, F.S.; defining terms; prohibiting facility  
65 staff from placing a child in solitary confinement,  
66 except under certain circumstances; authorizing a  
67 child to be placed in emergency confinement if certain  
68 conditions are met; requiring facility staff to  
69 document such placement; requiring that, within a  
70 specified timeframe and at specified intervals, a  
71 mental health clinician conduct certain evaluations of  
72 a child who is in emergency confinement; limiting the  
73 allowable length of time for emergency confinement;  
74 requiring specific treatment for a child who is in  
75 emergency confinement; prohibiting the use of  
76 emergency confinement for certain purposes;  
77 authorizing a youth to be placed in medical  
78 confinement under certain circumstances; limiting the  
79 allowable length of time for medical confinement;  
80 requiring facility staff to document such placement;  
81 requiring that, within a specified timeframe and at  
82 specified intervals, a medical professional conduct  
83 certain evaluations of a child who is in medical  
84 confinement; prohibiting the use of medical  
85 confinement for certain purposes; requiring the  
86 department to review policies and procedures relating  
87 to disciplinary treatment; requiring the department to

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88 certify compliance in a report to the Governor and  
89 Legislature by a specified date; providing  
90 applicability; amending s. 944.09, F.S.; authorizing  
91 the Department of Corrections to adopt rules; amending  
92 s. 985.601, F.S.; requiring the Department of Juvenile  
93 Justice to adopt rules; reenacting s. 944.279(1),  
94 F.S., relating to disciplinary procedures applicable  
95 to a prisoner for filing frivolous or malicious  
96 actions or bringing false information before a court,  
97 to incorporate the amendment made to s. 944.09, F.S.,  
98 in a reference thereto; providing an effective date.

99

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

101

102 Section 1. Section 945.425, Florida Statutes, is created to  
103 read:

104 945.425 Youth in confinement.-

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

106 (a) "Emergency confinement" means a type of confinement  
107 that involves the involuntary placement of a youth in an  
108 isolated room to separate that youth from the general inmate  
109 population and to remove him or her from a situation in which he  
110 or she presents an immediate and serious danger to the security  
111 or safety of himself or herself or others.

112 (b) "Medical confinement" means a type of confinement that  
113 involves the involuntary placement of a youth in an isolated  
114 room to separate that youth from the general inmate population  
115 to allow him or her to recover from an illness or to prevent the  
116 spread of a communicable illness.

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117 (c) "Mental health clinician" means a licensed  
118 psychiatrist, psychologist, social worker, mental health  
119 counselor, nurse practitioner, or physician assistant.

120 (d) "Solitary confinement" means the involuntary placement  
121 of a youth in an isolated room to separate that youth from the  
122 general inmate population for any period of time.

123 (e) "Youth" means a person within the custody of the  
124 department who is under the age of 19 years.

125 (2) PROHIBITION ON THE USE OF SOLITARY CONFINEMENT.—A youth  
126 may not be placed in solitary confinement, except as provided in  
127 this section.

128 (3) PROTECTING YOUTH IN EMERGENCY CONFINEMENT.—

129 (a) A youth may be placed in emergency confinement if all  
130 of the following conditions are met:

131 1. A nonphysical intervention with the youth would not be  
132 effective in preventing harm or danger to the youth or others.

133 2. There is imminent risk of the youth physically harming  
134 himself or herself, staff, or others or the youth is engaged in  
135 major property destruction that is likely to compromise the  
136 security of the program or jeopardize the safety of the youth or  
137 others.

138 3. All less-restrictive means have been exhausted.

139 (b) Facility staff shall document the placement of a youth  
140 in emergency confinement. The documentation must include  
141 justification for the placement, in addition to a description of  
142 the less-restrictive options that the facility staff exercised  
143 before the youth was so placed.

144 (c) A mental health clinician shall evaluate a youth who is  
145 placed in emergency confinement within 1 hour after such

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146 placement to ensure that the confinement is not detrimental to  
147 the mental or physical health of the youth. Following the  
148 initial evaluation, a mental health clinician shall conduct a  
149 face-to-face evaluation of the youth every 2 hours thereafter to  
150 determine whether the youth should remain in emergency  
151 confinement. The mental health clinician shall document each  
152 evaluation and provide justification for continued placement in  
153 emergency confinement.

154 (d) A youth may not be placed in emergency confinement for  
155 more than 24 hours unless an extension is sought and obtained by  
156 a mental health clinician.

157 1. If a mental health clinician determines that release of  
158 the youth would imminently threaten the safety of the youth or  
159 others, the mental health clinician may grant a one-time  
160 extension of 24 hours for continued placement in emergency  
161 confinement.

162 2. If, at the conclusion of the 48-hour window, a mental  
163 health clinician determines that it is not safe for the youth to  
164 be released from emergency confinement, the facility staff must  
165 prepare to transfer the youth to a facility that is able to  
166 provide specialized treatment to address the youth's needs.

167 (e) A youth who is placed in emergency confinement must be  
168 provided access to the same meals and drinking water, clothing,  
169 medical treatment, contact with parents and legal guardians, and  
170 legal assistance as provided to youth in the general inmate  
171 population.

172 (f) The use of emergency confinement is strictly prohibited  
173 for the purposes of punishment or discipline.

174 (4) PROTECTING YOUTH IN MEDICAL CONFINEMENT.—

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175 (a) A youth may be placed in medical confinement if all of  
176 the following conditions are met:

177 1. Isolation from the general inmate population and staff  
178 is required to allow the youth to rest and recover from illness  
179 or to prevent the spread of a communicable illness.

180 2. A medical professional deems such placement necessary.

181 3. The use of other less-restrictive means would not be  
182 sufficient to allow the youth to recover from illness or to  
183 prevent the spread of a communicable illness.

184 (b) A youth may be placed in medical confinement for a  
185 period of time not to exceed the time that is necessary for the  
186 youth to recover from his or her illness or to prevent the  
187 spread of a communicable illness to other inmates or staff in  
188 the facility.

189 (c) Facility staff shall document the placement of a youth  
190 in medical confinement. The documentation must include a medical  
191 professional's justification for the placement.

192 (d) A medical professional must evaluate a youth who is  
193 held in medical confinement face-to-face at least once every 12  
194 hours to determine whether the youth should remain in medical  
195 confinement. The medical professional shall document each  
196 evaluation and provide justification for continued placement in  
197 medical confinement.

198 (e) The use of medical confinement is strictly prohibited  
199 for the purposes of punishment or discipline.

200 (5) IMPLEMENTATION.—

201 (a) The department shall review its policies and procedures  
202 relating to youth in confinement to determine whether its  
203 policies and procedures comply with this section.

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204 (b) The department shall certify compliance with this  
205 section in a report that the department shall submit to the  
206 Governor, the President of the Senate, and the Speaker of the  
207 House of Representatives by January 1, 2020.

208 (c) The department shall adopt policies and procedures  
209 necessary to administer this section.

210 (d) This section does not supersede any law providing  
211 greater or additional protections to a youth in this state.

212 Section 2. Paragraph (a) of subsection (4) of section  
213 951.23, Florida Statutes, is amended to read:

214 951.23 County and municipal detention facilities;  
215 definitions; administration; standards and requirements.—

216 (4) STANDARDS FOR SHERIFFS AND CHIEF CORRECTIONAL  
217 OFFICERS.—

218 (a) ~~There shall be established~~ A five-member working group  
219 is established which consists ~~consisting~~ of three persons  
220 appointed by the Florida Sheriffs Association and two persons  
221 appointed by the Florida Association of Counties to develop  
222 model standards for county and municipal detention facilities.  
223 At a minimum ~~By October 1, 1996,~~ each sheriff and chief  
224 correctional officer shall adopt, ~~at a minimum,~~ the model  
225 standards with reference to:

226 1.a. The construction, equipping, maintenance, and  
227 operation of county and municipal detention facilities.

228 b. The cleanliness and sanitation of county and municipal  
229 detention facilities; the number of county and municipal  
230 prisoners who may be housed therein per specified unit of floor  
231 space; the quality, quantity, and supply of bedding furnished to  
232 such prisoners; the quality, quantity, and diversity of food

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233 served to them and the manner in which it is served; the  
234 furnishing to them of medical attention and health and comfort  
235 items; and the disciplinary treatment that ~~which~~ may be meted  
236 out to them.

237

238 Notwithstanding the provisions of the otherwise applicable  
239 building code, a reduced custody housing area may be occupied by  
240 inmates or may be used for sleeping purposes as allowed in  
241 subsection (7). The sheriff or chief correctional officer shall  
242 provide that a reduced custody housing area shall be governed by  
243 fire and life safety standards which do not interfere with the  
244 normal use of the facility and which affect a reasonable degree  
245 of compliance with rules of the State Fire Marshal for  
246 correctional facilities.

247 2. The confinement of prisoners by classification and  
248 providing, whenever possible, for classifications that ~~which~~  
249 separate males from females, juveniles from adults, felons from  
250 misdemeanants, and those awaiting trial from those convicted  
251 and, in addition, providing for the separation of special risk  
252 prisoners, such as the mentally ill, alcohol or narcotic  
253 addicts, sex deviates, suicide risks, and any other  
254 classification which the local unit may deem necessary for the  
255 safety of the prisoners and the operation of the facility  
256 pursuant to degree of risk and danger criteria. Nondangerous  
257 felons may be housed with misdemeanants.

258 3. The confinement of prisoners by classification on the  
259 basis of age and a strict prohibition on the use of solitary  
260 confinement for prisoners under the age of 19 years, in  
261 compliance with s. 945.425.

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262 Section 3. Section 985.28, Florida Statutes, is created to  
263 read:

264 985.28 Confinement in detention facilities.-

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

266 (a) "Child" means a person who is in the custody of the  
267 department and who is under the age of 19 years.

268 (b) "Emergency confinement" means a type of confinement  
269 that involves the involuntary placement of a child in an  
270 isolated room to separate that child from other children in the  
271 facility and to remove him or her from a situation in which he  
272 or she presents an immediate and serious danger to the security  
273 or safety of himself or herself or others.

274 (c) "Medical confinement" means a type of confinement that  
275 involves the involuntary placement of a child in an isolated  
276 room to separate that child from other children in the facility  
277 to allow the child to recover from illness or to prevent the  
278 spread of a communicable illness.

279 (d) "Mental health clinician" means a licensed  
280 psychiatrist, psychologist, social worker, mental health  
281 counselor, nurse practitioner, or physician assistant.

282 (e) "Solitary confinement" means the involuntary placement  
283 of a child in an isolated room to separate that child from other  
284 children in the facility for any period of time.

285 (2) PROHIBITION ON THE USE OF SOLITARY CONFINEMENT.-A child  
286 may not be placed in solitary confinement, except as provided in  
287 this section.

288 (3) PROTECTING A CHILD IN EMERGENCY CONFINEMENT.-

289 (a) A child may be placed in emergency confinement if all  
290 of the following conditions are met:

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291 1. A nonphysical intervention with the child would not be  
292 effective in preventing harm or danger to the child or others.

293 2. There is imminent risk of the child physically harming  
294 himself or herself, staff, or others or the child is engaged in  
295 major property destruction that is likely to compromise the  
296 security of the program or jeopardize the safety of the child or  
297 others.

298 3. All less-restrictive means have been exhausted.

299 (b) Facility staff shall document the placement of a child  
300 in emergency confinement. The documentation must include  
301 justification for the placement of a child in emergency  
302 confinement, in addition to a description of the less-  
303 restrictive options that the facility staff exercised before the  
304 child was so placed.

305 (c) A mental health clinician shall evaluate a child who is  
306 placed in emergency confinement within 1 hour after such  
307 placement to ensure that the confinement is not detrimental to  
308 the mental or physical health of the child. Following the  
309 initial evaluation, a mental health clinician shall conduct a  
310 face-to-face evaluation of the child every 2 hours thereafter to  
311 determine whether the child should remain in emergency  
312 confinement. The mental health clinician shall document each  
313 evaluation and provide justification for continued placement in  
314 emergency confinement.

315 (d) A child may not be placed in emergency confinement for  
316 more than 24 hours unless an extension is sought and obtained by  
317 a mental health clinician.

318 1. If a mental health clinician determines that release of  
319 the child would imminently threaten the safety of the child or

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320 others, the mental health clinician may grant a one-time  
321 extension of 24 hours for continued placement in emergency  
322 confinement.

323 2. If, at the conclusion of the 48-hour window, a mental  
324 health clinician determines that it is not safe for the child to  
325 be released from emergency confinement, the facility staff must  
326 prepare to transfer the child to a facility that is able to  
327 provide specialized treatment to address the child's needs.

328 (e) A child who is placed in emergency confinement must be  
329 provided access to the same meals and drinking water, clothing,  
330 medical treatment, contact with parents and legal guardians, and  
331 legal assistance as provided to children in the facility.

332 (f) The use of emergency confinement is strictly prohibited  
333 for the purposes of punishment or discipline.

334 (4) PROTECTING A CHILD IN MEDICAL CONFINEMENT.-

335 (a) A child may be placed in medical confinement if all of  
336 the following conditions are met:

337 1. Isolation from staff and other children in the facility  
338 is required to allow the child to rest and recover from illness  
339 or to prevent the spread of a communicable illness.

340 2. A medical professional deems such placement necessary.

341 3. The use of other less-restrictive means would not be  
342 sufficient to allow the child to recover from illness or to  
343 prevent the spread of a communicable illness.

344 (b) A child may be placed in medical confinement for a  
345 period of time not to exceed the time that is necessary for the  
346 child to recover from his or her illness or to prevent the  
347 spread of a communicable illness to other children or staff in  
348 the facility.

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349 (c) Facility staff shall document the placement of a child  
350 in medical confinement. The documentation must include a medical  
351 professional's justification for the placement.

352 (d) A medical professional must conduct a face-to-face  
353 evaluation of a child who is held in medical confinement at  
354 least once every 12 hours to determine whether the child should  
355 remain in medical confinement. The medical professional shall  
356 document each evaluation and provide justification for continued  
357 placement in medical confinement.

358 (e) The use of medical confinement is strictly prohibited  
359 for the purposes of punishment or discipline.

360 (5) IMPLEMENTATION.—

361 (a) The department and the board of county commissioners of  
362 each county that administers a detention facility shall review  
363 their policies and procedures relating to disciplinary treatment  
364 to determine whether their policies and procedures comply with  
365 this section.

366 (b) The department and the board of county commissioners of  
367 each county that administers a detention facility shall certify  
368 compliance with this section in a report that the department and  
369 the board shall submit to the Governor, the President of the  
370 Senate, and the Speaker of the House of Representatives by  
371 January 1, 2020.

372 (c) This section does not supersede any law providing  
373 greater or additional protections to a child in this state.

374 Section 4. Section 985.4415, Florida Statutes, is created  
375 to read:

376 985.4415 Confinement in residential facilities.—

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

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378 (a) "Child" means a person within the custody of the  
379 department who is under the age of 19 years.

380 (b) "Emergency confinement" means a type of confinement  
381 that involves the involuntary placement of a child in an  
382 isolated room to separate that child from other children in the  
383 facility and to remove him or her from a situation in which he  
384 or she presents an immediate and serious danger to the security  
385 or safety of himself or herself or others.

386 (c) "Medical confinement" means a type of confinement that  
387 involves the involuntary placement of a child in an isolated  
388 room to separate that child from the other children in the  
389 facility and to allow him or her to recover from illness or to  
390 prevent the spread of a communicable illness.

391 (d) "Mental health clinician" means a licensed  
392 psychiatrist, psychologist, social worker, mental health  
393 counselor, nurse practitioner, or physician assistant.

394 (e) "Solitary confinement" means the involuntary placement  
395 of a child in an isolated room to separate that child from the  
396 other children in the facility for any period of time.

397 (2) PROHIBITION ON THE USE OF SOLITARY CONFINEMENT.—A child  
398 may not be placed in solitary confinement, except as provided in  
399 this section.

400 (3) PROTECTING A CHILD IN EMERGENCY CONFINEMENT.—

401 (a) A child may be placed in emergency confinement if all  
402 of the following conditions are met:

403 1. A nonphysical intervention with the child would not be  
404 effective in preventing harm or danger to the child or others.

405 2. There is imminent risk of the child physically harming  
406 himself or herself, staff, or others or the child is engaged in

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407 major property destruction that is likely to compromise the  
408 security of the program or jeopardize the safety of the child or  
409 others.

410 3. All less-restrictive means have been exhausted.

411 (b) Facility staff shall document the placement of a child  
412 in emergency confinement. The documentation must include  
413 justification for the placement of a child in emergency  
414 confinement, in addition to a description of the other less-  
415 restrictive options that the facility staff exercised before the  
416 child was so placed.

417 (c) A mental health clinician shall evaluate a child who is  
418 placed in emergency confinement within 1 hour after such  
419 placement to ensure that the confinement is not detrimental to  
420 the mental or physical health of the child. Following the  
421 initial evaluation, a mental health clinician shall conduct a  
422 face-to-face evaluation of the child every 2 hours thereafter to  
423 determine whether the child should remain in emergency  
424 confinement. The mental health clinician shall document each  
425 evaluation and provide justification for continued placement in  
426 emergency confinement.

427 (d) A child may not be placed in emergency confinement for  
428 more than 24 hours unless an extension is sought and obtained by  
429 a mental health clinician.

430 1. If a mental health clinician determines that release of  
431 the child would imminently threaten the safety of the child or  
432 others, the mental health clinician may grant a one-time  
433 extension of 24 hours for continued placement in emergency  
434 confinement.

435 2. If at the conclusion of the 48-hour window a mental

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436 health clinician determines that it is not safe for the child to  
437 be released from emergency confinement, the facility staff must  
438 prepare to transfer the child to a facility that is able to  
439 provide specialized treatment to address the child's needs.

440 (e) A child who is placed in emergency confinement must be  
441 provided access to the same meals and drinking water, clothing,  
442 medical treatment, contact with parents and legal guardians, and  
443 legal assistance as provided to children in the facility.

444 (f) The use of emergency confinement is strictly prohibited  
445 for the purposes of punishment or discipline.

446 (4) PROTECTING A CHILD IN MEDICAL CONFINEMENT.—

447 (a) A child may be placed in medical confinement if all of  
448 the following conditions are met:

449 1. Isolation from other children and staff in the facility  
450 is required to allow a child to rest and recover from illness or  
451 to prevent the spread of a communicable illness.

452 2. A medical professional deems such placement necessary.

453 3. The use of other less-restrictive means would not be  
454 sufficient to allow the child to recover from illness or to  
455 prevent the spread of a communicable illness.

456 (b) A child may be placed in medical confinement for a  
457 period of time not to exceed the time that is necessary for the  
458 child to recover from his or her illness or to prevent the  
459 spread of a communicable illness to other children or staff in  
460 the facility.

461 (c) Facility staff shall document the placement of a child  
462 in medical confinement. The documentation must include a medical  
463 professional's justification for the placement.

464 (d) A medical professional must conduct a face-to-face

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465 evaluation of a child who is held in medical confinement at  
466 least once every 12 hours to determine whether the child should  
467 remain in medical confinement. The medical professional shall  
468 document each evaluation and provide justification for continued  
469 placement in medical confinement.

470 (e) The use of medical confinement is strictly prohibited  
471 for the purposes of punishment or discipline.

472 (5) IMPLEMENTATION.—

473 (a) The department shall review its policies and procedures  
474 relating to disciplinary treatment in residential facilities to  
475 determine whether its policies and procedures comply with this  
476 section.

477 (b) The department shall certify compliance with this  
478 section in a report that the department shall submit to the  
479 Governor, the President of the Senate, and the Speaker of the  
480 House of Representatives by January 1, 2020.

481 (c) This section does not supersede any law providing  
482 greater or additional protections to a child in this state.

483 Section 5. Paragraph (s) is added to subsection (1) of  
484 section 944.09, Florida Statutes, to read:

485 944.09 Rules of the department; offenders, probationers,  
486 and parolees.—

487 (1) The department has authority to adopt rules pursuant to  
488 ss. 120.536(1) and 120.54 to implement its statutory authority.  
489 The rules must include rules relating to:

490 (s) Youth in confinement in compliance with s. 945.425.

491 Section 6. Paragraph (b) of subsection (9) of section  
492 985.601, Florida Statutes, is amended to read:

493 985.601 Administering the juvenile justice continuum.—

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494 (9) (b) The department shall adopt rules prescribing  
495 standards and requirements with reference to:

496 1. The construction, equipping, maintenance, staffing,  
497 programming, and operation of detention facilities;

498 2. The treatment, training, and education of children  
499 confined in detention facilities;

500 3. The cleanliness and sanitation of detention facilities;

501 4. The number of children who may be housed in detention  
502 facilities per specified unit of floor space;

503 5. The quality, quantity, and supply of bedding furnished  
504 to children housed in detention facilities;

505 6. The quality, quantity, and diversity of food served in  
506 detention facilities and the manner in which it is served;

507 7. The furnishing of medical attention and health and  
508 comfort items in detention facilities; ~~and~~

509 8. The disciplinary treatment administered in detention and  
510 residential facilities; ~~and~~-

511 9. The strict prohibition on the use of solitary  
512 confinement on children under the age of 19 years in compliance  
513 with ss. 985.28 and 985.4415.

514 Section 7. For the purpose of incorporating the amendment  
515 made by this act to section 944.09, Florida Statutes, in a  
516 reference thereto, subsection (1) of section 944.279, Florida  
517 Statutes, is reenacted to read:

518 944.279 Disciplinary procedures applicable to prisoner for  
519 filing frivolous or malicious actions or bringing false  
520 information before court.-

521 (1) At any time, and upon its own motion or on motion of a  
522 party, a court may conduct an inquiry into whether any action or

591-02643-19

2019624c1

523 appeal brought by a prisoner was brought in good faith. A  
524 prisoner who is found by a court to have brought a frivolous or  
525 malicious suit, action, claim, proceeding, or appeal in any  
526 court of this state or in any federal court, which is filed  
527 after June 30, 1996, or to have brought a frivolous or malicious  
528 collateral criminal proceeding, which is filed after September  
529 30, 2004, or who knowingly or with reckless disregard for the  
530 truth brought false information or evidence before the court, is  
531 subject to disciplinary procedures pursuant to the rules of the  
532 Department of Corrections. The court shall issue a written  
533 finding and direct that a certified copy be forwarded to the  
534 appropriate institution or facility for disciplinary procedures  
535 pursuant to the rules of the department as provided in s.  
536 944.09.

537 Section 8. This act shall take effect July 1, 2019.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Environment and Natural Resources, *Chair*  
Education, *Vice Chair*  
Agriculture  
Appropriations  
Appropriations Subcommittee on Education  
Rules

### JOINT COMMITTEE:

Joint Legislative Auditing Committee

### SENATOR BILL MONTFORD

*Minority Leader Pro Tempore*  
3rd District

March 11, 2019

Senator Jeff Brandes, Chair  
Senate Appropriations Subcommittee on Criminal and Civil Justice  
416 Senate Office Building  
Tallahassee, Florida 32399-1100

Dear Chair,

I respectfully request that the following bills be placed on the next Appropriations Subcommittee on Criminal and Civil Justice Agenda.

SB 624– A bill relating to Youth in Solitary Confinement.

Your consideration is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Bill Montford".

William J. Montford III

WJM:lc

#### REPLY TO:

- 410 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5003
- 20 East Washington Street, Suite D, Quincy, Florida 32351 (850) 627-9100

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

**BILL GALVANO**  
President of the Senate

**DAVID SIMMONS**  
President Pro Tempore

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

4-16-2019 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 624

Meeting Date

Bill Number (if applicable)

Topic Solitary Confinement of Juveniles

Amendment Barcode (if applicable)

Name Professor Tamy Coarun

Job Title Executive Director

Address FSU Human Rights Center

Phone (850) 644-4550

Street

426 W. Jefferson

32301

Email tcoarun@fsu.edu

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/14/14)

## THE FLORIDA SENATE

**APPEARANCE RECORD**

April 16, 2019

*Meeting Date*

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 0624

*Bill Number (if applicable)*Topic Youth in Solitary Confinement*Amendment Barcode (if applicable)*Name Hon. Carlos MartinezJob Title Elected Public Defender 11th CircuitAddress 1320 NW 14th Street*Street*Miami*City*FL*State*33125*Zip*Phone 305-545-1600Email cmartinez@pdmiami.comSpeaking:  For  Against  InformationWaive Speaking:  In Support  Against  
(The Chair will read this information into the record.)Representing Florida Public Defender AssociationAppearing at request of Chair:  Yes  NoLobbyist registered with Legislature:  Yes  No*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.****This form is part of the public record for this meeting.***

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

624

Bill Number (if applicable)

Topic Solitary Confinement

Amendment Barcode (if applicable)

Name Caitlyn Kio

Job Title \_\_\_\_\_

Address 425 W. Jefferson St.

Phone \_\_\_\_\_

Street

TLH

City

FL

State

32306

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FSU Public Interest Law Center

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/15/19

Meeting Date

624

Bill Number (if applicable)

Topic Solitary Confinement

Amendment Barcode (if applicable)

Name Karen Mazzola

Job Title Treasurer

Address 1747 Central Orlando Pkwy

Phone 407-855-7604

Street

Orlando

FL

32809

City

State

Zip

Email Treasurer@Floridapta.org

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing Florida PTA

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-16-19

Meeting Date

624

Bill Number (if applicable)

Topic Solitary Confinement

Amendment Barcode (if applicable)

Name Deni Kolev

Job Title law student

Address 420 N. Adams St , 204

Phone (717)645-0668

Street

Tallahassee

City

FL

State

32301

Zip

Email DK2E@my.fsu.edu

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FSU Public Interest Law Center

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4.16.19

624

*Meeting Date**Bill Number (if applicable)*Topic Youth in solitary Confiement*Amendment Barcode (if applicable)*Name Barney Bishop IIIJob Title President & CEOAddress 2215 Thomasville RoadPhone 850.510.9922*Street*TallahasseeFL32308Email barney@barneybishop.com*City**State**Zip*Speaking:  For  Against  InformationWaive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*Representing Florida Smart Justice AllianceAppearing at request of Chair:  Yes  NoLobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

SB 624

Bill Number (if applicable)

Topic Youth in Solitary Confinement

Amendment Barcode (if applicable)

Name Kara Gross

Job Title Legislative Director

Address 4343 W. Flagler St., 400

Phone 786-363-4436

Street

Miami

FL

32312

Email kgross@aclufl.org

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing ACLU of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

9/16/19  
Meeting Date

624  
Bill Number (if applicable)

Topic Youth in Solitary Confinement

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title \_\_\_\_\_

Address 104 S. Monroe Street

Phone 850-425-1344

Tallahassee FL 32301  
City State Zip

Email TcgLobby@aol.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida State Conference of NAACP

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

7/16/19

Meeting Date

SB 624

Bill Number (if applicable)

Topic Youth In Solitary

Amendment Barcode (if applicable)

Name Scott McCoy

Job Title Sr. Policy Counsel

Address Street

Phone

City

State

Zip

Email

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [x] In Support [ ] Against (The Chair will read this information into the record.)

Representing Southern Poverty Law Center Action Fund

Appearing at request of Chair: [x] Yes [ ] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

624

Bill Number (if applicable)

Topic Solitary Confinement

Amendment Barcode (if applicable)

Name Ingrid Delgado

Job Title Associate for Social Concerns & Respect Life

Address 201 W Park Av

Phone

Street

Tallahassee FL 32301

Email

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Confereny of Catholic Bishops

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19  
Meeting Date

624  
Bill Number (if applicable)

Topic YOUTH in Solitary Confinement

Amendment Barcode (if applicable)

Name Ida V. ESKamani

Job Title Public Policy

Address 126 N. Mills Ave  
Street  
Orlando FL 32801  
City State Zip

Phone 40764801

Email ida.eskamani@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing New Florida Majority

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-16-19

Meeting Date

SB 624

Bill Number (if applicable)

Topic youth in Solitary Confinement

Amendment Barcode (if applicable)

Name Erin Cusick

Job Title Consultant

Address 1931 Dellwood Drive

Phone

Street

Tallahassee

FL

32303

Email erin@erincusick.com

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [x] In Support [ ] Against (The Chair will read this information into the record.)

Representing National Association of Social Workers - Florida Chapter

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

**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 Committee on Criminal Justice

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**BILL:** PCS/CS/SB 642 (793174)

**INTRODUCER:** Appropriations Subcommittee on Criminal and Civil Justice; Criminal Justice Committee; and Senator Brandes and others

**SUBJECT:** Public Safety

**DATE:** April 16, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cox</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Forbes</u>	<u>Jameson</u>	<u>ACJ</u>	<u>Recommend: Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

PCS/CS/SB 642 makes a number of changes to various provisions related to Florida's criminal justice system, courts, and public safety, including:

- Requiring, at the request of any justice permanently residing outside of Leon County, the Chief Justice of the Florida Supreme Court to designate and coordinate a location in the justice's district for the justice's private chambers pursuant to section 112.061, Florida Statutes;
- Adding a circuit court judgeship to both the Ninth Judicial Circuit Court and the Twelfth Judicial Circuit Court;
- Requiring the Office of the State Courts Administrator to provide an annual report detailing the number of participants in each problem-solving court for each fiscal year of operation;
- Allowing each judicial circuit to establish a community court program for defendants charged with certain misdemeanor offenses and specifying program requirements;
- Requiring the chief judge of each judicial circuit to establish a Veterans' court;
- Expanding eligibility beyond veterans and active duty servicemembers to include individuals who are current or former United States Department of Defense contractors and current or former military members of a foreign allied country for veteran treatment courts, pretrial drug courts, and veteran pretrial intervention and treatment programs;
- Increasing the threshold amounts of various theft offenses;

- Requiring the Office of Program Policy Analysis and Government Accountability to review specified threshold amounts periodically and report its findings to the Governor, President of the Senate, and Speaker of the House of Representatives;
- Requiring the clerk of court to establish a Driver License Reinstatement Day Program to assist people seeking to have their driver license reinstated;
- Modifying several provisions relating to the revocation and suspension of a driver license;
- Removing any felony criminal penalties for a subsequent violation of driving on a suspended, revoked, etc. license;
- Ensuring the Sexually Violent Predator Program is considered to serve a criminal justice function to maintain its access to the National Crime Information Center database;
- Prohibiting specified entities from considering convictions that have occurred more than five years from the date of a licensure or registration application from being a basis for denial of an occupational license or registration;
- Allowing a veterinarian to report certain suspected criminal violations to the appropriate authorities without notice to the client;
- Providing a just cause defense for criminal offenses and disciplinary violations against a contractor for failure to do certain things within a specified amount of time;
- Increasing the felony thresholds applicable to the fraud provisions related to contractors;
- Removing the mandatory minimum sentence for horse meat offenses;
- Ensuring that a person released from a county detention facility following incarceration for an offense for which the sentence pronounced was a prison sentence qualifies as a prison releasee reoffender if otherwise eligible;
- Retroactively applying legislative changes that removed aggravated assault and attempted aggravated assault as predicate offenses for mandatory minimum sentencing under the “10-20-Life” statute;
- Ensuring that attorney’s fees cannot be awarded in injunction proceedings for repeat, dating, or sexual violence or stalking;
- Providing that cyberstalking includes accessing or attempting to access the online accounts or Internet-connected home electronic systems of another person without that person’s permission, causing substantial emotional distress to that person and serving no legitimate purpose;
- FN 39
- Specifying that a person who holds or held an active certification from the Criminal Justice Standards and Training Commission as a law enforcement or correctional officer and who meets other specified criteria meets the definition of “qualified law enforcement officer” found at 18 U.S.C. s. 926(B) and (C), thereby authorizing such person to carry a concealed firearm in Florida in accordance with federal requirements;
- Prohibiting lewd or lascivious exhibition in the presence of any person employed at or performing contractual work for a county detention facility;
- Amending the definition of “access,” relating to computer crimes, to reference an electronic device, so unlawful access includes unlawfully accessing an electronic device;
- Providing for punishment of computer-related crimes when those crimes are committed willfully, knowingly, and exceeding authorization;
- Prohibiting a person from selling, lending, giving away, distributing, transmitting, showing, transmuting, or possessing a child-like sex doll;

- Reducing the penalties from a third degree felony to a second degree misdemeanor for certain alcohol and gambling offenses;
- Creating a new drug trafficking offense called “trafficking in pharmaceuticals,” which will apply to trafficking in a specified number of dosage units containing a controlled substance specified in the drug trafficking statute;
- Authorizing a court to depart from the imposition of a mandatory minimum sentence in drug trafficking cases if certain circumstances are met;
- Retroactively applying ameliorative sentencing changes to trafficking in hydrocodone and oxycodone and mixtures containing either controlled substance;
- Modifying a number of definitions and data collection points necessary for efficient data collection in accordance with the Criminal Justice Data transparency Act;
- Ensuring that data collected in accordance with section 900.05, Florida Statutes, maintains the necessary confidential and exempt status when such data is reported to the Florida Department of Law Enforcement;
- Requiring the FDLE to commission racial impacts statement for all criminal justice related bills heard by the Legislature during legislative session;
- Requiring the recording of custodial interrogations for specified offenses;
- Increasing monthly incentive gain-time awards that the Department of Corrections (DOC) may grant from up to 10 days to up to 20 days for offenders sentenced for offenses committed on or after October 1, 1995;
- Reducing the amount of a sentence that must be served by a prisoner convicted of a nonviolent felony from no less than 85 percent to no less than 65 percent;
- Maintaining the provision that requires a prisoner to serve no less than 85 percent of his or her sentence if convicted of a violent felony;
- Reorganizing the court-ordered sealing and expunction statutes for clarity;
- Creating an automatic sealing process for certain criminal history records of a minor or adult;
- Moving the provision for lawful self-defense to a separate statutory section for clarity;
- Allowing matches between casework evidence DNA samples and DNA databases of offenders for an additional purpose of finding probable cause to obtain a warrant for an offender’s arrest;
- Enhancing the Criminal Punishment Code ranking level for an employee who uses such position to introduce contraband into a state correctional facility;
- Adding cellular telephones to the list of items that are prohibited from being introduced into a county detention facility and applying criminal penalties for introducing such items;
- Authorizing the DOC to increase the number of transition assistance specialists;
- Requiring transition assistance specialists to inform inmates about relevant job credentialing or industry certifications and expanding the use of such credentialing;
- Requiring the DOC to create a toll-free hotline for released inmates to obtain information about community-based reentry services;
- Expanding the use of the Spectrum program to provide inmates and offenders with community-specific reentry service provider referrals;
- Requiring the DOC to provide inmates with a comprehensive community reentry resource directory that includes specified information related to services and portals available in the county to which the inmate is to be released;

- Permitting specified entities to apply with the DOC to be registered to provide inmate reentry services and requiring the DOC to create a process for screening, approving, and registering such entities;
- Authorizing the DOC to contract with specified entities to assist veteran inmates in applying for veteran's benefits upon release;
- Authorizing the DOC to develop, within its existing resources, a Prison Entrepreneurship Program (PEP) that includes education with specified curriculum;
- Authorizing the court to order or the DOC to transfer offenders to administrative probation if the offender presents a low risk of harm to the community and has completed at least half of their term of probation;
- Requiring a court to early terminate or transfer to administrative probation certain compliant probationers upon certain factors being met and providing for exceptions to such requirement;
- Codifying the DOC's current practice of using graduated incentives to promote compliance with probationers and offenders on community control on supervision with the DOC;
- Requiring the court to modify or continue the supervision term of certain low-risk offenders with a first *filed* violation of probation and providing modification terms and exceptions;
- Requiring each circuit to create an alternative sanctions program to handle specified types and occurrences of technical violations of probation or community control with the judge's concurrence;
- Requiring the DOC to include in the Florida Crime Information Center system all conditions of probation as determined by the court;
- Permitting a court to impose a sentence as a youthful offender if a person committed a felony before they turned 21 years of age;
- Increasing the relevant timeframes in which a person who is eligible for financial compensation through the Department of Legal Affairs Crime Victim Services may apply for such compensation;
- Repealing all provisions related to transferring a child to adult court for prosecution pursuant to mandatory direct file;
- Adding locally authorized entity to the list of entities that may operate an independent civil citation or similar prearrest diversion program in addition to a circuit program; and
- Removing the requirement for the Department of Juvenile Justice to enter information related to a civil citation or prearrest diversion program into the Juvenile Justice Information System Prevention Web.

The bill makes various conforming changes and reenacts a number of provisions to comply with the act.

The bill makes numerous changes to provisions that will likely result in negative significant prison bed impact. See Section V. Fiscal Impact Statement.

Except as expressly provided, the bill is effective October 1, 2019.

## II. Present Situation:

Refer to Section III. Effect of Proposed Changes for discussion of the relevant portions of current law.

## III. Effect of Proposed Changes:

### Supreme Court Headquarters (Section 1)

Article II, section 2 of the Florida Constitution designates Tallahassee as the seat of state government “where the *offices* of the governor, lieutenant governor, cabinet members and the supreme court shall be maintained and the sessions of the legislature shall be held[.]”<sup>1</sup> Article V, section 3 of the Florida Constitution provides that the Supreme Court will consist of seven justices, and that each of the five appellate districts “shall have at least one justice elected or appointed from the district at the time of the original appointment or election.” The chambers of all seven justices are in the Florida Supreme Court building,<sup>2</sup> and all official Supreme Court business is conducted in Tallahassee.<sup>3</sup>

### *Headquarters for Purposes of Travel Reimbursement*

Section 112.061, F.S., governs the reimbursement of travel expenses to public employees and officers. Specifically, s. 112.061(4), F.S., provides that the official headquarters of an officer or employee assigned to an office must be the city or town in which the office is located except that:

- The official headquarters of a person located in the field is in the city or town nearest to the area where the majority of the person’s work is performed, or such other city, town, or area designated by the agency head provided that the designation is in the best interests of the agency and not for the convenience of the employee.
- When any state employee is stationed in a city or town for a period of over 30 continuous workdays, that city or town is the employee’s official headquarters, and he or she is not allowed per diem or subsistence, after the 30 continuous workdays have elapsed, unless that time period is extended by the agency head or his or her designee.

---

<sup>1</sup> FLA. CONST. art. II, s. 2.

<sup>2</sup> The Supreme Court of Florida, Manual of Internal Operating Procedures, *Section 1. Court Structure*, p. 1 (Rev. September, 21, 2016), available at [http://www.floridasupremecourt.org/pub\\_info/documents/IOPs.pdf](http://www.floridasupremecourt.org/pub_info/documents/IOPs.pdf) (last visited April 14, 2019). *But see In re: Designation of Official Headquarters*, AOSC18-37 (Fla. July 2, 2018)(administrative order issued by Florida Supreme Court designating remote headquarters pursuant to ch. 18-10, s. 46, L.O.F., the 2018 appropriations law), available at <https://www.floridasupremecourt.org/content/download/421872/4557988/AOSC18-37.pdf> (last visited April 12, 2019).

<sup>3</sup> “[T]he Florida Supreme Court, comprised of its Justices, has only one “office” — the Supreme Court Building, located in the Northern District.” *Castro v. Labarga*, 16-22297-CIV, 2016 WL 6565946, at p. 5 (S.D. Fla. Nov. 3, 2016)(citing FLA. CONST. art. II, s. 2). “In my view, the mere fact that a Florida Supreme Court justice may periodically travel outside of the Northern District of Florida to attend bar functions or educational seminars and obtains travel reimbursements does not translate the trip into an ‘official duty’ trip sufficient to generate venue in the other districts.” *Id.* “If the Florida Supreme Court maintained major offices, courtrooms or staff in other districts, then the result about venue and venue discovery might be different. But those significant facts, which Castro relies on when citing other cases, are absent here.” *Id.* (holding the proper venue of a bar candidate suing the Florida Supreme Court is the northern district of Florida). *See also Uberoi v. Labarga*, 8:16-CV-1821-T-33JSS, 2016 WL 5914922, at p. 2 (M.D. Fla. Oct. 11, 2016) (transferring another bar candidate’s case to the Northern District based a motion to dismiss filed by Justice Labarga noting that official acts by the Florida Supreme Court concerning the candidate’s admission to the bar are done in Tallahassee; citing FLA. CONST. art. II, s. 2, noting that Tallahassee “is where the offices of the Florida Supreme Court shall be maintained.”).

- An employee may leave his or her assigned post to return home overnight, over a weekend, or during a holiday, but time lost from work must be taken as annual leave. The employee cannot be reimbursed for travel expenses other than per diem allowable had he or she remained at the temporary post. However, when an employee is temporarily assigned away from his or her official headquarters for more than 30 days, he or she can receive reimbursement for travel expenses for one round trip for each 30-day period actually taken to his or her home.

Additionally, s. 112.061(1)(b)1., F.S., specifies that it is the Legislature’s intent to establish standard travel reimbursement rates, procedures, and limitations, with certain justifiable exceptions and exemptions. To preserve the standardization established, s. 112.061, F.S., should prevail over any conflicting provisions to the extent of the conflict.

Prior to district courts of appeal being authorized to establish branch headquarters, the Attorney General opined for travel and reimbursement purposes that a district court of appeal judge could *not* designate the city of his or her residence as his or her official headquarters for purposes of travel expenses. Notably, the opinion relied on the fact that, at that time, s. 35.05, F.S., designated the official headquarters of each district court of appeal in specific cities.<sup>4</sup> Subsequently, s. 35.05, F.S., was amended to permit a district court of appeal to designate branch headquarters within its district for purposes of s. 112.061, F.S.<sup>5</sup>

In 2018, the Implementing Bill authorized the funding of travel and subsistence expenses for justices residing outside Leon County who elected to designate a remote “headquarters” to use as their private chambers.<sup>6</sup> An appropriation of \$209,930 recurring general revenue was made to the Supreme Court for this purpose in the Fiscal Year 2018-19 General Appropriations Act.

### ***Effect of the Bill***

The bill creates s. 25.025, F.S., requiring the Chief Justice of the Florida Supreme Court, upon the request of any justice permanently residing outside of Leon County, to:

- Designate and coordinate a district court of appeal courthouse, a county courthouse, or other appropriate facility in the justice’s district as his or her official headquarters to serve as the justice’s private chambers pursuant to s. 112.061, F.S.; and
- Reimburse the justice for travel and subsistence while in Tallahassee on court business, to the extent funding is available.

This section of the bill is effective July 1, 2019.

<sup>4</sup> Op. Att’y Gen. Fla. 74-132 (1974).

<sup>5</sup> Section 35.05(2), F.S. Currently, it appears that only the Second District Court of Appeal has designated a second branch office, in Tampa on the Stetson University campus. However, the Second District’s clerk’s office is at the official headquarters in Lakeland. *See* Florida Second District Court of Appeal, available at <http://www.2dca.org/Directions/tampa.shtml> (last visited April 12, 2019).

<sup>6</sup> *See* ch. 18-10, s. 46, L.O.F.; *In re: Designation of Official Headquarters*, Fla. Admin. Order. No. AOSC18-37, July 2, 2018, available at <https://www.floridasupremecourt.org/content/download/421872/4557988/AOSC18-37.pdf> (last visited April 12, 2019).

## **Certification of Need for Additional Judges (Section 2)**

Article V, section 9 of the Florida Constitution requires the Florida Supreme Court to submit recommendations to the Legislature when there is a need to increase or decrease the number of judges. The constitutional provision further directs the Court to base its recommendations on uniform criteria adopted by court rule.<sup>7</sup>

The Court's rule setting forth criteria for assessing judicial need at the trial court level is based primarily upon the application of case weights to circuit and county court caseload statistics. These weights are a quantified measure of judicial time spent on case-related activity. The judicial workload is then based on judicial caseloads adjusted in the relative complexity of various case types.<sup>8</sup> In addition to the statistical information, the Court, in weighing the need for trial court judges, will also consider a variety of factors related to caseload trends, workload, and availability of judges in the area.<sup>9</sup>

In addition to the weighted caseload statistics, the Court will also consider the time to perform other judicial activities, such as reviewing appellate decisions, reviewing petitions and motions for post-conviction relief, hearing and disposing motions, and participating in meetings with those involved in the justice system.<sup>10</sup> Finally, the Court will consider any request for an increase or decrease in the number of judges that the chief judge of the circuit "feels are required."<sup>11</sup> The Florida Supreme Court recently issued an order certifying the need for additional judges for the 2019-2020 fiscal year.<sup>12</sup>

### ***Effect of the Bill***

The bill amends s. 26.031, F.S., to add one circuit court judgeship to the Ninth Judicial Circuit Court, which includes Orange and Osceola Counties, and one circuit court judgeship to the Twelfth Judicial Circuit Court, which includes Manatee and Sarasota Counties. The newly created judgeships will be filled by the Governor from among nominees by the appropriate judicial nominating commission.

This section of the bill is effective October 1, 2019.

## **Problem-Solving Courts (Sections 3, 12, 67, and 68)**

In 1989, Florida created the first problem-solving court in the United States with its drug court in Miami-Dade County. Other types of problem-solving court dockets subsequently followed using the drug court model and were implemented to assist individuals with a range of problems such as drug addiction, mental illness, domestic violence, and child abuse and neglect.<sup>13</sup>

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<sup>7</sup> FLA. CONST. art. V, s. 9.

<sup>8</sup> Fla. R. Jud. Admin. 2.240(b)(1)(A).

<sup>9</sup> See Fla. R. Jud. Admin. 2.240(b)(1)(B), for a full list of factors.

<sup>10</sup> Fla. R. Jud. Admin. 2.240(c).

<sup>11</sup> Fla. R. Jud. Admin. 2.240(d).

<sup>12</sup> *In Re: Certification of Need for Additional Judges*, S.Ct. No. SC18-1970, December 28, 2018, available at <https://www.floridasupremecourt.org/content/download/425472/4585604/file/sc18-1970.pdf> (last visited April 12, 2019).

<sup>13</sup> Florida Courts, Office of Court Improvement, *Problem-Solving Courts*, available at <https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts> (last visited April 12, 2019).

Florida's problem-solving courts address the root causes of an individual's involvement with the justice system through specialized dockets, multidisciplinary teams, and a nonadversarial approach. Offering evidence-based treatment, judicial supervision, and accountability, problem-solving courts provide individualized interventions for participants, thereby reducing recidivism and promoting confidence and satisfaction with the justice system process.<sup>14</sup>

A qualified person may enter into a voluntary, one-year pretrial substance abuse education and treatment intervention program,<sup>15</sup> including a county treatment-based drug court program.<sup>16</sup> Upon motion by either party or the court's own motion, a court must allow an eligible person who wishes to enter a pretrial substance abuse education and treatment intervention program court to do so,<sup>17</sup> subject to certain exceptions.<sup>18</sup> A person is eligible for a pretrial drug court program if he or she:

- Is charged with:
  - A nonviolent felony<sup>19</sup> and is identified as having a substance abuse problem; or
  - A second or third degree felony for purchase or possession of a controlled substance, prostitution, tampering with evidence, solicitation for purchase of a controlled substance, or obtaining a prescription by fraud.
- Has not been charged with a crime of violence.
- Has not previously been convicted of a felony.<sup>20</sup>

However, a court may deny a person's admission to a pretrial drug court program if the person was previously offered admission to a pretrial drug court program and rejected the offer on the record.<sup>21</sup> Additionally, the state attorney may request a preadmission hearing for a person believed to be involved in dealing or selling controlled substances. If the state proves such involvement by a preponderance of the evidence, a court must deny the person admission into the pretrial substance abuse education and treatment intervention program.<sup>22</sup>

A drug court team develops a coordinated strategy for each participant in a drug court program.<sup>23</sup> A pretrial drug court program may use sanctions for noncompliance once a participant has agreed to the program, including placement in a treatment program or short periods of incarceration.<sup>24</sup> A court must dismiss the charges upon finding a person successfully completed a pretrial drug court program. If a person does not successfully complete the program, a court may order the person into further education and treatment or order that the charges revert to the normal channels for prosecution.<sup>25</sup>

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

<sup>15</sup> Section 948.08(6)(a), F.S.

<sup>16</sup> Section 397.334, F.S.

<sup>17</sup> Section 948.08(6)(a), F.S.

<sup>18</sup> Sections 948.08(6)(a)1. and 2., F.S.

<sup>19</sup> Section 948.08(6)(a), F.S. defines a nonviolent felony to mean a third degree felony violation of ch. 810, F.S., or any other felony offense that is not a forcible felony under s. 776.08, F.S.

<sup>20</sup> Section 948.08(6)(a), F.S.

<sup>21</sup> Sections 948.08(6)(a)1., F.S.

<sup>22</sup> Section 948.0896(a)2., F.S.

<sup>23</sup> Sections 397.334(4) and 948.08(6)(b), F.S.

<sup>24</sup> Section 948.08(6)(b), F.S.

<sup>25</sup> Section 948.08(6)(c), F.S.

Another type of problem-solving court is the “community court.” Specifically, these courts are typically neighborhood focused and aim to address local problems. These courts strive to improve the judicial response to low-level crime and grow the public’s trust in the justice system.<sup>26</sup> Community courts bring together a diverse group of stakeholders to build new relationships in the community, reduce recidivism, and improve community safety.<sup>27</sup>

On January 9, 2019, Ft. Lauderdale launched a new community court program, focusing particularly on minor crimes committed by the local homeless population. The program aims to reduce the number of people arrested and sent to jail for minor crimes. Other program goals include addressing the underlying causes of homelessness, preventing crime, and diverting participants to social services.<sup>28</sup>

### ***Effect of the Bill***

#### **Problem-solving Court Reports (Section 3)**

The bill creates s. 43.51, F.S., requiring the Office of the State Courts Administrator to provide an annual report to the President of the Senate and the Speaker of the House of Representatives detailing the number of participants in each problem-solving court for each fiscal year the court has been operating. The report must also include the types of services provided, the source of funding for each court, and provide performance outcomes.

This section of the bill is effective October 1, 2019.

#### **Pretrial Drug Court (Section 12 and 67)**

The bill amend s. 397.334, F.S., expanding eligibility for a pretrial drug court program to a person with up to two prior nonviolent felony convictions. The bill authorizes for a judge to deny admission to a pretrial drug court program if the defendant has prior felony convictions.

The bill also amends s. 948.08, F.S., expanding eligibility for a pretrial drug court program to a person with up to two prior nonviolent felony convictions. The bill authorizes for a judge to deny admission to a pretrial drug court program if the defendant has prior felony convictions.

This section of the bill is effective October 1, 2019.

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<sup>26</sup> Bureau of Justice Assistance, U.S. Department of Justice, Center for Court Innovation, *Principles of Community Justice, A guide for Community Court Planners*, p. 1, (2010), available at <https://www.courtinnovation.org/sites/default/files/Communitycourtprinciples.pdf> (last visited April 13, 2019).

<sup>27</sup> *Id.* at p. 9.

<sup>28</sup> Brittany Wallman, *Fort Lauderdale Launches Florida's First Homeless Community Court*, SUN SENTINEL January 9, 2019, available at <http://www.sun-sentinel.com/local/broward/fort-lauderdale/fl-ne-homeless-court-fort-lauderdale-20190107-story.html> (last visited April. 12, 2019).

### Community Court (Section 68)

The bill creates s. 948.081, F.S., authorizing each judicial circuit to establish a community court program for defendants charged with certain misdemeanor offenses. If a judicial circuit creates a community court, the chief judge must consider the needs and concerns of the community and specify each misdemeanor offense eligible for the community court. A defendant's participation in a community court program is voluntary. At a minimum, each community court should:

- Adopt a nonadversarial approach.
- Establish an advisory committee to recommend solutions and sanctions in each case.
- Provide for judicial leadership and interaction.
- In each particular case, consider the needs of the victim, consider individualized treatment services for the defendant, and monitor the defendant's compliance.

The chief judge must also appoint members to an advisory committee for each community court, including, but not limited to:

- The chief judge or a community court judge designated by the chief judge, who will be chair.
- The state attorney or his or her designee.
- The public defender or his or her designee.
- The community court resource coordinator.<sup>29</sup>

The advisory committee shall review each defendant's case. Each committee member may make recommendations to the judge, including appropriate sanctions and treatment solutions for the defendant. The judge shall consider such recommendations and make the final decision concerning sanctions and treatment with respect to each defendant.

The bill requires each participating circuit to annually report specified data to the Office of the State Courts Administrator. A circuit that establishes a community court must fund the program with sources other than the state funds except for costs assumed under s. 29.004, F.S. Funds provided by state agencies for treatment and other services may be used for participants of a the community court program.

This section of the bill is effective October 1, 2019.

### **Veterans (Sections 10, 67, 70, and 71)**

#### ***Veterans' Courts***

Veterans' courts are problem-solving courts, modeled after drug courts, which are aimed at addressing the root causes of criminal behavior unique to veterans.<sup>30</sup> In 2012, the Florida Legislature passed the "T. Patt Maney Veterans' Treatment Intervention Act." Which created the military veterans and servicemembers court program, better known as veterans' courts.<sup>31</sup> Each

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<sup>29</sup> The committee may also include community stakeholders, treatment representatives, and other persons the chair deems appropriate.

<sup>30</sup> Florida Courts, *Problem-Solving Courts*, available at <http://www.flcourts.org/resources-and-services/court-improvement/problem-solving-courts/> (last visited April 15, 2019).

<sup>31</sup> Chapter 2012-159, L.O.F.

judicial circuit is authorized to establish a veterans' court program to serve the special needs of eligible veterans<sup>32</sup> and active duty servicemembers<sup>33</sup> who are:

- Suffering a military-related condition, such as mental illness, traumatic brain injury, or substance abuse; and
- Charged with or convicted of a criminal offense.<sup>34</sup>

To be eligible to participate in the veterans' court program,<sup>35</sup> the defendant must allege that he or she is suffering a military-related injury and establish that he or she is:

- An honorably discharged veteran;<sup>36</sup>
- A generally discharged veteran;<sup>37</sup> or
- An active duty servicemember.<sup>38</sup>

The Task Force on Substance Abuse and Mental Health Issues in the Courts has proposed that eligibility to participate in the veterans' courts be expanded to all veterans of any discharge status.<sup>39</sup> The Task Force also recommends that veterans' courts be extended to other military-related individuals: current or former United States defense contractors, and current or former military members of a foreign allied country.<sup>40</sup>

### ***Veterans and Pretrial Intervention Participation***

After a criminal arrest, rather than being prosecuted, eligible veterans may be diverted to a pretrial intervention program. Prior to placement in a program, a veterans' treatment intervention team must develop an individualized coordinated strategy for the veteran. The team must present the coordinated strategy to the veteran in writing before he or she agrees to enter the program. The strategy is modeled after the ten therapeutic jurisprudence principles and key components for treatment-based drug court programs.<sup>41</sup>

<sup>32</sup> Section 1.01(14), F.S., defines a veteran as a person who served in active military, naval, or air service who was discharged or released under honorable conditions or who later received an upgraded discharge under honorable conditions.

<sup>33</sup> A servicemember is defined as a person serving as a member of the United States Armed Forces on active duty or state active duty and members of the Florida National Guard and United States Reserve Forces. Section 250.01(19), F.S.

<sup>34</sup> Section 394.47891, F.S.

<sup>35</sup> As of February 2019, there are 30 veterans' courts in Florida. Additionally, the Office of Court Improvement reports that in 2017, "Florida's veterans' courts admitted 1,051 participants and graduated 593." Email from the Office of the State Courts Administrator, March 1, 2019 (on file with Senate Criminal and Civil Justice Appropriations Committee).

<sup>36</sup> Section 1.01(14), F.S.

<sup>37</sup> Section 948.21(2), F.S.

<sup>38</sup> Section 250.01(19), F.S.

<sup>39</sup> The "Task Force on Substance Abuse and Mental Health Issues in the Courts" is the task force "charged with developing a strategy for ensuring fidelity to nationally accepted key components of veterans courts" pursuant to Florida Supreme Court Administrative Order 14-46. See Judicial Branch 2019 Legislative Agenda, *Expansion of Veterans Court Eligibility*, p. 51, n. 17 (on file with the Senate Appropriations Subcommittee on Criminal and Civil Justice).

<sup>40</sup> *Id.* at 50. The proposed expansion to include contractors and military members of foreign allied countries is in response to nationwide reports "that a large number of service personnel are being excluded from veterans courts because they do not meet the definition of 'veteran' or 'servicemember'" who have "served our country and would respond well to veterans court interventions." *Id.* at 52.

<sup>41</sup> Section 948.08(7)(b), F.S., requires a coordinated strategy for veterans charged with felonies who are participating in pretrial intervention programs. Section 948.16(2)(b), F.S., requires a coordinated strategy for veterans charged with misdemeanors. Section 397.334(4), F.S., requires treatment based court programs to include therapeutic jurisprudence principles and components recognized by the United States Department of Justice and adopted by the Florida Supreme Court Treatment-based Drug Court Steering Committee. See also s. 394.47891, F.S.

If the defendant agrees to participate in the pretrial intervention program the court retains jurisdiction in the defendant's case, while participating in the program. At the end of the program, the court considers recommendations for disposition by the state attorney and the program administrator. If the veteran successfully completes the treatment program, the court must dismiss the criminal charges. If the court finds that the veteran did not successfully complete the pretrial intervention program, the court can either order the veteran to continue in education and treatment or authorize the state attorney to proceed with prosecution.<sup>42</sup>

The 2012 Act also amended ch. 948, F.S., providing when veterans and servicemembers may be eligible to participate in the veterans' court program for treatment and services. Eligible individuals may participate after being:

- Charged with a criminal misdemeanor<sup>43</sup> or certain felony offenses but before being convicted (pretrial intervention);<sup>44</sup> or
- Convicted and sentenced, as a condition of probation or community control.<sup>45</sup>

### ***Participation in Treatment Program while on Probation or Community Control***

Veterans and servicemembers on probation or community control who committed a crime on or after July 1, 2012, and suffer from a military-related mental illness, a traumatic brain injury, or a substance abuse disorder may also qualify for treatment programs. A court may impose, as a condition of probation or community control, successful completion of a mental health or substance abuse treatment program.<sup>46</sup>

### ***Effect of the Bill***

#### **Veterans' Courts (Section 10)**

The bill amends s. 394.47891, F.S., requiring the chief judge of each judicial circuit to establish a Veterans' court. The bill also expands eligibility beyond veterans and active duty servicemembers to include individuals who are current or former United States Defense contractors and current or former military members of a foreign allied country.

This section of the bill is effective October 1, 2019.

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<sup>42</sup> Sections 948.16(2)(b) and 948.08(7)(b) and (c), F.S. Eligible veterans who successfully complete the diversion program may petition the court to order the expunction of the arrest record and the plea.

<sup>43</sup> Section 948.16(2)(a), F.S., establishes the misdemeanor pretrial veterans' treatment intervention program.

<sup>44</sup> Section 948.08(7)(a), F.S., authorizes courts to consider veterans charged with non-disqualifying felonies for pretrial veterans' treatment intervention programs. Section 948.08(7), F.S., references the disqualifying felony offenses listed in s. 948.06(8)(c), F.S.; i.e., s. 948.06(8)(c), F.S., lists 19 disqualifying felony offenses of a serious nature, such as kidnapping, murder, sexual battery, treason, etc.

<sup>45</sup> Section 948.21, F.S.

<sup>46</sup> Section 948.21, F.S.

Veterans’ and Pretrial Drug Court, Pretrial Intervention Programs, and Treatment Programs (Sections 67, 69, and 70)

The bill also amends ss. 948.08, 948.16, and 948.21, F.S., related to veterans’ and pretrial drug court, pretrial intervention programs, and treatment programs, respectively, expanding the eligibility for voluntary admission into such programs to include individuals who are current or former United States Defense contractors and current or former military members of a foreign allied country.

These sections of the bill are effective October 1, 2019.

**Theft Offenses (Sections 4, 18, 24, 34, 35, and 39)**

Approximately 3,000 people are currently incarcerated in the DOC for felony theft convictions and just over 24,000 people are on state community supervision for a felony theft crime in Florida.<sup>47</sup> Since 2000, 37 states have increased the threshold dollar amounts for felony theft crimes.<sup>48</sup> Such increases ensure that associated “criminal sentences don’t become more severe over time simply because of natural increases in the prices of consumer goods.”<sup>49</sup>

A majority of states (30 states) and the District of Columbia have a \$1,000-or-greater property value threshold for felony grand theft. Fifteen states have thresholds between \$500 and \$950, and five states, including Florida, have thresholds below \$500. Between 2003 and 2015, nine states, including Alabama, Mississippi, and Louisiana, raised their felony thresholds twice.<sup>50</sup>

***Property Theft (Sections 34 and 86)***

Section 812.014, F.S., provides that a person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or 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 the use of the property.<sup>51</sup>

<sup>47</sup> Email from Scotti Vaughan, Department of Corrections, Deputy Legislative Affairs Director, February 6, 2019 (on file with Senate Criminal Justice Committee).

<sup>48</sup> Pew Charitable Trusts, *The Effects of Changing State Theft Penalties*, February 2016, available at [http://www.pewtrusts.org/~media/assets/2016/02/the\\_effects\\_of\\_changing\\_state\\_theft\\_penalties.pdf?la=en](http://www.pewtrusts.org/~media/assets/2016/02/the_effects_of_changing_state_theft_penalties.pdf?la=en) (last visited April 13, 2019); See also Alison Lawrence, *Making Sense of Sentencing: State Systems and Policies*, National Conference of State Legislatures, June 2015, available at <http://www.ncsl.org/documents/cj/sentencing.pdf> (last visited April 14, 2019).

<sup>49</sup> John Gramlich and Katie Zafft, *Updating State Theft Laws Can Bring Less Incarceration – and Less*, Stateline, Pew Charitable Trusts, March 1, 2016, available at <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2016/03/31/updating-state-theft-laws-can-bring-less-incarceration-and-less-crime> (last visited April 13, 2019).

<sup>50</sup> *Id.*

<sup>51</sup> Section 812.014(1), F.S.

Second degree petit theft, a second degree misdemeanor, is theft of property valued at less than \$100.<sup>52</sup> First degree petit theft, a first degree misdemeanor, is theft of property valued at \$100 or more but less than \$300.<sup>53</sup> Third degree grand theft, a third degree felony,<sup>54</sup> is theft of:

- Property valued at \$300 or more, but less than \$20,000.
- Specified property including, but not limited to:
  - A will, codicil, or testamentary instrument;
  - A firearm;
  - Any commercially farmed animal,<sup>55</sup> a bee colony of a registered beekeeper, or aquaculture species raised at a certified aquaculture facility;
  - Any fire extinguisher;
  - Citrus fruit of 2,000 or more individual pieces;
  - Any stop sign;
  - Property taken from a designated, posted construction site;<sup>56</sup> and
- Property from a dwelling or its unenclosed curtilage if the property is valued at \$100 or more, but less than \$300.<sup>57</sup>

The last time the Legislature increased the minimum threshold property value for third degree grand theft was in 1986.<sup>58</sup> The third degree grand theft provisions related to property taken from a dwelling or its unenclosed curtilage were added in 1996. The petit theft provisions were also amended, including the thresholds, in 1996.<sup>59</sup> Using the U.S. Department of Labor, Bureau of Labor Statistics' Consumer Price Index Inflation Calculator, the inflation-adjusted value of the \$300 felony retail threshold that became effective July 1, 1986, is \$696.44, as of March 2019. The March 2019 inflation-adjusted value of \$300 since October 1, 1996 (the date the grand theft provisions relating to a dwelling and its enclosed curtilage became effective), is \$481.75.<sup>60</sup>

### ***Effect of the Bill***

The bill amends s. 812.014, F.S., increasing the minimum threshold amounts for a third degree felony grand theft from \$300 to \$750. For property taken from a dwelling or enclosed curtilage, the theft threshold amounts specified in s. 812.014(2)(d), F.S., are modified from \$100 or more, but less than \$300, to \$750 or more, but less than \$5,000. The first degree misdemeanor petit theft threshold amount specified in s. 812.012(2)(c), F.S., is modified from \$100 or more, but less than \$300, to less than \$750.

<sup>52</sup> Section 812.014(3)(a), F.S. A second degree misdemeanor is punishable by up to 60 days in jail and a fine of up to \$500. Sections 775.082 and 775.083, F.S.

<sup>53</sup> Section 812.014(2)(e), F.S. A first degree misdemeanor is punishable by up to one year in jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

<sup>54</sup> A third degree felony is punishable by up to 5 years' incarceration and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

<sup>55</sup> This includes any animal of the equine, avian, bovine, or swine class or other grazing animal.

<sup>56</sup> Section 812.014(2)(c), F.S.

<sup>57</sup> Section 812.014(2)(d), F.S.

<sup>58</sup> Chapter 86-161, s. 1, L.O.F., which became effective on July 1, 1986.

<sup>59</sup> Chapter 96-388, s. 49, L.O.F., which became effective on October 1, 1996.

<sup>60</sup> Consumer Price Index Inflation Calculator of the U.S. Department of Labor's Bureau of Labor Statistics, available at [https://www.bls.gov/data/inflation\\_calculator.htm](https://www.bls.gov/data/inflation_calculator.htm) (last visited April 13, 2019).

The bill also requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to perform a study every five years to determine the appropriateness of the revised thresholds in this section. The study's scope must include, but not be limited to, the crime trends related to theft offenses, the theft thresholds of other states in effect at the time of the study, the fiscal impact of any modifications to the state's thresholds, and the effect on economic factors, such as inflation. The study must include options for amending the thresholds if the study finds that the amounts are not consistent with current trends. The OPPAGA is directed to consult with the Office of Economic and Demographic Research (EDR) in addition to other interested entities and to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by September 1, of each fifth year.

The bill amends s. 921.0022, F.S., conforming the offense severity ranking chart to changes made by the act to the felony threshold amounts for property theft.

This section of the bill is effective October 1, 2019.

### ***Retail Theft (Sections 35 and 86)***

Retail theft is defined as:

- 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>61</sup>

Retail theft is a third degree felony if the theft involves property valued at \$300 or more and the person:

- Individually, or in concert with one or more other persons, coordinates the activities of one or more individuals in committing the offense;
- Commits theft from more than one location within a 48-hour period;<sup>62</sup>
- 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; or
- Commits the offense through the purchase of merchandise in a package or box that contains merchandise other than, or in addition to, the merchandise purported to be contained in the package or box.<sup>63</sup>

The threshold for a third degree felony retail theft was created and set by the Legislature in 2001.<sup>64</sup>

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<sup>61</sup> Section 812.015(1)(d), F.S.

<sup>62</sup> In the first two instances, the amount of each individual theft is aggregated to determine the value of the property stolen. Section 812.015(8)(a) and (b), F.S.

<sup>63</sup> Section 812.015(8), F.S.

<sup>64</sup> Chapter 01-115, s. 3, L.O.F.

***Effect of the Bill***

The bill amends s. 812.015(8), F.S., increasing the property value of third degree felony retail theft from \$300 or more, to \$750 or more. Currently, the value of property stolen by a person who acts in concert with, or who coordinates with others can be aggregated. The bill increases the time period that certain thefts can be aggregated by requiring multiple acts of retail theft that occur within a 30-day period, rather than a 48-hour period, by an individual or in concert with one or multiple persons must be aggregated to determine the value of property stolen. The bill increases the 48-hour time period that that theft must have occurred in to aggregate the property value stolen within 30 days.

The bill also amends s. 812.015(9), F.S., specifying that the value of the stolen property may be aggregated over a 30-day period. However, the amount aggregated must be in excess of \$3,000, as required in current law.

The bill also provides that a person who conspires with another to commit retail theft with the intent to sell stolen property or for other gain, and who subsequently places the control of the property with another person in exchange for consideration commits a third degree felony. If the conspiracy to commit retail theft is in excess of \$3,000, aggregated over a 30-day period, then the offense is a second degree felony.

The bill provides for the amount of multiple instances of retail theft within a 30-day period to be aggregated. If multiple instances of retail theft are committed in more than one county within a 30-day period they may be aggregated and must be prosecuted by the Office of the Statewide Prosecutor.

The OPPAGA study required in the above mentioned Property Theft section is also required to be conducted for retail theft.

The bill amends s. 921.0022, F.S., conforming the offense severity ranking chart to changes made by the act to the felony threshold amount increases for retail theft. Additionally, the bill adds retail theft with intent to sell, coordinate with others as a level 3 offense in the offense severity ranking chart.

This section of the bill is effective October 1, 2019.

***Theft of State Funds (Sections 4 and 86)***

The taxes imposed on sales, use, and other transactions in accordance with ch. 212, F.S., must become state funds at the moment of collection and are due to the Department of Revenue on the first day of the succeeding month. Such taxes are considered delinquent on the 21st day of the month upon when they become due.<sup>65</sup>

A person commits theft of state funds when he or she fails to remit taxes with the intent to unlawfully deprive or defraud the state of its money or the use or benefit thereof.<sup>66</sup> If the value of

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<sup>65</sup> Section 212.15(1), F.S. The only exception to the tax liability is provided for in s. 212.06(5)(a)2.e., F.S.

<sup>66</sup> Section 212.15(2), F.S.

the stolen revenue is less than \$300, the offense is a second degree misdemeanor.<sup>67</sup> If the value of the stolen revenue is \$300 or more, but less than \$20,000, the offense is a third degree felony.<sup>68</sup>

***Obtaining Food or Lodging With Intent to Defraud (Sections 18 and 86)***

A person who obtains food, lodging, or other accommodations at any public food service establishment, or at any transient establishment, with intent to defraud, commits a second degree misdemeanor if the value of the goods obtained is less than \$300, and a third degree felony if the value of the goods is \$1,000 or more.<sup>69</sup>

***Removing Property Upon Which a Lien Has Accrued (Sections 24 and 86)***

When a person rents a room or apartment in a hotel, apartment house, roominghouse, boardinghouse, or tenement house in, a lien in favor of the operator of the establishment exists upon all personal property brought into or placed in the establishment by the renter and by the renter's roommates, boarders, and guests. The lien continues until the rent due is paid in full.<sup>70</sup> Once a lien is placed upon the personal property of a renter, or other person mentioned above, it is unlawful to remove such property until the rent is paid and the lien is removed. A person who removes such property without the written consent of the person operating the establishment commits a second degree misdemeanor if the value of the property removed is \$50 or less, or a third degree felony if the value of the property is greater than \$50.<sup>71</sup>

***Sale of Used Motor Vehicles Goods as New (Section 39)***

A person selling a motor vehicle in a transaction for which any charges will be paid from the proceeds of a motor vehicle insurance policy, and in which the purchase price of the goods exceeds \$100, is prohibited from knowingly misrepresenting orally, in writing, or by failure to speak, that the goods are new or original when they are used or repossessed or have been used for sales demonstration. A violation of this offense is a third degree felony.<sup>72</sup>

***Effect of the Bill***

The bill amends ss. 212.15, 509.151, 713.69, and 817.413, F.S., raising the felony threshold for these offenses from \$300 to \$1,000. Any theft in an amount less than \$1,000 is a violation of a misdemeanor offense.

The bill amends s. 921.0022, F.S., conforming the offense severity ranking chart to changes made by the act to the felony threshold amount increases for ss. 212.15, 509.151, and 713.69, F.S. Section 817.413(1), F.S., is not ranked in the offense severity ranking chart so no changes were necessary.

These sections of the bill are effective October 1, 2019.

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<sup>67</sup> Section 212.15(2)(a), F.S.

<sup>68</sup> Section 212.15(2)(b), F.S.

<sup>69</sup> Section 509.151, F.S.

<sup>70</sup> Section 713.68, F.S.

<sup>71</sup> Section 713.69, F.S.

<sup>72</sup> Section 817.413, F.S.

### **Driver Licenses (Sections 5-9, 19, 20, 23, 31, 33, 36, 43)**

Florida law requires a person to hold a driver license<sup>73</sup> or be exempted from licensure to operate a motor vehicle on the state's roadways.<sup>74</sup> Exemptions to the licensure requirement include nonresidents who possess a valid driver license issued by their home states, federal government, employees operating a government vehicle for official business, and people operating a road machine, tractor, or golf cart.<sup>75</sup>

The Department of Highway Safety and Motor Vehicles (DHSMV) can suspend or revoke a driver license or driving privilege for both driving-related and non-driving related reasons. Suspension means the temporary withdrawal of the privilege to drive<sup>76</sup> and revocation means a termination of the privilege to drive.<sup>77</sup> The penalties for driving with a suspended or revoked license range from a moving traffic violation to a third degree felony. Generally, a person can be charged with a felony for such offense if:

- He or she knows of the suspension or revocation and has at least two prior convictions for driving with a revoked or suspended license;
- He or she qualifies as a habitual traffic offender;<sup>78</sup> or
- His or her license has been permanently revoked.<sup>79</sup>

Among the driving-related reasons that a person may have his or her license suspended or revoked are convictions for fleeing or attempting to elude a law enforcement officer,<sup>80</sup> driving under the influence (DUI),<sup>81</sup> and refusal to submit to a lawful breath, blood, or urine test in a DUI investigation.<sup>82</sup> Alternatively, some of the non-driving related convictions a person may have his or her license suspended or revoked for are graffiti by a minor<sup>83</sup> and certain drug offenses.<sup>84</sup>

Additionally, the clerk of the court can direct the DHSMV to suspend a license for several reasons, including failure to comply with civil penalties.<sup>85</sup> Such a suspension lasts until the individual is compliant with the court's requirements for reinstatement<sup>86</sup> or, if the court grants relief from the suspension.<sup>87</sup> A person with a suspended or revoked license cannot drive, which can inhibit his or her ability to work and can further impede the process of resolving outstanding

<sup>73</sup> "Driver license" is a certificate that, subject to all other requirements of law, authorizes an individual to drive a motor vehicle and denotes an operator's license as defined in 49 U.S.C. s. 30301. Section 322.01(17), F.S.

<sup>74</sup> Section 322.03(1), F.S.

<sup>75</sup> Section 322.04, F.S.

<sup>76</sup> Section 322.01(40), F.S.

<sup>77</sup> Section 322.01(36), F.S.

<sup>78</sup> See s. 322.264, F.S.

<sup>79</sup> See ss. 322.34 and 322.341, F.S.

<sup>80</sup> Section 316.1935(5), F.S.

<sup>81</sup> See ss. 316.193, 322.26, 322.271, and 322.28, F.S.

<sup>82</sup> See ss. 316.193 322.2615(1)(b), F.S.

<sup>83</sup> Section 806.13, F.S.

<sup>84</sup> Section 322.055, F.S.

<sup>85</sup> Section 322.245, F.S.

<sup>86</sup> See ss. 318.15(2) and 322.245(5), F.S.

<sup>87</sup> Section 322.245(5), F.S.

financial obligations.<sup>88</sup> As a result of this, counties have held events to assist individuals whose licenses are suspended for financial reasons related to civil penalties or criminal financial obligations.

***Effect of the Bill***

**Driver License Reinstatement Days (Section 9)**

The bill creates s. 322.75, F.S., to require each clerk of court to establish a Driver License Reinstatement Days program for reinstating suspended driver licenses. The bill requires the clerk of court to select one or more days for an event, annually, at which a person may have his or her driver license reinstated. At such an event, a person must pay the full license reinstatement fee, but the clerk may reduce or waive other fees and costs to facilitate reinstatement.

The bill provides that a person is eligible for reinstatement pursuant to the program if his or her license was suspended due to:

- Driving without a valid driver license;
- Driving with a suspended driver license;
- Failing to make a payment on penalties in collection;
- Failing to appear in court for a traffic violation; or
- Failing to comply with any provision of ch. 318, F.S., (Traffic Infractions) or ch. 322, F.S. (Driver Licenses)

A person is not eligible for reinstatement under the program if his or her driver license is suspended or revoked due to:

- The person's failure to fulfill a court-ordered child support obligation;
- A violation of s. 316.193, F.S.;
- The person's failure to complete a driver training program, driver improvement course, or alcohol or substance abuse education or evaluation program required under ss. 316.192, 316.193, 322.2616, 322.271, or 322.264, F.S.;
- A traffic-related felony; or
- The person being designated as a habitual traffic offender under s. 322.264, F.S.

The bill also requires the clerk of court to collect and report to the Florida Clerks of the Court Operations Corporation information relating to the reinstatement days so the corporation can report such information in its annual report required by s. 28.32, F.S.

This section of the bill is effective October 1, 2019.

***Driver License Impacts of Drug, Alcohol related Convictions, (Section 5, 6, 7, 19, and 20)***

Section 322.055, F.S., currently provides that upon the conviction of a person 18 years of age or older for possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance, the court must direct the DHSMV to *revoke the driver license for 1 year*.<sup>89</sup>

<sup>88</sup> Section 322.271, F.S., allows a person to have his or her driving privilege reinstated on a restricted basis solely for business or employment purposes under certain circumstances.

<sup>89</sup> Section 322.055(1), F.S.

However, if the person does not have a license but is eligible to have one, the DHSMV must withhold issuance of such person's driver license or driving privilege for *1 year* after the date the person was convicted or until such person completes a drug treatment program, if necessary.<sup>90</sup> If a person is ineligible to have a license or driving privilege, the court must direct the DHSMV to withhold issuance of a license for *1 year* after the date he or she would otherwise have become eligible for a license.<sup>91</sup> If such a person's driver license is already under suspension or revocation for any reason, the court must direct the DHSMV to extend the period by *1 year*.<sup>92</sup>

Additionally, s. 322.055, F.S., permits the court to, in its own discretion, direct the DHSMV to issue a license in any of these scenarios for driving privilege restricted to business or employment purposes only.<sup>93</sup> A person who has had his or her driver license suspended or revoked in accordance with s. 322.055, F.S., who is already under a suspension or revocation for any reason, or who is not currently eligible for such license, may petition the court to reinstate the license in an unrestricted or restricted manner after 6 months.<sup>94</sup>

Additionally, s. 322.056, F.S., requires, in part, the court to direct the DHSMV to suspend, revoke or withhold issuance, or extend a current suspension or revocation of a license if a person under 18 years of age is found guilty of or delinquent for a violation of:

- Section 562.11(2), F.S., which relates to misrepresentation of a person's age for the purpose of inducing any licensee to sell, give, serve, or deliver alcohol to a person under 21 years of age;
- Section 562.111, F.S., which relates to possession of alcoholic beverages by persons under 21 years of age; or
- Chapter 893, F.S., which relates to drug offenses.<sup>95</sup>

Specifically, s. 322.056, F.S., requires the court to revoke or withhold issuance of a license for *not less than 6 months and not more than 1 year* for a first violation, and *2 years*, for a subsequent violation. Additionally, if such a person's license is already under suspension or revocation the period of suspension or revocation will be extended for *not less than 6 months and not more than 1 year* for a first violation and *2 years* for a subsequent violation.<sup>96</sup>

If a person is ineligible to have a license or driving privilege, s. 322.056, F.S., requires the court to direct the DHSMV to withhold issuance of a license for *not less than 6 months and not more than 1 year* after the date he or she would otherwise have become eligible for a license.

Section 322.057, F.S., provides the court with the discretion to withhold the issuance of, suspend or revoke the driver license of a person convicted for a violation of s. 562.11(1)(a), F.S., which deals with selling, giving, or serving alcohol to a person under the age of 21.

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<sup>90</sup> Section 322.055(2), F.S.

<sup>91</sup> Section 322.055(4), F.S.

<sup>92</sup> Section 322.055(3), F.S.

<sup>93</sup> See s. 322.055, F.S.

<sup>94</sup> Section 322.055(1) - (3), F.S.

<sup>95</sup> Section 322.056(1), F.S.

<sup>96</sup> See s. 322.056(2) and (3), F.S.

***Effect of the Bill***

The bill amends s. 322.055, F.S., reducing the above mentioned court order-directed revocation, suspension, or withhold issuance of a driver license to *6 months, rather than 1 year*. Additionally, the bill reduces the time period that a court can extend a suspension or revocation for a drug conviction to *6 months*. The bill also authorizes the court to, upon finding a compelling circumstance, direct the DHSMV to issue a license. The bill repeals the provisions of s. 322.055, F.S., permitting a person to apply to the DHSMV for early reinstatement *6 months* into the revocation.

The bill also amends s. 322.056, F.S., repealing the driver license suspension, revocation, and withhold issuance requirement for violations of s. 562.11(2), F.S., and s. 562.111, F.S. The bill also amends ss. 562.11 and 562.111, F.S., to incorporate these changes. The bill retains the requirement in s. 322.056, F.S., for the court to direct the DHSMV to revoke or withhold issuance of a license if a person under 18 years of age is found guilty of or delinquent for a violation of ch. 893, F.S., which relates to drug offenses.

The bill amends s. 322.056, F.S., making the applicable time period for which a court must revoke, suspend, withhold issuance, or extend such suspension or revocation of a license for any conviction of a violation of ch. 893, F.S., be *6 months*. Additionally, the bill provides that the court may direct the DHSMV to issue a restricted driving license upon finding a compelling circumstance to warrant an exception.

The bill also repeals s. 322.057, F.S., related to the driver license impacts for convictions of providing alcohol to a minor.

These sections of the bill are effective October 1, 2019.

***Driving While License Suspended, Revoked, Canceled, or Disqualified (Section 8)***

Currently, any person who has knowledge that his or her driver license or driving privilege has been canceled, suspended, or revoked, is prohibited from driving any motor vehicle upon the highways of the state while such license or privilege is canceled, suspended, or revoked.<sup>97</sup> A second conviction is punishable as a first degree misdemeanor,<sup>98</sup> while a third or subsequent violation is a third degree felony.<sup>99</sup>

**Effect of the Bill**

The bill provides that a second *or subsequent* conviction is punishable as a first degree misdemeanor. The bill removes any felony penalties related to a violation of s. 322.34, F.S.

This section of the bill is effective October 1, 2019.

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<sup>97</sup> Section 322.34(2), F.S.

<sup>98</sup> A first degree misdemeanor is punishable by up to one year in jail and up to a \$1,000 fine. Sections 775.082 and 775.083, F.S.

<sup>99</sup> Section 322.34(2), F.S. A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine. Sections 775.082, 775.083, and 775.084, F.S.

### ***Driver Licenses and Tobacco Possession Related Convictions (Sections 23 and 43)***

Currently, s. 569.11, F.S., requires the court to direct the DHSMV to withhold issuance or suspend or revoke the driver's license of any person under 18 years of age who knowingly possesses tobacco for a *third or subsequent* violation within 12 weeks of the first violation.<sup>100</sup> Additionally, the same penalty applies to a person under 18 years of age who misrepresents his or her age or military service for the purpose of inducing someone to give him or her tobacco.<sup>101</sup>

Additionally, s. 877.112(8), F.S., provides that a person under 18 years of age is prohibited from knowingly possessing, or misrepresenting his or her age or military service for the purpose of obtaining, any nicotine product or nicotine dispensing device. For a *third or subsequent* violation within 12 weeks of the first violation of such provisions, the court must direct the DHSMV to suspend, revoke, or withhold issuance of such a person's driver license or driving privilege.<sup>102</sup>

A court is *required* to direct the DHSMV to withhold issuance of or suspend the driver license or driving privilege of a person who fails to pay the fine required for a second or subsequent violation of either of these provisions.<sup>103</sup>

#### Effect of the Bill

The bill amends s. 569.11, F.S., providing that a *second or subsequent* commission of such an offense within 12 weeks of the first violation is treated with a \$25 fine.

The bill also amends s. 877.112, F.S., repealing the provision related to "third or subsequent," instead providing that a *second or subsequent* violation of this provision within 12 weeks of the first violation is treated with a \$25 fine. The bill provides that such a direction to suspend, revoke, or withhold the issuance of a license by the court is *discretionary*, not mandatory.

These sections of the bill are effective October 1, 2019.

### ***Driver Licenses and Possession of a Firearm by a Minor (Section 31)***

Currently, s. 790.22, F.S., provides that a minor under 18 years of age is prohibited from possessing a firearm, other than an unloaded firearm at his or her home, unless:

- The minor is engaged in a lawful hunting activity and is:
  - At least 16 years of age; or
  - Under 16 years of age and supervised by an adult; or
- The minor is engaged in a lawful marksmanship competition or practice or other lawful recreational shooting activity and is:
  - At least 16 years of age; or
  - Under 16 years of age and supervised by an adult who is acting with the consent of the minor's parent or guardian; or

<sup>100</sup> Section 569.11(1)(c), F.S.

<sup>101</sup> Section 569.11(2)(c), F.S.

<sup>102</sup> Section 877.112(6) and (7), F.S.

<sup>103</sup> See s. 877.112, F.S.

- The firearm is unloaded and is being transported by the minor directly to or from an event authorized in s. 790.22(3)(a) or (b), F.S.<sup>104</sup>

The court is *required* to direct the DHSMV to suspend, revoke or to withhold issuance of a license of a minor who violates s. 790.22(3), F.S.<sup>105</sup>

If a minor is found to have committed an offense that involves the use or possession of a firearm, other than the above listed violation, or an offense during the commission of which the minor possessed a firearm, and the minor is not committed to a residential commitment program of the Department of Juvenile Justice, the court is *required* to direct the DHSMV to suspend, revoke or to withhold issuance of a license of a minor.<sup>106</sup>

#### Effect of the Bill

The bill amends s. 790.22, F.S., *authorizing*, rather than requiring, the court to direct the DHSMV to suspend, revoke, or withhold issuance of the driver license for this violation.

This section of the bill is effective October 1, 2019.

#### ***Driver Licenses and Criminal Mischief (Section 33)***

Currently, the court is *required* to direct the DHSMV to suspend, revoke or withhold issuance of a minor's driver license or driving privilege for not more than 1 year if a minor is found to have committed a delinquent act, for placing graffiti on any public property or private property.<sup>107</sup>

#### Effect of the Bill

The bill amends s. 806.13, F.S., *authorizing*, rather than requiring, the court to direct the DHSMV to suspend, revoke, or withhold issuance of the driver license for this violation.

This section of the bill is effective October 1, 2019.

#### ***Driver Licenses and Misdemeanor Theft Conviction (Section 36)***

Section 812.0155, F.S., authorizes the court to direct the DHSMV to suspend the driver license of anyone who is adjudicated guilty of a misdemeanor violation of s. 812.014, F.S., or s. 812.015, F.S., related to theft. The suspension for a first time violation must be for *6 months*, and for *1 year* for a second or subsequent violation.<sup>108</sup> Additionally, the court may revoke, suspend, or withhold issuance of a driver license of a person less than 18 years of age who violates these theft provisions as an alternative to sentencing the person in certain circumstances.<sup>109</sup>

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<sup>104</sup> Section 790.22(3), F.S.

<sup>105</sup> Section 790.22(5), F.S.

<sup>106</sup> Section 790.22(9) and (10), F.S.

<sup>107</sup> Section 806.13(7), F.S.

<sup>108</sup> Section 812.0155(1), F.S.

<sup>109</sup> Section 812.0155(2), F.S.

Effect of the Bill

The bill repeals 812.0155(1), F.S., which allowed the court to order the suspension of the driver license of each person adjudicated guilty of any misdemeanor violation of s. 812.014, F.S., or s. 812.015, F.S., regardless of the value of the property stolen.

However, the bill retains the portion of s. 812.0155, F.S., which allows a court to revoke, suspend, or withhold issuance of a driver license of a person less than 18 years of age who violates ss. 812.014 or 812.015, F.S., as an alternative to sentencing the person to probation.

This section of the bill is effective October 1, 2019.

**Sexually Violent Predator Program Criminal History Records Access (Section 11)*****Federal Criminal History Record Information Databases***

The Federal Bureau of Investigation (FBI) administers the National Crime Information Center (NCIC) database, containing information on persons subject to civil protection orders and arrest warrants, and the Interstate Identification Index (III), containing criminal history record information (CRHI). Under federal regulation, CRHI from the NCIC/III-databases is made available to criminal justice agencies for criminal justice purposes.<sup>110</sup> The exchange of CRHI between the federal government and states, however, is subject to cancellation if disseminated to unintended recipients.<sup>111</sup> The National Crime Prevention and Privacy Compact defines:

- “Criminal justice agency” as:
  - A court, and
  - A governmental agency or any subunit thereof that:
    - Performs the administration of criminal justice pursuant to statute or executive order; and
    - Allocates a substantial part of its annual budget to the administration of criminal justice.
- “Criminal justice” as activities relating to detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.<sup>112</sup>

***Sexually Violent Predator Program***

A sexually violent predator is a person who has been convicted of a sexually violent offense<sup>113</sup> and has a mental abnormality or personality disorder that makes them likely to engage in future

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<sup>110</sup> 28 C.F.R. s. 20.33(a)(1).

<sup>111</sup> 28 C.F.R. s. 20.33(b); s. 943.054, F.S.

<sup>112</sup> 42 U.S.C. s. 14616

<sup>113</sup> Section 394.912(9), F.S., defines the term “sexually violent offense” to mean murder of a human being while engaged in sexual battery in violation of s. 782.04(1)(a)2., F.S.; kidnapping or false imprisonment of a child under the age of 13 and, in the course of that offense, committing sexual battery; or a lewd, lascivious, or indecent assault or act upon or in the presence of the child; sexual battery in violation of s. 794.011, F.S.; lewd, lascivious, or indecent assault or act upon or in presence of the child in violation of ss. 800.04 or 847.0135(5), F.S.; an attempt, criminal solicitation, or conspiracy, in violation of s. 777.04, F.S., of a sexually violent offense; any conviction for a felony offense in effect at any time before October 1, 1998, which is comparable to a sexually violent offense listed above or any federal conviction or conviction in another state for a felony offense that in this state would be a sexually violent offense; or any criminal act that, either at the time of sentencing

acts of sexual violence if not confined to a secure facility for long-term control, care, and treatment.<sup>114</sup> To address the treatment needs of these offenders, the Legislature enacted the “Involuntary Civil Commitment of Sexually Violent Predators Act,”<sup>115</sup> also known as the “Ryce Act,” in 1998.<sup>116</sup>

The Ryce Act creates a civil commitment process for sexually violent predators that is similar to the Baker Act, used to involuntarily commit and treat mentally ill persons.<sup>117</sup> Under the Ryce Act, offenders convicted of specified sex offenses who are nearing the end of their criminal sentence are referred to the Department of Children and Families (DCF) for assessment by a multidisciplinary team as to whether the offender meets the clinical definition of a sexually violent predator. After assessment, the DCF provides a recommendation to the state attorney.<sup>118</sup>

Following receipt of the DCF’s recommendation and supporting information, the state attorney determines whether to file a petition with the circuit court alleging that the offender is a sexually violent predator.<sup>119</sup> At trial, a judge or jury must determine by clear and convincing evidence that an offender meets the definition of a sexually violent predator.<sup>120</sup> A sexually violent predator must be committed to the custody of the Sexually Violent Predator Program (SVPP), within the DCF, for control, care, and treatment.<sup>121</sup>

To conduct its risk assessment and other functions, the SVPP previously had access to the NCIC/III-databases, allowing it to review a person’s full criminal history. However, an FBI-conducted audit of a Florida sheriff’s office concluded that the SVPP was not a criminal justice agency and therefore not entitled to access the NCIC/III CHRI. This prevents the SVPP from accessing information about out-of-state convictions, which are found in approximately 18 percent of committed sexually violent predators criminal history records.<sup>122</sup>

### ***Effect of the Bill***

The bill amends s. 394.917, F.S., requiring the DCF to provide rehabilitation of criminal offenders upon commitment of a sexually violent predator. This results in the SVPP administering a criminal justice function pursuant to statute and therefore qualifies the SVPP as a criminal justice agency under federal law, thereby authorizing the SVPP to access the NCIC/III CRHI.

This section of the bill is effective October 1, 2019.

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for the offense or subsequently during civil commitment proceedings under this part, has been determined beyond a reasonable doubt to have been sexually motivated.

<sup>114</sup> Section 394.912(10), F.S.

<sup>115</sup> Chapter 394, Part V, F.S.

<sup>116</sup> Chapter 98-64, L.O.F.

<sup>117</sup> Chapter 394, Part I, F.S.

<sup>118</sup> *Id.*

<sup>119</sup> Section 394.914, F.S.

<sup>120</sup> Section 394.917, F.S.

<sup>121</sup> *Id.*

<sup>122</sup> Department of Children and Families, *Sexually Violent Predator Program (SVPP) NCIC Issue Summary*, March 8, 2019 (on file with the Senate Appropriations Subcommittee on Criminal and Civil Justice).

## Occupational Licensing (Sections 13 and 16)

### *Licensure, Generally*

The Department of Business and Professional Regulation (DBPR) has twelve divisions that are tasked with the licensure and general regulation of several professions and businesses in Florida.<sup>123</sup> Fifteen boards<sup>124</sup> and programs exist within the Division of Professions,<sup>125</sup> two boards exist within the Division of Real Estate,<sup>126</sup> and one board exists in the Division of Certified Public Accounting.<sup>127</sup>

Sections 455.203 and 455.213, F.S., establish the DBPR's general licensing authority, including its authority to charge license fees and license renewal fees. Each board within the DBPR must determine by rule the amount of license fees for each profession, based on estimates of the required revenue to implement the regulatory laws affecting the profession.<sup>128</sup> When a person is authorized to engage in a profession or occupation in Florida, the DBPR issues a "permit, registration, certificate, or license" to the licensee.<sup>129</sup>

The Construction Industry Licensing Board (CILB) within the DBPR is responsible for licensing and regulating the construction industry in this state under part I of ch. 489, F.S.<sup>130</sup> In part, ch. 489, F.S., provides for the licensing of septic tank contractors through the DBPR.

### *Denial of Licensure and Criminal History*

Chapter 455, F.S., provides the general powers of the DBPR and sets forth the procedural and administrative framework for all of the professional boards housed under the DBPR as well as the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.<sup>131</sup>

The DBPR may regulate professions "only for the preservation of the health, safety, and welfare of the public under the police powers of the state."<sup>132</sup> The DBPR or any board is prohibited from

<sup>123</sup> See s. 20.165, F.S., creating the divisions of Administration; Alcoholic Beverages and Tobacco; Certified Public Accounting; Drugs, Devices, and Cosmetics; Florida Condominiums, Timeshares, and Mobile Homes; Hotels and Restaurants; Pari-mutuel Wagering; Professions; Real Estate; Regulation; Service Operations; and Technology.

<sup>124</sup> Section 455.01(1), F.S., defines "board" to mean any board or commission, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rulemaking functions, within the DBPR, including the Florida Real Estate Commission. However, for purposes of ss. 455.201-455.245, F.S., "board" means only a board, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rulemaking functions, within the Division of Certified Public Accounting, the Division of Professions, or the Division of Real Estate.

<sup>125</sup> See s. 20.165(4)(a), F.S., for the establishment of specified boards and programs, which are noted with the implementing statutes.

<sup>126</sup> See s. 20.165(4)(b), F.S. Florida Real Estate Appraisal Board, created under part II of ch. 475, F.S., and Florida Real Estate Commission, created under part I of ch. 475, F.S.

<sup>127</sup> See s. 20.165(4)(c), F.S., which establishes the Board of Accountancy, created under ch. 473, F.S.

<sup>128</sup> Section 455.219(1), F.S.

<sup>129</sup> Section 455.01(4) and (5), F.S.

<sup>130</sup> See s. 489.107, F.S.

<sup>131</sup> See ss. 455.01(6) and 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by providing DBPR staff counsel. See s. 455.221(1), F.S.

<sup>132</sup> Section 455.201(2), F.S. Regulation is required when the potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result; the public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and less restrictive means of regulation are not available.

creating a regulation that has an unreasonable effect on job creation or job retention, or a regulation that unreasonably restricts the ability of those who desire to engage in a profession or occupation to find employment.<sup>133</sup>

Section 112.011, F.S., outlines general guidelines for considering criminal convictions during licensure determinations. Generally, a person may be denied a professional license based on his or her prior conviction of a crime if the crime was a felony or first-degree misdemeanor that is directly related to the standards determined by the regulatory authority to be necessary and reasonably related to the protection of the public health, safety, and welfare for the specific profession for which the license is sought.<sup>134</sup>

Further, the DBPR or a pertinent regulatory board is authorized to deny an application for licensure based on the grounds set forth in s. 455.227(1), F.S., or in the profession's practice act,<sup>135</sup> including denying a licensure application for any person who was:

convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.<sup>136</sup>

The CILB may also deny a license application for any person who was convicted or found guilty of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of, or the ability to practice, a licensee's profession.<sup>137</sup>

Both s. 455.227, F.S., and ch. 489, F.S., do not specifically require the DBPR, the CILB, or the ECLB to consider the passage of time since the disqualifying criminal offense before denying or granting a license or registration.

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<sup>133</sup> Section 455.201(4)(b), F.S.

<sup>134</sup> Section 112.011(1)(b) and (c), F.S. *See also, e.g., State ex rel. Sbordy v. Rowlett*, 138 Fla. 330 (1939), holding that "the preservation of the public health is one of the duties of sovereignty and in a conflict between the right of a citizen to follow a profession and the right of a sovereignty to guard the health and welfare, it logically follows that the rights of the citizen to pursue his profession must yield to the power of the State to prescribe such restrictions and regulations as shall fully protect the people from ignorance, incapacity, deception, and fraud." Additionally, notwithstanding any law to the contrary, a state agency may not deny an application for a license based solely on the applicant's lack of civil rights.

<sup>135</sup> Section 455.227(2), F.S.

<sup>136</sup> Section 455.227(1)(c), F.S.

<sup>137</sup> Sections 489.129(1)(b) and 489.553(1)(d), F.S., providing the disciplinary grounds for construction contractors and electrical contractors, respectively.

### *Effect of the Bill*

#### Licensing or Registration Related to Certain Professions

The bill amends s. 455.213, F.S., relating to the licensing of certain professions, to limit the period for which the DBPR or an appropriate board may consider criminal history as an impairment to licensure to five years prior to submitting an application. However, the DBPR or an appropriate board is authorized to consider, at any time, a conviction related to:

- A crime that is a predicate to registration as a sexual predator in accordance with s. 775.21, F.S., or a forcible felony enumerated in s. 775.08, F.S., only if such criminal history has been found to relate to the practice of the applicable profession; or
- Any crime if it has been found to relate to good moral character and if the practice of the applicable profession requires such a standard.

#### Registration of Septic Tank Contractors

The bill also amends s. 489.553, F.S., related to registration of septic tank contractors, to limit the period for which the DBPR may consider criminal history as an impairment to registration to five years prior to submitting an application. However, the board may consider at any time, a conviction related to:

- A crime that is a predicate to registration as a sexual predator in accordance with s. 775.21, F.S., or a forcible felony enumerated in s. 775.08, F.S., only if such criminal history has been found to relate to the practice of the applicable profession; or
- Any crime if it has been found to relate to good moral character.

#### Definition of “Conviction”

The bill defines the term “conviction” in both ss. 455.213 and 489.553, F.S., to mean a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

#### Ability to Apply for Licensing While Incarcerated or Under Supervision

The bill amends ss. 455.213<sup>138</sup> and 489.553, F.S., authorizing a person to apply for an occupational license or registration before he or she is lawfully released from confinement or supervision. The bill prevents the DBPR or the applicable board from charging a person an additional fee for the application merely because a person applies while incarcerated or under supervision and such status may not be the sole basis for denying a license or registration.

The DBPR or the applicable board is authorized to approve and subsequently stay the issuance of a license or registration until such time that the applicant is released from incarceration or supervision. Additionally, the applicant must notify the DBPR or applicable board, who must subsequently verify, such release with the DOC or other applicable authority, before it issues a license or registers such applicant.

If an applicant is unable to appear in person due to confinement or supervision, the DBPR or applicable board must permit the applicant to appear by teleconference or video conference, as

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<sup>138</sup> All of the changes made to the authority of the DBPR in accordance with s. 455.213, F.S., referred in this analysis also apply to the relevant appropriate board’s approval of a license.

appropriate, at any meeting of the applicable board or other hearing concerning his or her application. Additionally, the DOC must coordinate with the DBPR or appropriate board for such appearance, as appropriate.

#### Licensure Denial Reporting Related to the Professions of Chapter 455, F.S.

The bill amends s. 455.213, requiring the DBPR and each applicable board to compile a list of crimes that do not relate to the practice of the profession or the ability to practice the profession and do not constitute grounds for denial of a license even when such crimes result in a conviction, regardless of adjudication. This bill requires the list to be made available on the DBPR website and be updated annually. Beginning October 1, 2019, each applicable board must also compile a list of crimes that although reported by an applicant for licensure, were not used as a basis for denial. The list must identify the crime reported for each license application and:

- The date of conviction or the sentencing date, whichever occurs later; and
- The date that adjudication was entered.

The DBPR and each applicable board is also required to compile a list of crimes that have been used as a basis for denial of a license in the past two years and make such lists available on the DBPR's website. Beginning October 1, 2019, the applicable board must compile a list indicating each crime used as a basis for denial and update such list quarterly thereafter. For each crime listed, the applicable board must identify:

- The date of conviction or the sentencing date, whichever occurs later; and
- The date that adjudication was entered.

The information related to licensure denials discussed above must be made available to the public upon request.

#### Registration Denial Reporting Related to Septic Tank Contractors

The bill also amends s. 489.553, F.S., requiring the DBPR to compile a list of crimes that do not relate to the practice of septic tank contracting or the ability to practice the profession and do not constitute grounds for denial of registration even when such crimes result in a conviction, regardless of adjudication. This list is required to be made available on the DBPR's website and be updated annually. Beginning October 1, 2019, and updated quarterly thereafter, the DBPR is required to add to this list any crimes that although reported by an applicant for registration, were not used as a basis for denial in the past two years. The list must identify the crime reported for each registration application and:

- The date of conviction or sentencing, whichever occurs later; and
- The date adjudication was entered.

The DBPR is required to compile a list of crimes that have been used as a basis for denial of registration in the past two years and make such information available on the DBPR's website. Beginning October 1, 2019, and updated quarterly thereafter, the DBPR is required to add to this list each crime used as a basis for denial. For each crime listed, the DBPR must identify:

- The date of conviction or sentencing, whichever occurs later; and
- The date adjudication was entered.

The information related to registration denials discussed above must be made available to the public upon request.

These sections of the bill are effective October 1, 2019.

### **Veterinary Reporting (Section 14)**

Section 828.12, F.S., the general animal cruelty statute, holds harmless from criminal or civil liability a veterinarian licensed to practice in Florida for decisions made or services rendered under that section. Specifically, the veterinarian is immune from a lawsuit for his or her part in an investigation of cruelty to animals.<sup>139</sup>

Section 474.2165(4), F.S., currently prohibits a veterinarian from furnishing patient records or discussing a patient's medical condition with anyone other than the client or the client's legal representative or other veterinarians involved in the care or treatment of the patient, except upon written authorization of the client. However, such records may be furnished without written authorization under the following circumstances:

- To any person, firm, or corporation that has procured or furnished such examination or treatment with the client's consent;
- In any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the client or the client's legal representative by the party seeking such records; or
- For statistical and scientific research, provided the information is abstracted in such a way as to protect the identity of the patient and the client, or provided written permission is received from the client or the client's legal representative.

### ***Effect of the Bill***

The bill amends s. 474.2165(4), F.S., allowing a veterinarian to report a suspected criminal violation without notice to or authorization from the client. The report may not include written medical records except upon the issuance of a court order. The veterinarian may report the criminal violation to a law enforcement officer, a certified animal control officer,<sup>140</sup> or an agent appointed under s. 828.03, F.S.

However, if a suspected violation occurs at a commercial food-producing animal operation on land classified as agricultural,<sup>141</sup> the veterinarian must provide notice to the client or the client's legal representative before reporting the suspected violation to an officer or agent.

This section of the bill is effective October 1, 2019.

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<sup>139</sup> Section 828.12(4), F.S.

<sup>140</sup> Section 828.27(4)(a), F.S.

<sup>141</sup> See s. 193.461, F.S.

### **Contractor Fraud (Section 15)**

Section 489.126(2), F.S., provides a contractor<sup>142</sup> who receives, as initial payment, money totaling more than 10 percent of the contract price for repair, restoration, improvement, or construction to residential real property must:

- Apply for permits necessary to do work within 30 days after the date payment is made, except where the work does not require a permit under the applicable codes and ordinances; and
- Start the work within 90 days after the date all necessary permits for work, if any, are issued.<sup>143</sup>

A contractor who receives money in excess of the value of the work performed must not, with intent to defraud the owner, fail or refuse to perform any work for any 90-day period. An inference that the money given in excess of the value of the work performed was taken by the contractor with the intent to defraud is made if there is proof that a contractor received money for the contracted project in excess of the value of the work performed by the contractor and:

- The contractor failed to perform any of the work for which he or she contracted during any 60-day period;
- The failure to perform any such work during the 60-day period was not related to the owner's termination of the contract or a material breach of the contract by the owner; and
- The contractor failed, for an additional 30-day period after the date of mailing of the notification to perform any work for which he or she contracted.<sup>144</sup>

A contractor who violates either s. 489.126(2) or (3), F.S., is guilty of theft and must be prosecuted pursuant to s. 812.014, F.S.<sup>145</sup> As such, the offense level for a violation depends upon the value of the property taken.<sup>146</sup>

### ***Effect of the Bill***

The bill provides that, if the contractor fails to apply for necessary permits within 30 days, start work within 90 days, or refund the payment, after receiving more than 10 percent of the contract price, he or she will be excused from liability if just cause can be shown for failing to do one of such things. However, it may be inferred that a contractor does not have just cause if he or she fails to apply for permits, begin the work, or refund payments, within 30 days of receiving written demand from the person who made the payment to complete the project contracted for.

The bill requires written demand to be made to the contractor in the form of a letter that includes a demand to apply for the necessary permits, start the work, or refund the payment. The letter must be sent via certified mail to the address listed in the contracting agreement. If no address is

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<sup>142</sup> Section 489.105(3), F.S., defines a contractor as a person who is qualified for, and is only responsible for, the project contracted for, and is a person who, for compensation, undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others.

<sup>143</sup> Unless the person who made the payment agreed, in writing, to a longer period to apply for the necessary permits or start the work or to longer periods for both. Section 489.126(2), F.S.

<sup>144</sup> Section 489.126(3), F.S.

<sup>145</sup> Section 489.126(4), F.S.

<sup>146</sup> See s. 812.014, F.S.

listed, the letter must be mailed to the address listed with the Department of Business and Professional Regulation.

The bill removes the requirement that the contractor must have *intent to defraud the owner* to hold a contractor liable if he or she receives money for the contracted project in excess of the value of the work and fails or refuses to perform any work for any *90-day period*. The bill changes the times periods for when it is prima facie evidence that a contractor received money in excess of the value of the work performed to:

- The contractor failed to perform any of the work during any *90-day period*;
- The failure to perform such work during the *90-day period* was not related to the owner's termination of the contract or a material breach of the contract by the owner; and
- The contractor failed to perform for *90 days* without just cause or terminated the contract without proper notification to the owner.

The bill provides that just cause will not be inferred if a contractor fails to perform work or refund the money received in excess of the value of the work performed within 30 days of receiving written demand from the person who made the payment. As a result, a contractor must be liable to the person who made payment for the project contracted for.

The bill provides that the required intent to prosecute a contractor pursuant to this section can be shown to exist at the time that the contractor appropriated the money to his or her own use. Intent to defraud the owner is not required to be proven to exist at the time that the contractor took the money from the owner or at the time the owner made a payment to the contractor. The fact that the person charged in violation of any provision of the statute intended to return the money owed is not a defense.

The bill provides the following thresholds that will be used for the prosecution of a contractor who defrauds a person making payment for a contracted project pursuant to this section:

- A person who violates s. 489.126(2), F.S., commits:
  - A first degree misdemeanor if the total money received is less than \$1,000;
  - A third degree felony if the total money received is \$1,000 or more, but less than \$20,000;
  - A second degree felony if the total money received is \$20,000 or more, but less than \$200,000; and
  - A first degree felony if the total money received is \$200,000 or more.
- A person who violates s. 489.126(3), F.S., commits:
  - A first degree misdemeanor if the total money received exceeding the value of the work performed is less than \$1,000;
  - A third degree felony if the total money received exceeding the value of the work performed is \$1,000 or more, but less than \$20,000;
  - A second degree felony if the total money received exceeding the value of the work performed is \$20,000 or more, but less than \$200,000; and
  - A first degree felony if the total money received exceeding the value of the work performed is \$200,000 or more.

### **Mandatory Minimum Sentencing for Horse Meat Offenses (Section 17)**

Section 500.451, F.S., provides that a person commits a third degree felony with a one-year mandatory minimum sentence if he or she:

- Sells horse meat for human consumption, unless the horse meat is clearly stamped, marked, and described as horse meat for human consumption; or
- Transports, distributes, sells, purchases, or possesses horse meat for human consumption that is not clearly stamped, marked, and described as horse meat for human consumption or horse meat that is not acquired from a licensed slaughterhouse.

#### ***Effect of the Bill***

The bill amends s. 500.451, F.S., removing the mandatory minimum sentence for horse meat offenses.

This section of the bill is effective October 1, 2019.

### **Liquor Offenses (Sections 21, 22, and 86)**

Currently, it is a third degree felony<sup>147</sup> to:

- Possess, make, construct, or repair any still, still piping, still apparatus, or related item designed or adapted for the manufacture of an alcoholic beverage;<sup>148</sup>
- Possess any container holding any mash, wort, wash, or fermented liquids capable of being distilled or manufactured into an alcoholic beverage, without authorization;<sup>149</sup>
- Possess any raw materials or substance intended to be used in the distillation or manufacturing of an alcoholic beverage, unless licensed;<sup>150</sup>
- Possess one gallon or more of liquor that was not made or manufactured in accordance with the law;<sup>151</sup> and
- Sell or otherwise dispose of raw materials and other substances to be used in the distillation or manufacture of an alcoholic beverage unless such person holds a license.<sup>152</sup>

#### ***Effect of the Bill***

##### **Penalty for Possessing Still, Still Piping, Still Apparatus, or Related Items (Sections 21 and 86)**

The bill amends s. 562.27, F.S., reducing the penalty from a third degree felony to a second degree misdemeanor<sup>153</sup> for any person who violates a provision of s. 562.27, F.S. The bill also amends s. 921.0022, F.S., removing this offense from the offense severity ranking chart.

This section of the bill is effective October 1, 2019.

<sup>147</sup> A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine. Sections 775.082, 775.083, and 775.084, F.S.

<sup>148</sup> Section 562.27(1) and (8), F.S.

<sup>149</sup> *Id.*

<sup>150</sup> Section 562.27(2), (8), F.S.

<sup>151</sup> Sections 562.451(2), F.S.

<sup>152</sup> Section 562.27(5), F.S.

<sup>153</sup> A second degree misdemeanor is punishable by up to 60 days in county jail and up to a \$500 fine. Sections 775.082 and 775.083, F.S.

### Penalty for Possessing Illegally-Made Liquor (Section 22)

The bill amends s. 562.451, F.S., reducing the penalty from a third degree felony to a first degree misdemeanor<sup>154</sup> for any person who has in his or her possession or control 1 gallon or more of liquor that was not made or manufactured in accordance with the laws in effect at the time when such liquor was made or manufactured.

This section of the bill is effective October 1, 2019.

### **Prison Releasee Reoffender (Section 25)**

A person who qualifies as a prison release reoffender is subject to a mandatory minimum sentence. A prison release reoffender is a person who is being sentenced for committing or attempting to commit a qualifying offense, such as murder, manslaughter, sexual battery, or robbery,<sup>155</sup> within three years of being released from:

- A state correctional facility operated by the DOC or a private vendor; or
- A correctional institution of another jurisdiction following incarceration for which the sentence is punishable by more than one year in Florida.<sup>156</sup>

A prison release reoffender also includes a person who commits or attempts to commit a qualifying offense while serving a prison sentence or while on escape status from a state correctional facility operated by the DOC or a private vendor or from a correctional institution of another jurisdiction.<sup>157</sup>

A court must sentence a prison release reoffender to:

- A 5-year mandatory minimum for a third degree felony;
- A 15-year mandatory minimum for a second degree felony;
- A 30-year mandatory minimum term for a first degree felony; and
- Life imprisonment for a first degree felony punishable by life or a life felony.<sup>158</sup>

Under certain circumstances, a court may sentence a person to a prison sentence, which is a term of imprisonment for a felony exceeding one year,<sup>159</sup> but the person may ultimately be released from a county detention facility<sup>160</sup> rather than prison. For example, a court must give a defendant credit for time served in the county jail when imposing a sentence.<sup>161</sup> A defendant who stayed in detention during the pendency of his or her case for two years, and was sentenced to two years in prison without credit for time served, would have served the entirety of his or her “prison”

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<sup>154</sup> A first degree misdemeanor is punishable by up to one year in jail and up to a \$1,000 fine. Sections 775.082 and 775.083, F.S.

<sup>155</sup> See s. 775.082(9)(a)3., F.S., for a complete list of qualifying offenses.

<sup>156</sup> Section 775.082(9)(a)1., F.S.

<sup>157</sup> Section 775.082(9)(a)2., F.S.

<sup>158</sup> Section 775.082(9)(a)3., F.S.

<sup>159</sup> Section 921.0024(2), F.S.

<sup>160</sup> A county detention facility is a county jail, a county stockade, a county work camp, a county residential probation center, and any other place except a municipal detention facility used by a county or county officer for the detention of persons charged with or convicted of either a felony or misdemeanor. Section 951.23(1)(a), F.S.

<sup>161</sup> Section 921.161(1), F.S.

sentence in county jail and would be released from county jail. A person may also stay in a county detention facility while serving a prison sentence to resolve or testify in other pending matters, causing such person to potentially be released from county jail on a prison sentence rather than from prison.

In December of 2018, the Florida Supreme Court held that a defendant released from a county jail after having been committed to the legal custody of the DOC was not a prison release reoffender within the current meaning of that term as provided in s. 775.082, F.S.<sup>162</sup>

### ***Effect of the Bill***

The bill amends s. 775.082, F.S., providing that a person who is released from a county detention facility following incarceration for an offense for which the sentence pronounced was a prison sentence qualifies as a prison releasee reoffender if otherwise eligible. Therefore, the mandatory minimum sentences will apply to the person when sentencing on the qualifying offense.

This section of the bill is effective October 1, 2019.

### **2016 Amendments to the “10-20-Life” Statute (Section 26)**

Section 775.087, F.S., the “10-20-Life” statute, requires a judge to sentence a person convicted of a specified offense to a minimum term of imprisonment if, while committing the offense, the person possesses or discharges a firearm or destructive device<sup>163</sup> or if the discharge of the firearm results in death or great bodily harm. Specified offenses include such offenses as murder, sexual battery, robbery, and burglary.<sup>164</sup>

Under s. 775.087, F.S., a person convicted of a specified offense, or the attempt to commit such offense, must be sentenced to the following mandatory minimum term of imprisonment:

- 10 years for possession of a firearm;
- 15 years for possession of a semi-automatic/machine gun;
- 20 years for discharge of a firearm (any type); and
- 25 years to life imprisonment for discharge with great bodily injury or death.<sup>165</sup>

However, s. 775.087(2)(a)(1), provides for a minimum mandatory sentence of three years, instead of 10 years, for the possession of a firearm by a felon or burglary of a conveyance if the possession occurred during the commission of the offense.

A person sentenced under s. 775.087, F.S., is not eligible for statutory gain-time under s. 944.275, F.S.<sup>166</sup>

Section 775.087, F.S., was amended in 2016 by ch. 2016-7, L.O.F. (effective July 1, 2016). The 2016 legislation, in part, removed aggravated assault and attempted aggravated assault as

<sup>162</sup> *State v. Lewars*, 259 So.3d 793 (Fla. 2018).

<sup>163</sup> The terms “firearm” and “destructive device” are defined in s. 790.001, F.S.

<sup>164</sup> For a complete list of offenses, see s. 775.087(3)(a)1., F.S.

<sup>165</sup> Section 775.087(2)(a)1.-3. and (3)(a)1.-3., F.S.

<sup>166</sup> Section 775.087(2)(b) and (3)(b), F.S.

predicate offenses for purposes of mandatory minimum sentencing under s. 775.087, F.S. The statute in effect immediately prior to its amendment by ch. 2016-7, L.O.F., prohibited imposing the mandatory minimum sentence for aggravated assault and attempted aggravated assault if the court made written findings that:

- The defendant had a good faith belief that the aggravated assault was justifiable pursuant to ch. 776, F.S.;
- The aggravated assault was not committed in the course of committing another criminal offense;
- The defendant does not pose a threat to public safety; and
- The totality of the circumstances involved in the offense do not justify the imposition of such sentence.<sup>167</sup>

Chapter 2016-7, L.O.F., had prospective application. At the time the 2016 legislation was enacted, Article X, section 9 of the Florida Constitution, Florida's constitutional savings clause, prohibited applying the repeal or amendment of a criminal statute to any crime committed before such repeal or amendment if this retroactive application affected punishment. However, in 2018, Florida amended Article X, section 9 of the Florida Constitution, and that amendment included removing the prohibition on retroactive application of a repeal or amendment that affects punishment. Accordingly, the Legislature is no longer constitutionally prohibited from retroactively ameliorating punishments.

### ***Effect of the Bill***

The bill amends s. 775.087, F.S., providing that it is the intent of the Legislature to retroactively apply ch. 2016-7, L.O.F., to persons who committed aggravated assault or attempted aggravated assault before July 1, 2016, the effective date of ch. 2016-7, L.O.F., which amended s. 775.087, F.S., to remove aggravated assault or attempted aggravated assault from the list of predicate offenses for mandatory minimum sentencing under s. 787.087, F.S. Chapter 2016-7, L.O.F., is retroactively applied in the following manner:

- On or after October 1, 2019, a person who committed aggravated assault or attempted aggravated assault before July 1, 2016, may not be sentenced to a mandatory minimum term of imprisonment under s. 775.087, F.S., as it existed at any time before its amendment by ch. 2016-7, L.O.F.; and
- A person who committed aggravated assault or attempted aggravated assault before July 1, 2016, who was sentenced before October 1, 2019, to a mandatory minimum term of imprisonment pursuant to s. 775.087, F.S., as it existed at any time before its amendment by ch. 2016-7, L.O.F., and who is serving such mandatory minimum term on or after October 1, 2019, shall be resentenced to a sentence without such mandatory minimum term. The person shall be resentenced to a sentence as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.

A person sentenced or resentenced as described is eligible to receive any gain-time pursuant to s. 944.275, F.S., which he or she was previously ineligible to receive because of the imposition of the mandatory minimum term of imprisonment.

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<sup>167</sup> Section 775.087(6), F.S. (2015). This exception to mandatory minimum sentencing was created by ch. 2014-195, L.O.F. (effective June 20, 2014).

This section of the bill is effective October 1, 2019.

### **Attorney's Fees in Specific Injunction Cases (Sections 27 and 29)**

#### ***Protective Injunctions***

Protective injunctions are available under Florida law for victims of domestic violence, repeat violence, sexual violence, dating violence, and stalking.<sup>168</sup> A protective injunction may prohibit a person from:

- Going to or being within 500 feet of the petitioner's residence, school, place of employment, or other specified place;
- Committing an act of violence against the petitioner;
- Telephoning, contacting, or otherwise communicating with the petitioner; and
- Knowingly and intentionally coming within 100 feet of the petitioner's motor vehicle.<sup>169</sup>

Violation of a protective injunction is a first-degree misdemeanor, punishable by up to one year in jail and a \$1,000 fine.<sup>170</sup>

#### ***Procedure for Obtaining an Injunction***

The process for obtaining an injunction in any of the above-mentioned circumstances is very similar and requires that the victim file a sworn petition for injunction that alleges:

- He or she is a victim of domestic violence; repeat, sexual, or dating violence; or stalking; or
- In the case of a petition for a domestic violence injunction, he or she has reasonable cause to believe he or she is in imminent danger of such violence.<sup>171</sup>

As soon as possible following the filing of the petition, a court must set a hearing to determine whether an immediate and present danger of the violence alleged exists. Upon finding an immediate and present danger, the court may grant an ex parte temporary injunction for 15 days. A court must then set a hearing with notice to the respondent, and upon such hearing with notice, may grant protective injunctive relief as it deems proper.<sup>172</sup>

#### ***Attorney's Fees***

A court must award a reasonable attorney's fee to be paid by the losing party and the losing party's attorney on any claim or defense during a civil proceeding or action if the court finds that the losing party or losing party's attorney knew or should have known that a claim:

- Was not supported by the material facts necessary to establish the claim or defense; or
- Would not be supported by the application of then-existing law to those material facts.<sup>173</sup>

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<sup>168</sup> Sections 741.30, 784.046, and 784.0485, F.S.

<sup>169</sup> Sections 741.31, 784.047, and 784.0487, F.S.

<sup>170</sup> *Id.*

<sup>171</sup> Sections 741.30, 784.046, and 784.0485, F.S.

<sup>172</sup> *Id.*

<sup>173</sup> Section 57.105, F.S.

Florida law prohibits attorney fee awards stemming from domestic violence injunction proceedings; however, there is no such explicit prohibition for repeat violence, sexual violence, dating violence, or stalking injunction proceedings. In *Lopez v. Hall*, the Florida Supreme Court held that an award of attorney's fees was permissible in dating, repeat, and sexual violence injunction proceedings, as they were not explicitly prohibited by statute.<sup>174</sup>

### ***Effect of the Bill***

The bill amends ss. 784.046, and 784.0485, F.S., prohibiting the award of attorney's fees in injunction proceedings for repeat violence, sexual violence, sexual violence, and stalking.

These sections of the bill are effective October 1, 2019.

## **Concealed Carry of Firearms by Off-Duty Law Enforcement Officers (Section 30)**

### ***Federal Law***

Congress created the Law Enforcement Officers Safety Act (Act) in 2004 authorizing *qualified* law enforcement officers and *qualified* retired law enforcement officers to carry a concealed firearm across state and other jurisdictional lines.<sup>175</sup>

Under the Act, a qualified law enforcement officer is someone who is an employee of a government agency who:

- Is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law;
- Is authorized by the agency to carry a firearm;
- Is not the subject of any disciplinary action by the agency which could result in suspension or loss of police powers;
- Meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm;
- Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
- Is not prohibited by Federal law from receiving a firearm.<sup>176</sup>

An individual who is a qualified law enforcement officer as defined above and who is carrying the statutorily required identification may carry a concealed firearm.<sup>177</sup> Qualified retired law enforcement officer means an individual who:

- Separated from service in good standing from service with a public agency as a law enforcement officer;
- Before such separation, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest or apprehension;

<sup>174</sup> *Lopez v. Hall*, 233 So.3d 451 (Fla. 2018).

<sup>175</sup> 18 U.S.C. 926B; 18 U.S.C. 926C. Subsequently, s. 943.132, F.S., was enacted which directed the Criminal Justice Standards and Training Commission (CJSTC) within the FDLE to adopt rules to implement the Act.

<sup>176</sup> 18 U.S.C. 926B(c).

<sup>177</sup> 18 U.S.C. 926B(a). 18 U.S.C. 926B(d), requires photographic identification issued by the governmental agency the individual is employed which identifies the employee as a police officer or law enforcement officer of the agency.

- Before such separation, served as a law enforcement officer for an aggregate of 10 years or more; or who separated from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;
- During the most recent 12-month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the individual, the State in which the individual resides or, if the State has not established such standards, either a law enforcement agency within the State in which the individual resides or the standards used by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State;
- Has not been officially found by a qualified medical professional employed by the agency to be unqualified for reasons relating to mental health and as a result of this finding will not be issued the photographic identification as described in the law; or who has not entered into an agreement with the agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified under this section for reasons relating to mental health and for those reasons will not receive or accept the photographic identification;
- Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
- Is not prohibited by Federal law from receiving a firearm.<sup>178</sup>

### ***Florida Law***

Section 790.052, F.S., provides that persons holding active certifications from the Criminal Justice Standards and Training Commission (CJSTC) as law enforcement officers or correctional officers<sup>179</sup> have the right to carry concealed firearms, during off-duty hours, at the discretion of their superior officers. Additionally, they may perform those law enforcement functions that they normally perform during duty hours, utilizing their weapons in a manner which is reasonably expected of on-duty officers in similar situations. The appointing or employing agency or department may establish policies limiting law enforcement officers or correctional officers from carrying concealed firearms during off-duty hours in their capacity as appointees or employees of the agency or department.<sup>180</sup>

### ***Effect of the Bill***

The bill amends s. 790.052, F.S., to provide that persons who hold active certifications from the CJSTC as law enforcement or correctional officers as defined in s. 943.10(1), (2), (6), (7), (8), or (9), F.S., meet the definition of “qualified law enforcement officer” found at 18 U.S.C. s. 926(B)(c).

The bill amends s. 790.052, F.S., providing that persons who held active certifications from the CJSTC as law enforcement or correctional officers as defined in s. 943.10(1), (2), (6), (7), (8), or (9), F.S., but who have separated from service under the conditions set forth in 18 U.S.C. s. 926(C)(c), meet the definition of “qualified law enforcement officer.”

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<sup>178</sup> 18 U.S.C. 926C(c).

<sup>179</sup> Law enforcement and correctional officers are defined in s. 943.10(1), (2), (6), (7), (8), or (9), F.S.

<sup>180</sup> Section 790.052(1), F.S.

This section of the bill is effective October 1, 2019.

**Cyberstalking (Section 28)**

Section 784.048, F.S., punishes cyberstalking. “Cyberstalk” means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.<sup>181</sup>

Section 784.048, F.S., in part, provides that a person commits stalking, a first degree misdemeanor,<sup>182</sup> if the person willfully, maliciously, and repeatedly cyberstalks another person.<sup>183</sup>

Section 784.048, F.S., in part, also provides that a person commits aggravated stalking, a third degree felony,<sup>184</sup> if the person:

- Willfully, maliciously, and repeatedly cyberstalks another person and makes a credible threat to that person;
- After an injunction for protection against repeat violence, sexual violence, or dating violence pursuant to s. 784.046, F.S., or an injunction for protection against domestic violence pursuant to s. 741.30, F.S., or after any other court-imposed prohibition of conduct toward the subject person or that person’s property, knowingly, willfully, maliciously, and repeatedly cyberstalks another person;
- Willfully, maliciously, and repeatedly cyberstalks a child under 16 years of age; or
- After having been sentenced for a violation of s. 794.011, F.S. (sexual battery), s. 800.04, F.S. (lewd offenses against certain children), s. 847.0135(5), F.S. (lewd computer transmissions against certain children), and prohibited from contacting the victim of the offense under s. 921.244, F.S. (no-contact order), willfully, maliciously, and repeatedly cyberstalks the victim.<sup>185</sup>

***Effect of the Bill***

The bill amends s. 784.048, F.S., to redefine the term “cyberstalk” to include accessing or attempting to access the online accounts or Internet-connected home electronic systems of another person without that person’s permission, causing substantial emotional distress to that person and serving no legitimate purpose.

This section of the bill is effective October 1, 2019.

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<sup>181</sup> Section 784.048(1)(d), F.S.

<sup>182</sup> A first degree misdemeanor is punishable by up to one year in jail and up to a \$1,000 fine. Sections 775.082 and 775.083, F.S.

<sup>183</sup> Section 784.048(2), F.S.

<sup>184</sup> A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine. Sections 775.082, 775.083, and 775.084, F.S.

<sup>185</sup> Section 784.048(3)-(5) and (7), F.S. The punishment imposed under s. 748.048, F.S., runs consecutive to any former sentence imposed for a conviction for any offense under s. 794.011, F.S., s. 800.04, F.S., or s. 847.135(5), F.S. Section 784.048(8), F.S.

### **Computer-Related Crimes (Section 37)**

Section 815.03, F.S., is the definitions section for ch. 815, F.S., which punishes computer-related crimes, including computer crimes involving unlawful access.<sup>186</sup> Section 815.03(1), F.S., defines the term “access” as approaching, instructing, communicating with, storing data in, retrieving data from, or otherwise making use of any resources of a computer, computer system, or computer network.

#### ***Effect of the Bill***

The bill amends the definition of “access” in s. 815.03, F.S., to reference an electronic device, so unlawful access includes an electronic device.

This section of the bill is effective October 1, 2019.

### **Criminal Offenses Against Computer Users (Section 38)**

Section 815.06, F.S., punishes cybercrime. Broadly defined, “cybercrime” is “any fraud or crime committed through or with the aid of computer programming or internet-related communications such as Web sites, e-mail, and chat rooms[.]”<sup>187</sup>

Section 815.06(2), F.S., provides that a person commits an offense against users<sup>188</sup> of computers, computer systems, computer networks, or electronic devices if he or she willfully, knowingly, and without authorization:

- Accesses or causes to be accessed any computer, computer system, computer network, or electronic device with knowledge that such access is unauthorized;
- Disrupts or denies or causes the denial of the ability to transmit data to or from an authorized user of a computer, computer system, computer network, or electronic device, which, in whole or in part, is owned by, under contract to, or operated for, on behalf of, or in conjunction with another;
- Destroys, takes, injures, or damages equipment or supplies used or intended to be used in a computer, computer system, computer network, or electronic device;
- Destroys, injures, or damages any computer, computer system, computer network, or electronic device;
- Introduces any computer contaminant into any computer, computer system, computer network, or electronic device; or
- Engages in audio or video surveillance of an individual by accessing any inherent feature or component of a computer, computer system, computer network, or electronic device, including accessing the data or information of a computer, computer system, computer network, or electronic device that is stored by a third party.<sup>189</sup>

<sup>186</sup> See, e.g., s. 815.06(2)(a), F.S., which prohibits a person from accessing or causing to be accessed any computer system, computer network, or electronic device with knowledge that such access is denied.

<sup>187</sup> Damien Odunze, “Cyber Victimization by Hackers: A Criminological Analysis, v. 1, n. 1 (2018), p. 9, *Public Policy and Administration Research*, available at <https://pdfs.semanticscholar.org/fd89/f6fa17c03a639b7d7b9f5b3ddc492b6b49a8.pdf> (last visited on April 12, 2019).

<sup>188</sup> “User” means a person with the authority to operate or maintain a computer, computer system, computer network, or electronic device. Section 815.06(1), F.S.

<sup>189</sup> Section 815.06(2)(a)-(f), F.S.

Generally, commission of any of these acts is a third degree felony.<sup>190</sup> However, it is a second degree felony,<sup>191</sup> if the person commits any of the acts described in s. 815.06(2), F.S., and:

- Damages a computer, computer equipment or supplies, a computer system, or a computer network and the damage or loss is at least \$5,000;
- Commits the offense for the purpose of devising or executing any scheme or artifice to defraud or obtain property;
- Interrupts or impairs a governmental operation or public communication, transportation, or supply of water, gas, or public service; or
- Intentionally interrupts the transmittal of data to or from, or gains unauthorized access to, a computer, computer system, computer network, or electronic device belonging to any mode of public or private transit.<sup>192</sup>

Further, it is a first degree felony<sup>193</sup> if the person commits any of the acts described in s. 815.06(2), F.S., and the violation:

- Endangers human life; or
- Disrupts a computer, computer system, computer network, or electronic device that affects medical equipment used in the direct administration of medical care or treatment to a person.<sup>194</sup>

### ***Effect of the Bill***

The bill amends s. 815.06, F.S., to punish various acts against users of computers, computer systems, computer networks, or electronic devices which are committed willfully, knowingly, and *exceeding authorization*.

This section of the bill is effective October 1, 2019.

### **Possession of a Counterfeit Instrument (Section 40)**

The term “counterfeit” means the manufacture of or arrangement to manufacture a payment instrument<sup>195</sup> without the permission of the financial institution, account holder, or organization whose name, routing number, or account number appears on the payment instrument, or the manufacture of any payment instrument with a fictitious name, routing number, or account number.<sup>196</sup> Currently it is a third degree felony to counterfeit a payment instrument with the

<sup>190</sup> Section 815.06(3)(a), F.S. A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine. Sections 775.082, 775.083, and 775.084, F.S.

<sup>191</sup> A second degree felony is punishable by up to 15 years imprisonment and up to a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>192</sup> Section 815.06(3)(b)1.-4., F.S.

<sup>193</sup> A first degree felony is punishable by up to 30 years imprisonment and up to a \$10,000 fine. However, when a specifically provided by statute, a first degree felony may be punished by imprisonment for a term of years not exceeding life imprisonment. Sections 775.082 and 775.083, F.S.

<sup>194</sup> Section 815.06(3)(c)1.-2., F.S.

<sup>195</sup> Section 560.103(29), F.S., defines “payment instrument” to mean a check, draft, warrant, money order, travelers check, electronic instrument, or other instrument, payment of money, or monetary value whether or not negotiable. The term does not include an instrument that is redeemable by the issuer in merchandise or service, a credit card voucher, or a letter of credit.

<sup>196</sup> Section 831.28(1), F.S.

intent to defraud a financial institution, account holder, or any other person or organization or for any person to have any counterfeit payment instrument in any person's possession.<sup>197</sup>

### ***Effect of the Bill***

Current law provides it is unlawful for a person to have any counterfeit payment instrument in such person's possession, without regard to intent.<sup>198</sup> The bill amends s. 831.28, F.S., providing that a person who has possession of any counterfeit payment instrument commits a third degree felony only if he or she has the intent to defraud a financial institution, account holder, or any other person or organization. The bill also amends s. 921.0022, F.S., conforming the offense severity ranking chart to changes made by the act.

This section of the bill is effective October 1, 2019.

### **Drug Trafficking Offenses (Section 44)**

#### ***Florida's Controlled Substance Schedules***

Section 893.03, F.S., classifies controlled substances into five categories, known as schedules. These schedules regulate the manufacture, distribution, preparation, and dispensing of the substances listed in the schedules. The most important factors in determining the schedule classification of a substance are the "potential for abuse"<sup>199</sup> of the substance and whether there is a currently accepted medical use for the substance in the United States.<sup>200</sup>

#### ***Drug Trafficking***

Drug trafficking, which is punished in s. 893.135, F.S., consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state (importation), or knowingly being in actual or constructive possession of, certain Schedule I or Schedule II controlled substances in a statutorily specified quantity. The statute only applies to a limited number of such controlled substances.<sup>201</sup> The controlled substance involved in the trafficking must meet a specified weight or quantity threshold.

Most drug trafficking offenses are first degree felonies<sup>202</sup> and are subject to a mandatory minimum term of imprisonment<sup>203</sup> and a mandatory fine, which is determined by the weight or quantity range applicable to the weight or quantity of the substance involved in the trafficking.<sup>204</sup>

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<sup>197</sup> Section 831.28(2), F.S.

<sup>198</sup> *Id.*

<sup>199</sup> Pursuant to s. 893.035(3)(a), F.S., "potential for abuse" means a substance has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of the substance being: (1) used in amounts that create a hazard to the user's health or the safety of the community; (2) diverted from legal channels and distributed through illegal channels; or (3) taken on the user's own initiative rather than on the basis of professional medical advice.

<sup>200</sup> See s. 893.03(1)-(5), F.S.

<sup>201</sup> See s. 893.135, F.S., for the substances which are included in the offense if drug trafficking.

<sup>202</sup> A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to \$10,000. However, when specifically provided by statute, a first degree felony may be punished by imprisonment for a term of years not exceeding life imprisonment. Sections 775.082 and 775.083, F.S.

<sup>203</sup> There are currently 56 mandatory minimum terms of imprisonment in s. 893.135, F.S., which range from 3 years to life imprisonment.

<sup>204</sup> See s. 893.135, F.S.

For example, trafficking in 28 grams or more, but less than 200 grams, of cocaine, a first degree felony, is punishable by a 3-year mandatory minimum term of imprisonment and a mandatory fine of \$50,000.<sup>205</sup> Trafficking in 200 grams or more, but less than 400 grams, of cocaine, a first degree felony, is punishable by a 15-year mandatory minimum term of imprisonment and a mandatory fine of \$100,000.<sup>206</sup>

### ***Criminal Punishment Code***

The Criminal Punishment Code (Code) is Florida’s primary sentencing policy.<sup>207</sup> Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).<sup>208</sup> Points are assigned and accrue based upon the level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses like a Level 7 or 8 drug trafficking offense. The lowest permissible sentence is any nonstate 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>209</sup> Absent mitigation,<sup>210</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. The statutory maximum sentence for a first-degree felony is 30 years, for a second-degree felony is 15 years, and for a third degree felony is 5 years.<sup>211</sup>

### **Mandatory Minimum Sentences and Departures**

Mandatory minimum terms of imprisonment limit judicial discretion in Code sentencing: “If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory minimum sentence takes precedence.”<sup>212</sup> As previously noted, the sentencing range under the Code is generally the scored lowest permissible sentence up to and including the statutory maximum penalty. However, if there is a mandatory minimum sentence that is longer than the scored lowest permissible sentence, the sentencing range is narrowed to the mandatory minimum sentence up to and including the statutory maximum penalty.

Prosecutors have “complete discretion” in the charging decision.<sup>213</sup> The exercise of this discretion may determine whether a defendant is subject to a mandatory minimum term or a

<sup>205</sup> Section 893.135(1)(b)1.a., F.S.

<sup>206</sup> Section 893.135(1)(b)1.b., F.S.

<sup>207</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>208</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>209</sup> Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

<sup>210</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>211</sup> See s. 775.082, F.S.

<sup>212</sup> Fla. R. Crim. P. 3.704(d)(26).

<sup>213</sup> “Under Florida’s constitution, the decision to charge and prosecute is an executive responsibility, and the state attorney has complete discretion in deciding whether and how to prosecute.” *State v. Bloom*, 497 So.2d 2, 3 (Fla. 1986).

reduced mandatory minimum term. Further, a prosecutor could move the court to reduce or suspend a sentence if the defendant renders substantial assistance.

There are few circumstances in which a court of its own accord can depart from a mandatory minimum term. A court may depart from a mandatory minimum term if the defendant is a youthful offender.<sup>214</sup> A court may also depart from a mandatory minimum term for a violation of s. 316.027(2)(c), F.S., (driver involved in a fatal crash fails to stop and remain at the scene of a crash), if the court “finds that a factor, consideration or circumstance clearly demonstrates that imposing a mandatory minimum term of imprisonment would constitute or result in an injustice.”<sup>215</sup>

### ***Pharmaceutical Drugs***

Pharmaceutical drugs are approved by the Food and Drug Administration for many medical uses. Some of these drugs may contain a controlled substance described in the s. 893.135, F.S. For example, some of these drugs may contain amphetamine, codeine, morphine, hydromorphone, hydrocodone, oxycodone, fentanyl (and some of its analogs and derivatives), and methaqualone. All of these controlled substances are described in s. 893.135, F.S.

Section 893.135, F.S., does not apply to possession, sale, etc., of a pharmaceutical drug when that possession, sale, etc., is authorized by ch. 893, F.S. (Controlled Substance Act) or ch. 499, F.S. (Florida Drug and Cosmetic Act). Section 893.135(1), F.S., which proscribes numerous drug trafficking acts, is “prefaced by the following qualification: ‘Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13[.]’”<sup>216</sup>

Prior to July 1, 2014, the following mandatory minimum terms of imprisonment were provided for trafficking in hydrocodone or oxycodone and mixtures containing either controlled substance:

- 4 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of \$50,000;
- 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of \$100,000; or
- 28 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of \$500,000.<sup>217</sup>

In 2014, the Legislature reduced gram weight thresholds and ranges for trafficking in hydrocodone and oxycodone and mixtures containing either controlled substance.

<sup>214</sup> Section 958.04, F.S.

<sup>215</sup> Section 316.027(2)(g), F.S.

<sup>216</sup> *O’Hara v. State*, 964 So.2d 839, 841 (Fla. 2d. DCA 2007).

<sup>217</sup> Section 893.135(1)(c)1, F.S. (2013).

## *Effect of the Bill*

### Trafficking in Pharmaceuticals Offense

The bill amends s. 893.135, F.S., to create a new drug trafficking offense called “trafficking in pharmaceuticals,” which is committed if a person knowingly sells, purchases, delivers, or brings into this state, or is knowingly in actual or constructive possession of, 120 or more dosage units containing a controlled substance described in s. 893.135, F.S.

A person who unlawfully possesses, sells, etc., 120 or more dosage units containing a controlled substance described in s. 893.135, F.S., must be prosecuted for the new “trafficking in pharmaceuticals” offense. No other drug trafficking offense can be charged.

If there are fewer than 120 dosage units involved in the trafficking, the person may not be charged with drug trafficking, though a person could be charged under s. 893.13, F.S., which also punishes controlled substance offenses. However, penalties in s. 893.13, F.S., are generally lower than penalties in s. 893.135, F.S., and most violations of s. 893.13, F.S., do not involve a mandatory minimum term of imprisonment.

The bill does not affect prosecution of any current drug trafficking offense, if the controlled substance is not contained in a dosage unit.

The new “trafficking in pharmaceuticals” offense contains 3, 7, 15, and 25-year mandatory minimum terms of imprisonment and mandatory fines. The mandatory minimum term and mandatory fine are determined by the specified dosage unit range applicable to dosage units trafficked. Specifically, the bill provides for the following penalties:

- If the quantity involved is 120 or more dosage units, but less than 500 dosage units, a person is sentenced to a mandatory minimum term of imprisonment of 3 years and is ordered to pay a fine of up to \$25,000;
- If the quantity involved is 500 or more dosage units, but less than 1,000 dosage units, a person is sentenced to a mandatory minimum term of imprisonment of 7 years and is ordered to pay a fine of up to \$50,000;
- If the quantity involved is 1,000 or more dosage units, but less than 5,000 dosage units, a person is sentenced to a mandatory minimum term of imprisonment of 15 years and is ordered to pay a fine of up to \$100,000; and
- If the quantity involved is 5,000 or more dosage units, a person is sentenced to a mandatory minimum term of imprisonment of 25 years and is ordered to pay a fine of up to \$250,000.

It is not possible to make a general comparison of trafficking penalties based upon dosage units (new “trafficking in pharmaceuticals” offense) and trafficking penalties based upon gram weight (current law),<sup>218</sup> but some drug offenders could receive a mandatory minimum term under the bill that is substantially less than the mandatory minimum term they could receive under current law. For example, the Office of Program Policy Analysis and Government Accountability determined that 215 oxycodone pills, each weighing 0.13 grams, equals 28 grams.<sup>219</sup> Under

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<sup>218</sup> Gram weight of a dosage unit will vary depending on the pharmaceutical drug and its constituents, and gram weight thresholds for trafficking will vary depending on the controlled substance in the dosage units.

<sup>219</sup> *Opinions Are Mixed About Sentencing Laws for Painkiller Trafficking*, Report No. 12-02 (January 2012), at p. 5 (Exhibit

current law, trafficking in 28 grams of these pills would require a 15-year mandatory minimum term;<sup>220</sup> under the bill, 215 dosage units (pills) would require a 3-year mandatory term.

Some drug offenders could also receive a mandatory fine that is less than the mandatory fine under current law. The new trafficking in pharmaceuticals offense requires that a fine be imposed up to a specified cap (e.g., “fine of up to \$100,000”). Current trafficking offenses require a specified fine be imposed (e.g., “fine of 100,000”); there is no mandatory fine range.

Another difference between the new trafficking offense and current trafficking offense relates to ranking of offenses in the Code offense severity ranking chart.<sup>221</sup> Current trafficking offenses contain escalating (or tiered) gram weight ranges with escalating penalties and escalating rankings in the offense severity level ranking chart. For example, trafficking in “14 grams or more, but less than 28 grams” of amphetamines requires a 3-year mandatory minimum term,<sup>222</sup> and the offense is ranked in level 7 of the chart.<sup>223</sup> Trafficking in “28 grams or more, but less than 200 grams” of amphetamines requires a 7-year mandatory minimum term,<sup>224</sup> and the offense is ranked in level 8 of the chart.<sup>225</sup> The higher the ranking, the more sentence points. These sentence points are used in the calculation of the lowest permissible sentence (in prison months).<sup>226</sup>

In contrast, the bill also contains escalating ranges (or tiers) with escalating penalties for the new “trafficking in pharmaceuticals” offense, though these are dosage unit ranges rather than weight ranges. However, there is no escalation in the severity level ranking based on the dosage units tiers, and the bill does not rank the new offense. A first degree felony that is not ranked in the chart defaults to a level 7 ranking.<sup>227</sup> Therefore, regardless of the number of dosage units trafficked, the offense remains a level 7 offense. This could impact the scored lowest permissible sentence (in prison months) but would not preclude the court from imposing a sentence up to and including 30 years (the maximum penalty for a first degree felony).<sup>228</sup>

This section of the bill is effective October 1, 2019.

#### Departure for Drug Trafficking Mandatory Minimum Sentences

The bill amends s. 893.135, F.S., authorizing a court to depart from a mandatory minimum term of imprisonment and mandatory fine applicable to that offense. The departure is authorized if the court finds on the record, after the state attorney has had the opportunity to make a recommendation, that the person:

- Has not previously been convicted of a:

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6), Office of Program Policy Analysis and Government Accountability, available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1202rpt.pdf> (last visited on April 12, 2019).

<sup>220</sup> Section 893.135(1)(c)3.c., F.S.

<sup>221</sup> Section 921.0022, F.S.

<sup>222</sup> Section 893.135(1)(f)1.a., F.S.

<sup>223</sup> Section 921.0022(3)(g), F.S.

<sup>224</sup> Section 893.135(1)(f)1.b., F.S.

<sup>225</sup> Section 921.0022(3)(h), F.S.

<sup>226</sup> Section 921.0024, F.S.

<sup>227</sup> Section 921.0023(3), F.S.

<sup>228</sup> Section 775.082, F.S.

- Dangerous crime as defined in s. 907.041, F.S.;<sup>229</sup> or
- Violation specified as a predicate offense for registration as a sexual predator or offender under s. 775.21, F.S.,<sup>230</sup> or s. 943.0435, F.S.,<sup>231</sup> respectively;
- Did not use or threaten violence or possess a firearm or other dangerous weapon or induce another to do so, during the commission of the crime;
- Did not cause a death or serious bodily injury; and
- Was not engaged in a continuing criminal enterprise.<sup>232</sup>

Additionally, the bill requires the defendant to have truthfully provided to the state all information and evidence he or she has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan.

The bill applies to all drug trafficking acts (possession, sale, manufacture, delivery, and importation) and trafficking mandatory minimum terms of imprisonment (ranging from 3 years to life imprisonment).<sup>233</sup>

This section of the bill is effective October 1, 2019.

#### 2014 Amendments to Certain Drug Trafficking Offenses

The bill also amends s. 893.135, F.S., to provide for retroactive application of the reduced penalties for hydrocodone trafficking and oxycodone trafficking that the Legislature provided for in ch. 2014-176, L.O.F. (“former s. 893.135(1)(c)1., F.S.”), which became effective on July 1, 2014. The 2014 legislation changed the gram weight thresholds and gram weight ranges applicable to hydrocodone and oxycodone trafficking, which are connected to mandatory minimum terms and mandatory fines. With the changes to the gram weight thresholds, fewer people were charged with trafficking. With the changes to the ranges, many persons were subject to less severe mandatory minimum terms and mandatory fines than they would have been subject to had the law not been changed. However, when the 2014 legislation was enacted, it had prospective application because retroactive amelioration of sentences was prohibited by Article X, section 9 of the Florida Constitution. With the 2018 changes to this constitutional amendment, retroactive amelioration of sentences is no longer constitutionally prohibited.

The penalties, which are specified in the bill and described below, do not change the felony degree of the trafficking offense (first degree felony), because the 2014 legislation, did not change the felony degree; the bill only retroactively applies the reduced penalties in the 2014

<sup>229</sup> See s. 907.041, F.S., for a complete list of offenses that are defined as “dangerous crimes.”

<sup>230</sup> See s. 775.21, F.S., for a complete list of offenses that are predicates to registration as a sexual predator.

<sup>231</sup> See s. 943.0435, F.S., for a complete list of offenses that are predicates to registration as a sexual offender.

<sup>232</sup> Section 893.20(1), F.S., provides that any person who commits three or more felonies under ch. 893, F.S., in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management and who obtains substantial assets or resources from these acts is guilty of engaging in a continuing criminal enterprise.

<sup>233</sup> The drug-trafficking statute imposes a mandatory life sentence for trafficking in especially large amounts of certain substances. However, this threshold, which triggers a mandatory life sentence, is never described as a “mandatory minimum” sentence like the other mandatory minimum sentences imposed by various threshold amounts covered by the statute. Nonetheless, the mandatory life sentence that is required for certain offenses seems to be a mandatory minimum sentence, and thus a sentence to which the bill would apply.

legislation with one exception. The exception is the bill retains the mandatory fine for the highest trafficking range that was provided in s. 893.135, F.S., prior to the 2014 legislation because the 2014 legislation provided for a higher mandatory fine.

The reduced penalties apply to the following persons and require sentencing or authorize resentencing, as applicable:

- A person who committed a violation of former s. 893.135(1)(c)1., F.S., before July 1, 2014, which involved trafficking in hydrocodone or oxycodone or a mixture containing either controlled substance, but who was not sentenced for such violation before October 1, 2019, is sentenced to the reduced penalties.
- A person who was sentenced before October 1, 2019, for a violation of former s. 893.135(1)(c)1., F.S., which was committed before July 1, 2014, and which involved trafficking in hydrocodone or oxycodone or a mixture containing either controlled substance, may petition the court for resentencing to a sentence with the reduced penalties.

The reduced penalties provided in the bill are described as follows:

- If the controlled substance involved in the violation of former s. 893.135(1)(c)1., F.S., was hydrocodone or any mixture containing hydrocodone, and the quantity involved was:
  - 4 grams or more, but less than 14 grams, such person shall be sentenced or resentenced as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.;
  - 14 grams or more, but less than 28 grams, such person shall be sentenced or resentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of \$50,000;
  - 28 grams or more, but less than 50 grams, such person shall be sentenced or resentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of \$100,000;
  - 50 grams or more, but less than 200 grams, such person shall be sentenced or resentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of \$500,000; or
  - 200 grams or more, but less than 30 kilograms, such person shall be sentenced or resentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of \$500,000.
- If the controlled substance involved in the violation of former s. 893.135(1)(c)1., F.S., was oxycodone or any mixture containing oxycodone, and the quantity involved was:
  - 4 grams or more, but less than 7 grams, such person shall be sentenced or resentenced as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.;
  - 7 grams or more, but less than 14 grams, such person shall be sentenced or resentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of \$50,000;
  - 14 grams or more, but less than 25 grams, such person shall be sentenced or resentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of \$100,000;
  - 25 grams or more, but less than 100 grams, such person shall be sentenced or resentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of \$500,000; or

- 100 grams or more, but less than 30 kilograms, such person shall be sentenced or resentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of \$500,000.

This section of the bill is effective October 1, 2019.

## **Lewd or Lascivious Exhibition in the Presence of an Employee (Section 32)**

### ***Sexual Harassment at Correctional Facilities***

Employees, specifically females, in many correctional institutions face sexual harassment and sexual abuse directed at them by prisoners.<sup>234</sup> For example, “gunning” refers to the practice of inmates exposing themselves and masturbating directly at female staff members.<sup>235</sup> Correctional agencies have a legal obligation to take reasonable measures to prevent and remedy sexual harassment in the workplace and failure to respond properly can result in extensive civil liability. Despite this fact, gunning and other lewd or lascivious conduct has been a crippling issue at both federal and state correctional institutions.<sup>236</sup>

Since 1987, the Department of Corrections (DOC) has paid more than \$5 million in settlements to state workers who alleged they were sexually harassed at work. In 2009, a class action lawsuit brought by mostly women claimed inmates would expose themselves and masturbate in front of them. The court ruled that exhibitionist masturbation, especially gunning, is sex based and highly offensive conduct. Furthermore, the court held that the jury was entitled to find that the DOC made almost no effort to protect its employees from this sex-based harassment.<sup>237</sup>

### ***Lewd or Lascivious Exhibition***

Section 800.09, F.S., was created in response to the class action lawsuit brought against the DOC in 2009, as a way to deter such lewd or lascivious conduct.<sup>238</sup> The law prohibits a person who is detained in a state correctional institution<sup>239</sup> or a private correctional facility<sup>240</sup> from doing any of the following in the presence of a person he or she knows or reasonably should know is an employee: intentionally masturbating, intentionally exposing the genitals in a lewd or lascivious manner, or intentionally committing any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to:

- Sadomasochistic abuse;
- Sexual bestiality; or
- The simulation of any act involving sexual activity.<sup>241</sup>

<sup>234</sup> 2010 (7) AELE Mo. L. J. 301, *Civil Liability for Sexual Harassment of Female Employees by Prisoners*, pg. 301, (July 2010), available at <http://www.aele.org/law/2010all07/2010-07MLJ301.pdf> (last visited April 14, 2019).

<sup>235</sup> *Id.* at 302.

<sup>236</sup> *Id.* at 301.

<sup>237</sup> *Id.*

<sup>238</sup> Chapter 2010-64, s. 4, L.O.F.

<sup>239</sup> “State correctional institution” means any prison, road camp, prison industry, prison forestry camp, or any prison camp or prison farm or other correctional facility, temporary or permanent, in which prisoners are housed, worked, or maintained, under the custody and jurisdiction of the DOC. Section 944.02(8), F.S.

<sup>240</sup> “Private correctional facility” means any facility, which is not operated by the DOC, for the incarceration of adults or juveniles who have been sentenced by a court and committed to the custody of the DOC. Section 944.710(3), F.S.

<sup>241</sup> Section 800.09(2)(a), F.S.

An “employee” is defined as:

- Any person employed by or performing contractual services for a public or private entity operating a facility;
- Any person employed by or performing contractual services for the corporation operating the prison industry enhancement programs or the correctional programs under part II, ch. 946, F.S.; or
- Any person who is a parole examiner with the Florida Commission on Offender Review.<sup>242</sup>

Any person who violates s. 800.09(2)(a), F.S., commits a third degree felony.<sup>243</sup>

### ***Effect of the Bill***

Current law prohibits lewd or lascivious exhibition in the presence of an employee in a state correctional institution or private correctional facility. The bill expands the scope of the prohibition on such conduct to include any person employed at or performing contractual work for a *county detention facility*. Additionally, the bill defines a county detention facility as a county jail, a county stockade, a county work camp, a county residential probation center, and any other place except a municipal detention facility used by a county or county officer for the detention of persons charged with or convicted of either a felony or misdemeanor.<sup>244</sup>

This section of the bill is effective October 1, 2019.

## **Prohibited Acts in Connection with Obscene or Lewd Materials (Section 41)**

### ***Obscenity and the Law***

The First Amendment of the U.S. Constitution states that, “Congress shall make no law ... abridging the freedom of speech...”<sup>245</sup> This language prohibits the government from having the ability to constrain the speech of citizens.<sup>246</sup> However, there are some exceptions to this outright prohibition, the Supreme Court has held that obscenity is not constitutionally protected speech.<sup>247</sup> The Court has since classified obscene material as that which “deals with sex in a manner appealing to *prurient* interest,” and defined prurient as “material having a tendency to excite lustful thoughts.”<sup>248</sup>

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<sup>242</sup> Section 800.09(1)(a), F.S.

<sup>243</sup> Section 800.09(2)(b), F.S. A third degree felony is punishable by a term of imprisonment not exceeding 5 years, a fine of \$5,000, or both. Sections 775.082 and 775.083, F.S.

<sup>244</sup> This is the same definition as provided in s. 951.23(1)(a), F.S.

<sup>245</sup> U.S. CONST. amend. I.

<sup>246</sup> Kathleen Ann Ruane, *Freedom of Speech and Press: Exceptions to the First Amendment*, Congressional Research Service, summary page, (September 8, 2014), available at <https://fas.org/sgp/crs/misc/95-815.pdf> (last visited April 14, 2019).

<sup>247</sup> *Roth v. U.S.*, 354 U.S. 476, 485 (1957).

<sup>248</sup> *Id.* at 487 and n. 20.

### Obscenity Involving Minors

Federal law prohibits obscenity involving minors, and those who violate the law often face harsher penalties than if the offense involved adults only.<sup>249</sup> The law prohibits any individual from knowingly transferring or attempting to transfer an obscene material using any means to a minor under 16 years of age.<sup>250</sup> It is also prohibited for any person to knowingly produce, distribute, receive, or possess with intent to transfer or distribute material that appears to depict minors engaged in sexually explicit conduct and is deemed obscene.<sup>251</sup>

Material involving minors can be considered obscene if:

- It depicts an image that is, or appears to be a minor engaged in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse; and
- The image lacks serious literary, artistic, political, or scientific value.<sup>252</sup>

The Court tends to grant greater protections to minors. In *New York v. Ferber*, the Court held that the states have a compelling interest, and thus are granted more leeway, in regulating pornographic depictions of children.<sup>253</sup> The Court reasoned that such material bears so heavily on the welfare of children engaged in its production that a balance of compelling interests are struck and, therefore, these materials are not afforded the protections of the First Amendment.<sup>254</sup>

### Florida Obscenity Laws

Current Florida law defines “obscene” to mean the status of material which:

- The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest;
- Depicts or describes, in a patently offensive way, sexual conduct;<sup>255</sup> and
- Taken as a whole, lacks serious literary, artistic, political, or scientific value.<sup>256</sup>

The possession, custody, or control of an obscene material<sup>257</sup> by any person who knowingly sells, lends, gives away, distributes, transmits, shows, transmutes, offers to sell, lend, give away,

<sup>249</sup> The United States Department of Justice, *Citizen’s Guide to U.S. Federal Law on Obscenity*, available at <https://www.justice.gov/criminal-ceos/citizens-guide-us-federal-law-obscenity> (last visited April 14, 2019).

<sup>250</sup> 18 U.S.C.A. s. 1470 (1998).

<sup>251</sup> 18 U.S.C.A. s. 1466A. (2003).

<sup>252</sup> *Id.*

<sup>253</sup> *Ferber*, 458 U.S. 747, 756 (1982).

<sup>254</sup> *Id.* at 747-48.

<sup>255</sup> “Sexual conduct” means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse; actual 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. A mother’s breastfeeding of her baby does not under any circumstance constitute “sexual conduct.”

Section 847.001(16), F.S.

<sup>256</sup> Section 847.001(10), F.S.

<sup>257</sup> The following materials are listed as examples of an obscene material: Any obscene book, magazine, periodical, pamphlet, newspaper, comic book, story paper, written or printed story or article, writing, paper, card, picture, drawing, photograph, motion picture film, figure, image, phonograph record, or wire or tape or other recording, or any written, printed, or recorded matter of any such character which may or may not require mechanical or other means to be transmuted into auditory, visual, or sensory representations of such character, or any article or instrument for obscene use, or purporting to be for obscene use or purpose. Section 847.011(1)(a), F.S.

distribute, transmit, show, or transmute, or has in his or her possession, custody, or control with intent to sell, lend, give away, distribute, transmit, show, transmute, or advertise in any manner commits a first degree misdemeanor.<sup>258</sup> A subsequent violation is punishable as a third degree felony.<sup>259</sup>

Additionally, the possession, custody, or control of an obscene material by any person who does not have the intent to sell, lend, give away, distribute, transmit, show, transmute, or advertise commits a second degree misdemeanor.<sup>260</sup> A subsequent violation is punishable as a first degree misdemeanor.<sup>261</sup>

If a violation of s. 847.011(1)(a) or (2)(b), F.S., is based on material that depicts a minor engaged in any act or conduct that is harmful to minors, such a violation is a third degree felony.<sup>262</sup> The penalty applies regardless of a person's ignorance of a minor's age, a minor's misrepresentation of his or her age, a bona fide belief of a minor's age, or a minor's consent. Additionally, none of these circumstances may be raised as a defense in a prosecution.<sup>263</sup>

### ***Sex Dolls***

A main component in today's sex toy industry are sex dolls – a type of sex toy that is shaped and sized to resemble a human sexual partner.<sup>264</sup> Sex dolls that resemble children are made overseas and imported into the U.S., where they are becoming increasingly prevalent.<sup>265</sup> Child-like sex dolls are robots that are made to look lifelike with prepubescent features and are engineered to warm to the human touch.<sup>266</sup>

While there is no current ban in the U.S. on importation or private possession of child-like sex dolls, there is a federal law banning the importation of obscene matters. The law makes it a crime to bring into the U.S., or any place subject to the jurisdiction of the U.S., “[A]ny obscene, lewd, lascivious, or filthy book, pamphlet, picture, motion picture film, paper, letter, writing, print, or other matter of indecent character...” In 2018, legislation was passed in the House of Representatives that prohibited the importation of child-like sex dolls, robots, or mannequins.<sup>267</sup> The Curbing Realistic Exploitative Electronic Pedophilic Robots Act of 2017 (CREEPER Act)

<sup>258</sup> Section 847.011(1)(a), F.S. A first degree misdemeanor is punishable by a state prison term not exceeding 1 year, a fine not exceeding \$1,000, or both. Sections 775.082 and 775.083, F.S.

<sup>259</sup> Section 847.011(1)(a), F.S. A third degree felony is punishable by a state prison term not exceeding 5 years, a fine not exceeding \$5,000, or both. Sections 775.082 and 775.083, F.S.

<sup>260</sup> Section 847.011(2), F.S. A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days, a fine not exceeding \$500, or both. Sections 775.082 and 775.083, F.S.

<sup>261</sup> Section 847.011(2), F.S.

<sup>262</sup> Section 847.011(1)(c), F.S.

<sup>263</sup> Section 847.011(1)(d), F.S.

<sup>264</sup> Ally Donnelly, *Child Sex Dolls: Why Aren't They Illegal?*, NECN, (July 23, 2018), available at <https://www.necn.com/news/new-england/Child-Sex-Dolls-Why-Arent-They-Illegal-488937711.html> (last visited April 12, 2019).

<sup>265</sup> Alice B. Lloyd, *Congressman: Child Sex Dolls Are Coming – And We're Not Ready*, The Weekly Standard, March 15, 2018, available at <https://www.weeklystandard.com/alice-b-lloyd/congressman-child-sex-dolls-are-coming-mdash-and-were-not-ready> (last visited April 16, 2019).

<sup>266</sup> *Id.*

<sup>267</sup> H.R. 4655, 115th Congress 2d Session (2017).

would have been the first law preventing the selling and distributing of child-like sex dolls and robots in the U.S.<sup>268</sup>

### ***Effect of the Bill***

The bill amends s. 847.011, F.S., prohibiting a person from knowingly doing any of the following with an obscene, child-like sex doll:

- Selling, lending, giving away, distributing, transmitting, showing, or transmuted;
- Offering to sell, lend, give away, distribute, transmit, show, or transmuted;
- Having in his or her possession, custody, or control with the intent to sell, lend, give away, distribute, transmit, show, or transmuted; or
- Advertising in any manner.

The bill provides that a person who violates this provision commits a first degree misdemeanor and a second or subsequent violation is a third degree felony. The bill also prohibits a person from knowingly having in his or her possession, custody, or control an obscene, child-like sex doll. A violation of this provision is punishable as a second degree misdemeanor and a subsequent violation is punishable as a first degree misdemeanor.

This section of the bill is effective October 1, 2019.

### **Gambling Offenses (Sections 42 and 86)**

It is unlawful for a person to keep, exercise, or maintain a gaming table or room, or gaming implements or apparatus, or house, booth, tent, shelter, or other place for the purpose of gaming or gambling. Furthermore, a person is prohibited from having direct or indirect control, charge, or management, either exclusive or with others, over a place that procures, suffers, or permits any person to play for money or other valuable thing at any game. Such crimes are punishable as a third degree felony.<sup>269</sup>

### ***Effect of the Bill***

The bill reduces the penalty from a third degree felony to a second degree misdemeanor<sup>270</sup> for the commission of a gambling offense in s. 849.01, F.S. The bill also amends s. 921.0022, F.S., removing this offense from the offense severity ranking chart.

This section of the bill is effective October 1, 2019.

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<sup>268</sup> Alanna Vagianos, *House Passes Bill Banning Sex Dolls That Look Like Children*, Huffington Post, June 15, 2018, available at [https://www.huffingtonpost.com/entry/house-passes-bill-banning-sex-dolls-that-look-like-children\\_us\\_5b23c2f7e4b07cb1712dcc7d](https://www.huffingtonpost.com/entry/house-passes-bill-banning-sex-dolls-that-look-like-children_us_5b23c2f7e4b07cb1712dcc7d) (last visited April 16, 2019).

<sup>269</sup> A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine. Sections 775.082, 775.083, and 775.084, F.S.

<sup>270</sup> A second degree misdemeanor is punishable by up to 60 days in county jail and up to a \$500 fine. Sections 775.082 and 775.083, F.S.

## Criminal Justice Data Transparency (Sections 45 and 55)

Currently, Florida does not have a publicly accessible website containing comprehensive criminal justice data. Data is collected and maintained by several state departments, local agencies and local offices, including clerks of court, state attorney's offices, public defender's offices, county jails, and the Department of Corrections (DOC). Florida law currently requires some inter-agency data collection and data reporting requirements. However, each entity collects and maintains data in different ways and for different purposes and the requirements do not apply to all agencies or cover the entire criminal justice process from arrest to disposition. As a result, available criminal justice data can be fractured and unstructured and cumbersome to analyze.

Data-driven decision making in criminal justice is the objective, evidence-based decision process based on data collection. Data can be used to allow the public, as well as lawmakers, researchers, and analysts, to track how criminal cases are handled from arrest to post-conviction.<sup>271</sup> It allows users to break down data by specified information points. In addition to tracking the experience of offenders, data collection provides information on victims.<sup>272</sup>

As such, in 2018, the Legislature passed SB 1392 to standardize and consolidate the collection and reporting of criminal justice data and promote transparency.<sup>273</sup> The law included a number of definitions, which created as the types of data information points targeted for collection and reporting by the bill. The bill required specified entities, including the clerks of court, state attorneys, public defenders, county jail operators, and the DOC, to collect certain data elements and report them monthly to the Department of Law Enforcement (FDLE).<sup>274</sup> The FDLE was required to create a unique identifier for each criminal case to identify the person involved and track such person's experience in the criminal justice system. Additionally, the bill required the FDLE to publish the data on its department website and make it searchable by specified categories.<sup>275</sup> The bill also created a pilot program to evaluate and collaborate with the specified entities to ensure the efficiency and properness of the data points being collected.<sup>276</sup>

Some integral entities to the criminal justice system were inadvertently omitted from SB 1392 (2018), such as the Office of Criminal Conflict and Civil Regional Counsel (RCC)<sup>277</sup> and the

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<sup>271</sup> The MacArthur Foundation, *Enhancing Transparency in the Criminal Justice System*, May 23, 2017, available at <https://www.macfound.org/press/publications/enhancing-transparency-criminal-justice-system/> (last visited April 12, 2019).

<sup>272</sup> Ryan Sibley, *The benefits of criminal justice data: Beyond policing*, Sunlight Foundation, available at <https://sunlightfoundation.com/2015/05/01/the-benefits-of-criminal-justice-data-beyond-policing/> (last visited April 12, 2019).

<sup>273</sup> Chapter 2018-127, L.O.F. and s. 900.05, F.S.

<sup>274</sup> *Id.*

<sup>275</sup> *Id.* and s. 943.6871, F.S.

<sup>276</sup> *Id.*

<sup>277</sup> The RCC serves indigent clients who are entitled by law to legal representation in criminal or civil cases. The Office of the Public Defender (PD) represents indigent criminal defendants, but if the PD determines that it cannot represent a defendant because of a conflict of interest, it must withdraw as counsel. In that instance, the court will appoint the RCC to represent the client. There are five RCC offices, one in each district of the district courts of appeal. *See* the RCC, *Home*, available at <https://rc1fl.com/> (last visited on April 13, 2019).

Justice Administrative Commission (JAC).<sup>278</sup> Additionally, some relevant data points were omitted or need to be adjusted based on feedback from the pilot program.

### *Effect of the Bill*

The bill amends s. 900.05, F.S., modifying the definitions of the data collection points and modifying the types of data that have to be reported by specified entities. The definitions added to s. 900.05, F.S., include:

- “Annual felony conflict caseload” means the total number of felony cases the office of the public defender or office of regional conflict counsel has declined or withdrawn from in the previous calendar year due to lack of qualified counsel or due to excessive caseload. The caseload shall be calculated on June 30th and reported once at the beginning of the reporting agency’s fiscal year.
- “Annual misdemeanor conflict caseload” means the total number of misdemeanor cases the office of the public defender or office of regional conflict counsel has declined or withdrawn from in the previous calendar year due to lack of qualified counsel or due to excessive caseload. The caseload shall be calculated on June 30th and reported once at the beginning of the reporting agency’s fiscal year.
- “Charge disposition” means the final adjudication for each charged crime, including, but not limited to, dismissal by state attorney, dismissal by judge, acquittal, no contest plea, guilty plea, or guilty finding at trial.
- “Disposition type” means the manner in which the charge was closed, including final judgment, adjudication, adjudication withheld, dismissal, or nolle prosequi.
- “Habitual violent felony offender flag” means an indication that a defendant is a habitual violent felony offender as defined in s. 775.084, F.S.
- “Prison releasee reoffender flag” means an indication that the defendant is a prison releasee reoffender as defined in s. 775.082, F.S., or any other statute.
- “Three-time violent felony offender flag” means an indication that the defendant is a three-time violent felony offender as defined in s. 775.084, F.S., or any other statute.
- “Violent career criminal flag” means an indication that the defendant is a violent career criminal as defined in s. 775.084, F.S., or any other statute.

Additionally, some current definitions were amended in the following ways:

- “Annual felony caseload” and “annual misdemeanor caseload” to:
  - Include regional conflict counsel and assistant regional conflict counsel; and
  - Provide that caseload is calculated on June 30th and reported once at the beginning of the reporting agency’s fiscal year.
- “Case number” means the uniform case number, rather than the identification number, assigned by the clerk of the court to a criminal case.
- “Prior incarceration within the state” means any prior history of a defendant’s incarceration in a state correctional institution or facility.

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<sup>278</sup> The JAC provides administrative services on behalf of 49 judicial related offices (JROs), including the SA, the PD, the RCC, the Capital Collateral Regional Counsel, and the Statewide Guardian ad Litem Program. The JAC provides accounting, budget, financial, and human resources services. The JAC also provides compliance and financial review of billings for services provided by private court-appointed attorneys representing indigent citizens and associated due process vendors. See the JAC, *Home*, available at <https://www.justiceadmin.org/> (last visited April 13, 2019).

The bill adds the RCC and JAC as entities that are required to collect certain data points and report such data points to the FDLE. The bill requires that the data must be collected and reported to the FDLE monthly, the same as is required by above mentioned entities.

- The JAC must collect the following data points:
  - Number of private registry attorneys representing indigent adult defendants.
  - Annual felony caseload assigned to private registry contract attorneys.
  - Annual misdemeanor caseload assigned to private registry contract attorneys.
- The RCC must collect the following data points:
  - Number of full-time assistant regional conflict counsel handling criminal cases.
  - Number of part-time assistant regional conflict counsel handling criminal cases.
  - Number of contract attorneys representing indigent adult defendants.
  - Annual felony caseload.
  - Annual felony conflict caseload.
  - Annual misdemeanor caseload.
  - Annual misdemeanor conflict caseload.

The bill adds or modifies various data points required to be collected by specified entities that are currently required to collect data in accordance with s. 900.05, F.S., to the following:

- **The Clerks of the Court must:**
  - Collect the following modified data points:
    - Date the defendant is taken into physical custody by a law enforcement agency or is issued a notice to appear on a criminal charge, *without respect to whether such date is different from the date the offense is alleged to have occurred.*
    - Date that the criminal prosecution of a defendant is formally initiated, *without regard to the manner in which such case was filed.*
    - Disposition date *and disposition type.*
    - Zip code of last known address, *rather than primary residence.*
    - Qualification for specified flags, *including habitual violent felony offender flag, prison release reoffender flag, three time violent felony offender flag, or violent career criminal flag.*
    - *Each scheduled trial date.*
    - Speedy trial motion *date and each hearing date*, if applicable.
    - Dismissal motion *date and each hearing date*, if applicable.
    - Sentence type and length imposed by the court, *reported in years, months, and days*, including, but not limited to, the total duration of *incarceration* in a county detention facility or state correctional institution or facility, and conditions of probation or community control supervision.
    - Amount of time served in custody by the defendant related to *each charge* that is credited at the disposition of each *charge*, rather than case, and the actual amount of time the defendant will serve on the term of *incarceration*, rather than imprisonment.
    - Restitution amount ordered *at sentencing*, *without regard to how much has been collected by the court or paid to the victim.*
    - Several data points were modified to clarify that the information collected is only related to the current case.
  - Collect these new data points:
    - Whether the case originated by notice to appear.

- Charge disposition.
- Deferred prosecution or pretrial diversion hearing, if applicable.
- No longer collect these data points:
  - County in which the offense is alleged to have occurred.
  - Outstanding balance of the defendant's court fees imposed by the court at disposition of the case.
  - Outstanding balance of the defendant's fines imposed by the court at disposition of the case.
- **The SAs must:**
  - Collect the following modified data points:
    - Identifying information of the victim *at the time of the offense*.
    - Any charge referred to the state attorney by a law enforcement agency *or sworn complainant* related to an episode of criminal activity.
    - Each charge referred to the state attorney by a law enforcement agency *or sworn complainant* related to an episode of criminal activity.
  - Collect these new data points:
    - Disposition of each referred charge, such as filed, declined, or diverted.
    - Case number, name, and date of birth.
    - Deferred prosecution or pretrial diversion agreement date, if applicable.
- **The PDs must:**
  - Collect these new data points:
    - Annual felony conflict caseload.
    - Annual misdemeanor conflict caseload.
- **The County detention facilities must:**
  - Collect these modified data points:
    - Date *an inmate, rather than defendant*, is processed *and booked* into the county detention facility subsequent to an arrest for a new violation of law, for a violation of probation or community control, *or for a violation of pretrial release*.
    - Reason why *an inmate, rather than defendant*, is processed *and booked* into the county detention facility subsequent to an arrest for a new violation of law, for a violation of probation or community control, *or for a violation of pretrial release*.
    - Qualification for specified flags, *including habitual violent felony offender flag, prison release reoffender flag, three time violent felony offender flag, or violent career criminal flag*.
    - *Annual* revenue generated for the county for the temporary detention of federal defendants or inmates.
  - Collect these new data points:
    - Weekly admissions to the county detention facility for a revocation of pretrial release.
    - Identifying information, including name, date of birth, race, ethnicity, gender, case number, and identification number assigned by the county detention facility.
- **The DOC must:**
  - Collect the following modified data points:
    - Identifying information, including name, date of birth, race, ethnicity, *gender, case number*, and identification number assigned by the DOC, and such information for any offenders supervised on probation or community control.

- *Highest level of education, without regard for vocational training.*
- *Date the inmate was admitted to the custody of the DOC for his or her current incarceration.*
- *Qualification for specified flags, including habitual violent felony offender flag, prison release reoffender flag, three time violent felony offender flag, or violent career criminal flag.*
- Collect the following new data points:
  - Length of sentence served.
  - Digitized sentencing scoresheet prepared in accordance with s. 921.0024, F.S.
- No longer collect the following data point:
  - Number of children.

The bill also changes the deadline by which the FDLE must have all data reported pursuant to the act published to the public from July 1, 2019 to January 1, 2020.

The bill amends ss. 900.05 and 943.6871, F.S., providing that all information received by the FDLE that is exempt and confidential when collected by the reporting agency remains exempt and confidential when reported to the FDLE in accordance with s. 900.05, F.S.

The bill also amends s. 943.6871, F.S., requiring the FDLE to commission a racial impact statement for each criminal justice bill that is heard before the Legislature during legislative session. The impact statement must estimate the anticipated effects the proposed criminal justice legislation may have on racial inequality among the residents of this state. The racial impact statement must indicate whether the proposed legislation would increase, decrease, or have no impact on racial inequality or indicate whether the impact is indeterminable. Additionally, to the extent feasible, the impact statement should include quantifiable data. The racial impact statement must also specify the methodologies and assumptions used in its preparation.

These sections of the bill are effective upon becoming law.

### **Constitutional Protections and Court Decisions Interpreting and Applying Those Protections (Section 46)**

The Fifth Amendment of the United States Constitution states that “No person . . . shall be compelled in any criminal case to be a witness against himself.”<sup>279</sup> Likewise, the Florida Constitution extends the same protection.<sup>280</sup> The voluntariness of a defendant’s statement and the admissibility of the statement against him or her in court is a creature of both case law and statutory law in Florida.

#### ***Custodial Interrogation***

Whether a person is in custody and under interrogation is the threshold question that determines the need for a law enforcement officer to advise the person of his or her *Miranda* rights.<sup>281</sup> In

<sup>279</sup> U.S. CONST. amend. V.

<sup>280</sup> “No person shall be . . . compelled in any criminal matter to be a witness against himself.” FLA. CONST. art. I, s. 9.

<sup>281</sup> In *Miranda v. Arizona*, 384 U.S. 436 (1966), the Court established procedural safeguards to ensure the voluntariness of statements rendered during custodial interrogation.

*Traylor v. State*, the Supreme Court of Florida found that “[T]o ensure the voluntariness of confessions, the Self-Incrimination Clause of Article I, Section 9, Florida Constitution, requires that prior to custodial interrogation in Florida suspects must be told that they have a right to remain silent, that anything they say will be used against them in court . . . .”<sup>282</sup>

An interrogation occurs “when a person is subjected to express questions, or other words or actions, by a state agent that a reasonable person would conclude are designed to lead to an incriminating response.”<sup>283</sup>

### ***Waiver of the Right to Remain Silent***

A person subjected to a custodial interrogation is entitled to the protections of *Miranda*.<sup>284</sup> The warning must include the right to remain silent as well as the explanation that anything a person says can be used against them in court. The warning includes both parts because it is important for a person to be aware of his or her right and the consequences of waving such a right.<sup>285</sup>

### ***Admissibility of a Defendant’s Statement as Evidence***

The admissibility of a defendant’s statement is a mixed question of fact and law decided by the court during a pretrial hearing or during the trial outside the presence of the jury.<sup>286</sup> For a defendant’s statement to become evidence in a criminal case, the judge must first determine whether the statement was freely and voluntarily given to a law enforcement officer during the custodial interrogation of the defendant. The court considers, given the totality of the circumstances, whether a reasonable person in the defendant’s position would have believed he or she was free to terminate the encounter with law enforcement and, therefore, was not in custody.<sup>287</sup>

The court can consider testimony from the defendant and any law enforcement officers involved, their reports, and any additional evidence such as audio or video recordings of the custodial interrogation. The court will also determine whether the defendant was made aware of his or her *Miranda* rights and whether he or she knowingly, voluntarily, and intelligently elected to waive those rights and give a statement.<sup>288</sup>

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<sup>282</sup> *Traylor v. State*, 596 So. 2d 957, 965-966 (Fla. 1992). The test to determine if a person is in custody for the purposes of one’s *Miranda* rights is whether “a reasonable person placed in the same position would believe that his or her freedom of action was curtailed to a degree associated with actual arrest.”

<sup>283</sup> *Id.* at 966 at n. 17.

<sup>284</sup> See *Miranda v. Arizona*, 384 U.S. 436, 444 (1966).

<sup>285</sup> *Sliney v. State*, 699 So. 2d 662, 669 (Fla. 1997), *cert. denied*, 522 U.S. 1129 (1998).

<sup>286</sup> *Nickels v. State*, 90 Fla. 659, 668 (1925).

<sup>287</sup> Among the circumstances or factors the courts have considered are the manner in which the police summon the suspect for questioning; the purpose, place, and manner of the interrogation; the extent to which the suspect is confronted with evidence of his or her guilt; and whether the suspect is informed that he or she is free to leave the place of questioning. *Voorhees v. State*, 699 So. 2d 602, 608 (Fla. 1997); *Ramirez v. State*, 739 So. 2d 568, 574 (Fla. 1999).

<sup>288</sup> *Nickels*, p. 668.

### ***Interrogation Recording in Florida and Other States***

Law enforcement agencies in Florida are not currently required to record the custodial interrogation of a crime suspect, either by audio, video, or a combination of means. Fifty-seven agencies in Florida voluntarily record custodial interrogations, at least to some extent.<sup>289</sup>

Currently twenty-three states and the District of Columbia record custodial interrogations statewide.<sup>290</sup> These states have statutes, court rules, or court cases that require law enforcement officers to make the recordings or allow the court to consider the failure to record a statement in determining the admissibility of a statement.<sup>291</sup>

### ***Effect of the Bill***

The bill creates s. 900.06, F.S., imposing a statutory requirement, and exceptions to the requirement, that a law enforcement officer conducting a custodial interrogation must record the interrogation in its entirety.

The bill provides definitions for terms used in the bill. These are:

- “Custodial interrogation” which means questioning or other conduct by a law enforcement officer which is reasonably likely to elicit an incriminating response from an individual and which occurs under circumstances in which a reasonable individual in the same circumstances would consider himself or herself to be in the custody of a law enforcement agency;
- “Electronic recording” which means an audio recording or an audio and video recording that accurately records a custodial interrogation;
- “Covered offense” which lists the following criminal offenses:
  - Arson.
  - Sexual battery.
  - Robbery.
  - Kidnapping.

<sup>289</sup> *Compendium: Electronic Recording of Custodial Interrogations*, Thomas P. Sullivan, pp. 36-37, August 2016, National Association of Criminal Defense Lawyers, available at <https://www.nacdl.org/electronicrecordingproject> (last visited on February 25, 2019). See also *Electronic Recording of Suspect Interrogations*, Interim Report 2004-123, Florida Senate Committee on Criminal Justice, available at [http://archive.flsenate.gov/data/Publications/2004/Senate/reports/interim\\_reports/pdf/2004-123cj.pdf](http://archive.flsenate.gov/data/Publications/2004/Senate/reports/interim_reports/pdf/2004-123cj.pdf) (last visited on February 25, 2019).

<sup>290</sup> *Compendium: Electronic Recording of Custodial Interrogations*, Thomas P. Sullivan, pp. 7-8, August 2016, National Association of Criminal Defense Lawyers, available at <https://www.nacdl.org/electronicrecordingproject> (last visited on February 25, 2019).

<sup>291</sup> See *Stephan v. State*, 711 P.2d 1156 (AK 1985); Ark. R. Crim. P. Rule 4.7 (2012); Cal Pen Code s. 859.5 (2016) and Cal Wel & Inst Code s. 626.8 (2014); C.R.S. 16-3-601 (2016); CT Gen. Stat. s. 54-10 (2011); D.C. Code s. 5-116.01 (2005); Hawaii was verified by the four departments that govern law enforcement in the state; 705 ILCS 405/5-401.5 (2016), 725 ILCS 5/103-2.1 (2017); Ind. R. Evid. 617 (2014); 25 M.R.S. s. 2803-B(1)(K) (2015); Md. CRIMINAL PROCEDURE Code Ann. ss. 2-401 – 2-402 (2008); MCLS ss. 763.7 – 763.9 (2013); *State v. Scales*, 518 N.W.2d 587 (MN 1994); MO Rev. Stat. s. 590.700 (2017); MT Code Ann. ss. 46-4-406 – 46-4-411 (2009); NE Rev. Stat. Ann. ss. 29-4501 – 29-4508 (2008); NJ Court Rules, R. 3:17 (2006); N.M. Stat. Ann. s. 29-1-16 (2006); N.C. Gen. Stat. s. 15A-211 (2011); OR Rev. Stat. s. 133.400 (2009); RIPAC, Accreditation Standards Manual, ch. 8, s. 8.10 (Rev. 2015); Utah R. Evid. Rule 616 (2016); 13 V.S.A. s. 5585 (2015); *State v. Jerrell C.J.*, 699 N.W.2d 110 (WI 2005); Wis. Stat. ss. 968.073 and 972.115 (2005); *Compendium: Electronic Recording of Custodial Interrogations*, Thomas P. Sullivan, August, 2016, National Association of Criminal Defense Lawyers, available at <https://www.nacdl.org/electronicrecordingproject> (last visited on April 16, 2019).

- Aggravated child abuse.
- Aggravated abuse of an elderly person or disabled adult.
- Aggravated assault with a deadly weapon.
- Murder.
- Manslaughter.
- Aggravated manslaughter of an elderly person or disabled adult.
- Aggravated manslaughter of a child.
- The unlawful throwing, placing, or discharging of a destructive device or bomb.
- Armed burglary.
- Aggravated battery.
- Aggravated stalking.
- Home-invasion robbery.
- Carjacking.
- “Place of detention” which means a police station, sheriff’s office, correctional facility, prisoner holding facility, county detention facility, or other governmental facility where an individual may be held in connection with a criminal charge that has been or may be filed against the individual; and
- “Statement” which means a communication that is oral, written, electronic, nonverbal, or in sign language.

The bill requires a custodial interrogation related to a covered offense that is conducted at a place of detention be electronically recorded in its entirety. The recording must include:

- The giving of a required warning;
- The advisement of rights; and
- The waiver of rights by the individual being questioned.

If the custodial interrogation at the place of detention is not recorded by the law enforcement officer, he or she must prepare a written report explaining the reason for not recording it.

If a law enforcement officer conducts a custodial interrogation somewhere other than a place of detention, the officer must prepare a written report as soon as practicable. The report must explain the circumstances of the interrogation in that place. The report must also summarize the custodial interrogation process and the individual’s statements at that place.

The general recording requirement does not apply if:

- There is an unforeseen equipment malfunction that prevents recording the custodial interrogation in its entirety;
- A suspect refuses to participate in a custodial interrogation if his or her statements are electronically recorded;
- An equipment operator error occurs which prevents the recording of the custodial interrogation in its entirety;
- The statement is made spontaneously and not in response to a custodial interrogation question;
- A statement is made during the processing of the arrest of a suspect;
- The custodial interrogation occurs when the law enforcement officer participating in the interrogation does not have any knowledge of facts and circumstances that would lead an

officer to reasonably believe that the individual being interrogated may have committed a covered offense;

- The law enforcement officer conducting the custodial interrogation reasonably believes that electronic recording would jeopardize the safety of the officer, individual being interrogated, or others; or
- The custodial interrogation is conducted outside of the state.

If an interrogation is not recorded and no exception applies, a court must consider “the circumstances of an interrogation” in its analysis of whether to admit into evidence a statement made at the interrogation.

If the court decides to admit the statement, the defendant may require the court to give a cautionary jury instruction regarding the officer’s failure to comply with the recording requirement.

Finally, if a law enforcement agency “has enforced rules” that are adopted pursuant to the bill and that are reasonably designed to comply with the bill’s requirements, the agency is not subject to civil liability for damages arising from a violation of the bill’s requirements. The bill does not create a cause of action against a law enforcement officer.

This section of the bill is effective January 1, 2020.

### **Gain-time and the “85 Percent” Requirement (Sections 47 and 56)**

Section 921.002(1)(e), F.S., of the Criminal Punishment Code provides that for noncapital felonies offenses committed on or after October 1, 1998, the sentence imposed by the sentencing judge reflects the length of actual time to be served, shortened only by the application of incentive and meritorious gain-time as provided by law, and may not be shortened if the defendant would consequently serve less than 85 percent of his or her term of imprisonment as provided in s. 944.275(4)(b)3., F.S.<sup>292</sup>

Incentive gain-time is gain-time that the DOC may award monthly to an inmate for working diligently, participating in training, using time constructively, or otherwise engaging in positive activities. Incentive gain-time is also gain-time the department may award one-time to an inmate who is otherwise eligible and who successfully completes requirements for and is awarded a high school equivalency diploma or vocational certificate.<sup>293</sup>

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<sup>292</sup> Persons sentenced for offenses committed prior to October 1, 1995 are not subject to the 85 percent requirement. See *Frequently Asked Questions Regarding Gaintime*, DOC, available at [https://www.floridasupremecourt.org/content/download/242696/2141005/Johnson%2013-711\(1\).pdf](https://www.floridasupremecourt.org/content/download/242696/2141005/Johnson%2013-711(1).pdf) (last visited on April 12, 2019)

<sup>293</sup> Section 944.275(4)(b) and (d), F.S. Section 944.275(4)(e), F.S., provides that for sentences imposed for offenses committed on or after October 1, 2014, the department may not grant incentive gain-time if the offense is a violation of: s. 782.04(1)(a)2.c., F.S. (murder while engaged in sexual battery); s. 787.01(3)(a)2. or 3., F.S. (sexual battery or lewd act during commission of kidnapping of child under 13); s. 787.02(3)(a)2. or 3., F.S. (sexual battery or lewd act during commission of false imprisonment of child under 13); s. 794.011, F.S. (sexual battery), excluding s. 794.011(10), F.S.; s. 800.04, F.S. (lewd acts on child); s. 825.1025, F.S. (lewd acts on elderly or disabled adult); or s. 847.0135(5), F.S. (computer transmission to child of lewd exhibition).

For sentences imposed for offenses committed on or after October 1, 1995:

- Applicable to monthly incentive gain-time, the DOC may grant up to 10 days per month of incentive gain-time; and
- Applicable to one-time award of incentive gain-time (high school equivalency diploma or vocational certificate), 60 days of incentive gain-time.<sup>294</sup>

However, for sentences imposed for offenses committed on or after October 1, 1995, no prisoner is eligible to earn any type of gain-time in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, prior to serving a minimum of 85 percent of the sentence imposed. Credits awarded by the court for time physically incarcerated shall be credited toward satisfaction of 85 percent of the sentence imposed. Except as provided by s. 944.275, F.S., a prisoner shall not accumulate further gain-time awards at any point when the tentative release date is the same as that date at which the prisoner will have served 85 percent of the sentence imposed. State prisoners sentenced to life imprisonment shall be incarcerated for the rest of their natural lives, unless granted pardon or clemency.<sup>295</sup>

### ***Effect of the Bill***

The bill amends s. 944.275, F.S., to increase monthly incentive gain-time awards that the DOC may grant from up to 10 days to up to 20 days for offenders sentenced for offenses committed on or after October 1, 1995. This increase applies both prospectively and retroactively.

The bill provides that gain-time of whatever form cannot reduce sentences of these offenders below 65 percent of time served if the offense is a nonviolent felony or 85 percent of time served if the offense is not a nonviolent felony. The bill specifies that "nonviolent felony" has the same meaning as provided in s. 948.08(6), F.S. Section 948.08(6), F.S., defines "nonviolent felony" as a third degree felony violation of ch. 810, F.S., or any other felony offense that is not a forcible felony.<sup>296</sup>

The bill also amends s. 921.002, F.S., to make conforming changes that reference the changes to s. 944.275, F.S., to indicate that gain-time of whatever form cannot reduce sentences of these offenders below 65 percent of time served if the offense is a nonviolent felony or 85 percent of time served if the offense is not a nonviolent felony.

This section of the bill is effective October 1, 2019.

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<sup>294</sup> Section 944.275(4)(b)3., F.S. When a prisoner is found guilty of an infraction of the laws of this state or the rules of the department, gain-time may be forfeited according to law. Section 944.275(5), F.S.

<sup>295</sup> Section 944.275(4)(b)3., F.S.

<sup>296</sup> A "forcible felony" is: treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

## Sealing and Expunction of Criminal History Records (Sections 48-53)

### Overview

Florida law makes adult criminal history records accessible to the public unless the record has been sealed or expunged.<sup>297</sup> Sections 943.0585 and 943.059, F.S., set forth procedures for expunging and sealing criminal history records through court-order. Florida statutes also authorize a number of additional expungement processes, including, in part, administrative expunction<sup>298</sup> and lawful self-defense.<sup>299, 300</sup>

When a criminal history record is expunged, criminal justice agencies other than the FDLE must physically destroy the record.<sup>301</sup> Criminal justice agencies are allowed to make a notation indicating compliance with an expunction order. The FDLE is required to retain expunged records.<sup>302</sup>

When a record is sealed, it is not destroyed, but access is limited to the subject of the record, his or her attorney, criminal justice agencies for their respective criminal justice purposes, judges in the state courts system for the purpose of assisting them in their case-related decision-making responsibilities, and certain other specified agencies for their respective licensing and employment purposes.<sup>303</sup>

Records that have been sealed or expunged are confidential and exempt<sup>304</sup> from the public records law.<sup>305</sup>

Persons who have had their criminal history records expunged or sealed may lawfully deny or fail to acknowledge the arrests covered by their record, except when they are applying for certain

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<sup>297</sup> Florida Department of Law Enforcement, *Seal and Expunge Process*, available at <http://www.fdle.state.fl.us/Seal-and-Expunge-Process/Seal-and-Expunge-Home.aspx> (last visited April 11, 2019). See also s. 943.053, F.S.

<sup>298</sup> Section 943.0581, F.S.

<sup>299</sup> Section 943.0585(5), F.S.

<sup>300</sup> Other types of expungement authorized in statute include: Juvenile diversion expunction pursuant to s. 943.0582, F.S.; Human trafficking expunction pursuant to s. 943.0583, F.S.; Automatic juvenile pursuant to s. 943.0515, F.S.; and Early juvenile pursuant to s. 943.0515(1)(b)2., F.S.

<sup>301</sup> Section 943.0585(4), F.S. Section 943.045(16), F.S., defines “expunction of a criminal history record” to mean the court-ordered physical destruction or obliteration of a record or portion of a record by any criminal justice agency having custody thereof, or as prescribed by the court issuing the order, except that criminal history records in the custody of the FDLE must be retained in all cases for purposes of evaluating subsequent requests by the subject of the record for sealing or expunction, or for purposes of recreating the record in the event an order to expunge is vacated by a court of competent jurisdiction.

<sup>302</sup> Section 943.0585(4), F.S.

<sup>303</sup> Section 943.059(4), F.S. Section 943.045(19), F.S., defines “sealing of a criminal history record” means the preservation of a record under such circumstances that it is secure and inaccessible to any person not having a legal right of access to the record or the information contained and preserved therein.

<sup>304</sup> There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. See 85-62 Fla. Op. Att’y Gen. (1985).

<sup>305</sup> Sections 943.0585(4)(c) and 943.059(4)(c), F.S.

types of employment,<sup>306</sup> petitioning the court for a record sealing or expunction, or are a defendant in a criminal prosecution.<sup>307</sup> Additionally, a person who has his or her criminal history record sealed may not deny or fail to acknowledge the arrests covered by the sealed record if he or she is attempting to purchase a firearm and is subject to a criminal history check under state or federal law.<sup>308</sup>

Criminal history records related to certain offenses are barred from being sealed or expunged through the court-order process.<sup>309</sup>

### ***Process for Obtaining a Court-Ordered Sealing or Expunction***

The processes for expunging and sealing criminal history records are very similar. To qualify for a court-ordered sealing or expunction, a person must first obtain a certificate of eligibility (COE) from the FDLE.<sup>310</sup> To obtain the COE from the FDLE, a person must comply with a number of requirements, including, in part, that he or she has never been adjudicated guilty or delinquent of a:

- Criminal offense;

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<sup>306</sup> These include candidates for employment with a criminal justice agency; applicants for admission to the Florida Bar; those seeking a sensitive position involving direct contact with children, the developmentally disabled, or the elderly with the Department of Children and Family Services, Division of Vocational Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, or the Department of Juvenile Justice; persons seeking to be employed or licensed by the Department of Education, any district school board, any university laboratory school, any charter school, any private or parochial school, or any local governmental entity that licenses child care facilities; or a Florida seaport.

<sup>307</sup> Sections 943.0585(4)(a) and 943.059(4)(a), F.S.

<sup>308</sup> This includes when attempting to purchase a firearm from a licensed importer, licensed manufacturer, or licensed dealer. Section 943.059(4)(a)10., F.S.

<sup>309</sup> Sections 943.059 and 943.0585, F.S., both provide that a criminal history record that relates to a violation of sexual misconduct against a covered person, as defined in s. 393.135, F.S.; sexual misconduct against a patient, as defined in s. 394.4593, F.S.; luring or enticing a child, as defined in s. 787.025, F.S.; sexual battery offense, as defined in ch. 794; procuring person under age of 18 for prostitution, as defined in former s. 796.03, F.S.; lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age, as defined in s. 800.04, F.S.; voyeurism, as defined in s. 810.14, F.S.; lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person, as defined in s. 825.1025, F.S.; sexual performance by a child, as defined in s. 827.071, F.S.; protection of minors/prohibition of certain acts in connection with obscenity, as defined in s. 847.0133, F.S.; computer pornography, as defined in s. 847.0135, F.S.; selling or buying minors, as defined in s. 847.0145, F.S.; sexual misconduct of a mentally deficient or mentally ill defendant, as defined in s. 916.1075, F.S.; any violation specified as a predicate offense for registration as a sexual predator pursuant to s. 775.21, F.S., without regard to whether that offense alone is sufficient to require such registration, or for registration as a sexual offender pursuant to s. 943.0435, F.S.; violations of the Florida Communications Act, as defined in s. 817.034, F.S.; offenses by public officers and employees, as defined in ch. 839, F.S.; drug trafficking, as defined in s. 893.135, F.S.; and enumerated offenses included in s. 907.041, F.S. Additionally, the enumerated offenses included in s. 907.041, F.S., are: arson; aggravated assault; aggravated battery; illegal use of explosives; child abuse or aggravated child abuse; abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult; aircraft piracy; kidnapping; homicide; manslaughter; sexual battery; robbery; carjacking; lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years; sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority; burglary of a dwelling; stalking and aggravated stalking; act of domestic violence as defined in s. 741.28, F.S.; home invasion robbery; act of terrorism as defined in s. 775.30, F.S.; manufacturing any substances in violation of ch. 893, F.S.; and attempting or conspiring to commit any such crime. The list offenses preclude a person from obtaining an expunction or sealing if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed, or pled guilty or pled nolo contendere to committing, the offense as a delinquent act, regardless of whether adjudication was withheld.

<sup>310</sup> See ss. 943.0585(2) or (5) and 943.059(2), F.S.

- Comparable ordinance violation; or
- Specified felony or misdemeanor prior to the COE application date.<sup>311</sup>

Upon receipt of a COE, the person must then petition the court to expunge or seal the criminal history record. The petition must include the COE and a sworn statement from the petitioner.<sup>312</sup> A copy of the completed petition is then served upon the appropriate state attorney or statewide prosecutor and the arresting agency, any of which may respond to the court regarding the petition.<sup>313</sup>

There is no statutory right to a court-ordered sealing or expunction and any request for such a sealing or expunction of a criminal history record may be denied at the sole discretion of the court.<sup>314</sup> It is up to the court to decide whether the expunction or sealing is appropriate.<sup>315</sup> The court is only authorized to order the expunction or sealing of a record that pertains to one arrest or one incident of alleged criminal activity.<sup>316</sup> However, the court may order the expunction or sealing of a record pertaining to more than one arrest if such additional arrests directly relate to the original arrest.<sup>317</sup>

A person may seek an expunction immediately, provided the person is no longer subject to court supervision, if none of the charges related to the arrest or alleged criminal activity resulted in a trial, and:

- An indictment, information, or other charging document was not filed or issued in the case (no-information); or

<sup>311</sup> See ss. 943.0585(2) and 943.059(2), F.S., for full requirements for obtaining a COE. A person is specifically prohibited from obtaining a COE if he or she has been adjudicated guilty or delinquent for an offense listed in s. 943.051(3)(b), F.S., which includes assault, as defined in s. 784.011, F.S.; battery, as defined in s. 784.03, F.S.; carrying a concealed weapon, as defined in s. 790.01(1), F.S.; unlawful use of destructive devices or bombs, as defined in s. 790.1615(1), F.S.; neglect of a child, as defined in s. 827.03(1)(e), F.S.; assault or battery on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a) and (b), F.S.; open carrying of a weapon, as defined in s. 790.053 F.S.; exposure of sexual organs, as defined in s. 800.03, F.S.; unlawful possession of a firearm, as defined in s. 790.22(5), F.S.; petit theft, as defined in s. 812.014(3), F.S.; cruelty to animals, as defined in s. 828.12(1), F.S.; arson, as defined in s. 806.031(1), F.S.; and unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property as defined in s. 790.115, F.S.

<sup>312</sup> In the sworn statement, the petitioner must attest that he or she: has never, prior to the date on which the petition is filed, been adjudicated guilty of a criminal offense or comparable ordinance violation, or been adjudicated delinquent for committing any felony or a misdemeanor specified in s. 943.051(3)(b), F.S.; has not been adjudicated guilty of or adjudicated delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to seal pertains; has never secured a prior sealing or expunction of a criminal history record pursuant to ss. 943.059 or 943.0585, F.S., former s. 893.14, F.S., former s. 901.33, F.S., or former s. 943.058, F.S.; and is eligible for such a sealing to the best of his or her knowledge or belief and does not have any other petition to seal or any petition to expunge pending before the court. See ss. 943.0585(1)(b)1.-4. and 943.059(1)(b)1.-4., F.S.

<sup>313</sup> Section 943.0585(3)(a), F.S.

<sup>314</sup> Section 943.0585, F.S.

<sup>315</sup> Sections 943.0585(1) and 943.059(1), F.S.

<sup>316</sup> *Id.*

<sup>317</sup> *Id.* The court must articulate in writing its intention to expunge or seal a record pertaining to multiple arrests and a criminal justice agency may not expunge or seal multiple records without such written documentation. The court is also permitted to expunge or seal only a portion of a record.

- An indictment, information, or other charging document was filed or issued in the case, but it was dismissed or nolle prosequi by the state attorney or statewide prosecutor, or was dismissed by a court of competent jurisdiction (dismissal).<sup>318</sup>

### ***Effect of a Sealing or Expunction***

If the court grants a petition to seal, the clerk of the court then certifies copies of the order to the appropriate state attorney or statewide prosecutor and the arresting agency and any other agency that has received the criminal history record from the court. The arresting agency must provide the sealing order to any agencies that received the criminal history record information from the arresting agency. The FDLE must provide the sealing order to the FBI.<sup>319</sup>

Any record that the court grants the expunction of must be physically destroyed or obliterated by any criminal justice agency having such record. The FDLE, however, is required to maintain the record. That record is confidential and exempt from disclosure requirements under the public records laws. Only a court order would make the record available to a person or entity that is otherwise excluded.<sup>320</sup>

A criminal history record which is ordered sealed by a court is confidential and exempt from public records, and is available only to the person who is the subject of the record, the subject's attorney, criminal justice agencies for their respective criminal justice purposes, and judges in the state courts system for the purpose of assisting them in their case-related decision making responsibilities.<sup>321</sup>

### ***Administrative Expunction***

The administrative expunction process provided for in s. 943.0581, F.S., authorizes the expunction of an arrest record if such record is subsequently determined by a law enforcement agency at its own discretion or by the final order of a court of competent jurisdiction to have been related to an arrest that was made contrary to law or by mistake.<sup>322</sup> An application for administrative expunction must include the endorsement of the head of the arresting agency or his or her designee or the state attorney of the judicial circuit in which the arrest occurred or his or her designee.<sup>323</sup>

### ***Lawful Self Defense Expunction***

In addition, an indictment, information, or other charging document which was not filed or was dismissed by the state attorney, or dismissed by the court, because it was found that the person acted in lawful self-defense pursuant to the provisions related to justifiable use of force in ch. 776, F.S., is eligible for immediate expunction. The lawful self-defense exception requires a person obtain a COE from the FDLE and file a petition for expunction with the court just as

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<sup>318</sup> See s. 943.0585(2), F.S.

<sup>319</sup> Section 943.059(3)(b), F.S.

<sup>320</sup> Section 943.0585(4), F.S.

<sup>321</sup> Section 943.059(4), F.S.

<sup>322</sup> See s. 943.0581, F.S.

<sup>323</sup> Section 943.0581(3), F.S.

required with other petitions to expunge, but the information the person must provide to obtain an expunction based on the lawful self-defense exception is slightly different.<sup>324</sup>

### ***Effect of the Bill***

#### Court-ordered Sealing and Expunction (Sections 50, 51, and 52)

The bill reorganizes the statutes related to a court-ordered sealing (s. 943.059, F.S.) and expunction (s. 943.0585, F.S.) for clarity. The bill leaves the general eligibility, process, and effect of both court-ordered sealing and expunction intact.

As mentioned above, current law provides that a person whose criminal history record that *relates to* a violation of an enumerated offense in ss. 943.0585 or 943.059, F.S., also known as a “list offense,” is ineligible for a court-ordered sealing or expunction. The bill creates s. 943.0584, F.S., providing a centralized location for these “list offenses,” which includes all the offenses currently applicable, in addition to the following new offenses:

- Assault as defined in s. 784.011, F.S., or battery as defined in s. 784.03, F.S., of one family or household member by another family or household member, as defined in s. 741.28(3), F.S.;<sup>325</sup>
- Felony battery or domestic battery by strangulation, as defined in s. 784.03, F.S., or s. 784.041, F.S., respectively;
- False imprisonment, as defined in s. 787.02, F.S.;<sup>326</sup> and
- Robbery by sudden snatching, as defined in s. 812.131, F.S.

Additionally, the bill clarifies that an ineligible criminal history record is a conviction, information, indictment, notice to appear, or arrest for any enumerated offense, as opposed to simply a record that “relates to” an enumerated offense.

These sections of the bill are effective October 1, 2019.

#### Automatic Sealing (Section 53)

The bill requires the FDLE to automatically seal certain criminal history records. Both minors and adults may be eligible for an automatic sealing. The FDLE must seal a criminal history record when:

- An indictment, information, or other charging document was not filed or issued in the case giving rise to the criminal history record;

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<sup>324</sup> Section 943.0585(5), F.S.

<sup>325</sup> Assault and battery offenses are currently excluded as enumerated offenses through the reference to s. 943.051, F.S., however, this exclusion is related to the prohibition on issues a COE to a person who has previously been adjudicated guilty or adjudicated delinquent for such offense. The bill specifically includes assault or battery of one family or household member by another family or household member as a new “list offense” to which the criminal history record at issue cannot be related. This has not been specifically included in this manner previously.

<sup>326</sup> Currently, an offense that serves as a predicate for sexual offender registration or sexual predator registration in accordance with s. 943.0453, F.S., or s. 775.21, F.S., respectively, are prohibited as a “list offense” offense to which the criminal history record at issue cannot be related. False imprisonment as defined in s. 787.02, F.S., is included on these lists, but must be of a minor child and for a sexual purpose. This will therefore prevent all criminal history records related to the offense of false imprisonment from being sealed or expunged.

- An indictment, information, or other charging document was filed in the case giving rise to the criminal history record, but was dismissed or nolle prosequi by the state attorney or statewide prosecutor, or was dismissed by a court of competent jurisdiction;<sup>327</sup>
- A not guilty verdict was rendered by a judge or jury;<sup>328</sup> or
- A judgment of acquittal<sup>329</sup> was rendered by a judge.

Upon the disposition of a criminal case that results in one of the above circumstances, the clerk of the court must transmit a certified copy of the disposition of the criminal history record to the FDLE, at which point the criminal history record must be sealed upon receipt of the certified copy. The automatic sealing of a criminal history record does not require such record to be sealed by the court or other criminal justice agencies, or surrendered to the court. Rather, the FDLE and other criminal justice agencies must continue to maintain such record.

The bill provides that there is no limitation on the number of times a person may obtain an automatic sealing for a criminal history record pursuant to this section. Additionally, unless otherwise specified, an automatic sealing of a criminal history record will have the same effect as a court-ordered sealing.<sup>330</sup>

This section of the bill is effective October 1, 2019.

#### Administrative Expunction (Section 49)

The bill amends the catchline of s. 943.0581, F.S., clarifying that administrative expunction is available to a person whose arrest was made contrary to law or by mistake.

This section of the bill is effective October 1, 2019.

#### Lawful Self-Defense Expunction (Section 48)

The bill creates s. 943.0578, F.S., moving the provision for lawful self-defense expunction from s. 943.0585(5), F.S., to an independent statutory section. This new section does not make any substantive changes to the eligibility for or process of lawful self-defense expunction.

This section of the bill is effective October 1, 2019.

#### **DNA Database (Section 54)**

Section 943.325, F.S., created the DNA database within the Florida Department of Law Enforcement (FDLE) in 1989 and required persons convicted of certain sex crimes to provide

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<sup>327</sup> However, a person is not eligible for an automatic sealing pursuant to s. 943.0595, F.S., if the dismissal was pursuant to s. 916.145, F.S. or s. 985.19, F.S. Both of these sections relate to the dismissal of a criminal case due to a defendant being adjudicated as incompetent to proceed.

<sup>328</sup> However, a person is not eligible for an automatic sealing pursuant to s. 943.0595, F.S., if the defendant was found not guilty by reason of insanity.

<sup>329</sup> A judgment of acquittal is rendered when a court determines the evidence is insufficient to sustain a conviction. Cornell Law School Legal Information Institute, *Rule 29: Motion for a Judgment of Acquittal*, available at [https://www.law.cornell.edu/rules/frcrmp/rule\\_29](https://www.law.cornell.edu/rules/frcrmp/rule_29) (last visited April 14, 2019).

<sup>330</sup> See s. 943.059(4), F.S.

blood samples to be tested for genetic markers for the purpose of personal identification of the person submitting the sample.<sup>331</sup> The results from the blood samples were then entered into a DNA database maintained by the FDLE to be available in a statewide automated personal identification system for classifying, matching, and storing DNA analyses.<sup>332</sup>

***Legislative Intent in Section 943.325, F.S.***

Section 943.325(1)(b), F.S., contains the following legislative findings:

The Legislature also finds that upon establishment of the Florida DNA database a match between casework evidence DNA samples from a criminal investigation and DNA samples from a state or federal DNA database of certain offenders may be used to find probable cause for the issuance of a warrant to obtain the DNA sample from an offender.

Once the law enforcement officer serves the search warrant on the person, the officer can then obtain a DNA sample from the suspect that will be compared to the sample from the crime scene and the match sample from a DNA database. The timetable for the laboratory comparison of the three DNA samples cannot be stated with certainty. If the known sample confirms that the match is accurate, the officer may then arrest the suspect. This is at best a two-step process for the law enforcement officer who must first obtain the suspect's sample, wait for results from a lab confirming the three DNA profiles match one another (crime scene, database, and officer-obtained suspect sample), and then arrest the suspect.<sup>333</sup>

***Case Law***

In a factual scenario similar to the one that may result under the bill, a Florida court has found that a DNA sample in the FDLE database and a match to DNA crime scene evidence is "sufficient to create probable cause to arrest the defendant."<sup>334</sup> In the case, a voluntary DNA swab was obtained from the defendant during the investigation of an unrelated crime. The DNA – a known sample – was then analyzed and stored in the FDLE DNA database. Crime scene DNA evidence from an unsolved sexual battery, also in the database, and the defendant's known DNA sample matched.<sup>335</sup>

The defendant was arrested for the unsolved sexual battery based on the DNA match. At the police station, subsequent to his arrest, the defendant provided another known DNA sample, for identification confirmation. Later, the defendant argued that the second known sample should not be admissible at trial because the "cold DNA hit does not constitute probable cause to arrest a defendant."<sup>336</sup> The court found that the defendant's arrest was legal and the second known sample, post-arrest, was admissible at trial.<sup>337</sup>

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<sup>331</sup> Chapter 89-335, L.O.F.

<sup>332</sup> *Id.*

<sup>333</sup> Information based upon Senate Criminal Justice Committee staff conversations with law enforcement officer representatives on March 7, 8, and 12, 2019, and a conference call with law enforcement representatives and FDLE representatives on March 8, 2019.

<sup>334</sup> *Myles v. State*, 54 So.3d 509 (Fla. 3d DCA, 2010), rev.den. (Fla. 2011).

<sup>335</sup> *Id.*

<sup>336</sup> *Id.*

<sup>337</sup> *Id.*

### ***Effect of the Bill***

The bill amends s. 943.325(1)(b), F.S., to allow a law enforcement officer to seek an arrest warrant based upon probable cause found in a match between crime scene DNA evidence and a DNA sample stored in a database. This creates the potential for the officer to by-pass the identification confirmation DNA sample currently taken from the suspect pursuant to a search warrant, prior to arrest.

This section of the bill is effective October 1, 2019.

### **Contraband at State Correctional Facilities and County Detention Facilities (Sections 57 and 71)**

Cell phones in state correctional institutions are a pervasive and documented problem, with DOC confiscating more than 9,000 cell phones between 2017 and 2018. Although the introduction of contraband can often be attributed to criminal gang activity or visitors, in 2018 there were at least 19 state correctional officers and staff who were accused of misconduct relating to contraband.<sup>338</sup> Four state correctional officers and a former chaplain have been arrested for introducing contraband into a correctional institution in 2019.<sup>339</sup>

Florida law prohibits introduction of contraband into state correctional institutions and county detention facilities. Sections 944.47 and 951.22, F.S., both list the items that constitute contraband if they are introduced or possessed *without authorization* at these facilities. Introduction of contraband is either a second or third degree felony, depending on the type of contraband introduced and the facility.

### ***Introduction of Contraband at State Correctional Facilities***

It is a third degree felony<sup>340</sup> for a person to introduce into a state correctional facility, one of the following items:

- Any written or recorded communication or any currency or coin given or transmitted, or intended to be given or transmitted, to any inmate of any state correctional institution.
- Any article of food or clothing given or transmitted, or intended to be given or transmitted, to any inmate of any state correctional institution
- Any cellular telephone or other portable communication device intentionally and unlawfully introduced inside the secure perimeter of any state correctional institution without prior authorization or consent from the officer in charge of such correctional institution.<sup>341</sup>

The term “portable communication device” is defined to mean any device carried, worn, or stored which is designed or intended to receive or transmit verbal or written messages, access or

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<sup>338</sup> Dan Sullivan, *Spice and cell phones: Florida's prisons see new wave of contraband*, Tampa Bay Times, November 5, 2018, available at <https://www.tampabay.com/news/publicsafety/crime/Spice-and-cell-phones-Florida-s-prisons-see-new-wave-of-contraband-172879515> (last visited April 12, 2019).

<sup>339</sup> Florida Department of Corrections, FDC Press Releases and Announcements, available at <http://www.dc.state.fl.us/comm/press/2019/index.html> (last visited April 12, 2019).

<sup>340</sup> A third degree felony is punishable by up to 5 years' incarceration and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

<sup>341</sup> Section 944.47(2), F.S.

store data, or connect electronically to the Internet or any other electronic device and which allows communications in any form. Such devices include, but are not limited to, portable two-way pagers, hand-held radios, cellular telephones, Blackberry-type devices, personal digital assistants or PDA's, laptop computers, or any components of these devices which are intended to be used to assemble such devices. The term also includes any new technology that is developed for similar purposes. Excluded from this definition is any device having communication capabilities which has been approved or issued by the department for investigative or institutional security purposes or for conducting other state business.<sup>342</sup>

Additionally, it is a second degree felony<sup>343</sup> for a person to introduce into a state correctional facility any intoxicating beverage or beverage which causes or may cause an intoxicating effect, controlled substance<sup>344</sup> or any prescription or nonprescription drug having a hypnotic, stimulating, or depressing effect, or firearm or weapon of any kind or any explosive substance.<sup>345</sup>

Florida law does not enhance the penalties for a violation of introduction of contraband into state correctional facilities based on the position of the person who commits the offense, such as an officer.

***Introduction of Contraband at County Detention Facilities (Sections 57, 71, and 86)***

The items specifically prohibited from being introduced at a county detention facility include written or recorded communications, currency and coins, food and clothing, tobacco products, intoxicating beverages, various drugs and controlled substances, firearms and dangerous weapons, and items that may aid escape attempts. However, cellular or other portable communication devices are not enumerated as an item that carries criminal penalties for introduction at county detention facilities.

It is a third degree felony to "introduce" or possess "contraband" at a county detention facility, regardless of the item.<sup>346, 347</sup>

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<sup>342</sup> Section 944.47(1)(a)6., F.S.

<sup>343</sup> A second degree felony is punishable by up to 15 years imprisonment and up to a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>344</sup> As defined in s. 893.02(4), F.S.

<sup>345</sup> Section 944.47(2), F.S.

<sup>346</sup> Section 951.22, F.S.

<sup>347</sup> A person who commits a third degree felony may be imprisoned for up to 5 years and fined up to \$5,000. Sections 775.082 and 775.083, F.S.

### ***Effect of the Bill***

#### **State Correctional Institutions (Sections 57 and 86)**

The bill amends s. 944.47, F.S., reclassifying the introduction of contraband into a state correctional facility to the next offense severity ranking level than is provided for in the offense severity ranking chart when the introduction occurs by an employee, as defined in s. 944.115(2)(b), F.S., who uses or attempts to use the powers, rights, privileges, duties, or position of his or her employment. This results in the offense being ranked as level 7 or level 8 offenses instead of level 6 or level 7 offenses.<sup>348</sup>

The bill also amends s. 921.0022, F.S., providing that the offense of introduction of a cellphone into a correctional institution is a level 4 offense on the offense severity ranking chart.

This section of the bill is effective October 1, 2019.

#### **County Detention Facilities (Sections 71 and 86)**

The bill reduces the penalty to a first degree misdemeanor for some of the less dangerous items, including written or recorded communications, currency and coins, food and clothing, tobacco products, and intoxicating beverages.<sup>349</sup> The bill retains the third degree felony status for various drugs and controlled substances, firearms and dangerous weapons, and items that may aid escape attempts.

The bill also adds cellular phones and portable communication devices, as defined in s. 944.47, F.S., to the list of contraband items, and makes it a third degree felony for a person to introduce or possess them at a county detention facility.

The bill also amends s. 921.0022, F.S., reducing the level of the offenses of introducing an intoxicating drug, cellular telephone, or instrumentality to aid escape from level 6 to level 4 on the offense severity ranking chart, but retaining the offense of introduction of firearm or weapon into a county detention facility as a level 6.

This section of the bill is effective October 1, 2019.

### **State Inmates Admission Process, Facility Placement, and Available Programming (Sections 58-60)**

#### ***General Admission Process***

Once sentenced to the DOC, an inmate will first go to a reception center for diagnostic tests and evaluations. During reception, an inmate's custody level is determined, health care, programming needs are assessed, and the rules and regulations of prison life are taught.<sup>350</sup> All

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<sup>348</sup> As provided in s. 921.0022, F.S., or s. 921.0023, F.S.

<sup>349</sup> A first degree misdemeanor is punishable by up to 1 year in the county detention facility and a fine not to exceed \$1,000. Sections 775.082 and 775.083, F.S.

<sup>350</sup> See The DOC, *Inmate Orientation Handbook, Reception Center Processing, NII-091*, p. 2-3, December 2, 2016, available at <http://www.dc.state.fl.us/pub/files/InmateOrientationHandbook.pdf> (last visited April 15, 2019)(hereinafter cited as "Inmate Handbook").

inmates are screened at reception and assessed and placed into programs using the Correctional Integrated Needs Assessment System (CINAS).<sup>351</sup> The CINAS is administered to inmates at reception and again at 42 months from release. Additionally, the DOC conducts updates every six months thereafter to evaluate the inmate's progress and ensure enrollment in needed programs. The DOC's use of the CINAS allows for development and implementation of programs that increase the likelihood of successful transition through the selection of services that are matched to the offender's learning characteristics and then to the offender's stage of change readiness.<sup>352</sup>

The inmate is then sent to a major institution (prison)<sup>353</sup> that can accommodate his or her custody level and needs. The custody evaluation is based upon factors such as the sentence structure, outstanding detainers or warrants, age, education, and recent employment history. Background factors such as previous terms of incarceration, previous escapes, and past disciplinary problems also affect the decision. The result of the evaluation is called a custody assignment.<sup>354</sup>

An inmate's custody assignment is important because it determines the type of institution in which an inmate must be housed. After completing the orientation process at a reception center, inmates are transferred to a "permanent facility." Placement is based on institutional and individual need such as programs, education, health, and availability of bed space.<sup>355</sup>

As the inmate serves his sentence, he or she will be reevaluated whenever something happens that could change the inmate's custody, including positive or negative events. An example of a positive change is earning gain-time that reduces the time remaining to serve. Alternatively, an example of a negative event is an inmate receiving a disciplinary report for a rule violation. When the custody assignment changes, so can the inmate's location and it's possible for an inmate to be moved to a different prison. When possible, the DOC will assign an inmate to an institution in the vicinity of his/her home to encourage family support.<sup>356</sup>

The DOC reports that 65 percent of its beds are located in Region 1 or Region 2, located in Northwest Florida and Northeast Florida, respectively. In FY 2017-18, the DOC received approximately 27,916 new admissions of which 64 percent were from the Region 3 or Region 4 area, which are the Central and South Florida areas, respectively.<sup>357</sup>

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<sup>351</sup> The DOC, *Agency Analysis for SB 1222 (2018)*, p. 2, January 18, 2018 (on file with the Senate Criminal Justice Committee)(hereinafter cited as "The DOC SB 1222 Analysis").

<sup>352</sup> The DOC SB 1222 Analysis, p. 2. The DOC reports that it matches factors that influence an inmate's responsiveness to different types of services with programs that are proven to be effective within an inmate population.

<sup>353</sup> All major institutions, or prisons, are similar to small towns in that they have their own academic and vocational schools, places of worship, medical services, maintenance facilities, parks (for visiting family), and often their own water supplies. The DOC, *Annual Report Fiscal Year 2017-18*, p. 13, available at [http://www.dc.state.fl.us/pub/annual/1718/FDC\\_AR2017-18.pdf](http://www.dc.state.fl.us/pub/annual/1718/FDC_AR2017-18.pdf) (last visited April 15, 2019)(hereinafter cited a "Annual Report").

<sup>354</sup> *Id.*

<sup>355</sup> All major institutions, or prisons, are similar to small towns in that they have their own academic and vocational schools, places of worship, medical services, maintenance facilities, parks (for visiting family), and often their own water supplies. The DOC, *Annual Report Fiscal Year 2017-18*, p. 13, available at [http://www.dc.state.fl.us/pub/annual/1718/FDC\\_AR2017-18.pdf](http://www.dc.state.fl.us/pub/annual/1718/FDC_AR2017-18.pdf) (last visited April 15, 2019)(hereinafter cited a "Annual Report").

<sup>356</sup> The DOC, *Victim Services, What Happens After Sentencing?*, available at <http://www.dc.state.fl.us/vict/index.html> (last visited April 15, 2019).

<sup>357</sup> The DOC SB 642 Analysis, p. 2. A map of the DOC's regions may be found at <http://www.dc.state.fl.us/ci/index.html> (last visited April 15, 2019).

### ***Determining an Inmate's Classification Level***

Section 944.1905, F.S., requires each inmate placed in the custody of the DOC to be classified or reclassified based upon the inmate's risk level. An inmate's initial classification is determined by a number of factors including, but not limited to, length of sentence, criminal history, any history of violence, and escape history.<sup>358</sup> Classification levels impact the facility placement and programming that an inmate is eligible to participate in while incarcerated.<sup>359</sup>

### ***Programming Offered to Inmates in the Custody of the DOC***

Chapter 944, F.S., requires the DOC to provide a variety of services and programming to inmates committed to the custody of the DOC, including:

- Substance abuse treatment programs;<sup>360</sup>
- Transitional services;<sup>361</sup>
- Educational and vocational programs;<sup>362</sup> and
- Faith- and character-based programs.<sup>363</sup>

These services and programs provide inmates with skills and tools to assist with an inmate's successful transition into the community upon release. These services are not offered at all prisons, therefore, services that an inmate needs to best provide rehabilitative programming are paramount to placement decisions.<sup>364</sup>

### ***Education for State Prisoners***

Section 944.801(1), F.S., establishes a Correctional Education Program (CEP), which must be composed of the educational facilities and services of all institutions, and facilities housing inmates operated by the DOC. The duties of the CEP, in part, include:

- Developing guidelines for collecting education-related information during the inmate reception process and for disseminating such information to the classification staff of the DOC.<sup>365</sup>
- Approving educational programs of the appropriate levels and types in the correctional institutions and developing procedures for the admission of inmate students into such programs.<sup>366</sup>

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<sup>358</sup> Inmate Handbook, at 8; *See also* Section 944.1905(1)-(3), F.S.

<sup>359</sup> Inmate Handbook, at 7.

<sup>360</sup> Section 944.473(2), F.S., requires each inmate to be assessed to determine if he or she qualifies to receive mandated substance-abuse treatment while incarcerated. The DOC provides four levels of inmate substance abuse programming, including intensive outpatient, residential therapeutic community, program centers, and work release centers. In FY 2017-18, a total of 10,844 inmates participated in some form of substance abuse treatment. *See* Annual Report, p. 45.

<sup>361</sup> Sections 944.701-944.708, F.S.

<sup>362</sup> Section 944.801, F.S. In FY 2017-18, the DOC had 16,630 inmates participating in educational programs, 18,734 in academic programs, and 6,328 in vocational programs. Annual Report, at 33.

<sup>363</sup> Section 944.803, F.S., encourages the DOC to operate faith- and character-based facilities, which emphasize the importance of personal responsibility, meaningful work, education, substance abuse treatment, and peer support.

<sup>364</sup> Annual Report, at 33.

<sup>365</sup> Section 944.801(3)(a), F.S., also provides that the information collected must include the inmate's areas of educational or vocational interest, vocational skills, and level of education.

<sup>366</sup> Section 944.801(3)(d), F.S.

- Entering into agreements with public or private school districts, entities, community colleges, junior colleges, colleges, or universities as may be deemed appropriate for the purpose of carrying out the CEP duties.<sup>367</sup>
- Ensuring that such local agreements require minimum performance standards and standards for measurable objectives, in accordance with established Department of Education (DOE) standards.<sup>368</sup>
- Developing and maintaining complete and reliable statistics on the number of high school equivalency diplomas and vocational certificates issued by each institution in each skill area, the change in inmate literacy levels, and the number of inmate admissions to and withdrawals from education courses.<sup>369</sup>

### ***Prison Entrepreneurship Programs***

In 2011, the University of Virginia's Darden School of Business implemented a prison entrepreneurship program at a medium-security prison housing more than 1,000 inmates. The program focuses on entrepreneurship skills, ethics, and business strategy. Students must complete math testing, develop a personal business plan, and complete a final exam.<sup>370</sup> Texas has a prison entrepreneurship program at one of its facilities in Houston and approximately 800 inmates graduate from the program annually.<sup>371</sup>

Though not statutorily mandated, the DOC partners with several educational institutions to offer inmates job training and readiness skills, including, but not limited to, Stetson University, Florida State University, University of Central Florida, and University of West Florida.<sup>372</sup> Additionally, the DOC operates an entrepreneurship education program at Hardee Correctional Institution.<sup>373</sup>

### ***Reentry and Transitional Services***

The DOC is required to provide a wide range of transitional services, including the areas of employment, life skills training, and job placement, for the purpose of increasing the likelihood of the inmate's successful reentry into society, thereby reducing recidivism.<sup>374</sup>

Section 944.704, F.S., requires the DOC to provide a transition assistance specialist at each of its major prison institutions to assist an inmate with specified assistance, including, in part, obtaining job placement information.<sup>375</sup>

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<sup>367</sup> Section 944.801(3)(e), F.S.

<sup>368</sup> *Id.*

<sup>369</sup> Section 944.801(3)(g), F.S.

<sup>370</sup> University of Virginia, UVA Today, Carlos Santos, *Second Chances: Darden's Fairchild Launches Prison Entrepreneurship Program*, January 4, 2013, available at <https://news.virginia.edu/content/second-chances-darden-s-fairchild-launches-prison-entrepreneurship-program> (last visited April 15, 2019).

<sup>371</sup> *Id.* Of its graduates, 106 have founded businesses and the recidivism rate of those inmates is less than 7 percent. *See also* The Prison Entrepreneurship Program, *Releasing Potential*, available at <http://www.pep.org/releasing-potential/> (last visited April 15, 2019).

<sup>372</sup> Email and attachments from the DOC Staff (February 22, 2018)(on file with the Senate Criminal Justice Committee).

<sup>373</sup> *Id.*

<sup>374</sup> *See* ss. 944.701-708, F.S.

<sup>375</sup> Section 944.704, F.S., further provides that correctional officers and correctional probation officers are prohibited from serving in the role of the transition assistance specialist.

Section 944.705, F.S., requires the DOC to establish a standard release orientation program available to every eligible inmate.<sup>376</sup> Release orientation must include instruction addressing:

- Employment skills;
- Money management skills;
- Personal development and planning;
- Special needs;
- Community reentry concerns;
- Community reentry support; and
- Any other appropriate instruction to ensure the inmate's successful reentry into the community.<sup>377</sup>

To provide these services, the DOC may contract with outside public or private entities, including faith-based service groups.<sup>378</sup>

### *Effect of the Bill*

#### Transition Assistance Staff (Section 58)

The bill amends s. 944.704, F.S., authorizing the DOC to increase the number of transition assistance specialists in proportion to the number of inmates served at each of the major institutions. Also, the DOC is authorized to increase the number of employment specialists per judicial circuit based on the number of released inmates served under community supervision in that circuit, subject to appropriations.

The bill adds language requiring that transition assistance specialists also provide inmates with information about identifying any job assignment credentialing or industry certifications for which the inmate is eligible.

This section of the bill is effective October 1, 2019.

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<sup>376</sup> Sections 944.703 and 944.7031, F.S., provide that all inmates released from the custody of the DOC are eligible to receive transition services. However, the law instructs the DOC to give priority for these services to substance abuse addicted inmates. The law provides that inmates released from private correctional facilities should be informed of and provided with the same level of transition assistance services as provided by the DOC for an inmate in a state correctional facility.

<sup>377</sup> Section 944.705(2), F.S.

<sup>378</sup> Section 944.705(5), F.S.

### Release Orientation Program (Section 59)

The bill amends s. 944.705, F.S., requiring the DOC to establish a toll-free hotline for the benefit of released inmates. The hotline must provide information to released inmates seeking to obtain post-release referrals for community based reentry services. The bill also requires the DOC to provide each inmate with a comprehensive community reentry resource directory organized by the county to which the inmate is being released with specified information related to providers and portals of entry<sup>379</sup> and to expand the use of the Spectrum system to provide inmates and offenders with community-specific reentry service provider referrals.

The DOC must allow a nonprofit faith-based or professional business, or a civic or community organization, to apply to be registered under this section to provide inmate reentry services. The DOC must also adopt policies and procedures for screening, approving, and registering an organization that applies to be registered to provide inmate reentry services. The DOC may deny approval and registration of an organization or a representative from an organization if it determines that the organization or representative does not meet such policies or procedures. The bill defines reentry services as services that include, but are limited to counseling; providing information on housing and job placement; money management assistance; and programs addressing substance abuse, mental health, or co-occurring conditions.

The bill also authorizes the DOC to contract with a public or private educational institution's Veteran's Advocacy Clinic or Veteran's Legal Clinic to assist qualified veteran inmates in applying for veteran's assistance benefits upon release.

This section of the bill is effective October 1, 2019.

### Prison Entrepreneurship Program (Section 60)

The bill amends s. 944.801, F.S., authorizing the Correctional Education Program to develop a Prison Entrepreneurship Program (PEP). The PEP must include at least 180 days of in-prison education with curriculum that includes a component on developing a business plan, procedures for graduation and certification of successful student inmates, and at least 90 days of transitional and post-release continuing education services. The bill provides that transitional and post release continuing education services may be offered to graduate student inmates on a voluntary basis and are not required for completion of the PEP.

The PEP must be funded within existing resources and the DOC is required to enter into agreements with public or private community colleges, junior colleges, colleges, universities, or other non-profit entities to implement the program. The bill provides rulemaking authority and authority to adopt procedures for admitting student inmates.

This section of the bill is effective October 1, 2019.

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<sup>379</sup> The directory must include the name, address, telephone number and a description of services offered by each provider and also include the name, address, and telephone number of existing portals of entry.

## **Probation and Community Control (Sections 61-66)**

### ***Forms of Supervision through the Department of Corrections***

At sentencing, a judge may place an offender on probation or community control in lieu of or in addition to incarceration.<sup>380</sup> The DOC supervises more than 166,000 offenders on active community supervision. This includes offenders released from prison on parole, conditional release, or conditional medical release and offenders placed on court ordered supervision including probation, drug offender probation, sex offender probation, and community control.<sup>381</sup>

#### Probation

Probation is a form of community supervision requiring specified contacts with probation officers and other conditions a court may impose.<sup>382</sup> There are also specialized forms of supervision such as drug offender probation<sup>383</sup> and mental health probation.<sup>384</sup> Section 948.03, F.S., provides that a court must determine the terms and conditions of probation. Standard conditions of probation that are enumerated in s. 948.03, F.S., are not required to be announced on the record, but the court must orally pronounce, as well as provide in writing, any special conditions of probation imposed.

#### Administrative Probation

Section 948.013, F.S., provides that the DOC may establish procedures for transferring an offender to administrative probation. Administrative probation is defined in s. 948.001(1), F.S., to mean a form of no contact, nonreporting supervision to which an offender may be transferred upon the satisfactory completion of certain conditions. Administrative probation is only for offenders that are a low-risk of harm to the community and there are specified underlying offenses that are prohibited from being transferred to administrative probation.<sup>385</sup>

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<sup>380</sup> Section 948.01, F.S.

<sup>381</sup> The DOC, *Probation Services*, available at <http://www.dc.state.fl.us/cc/index.html> (last visited April 15, 2019).

<sup>382</sup> Section 948.001(8), F.S. Terms and conditions of probation are provided in s. 948.03, F.S.

<sup>383</sup> Section 948.001(4), F.S., defines “drug offender probation” as a form of intensive supervision that emphasizes treatment of drug offenders in accordance with individualized treatment plans administered by probation officers with reduced caseloads.

<sup>384</sup> Section 948.001(5), F.S., “mental health probation” means a form of specialized supervision that emphasizes mental health treatment and working with treatment providers to focus on underlying mental health disorders and compliance with a prescribed psychotropic medication regimen in accordance with individualized treatment plans.

<sup>385</sup> See s. 948.013(2) and (3), F.S.

### Community Control

Section 948.001(3), F.S., defines “community control” as a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads.<sup>386</sup> The community control program is rigidly structured and designed to accommodate offenders who, in the absence of such a program, will be committed to the custody of the DOC or a county jail.<sup>387</sup> A person on community control (controlee) has an individualized program and is restricted to his or her home or noninstitutional residential placement, unless working, attending school, performing public service hours, participating in treatment or another special activity that has been approved in advance by his or her parole and probation officer.<sup>388</sup>

Conditions of community control are determined by the court when the offender is placed on such supervision. There are standard conditions of community control with which all controlees must comply.<sup>389</sup> A person may be placed on additional terms of supervision as part of his or her community control sentence.<sup>390</sup>

### ***Early Termination and Other Court Action***

Termination of supervision, whether by court order or scheduled expiration of the term, releases the offender from all supervision and liability to sentence on the underlying charge or charges.<sup>391</sup>

The court may discharge an offender from supervision at any time if the court is satisfied that doing so is in the best interests of justice and the welfare of society.<sup>392</sup> The DOC may recommend early termination of supervision to the court at any time before the scheduled termination date when a probationer:

- Performed satisfactorily;
- Has not been found in violation of any terms or conditions of supervision; and
- Met all financial sanctions imposed by the court.<sup>393</sup>

Additionally, a court may at any time require a probationer or controlee to appear before it to be admonished or commended, and, when satisfied that its action will be for the best interests of justice and the welfare of society, it may discharge the probationer or controlee from further supervision.<sup>394</sup>

Florida law is silent as to whether a probationer or controlee can petition the court for early termination on its own motion, as well as specific incentives to reduce a probationer’s or controlee’s supervision sentence, similar to gain-time, that can be used to promote good

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<sup>386</sup> Section 948.10(2), F.S., provides that caseloads must be no more than 30 cases per officer.

<sup>387</sup> Section 948.10(1), F.S.

<sup>388</sup> *Id.*

<sup>389</sup> *See s. 948.101(1), F.S.*, for the standard conditions of community control.

<sup>390</sup> Section 948.101(2), F.S.

<sup>391</sup> Section 948.04(2), F.S.

<sup>392</sup> Section 948.05, F.S.

<sup>393</sup> Section 944.04(3), F.S. The financial obligations include, but are not limited to, fines, court costs, and restitution.

<sup>394</sup> Section 948.05, F.S.

behavior. However, the DOC currently uses a system of incentives to reward offenders for positive behavior and compliance with the terms of supervision. These incentives include:

- Allowing certain eligible offenders to report by mail and phone in lieu of having to report in person to the probation office.
- Recommending reduction of supervision type to the court.
- Recommending reduced reporting to the court.
- Recommending early termination of supervision to the court.<sup>395</sup>

The DOC reports successful outcomes from this strategy, motivating offenders to both comply with the terms of supervision and complete all requirements ahead of schedule.<sup>396</sup>

### ***Violations of Probation or Community Control***

If an offender violates the terms of his or her probation or community control, the supervision can be revoked in accordance with s. 948.06, F.S.<sup>397</sup> A violation of probation (VOP) or violation of community control (VOCC) can be the result of a new violation of law or a technical violation of the conditions imposed. If reasonable grounds exist to believe that an offender on probation or community control has violated his or her terms of supervision in a material respect, an offender may be arrested without a warrant by a:

- Law enforcement officer who is aware of the inmate's supervised community release status;
- Probation officer; or
- County or municipal law enforcement officer upon request by a probation officer.<sup>398</sup>

The offender must be returned to the court granting such probation or community control.<sup>399</sup> Additionally, the committing court judge may issue a warrant, upon the facts being made known to him or her by affidavit of one having knowledge of such facts, for the arrest of the offender.<sup>400</sup>

Upon a finding through a VOP or VOCC hearing, a court may revoke, modify, or continue the supervision. If the court chooses to revoke the supervision, it may impose any sentence originally permissible before placing the offender on supervision.<sup>401</sup> In addition, if an offender qualifies as a violent felony offender of special concern (VFOSC), the court must revoke supervision, unless it makes written findings that the VFOSC does not pose a danger to the community.<sup>402</sup> The VFOSC status also accrues sentence points under the Code, which affects the scoring of the lowest permissible sentence.<sup>403</sup>

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<sup>395</sup> The DOC, *Community Corrections Strategies To Increase Offender Success and Reduce Recidivism*, December 2017 (on file with the Senate Appropriations Subcommittee on Criminal and Civil Justice).

<sup>396</sup> *Id.*

<sup>397</sup> Section 948.10(3), F.S.

<sup>398</sup> Section 948.06(1)(a), F.S.

<sup>399</sup> *Id.*

<sup>400</sup> Section 948.06(1)(b), F.S. The committing trial court judge may also issue a notice to appear if the probationer or contolee has never been convicted of committing, and is not currently alleged to have committed, a qualifying offense as enumerated in s. 948.06(8)(c), F.S.

<sup>401</sup> Section 948.06(2)(b), F.S.

<sup>402</sup> See s. 948.06(8)(a), F.S., for all VFOSC qualifications and enumerated list of felonies that are considered qualifying offenses. See also ch. 2007-2, L.O.F.

<sup>403</sup> Section 921.0024, F.S.

### *Alternative Sanctioning Programs*

In FY 2017-18 a total of 64,672 technical violations were reported.<sup>404</sup> Many of these violations resulted in the offender returning to some form of supervision or serving a county jail sentence.<sup>405</sup> Prior to 2016, the DOC developed and implemented an alternative sanctioning program (ASP) in twelve counties within six judicial circuits.<sup>406</sup> An ASP allows for an alternative resolution of technical violations of probation that ensures a swift and certain response without initiating the court process or arresting and booking the offender. Section 948.06, F.S., was amended during the 2016 Legislative Session to codify the ASPs.<sup>407</sup> The use of such programs has substantially increased since enactment of the ASP option. As of February 2019, 16 circuits (including 49 of 67 counties) have established ASPs by administrative order. These participating jurisdictions have resolved 3,740 violations through ASPs.<sup>408</sup>

Section 948.06(1)(h), F.S., authorizes the chief judge of each judicial circuit to establish an ASP, in consultation with the State Attorney, Public Defender, and the DOC to address technical VOPs and VOCCs. A technical violation is defined to include any alleged violation of supervision that is not a new felony offense, misdemeanor offense, or criminal traffic offense.<sup>409</sup> Once an ASP administrative order is signed establishing the terms<sup>410</sup> of the program, the DOC may enforce specified sanctions for certain technical violations with court approval.

Common sanctions issued through the ASP include increased reporting requirements, which can be in person or via phone, community service hours, imposition or modification of a curfew, electronic monitoring, drug evaluation and treatment, employment searches and workforce training.<sup>411</sup> As of January 2018, two circuits and Brevard County had included short jail sentences as a possible ASP sanction through administrative order.<sup>412</sup>

<sup>404</sup> Email from Jenny Nimer, Assistant Secretary of Community Corrections, the DOC, *Re: ASP Status*, February 28, 2019 (on file with the Senate Criminal Justice).

<sup>405</sup> The DOC, *Copy of Tech Violations and Disposition 02-16-18* (on file with the Senate Criminal Justice Committee),

<sup>406</sup> The DOC, *Agency Analysis for SB 642*, p. 6, February 27, 2019 (hereinafter cited as “The DOC SB 642 Analysis”); *See also* the DOC, *Agency Analysis HB 1149 (2016)*, p. 2 (January 20, 2016)(all documents on file with the Senate Criminal Justice Committee).

<sup>407</sup> Chapter 2016-100, L.O.F.

<sup>408</sup> Email from the DOC Staff (February 26, 2019)(on file with the Senate Criminal Justice Committee). The circuits that have enacted administrative orders include the: Third (Columbia, Dixie, Hamilton, Lafayette, Madison, Suwannee, and Taylor Counties); Fourth (Duval County); Fifth (Citrus, Hernando, Lake, Marion, and Sumter Counties); Sixth (Pasco and Pinellas Counties); Seventh (Flagler, Putnam, St. Johns and Volusia Counties); Eighth (Alachua, Baker, Bradford, Gilchrist, Levy, and Union Counties); Tenth (Hardee, Highlands, and Polk Counties); Twelfth (DeSoto, Manatee, and Sarasota Counties); Thirteenth (Hillsborough County); Fourteenth (Bay, Calhoun, Gulf, Holmes, Jackson, and Washington Counties); Fifteenth (Palm Beach County); Eighteenth (Brevard and Seminole Counties); and Nineteenth (Indian River, Martin, Okeechobee, and St. Lucie Counties).

<sup>409</sup> Section 946.08(2)(h)1., F.S.

<sup>410</sup> Section 948.06(1)(h)2., F.S., provides that the administrative order must address which technical violations are eligible for alternative sanctioning, offender eligibility criteria, permissible sanctions, and the process for reporting technical violations.

<sup>411</sup> The Third Judicial Circuit, *Administrative Order 2016-003, Criminal Alternative Sanctioning Program*, available at [http://www.jud3.flcourts.org/Admin\\_Orders/All/2016-003-Criminal%20Alternative%20Sanctioning%20Program.pdf](http://www.jud3.flcourts.org/Admin_Orders/All/2016-003-Criminal%20Alternative%20Sanctioning%20Program.pdf) Thirteenth Judicial Circuit, *Administrative Order S-2016-019, Alternative Sanctioning Program*, available at <http://www.fljud13.org/Portals/0/AO/DOCS/S-2016-019.pdf?ver=2016-06-07-104033-303> (all sites last visited April 15, 2019).

<sup>412</sup> The Eighth and Tenth circuits offer short county jail time as a sanction and Brevard County offers weekends with the Brevard County Sheriff’s Work Farm. Email and pdf attachment from the DOC Staff (February 22, 2018)(on file with Senate Criminal Justice Staff).

After receiving written notice of an alleged technical violation and disclosure of the evidence supporting the violation, an offender who is eligible for the ASP may elect to either participate in the program or waive participation.<sup>413</sup> If the offender waives participation, the violation proceeds through the court resolution process.<sup>414</sup> If the offender elects to participate, he or she must admit to the technical violation, agree to comply with the probation officer's recommended sanction, and agree to waive the right to:

- Be represented by counsel;
- Require the state to prove his or her guilt;
- Subpoena witnesses and present evidence to a judge in his or her defense;
- Confront and cross-examine witnesses; and
- Receive a written statement from a factfinder as to the evidence relied on and the reasons for the sanction imposed.<sup>415</sup>

Upon the offender admitting to the technical violation and agreeing with the probation officer's recommended sanction, the probation officer must submit the recommended sanction to the court for approval. The submission to the court must include documentation related to the offender's admission to the technical violation and agreement with the recommended sanction. The court may impose the recommended sanction or may direct the DOC to submit a violation report, affidavit, and warrant.<sup>416</sup>

Participation in an ASP is voluntary. Additionally, the offender may elect to waive or discontinue participation in an ASP at any time before the issuance of a court order imposing the recommended sanction. The offender's prior admission to the technical violation may not be used as evidence in subsequent proceedings.<sup>417</sup>

### ***Conditions of Probation in the Florida Crime Information Center***

The Florida Crime Information Center (FCIC) is the state's central database for tracking crime related information. Information contained in the FCIC database includes, but is not limited to, statewide information on persons and property, driver's license and registration information, wanted and missing persons, stolen guns, vehicles, and other property, and persons' status files, and computerized criminal history.<sup>418</sup> It is commonly used by law enforcement officers to gather relevant information when responding to a call for service or engaging in a citizen encounter.

Every criminal justice agency within Florida is eligible for access to the FCIC.<sup>419</sup> Access is divided into limited access and full access. With limited access, the user is able to run a query in the system. With full access, the user is able to make modifications in the system.<sup>420</sup> Currently,

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<sup>413</sup> Section 948.06(1)(h)3., F.S.

<sup>414</sup> Section 948.06(1)(h)3.a., F.S.

<sup>415</sup> Section 948.06(1)(h)3.b., F.S.

<sup>416</sup> Section 948.06(1)(h)4. and 5., F.S.

<sup>417</sup> Section 948.06(1)(h)6. and 7., F.S.

<sup>418</sup> The FDLE, *Criminal Justice Information System, Limited Access Certification Course*, p. 7, available at <http://www.fdle.state.fl.us/Limited-Access/Documents/Limited-Access-v5-2018-1.aspx> (last visited April 15, 2019).

<sup>419</sup> The FDLE, *FDLE Frequently Asked Questions, What is criminal history information and how do I obtain it?*, available at <http://www.fdle.state.fl.us/FAQ-s/Frequently-Asked-Questions.aspx> (last visited on April 15, 2019).

<sup>420</sup> *Id.*

an officer may run a driver license, warrant, or person query in the FCIC and the results will include information on whether the individual is currently on probation.<sup>421</sup> However, in general, a law enforcement officer will only see that the person is on probation. The FCIC will not include the specific terms of probation.<sup>422</sup>

The DOC sends a probationer's data electronically to the Florida Department of Law Enforcement (FDLE) through a real time direct data pipeline. To include a probationer's conditions, the DOC will enter the information into a "Miscellaneous Field of the Status Record" field available in the FCIC.<sup>423</sup> However, the DOC reports that it includes a number of special conditions of probation as prioritized by the FDLE, but that the current FDLE system only allows a smaller, specified amount of data and typically does not allot enough space to include all special conditions of probation.<sup>424</sup>

A court has authority to modify or alter conditions of probation based on a probationer's particular circumstances.<sup>425</sup> As a result, a probation officer may have permission to allow certain exceptions to conditions of probation on a case-by-case basis. For example, a court may allow a probation officer to give permission to a probationer to stay out past a designated curfew if the reason is for work, school, or health care emergencies. When this occurs, probation officers may not have access to the DOC databases in order to update in real time any exceptions to the individual's probation in the FCIC.<sup>426</sup>

### ***Effect of the Bill***

#### **Administrative Probation (Sections 61 and 62)**

The bill amends ss. 948.001(1) and 948.013, F.S., relating to administrative probation to authorize the department to transfer an offender to administrative probation if the offender presents a low risk of harm to the community and to restructure the placement of relevant language. These changes do not appear to have a substantive impact on the laws applicable to administrative probation.

This section of the bill is effective October 1, 2019.

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<sup>421</sup> The FDLE, *FDLE Frequently Asked Questions, What is criminal history information and how do I obtain it?*, available at <http://www.fdle.state.fl.us/FAQ-s/Frequently-Asked-Questions.aspx> (last visited on April 15, 2019).

<sup>422</sup> Email from Florida Sheriffs Association (FSA) Staff (February 22, 2018)(on file with Senate Criminal Justice Committee).

<sup>423</sup> The DOC SB 642 Agency Analysis, p. 6. *See also* Email from the DOC Staff (February 23, 2018)(on file with the Senate Criminal Justice Committee). The DOC currently includes the specified conditions of probation for each probationer in the data it sends to the FDLE, including, but not limited to: Sex offender curfew; Curfew for non-sex offenders; Remain confined to approved residence; No unsupervised contact with minors; No work or volunteer work with children; Do not live or work within 1,000 feet of school or bus stop; Submit to search; No driving or driver license revoked or suspended; Driving for employment only; No alcohol or illegal drugs; No contact with victim; No pornographic material; Restrictions to enter or leave a city; No employment that involves handling money; No post office box; and No checking account.

<sup>424</sup> *Id.*

<sup>425</sup> Section 948.039, F.S.

<sup>426</sup> The DOC SB 642 Agency Analysis, p. 6.

### Conditions of Probation in the FCIC (Section 63)

The bill requires the DOC to input into the FCIC all of a probationer's specific conditions of probation as determined by the court.

This section of the bill is effective October 1, 2019.

### Mandatory Early Termination or Conversion to Administrative Probation (Section 64)

For person's placed on probation on or after October 1, 2019, the bill authorizes the probationer or probation officer to motion the court to consider early termination. The bill requires the court to either early terminate the probationer's supervision or convert the supervisory term to administrative probation if:

- The probationer has completed at least half of the term of probation to which he or she was sentenced.
- The probationer has successfully completed all other conditions of probation.
- The court has not found the probationer in violation of probation pursuant to a filed affidavit of violation of probation at any point during the current supervisory term.
- The parties did not specifically exclude the possibility of early termination or conversion to administrative probation as part of a negotiated sentence.
- The probationer does not qualify as a violent felony offender of special concern.<sup>427</sup>

The bill authorizes the court to decline to early terminate the probationary term or convert the term to administrative probation for an offender who is otherwise eligible, upon making written findings that continued reporting probation is necessary to protect the community or the interests of justice.

The bill specifically excludes controlee's from these provisions. Additionally, if a controlee is subsequently placed on probation, he or she must complete half of the probationary term to which he or she was sentenced, without receiving credit for time served on community control, before being eligible for mandatory early termination or conversion to administrative probation under this section.

This section of the bill is effective October 1, 2019.

### Graduated Sanctions (Section 65)

Similarly to the statutory construct of incentive gain-time, the bill creates a graduated incentives program that results in the reductions of specified conditions of supervision that are ordered by the court. The bill requires the DOC to implement a system of graduated incentives to promote compliance with the terms of supervision and prioritize the highest levels of supervision for offenders presenting the greatest risk of recidivism. As part of the graduated incentives system, the DOC may, without leave of court, offer the specified incentives to a compliant offender, including:

- Up to 25 percent reduction of required community service hours;
- Waiver of supervision fees;

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<sup>427</sup> See present s. 948.06(7)(b), F.S., for the definition of "violent felony offender of special concern."

- Reduction in frequency of reporting;
- Permission to report by mail or phone; or
- Transfer of an eligible offender to administrative probation.

Additionally, the bill authorizes the DOC to incentivize positive behavior and compliance with recommendations to the court to modify the terms of supervision, including recommending:

- Permission to travel;
- Reduction of supervision type;
- Modification or cessation of curfew;
- Reduction or cessation of substance abuse testing; or
- Early termination of supervision.

The bill also provides that an offender who commits a subsequent violation of probation may forfeit any previously earned probation incentive, as determined appropriate by his or her probation officer.

This section of the bill is effective October 1, 2019.

#### Alternative Sanctioning Programs (ASP) and Low-Risk Technical Violations (Section 66)

The bill amends s. 948.06, F.S., *requiring* each judicial circuit to establish an ASP and providing specific guidelines for the types of technical violations and sanctions that can be provided for in an ASP. The bill authorizes a court, by administrative order, to define additional sanctions or eligibility criteria and specify the process for reporting technical violations. For each instance that a technical violation of probation or violation of community control is alleged to have been committed, the DOC is required to determine whether such person is eligible for the ASP. If eligible, the probation officer may submit recommended sanctions to the court, with documentation of the probationer's admission to the violation and agreement with the recommended sanction for its approval in lieu of filing an affidavit of violation with the court. The bill maintains the same definition for technical violations as is in current law and limits ASPs to resolving technical violations.

The bill classifies technical violations eligible for an ASP as low-risk and moderate risk. Specifically:

- A low-risk violation includes:
  - 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 on any required probation condition, including, but not limited to, making restitution payments, payment of court costs, or completing community service hours;
  - Leaving the county without permission;
  - Failure to report a change in employment;
  - Associating with a person engaged in criminal activity; or

- Any other violation as determined by administrative order of the chief judge of the circuit.
- A moderate-risk violation includes:
  - A low-risk violation listed above, which is 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 within the current term of supervision; or
  - Any other violation as determined by administrative order by the chief judge of the circuit.

The bill excludes certain probationers or offenders on community control from participating in an ASP if any of the following criteria apply:

- The offender is a violent felony offender of special concern.
- 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 under the bill or by administrative order.
- He or she has a prior moderate-risk level violation during the current term of supervision.
- He or she has three prior low-risk level violations during the same term of supervision.
- The term of supervision is scheduled to terminate in less than 90 days.
- The terms of the sentence prohibit the use of an ASP.

An eligible person who has committed a first or second low-risk technical violation within his or her current term of supervision may be offered one or more of the following as a sanction:

- Up to five days in a county jail;
- Up to 50 additional community service hours;
- Counseling or treatment;
- Support group attendance;
- Drug testing;
- Loss of travel or other privileges;
- Curfew for up to 30 days;
- House arrest for up to 30 days; or
- Any other sanction as determined by administrative order by the chief judge of the circuit.

An eligible person who has committed a first time moderate-risk violation within the current term of supervision may be offered, provided the probation officer receives approval from his or her supervisor, one or more of the following as a sanction:

- Up to 21 days in the county jail;
- Curfew for up to 90 days;
- House arrest for up to 90 days;
- Electronic monitoring for up to 90 days;
- Residential treatment for up to 90 days;
- Any other sanction available for a low-risk violation; or
- Any other sanction as determined by administrative order of the chief judge of the circuit.

The bill retains current law regarding the ability of an offender to enter or waive his or her participation in the program; the process for an offender to acknowledge his or her desire to participate in the program, including the specified rights that must be waived; the ability of a court to approve the sanction and the effect of a court not approving the probation officer's recommendation; the effect of an offender's discontinued participation in the program; and the prohibition on the court using a prior admission to a technical violation as evidence in subsequent proceedings.<sup>428</sup> However, if an offender waives, discontinues participation, or fails to successfully complete the alternative sanction within the 90-day timeframe, the probation officer may submit a violation report, affidavit, and warrant to the court.

For certain probationer's who have a first VOP filed for a low-risk technical violation, the bill requires the court to modify or continue, rather than revoke, a probationary term in specified instances. A probationer is always able to waive the applications of these provisions. Specifically, the bill requires modification of probation under when:

- 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.

The bill also provides that a probationer who has successfully completed sanctions through the ASP is eligible for mandatory modification or continuation of his or her probation upon the filing of his or her first VOP warrant.

The bill imposes a maximum length on the amount of jail time that a court may order for a first-time, low-risk technical violator to up to 90 days as a special condition of probation. However, a court may revoke rather than modify the probationary term when a first-time, low-risk technical violator has substantially completed his or her term of probation and has only 90 days or fewer remaining on his or her term of supervision. If a court revokes a term of probation under this provision, it may only sentence the probationer to a maximum of 90 days in county jail and cannot take into account the sentencing requirements of the Criminal Punishment Code.

The bill allows a court to grant a probationer credit for only time served in the county jail since his or her most recent arrest for a violation of probation when imposing a capped jail sentence. Normally, a court must give a defendant all credit for time served in a case. The bill ensures that a probationer may receive a sentence of up to 90 days in jail upon a first-time, low-risk technical violation, in addition to any previously served credit.

The bill provides clarification that the court is prohibited from exceeding the statutory maximum sentence.

This section of the bill is effective October 1, 2019.

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<sup>428</sup> See s. 948.06(1)(h)4.-7., F.S. (2017), for the relevant provisions retained in the bill.

## Youthful Offenders (Section 72)

Current law provides an alternative sentencing scheme for certain youthful offenders convicted of a felony. A court may sentence a person as a youthful offender if he or she:

- Was found guilty of, or plead nolo contendere or guilty to a felony;<sup>429</sup>
- Is younger than 21 years of age at the time the sentence is imposed; and
- Has not previously been sentenced as a youthful offender.<sup>430</sup>

If a court elects to sentence a person as a youthful offender, it must sentence the youthful offender to any combination of the following penalties:

- Placement of the youthful offender on probation or in a community control program for no more than 6 years. Under this sentencing option, the court can choose to withhold adjudication of guilt or impose adjudication of guilt.
- Incarcerate the youthful offender for no more than 364 days. The incarceration must take place in a specified facility and is a condition of probation or community control.
- Incarcerate the youthful offender for a specified period followed by a term of probation or community control. If the incarceration is in specified DOC facilities, it cannot be for less than 1 year or longer than 4 years. The period of incarceration and probation or community control cannot exceed 6 years.
- Incarcerate the youthful offender for no more than 6 years.<sup>431</sup>

### *Effect of the Bill*

The bill amends s. 958.04, F.S., permitting a court to impose a sentence as a youthful offender if a person committed a felony *before they turned 21 years of age*. Current law requires the person to be under 21 years of age at the time of sentencing. As a result, a larger group of people will now be eligible for a youthful offender sentence.

This section of the bill is effective October 1, 2019.

## Victim Assistance (Sections 73-76)

The Division of Victim Services within the Department of Legal Affairs (DLA) both serves as an advocate for crime victims and victims' rights and administers a compensation program to ensure financial assistance for innocent victims of crimes.<sup>432</sup> Within the division is the Crime Victims' Services Office, which is tasked with, among other things, administering federally funded victim assistance service programs.<sup>433</sup>

<sup>429</sup> A person who has been found guilty of a capital or life felony may not be sentenced as a youthful offender under s. 958.04, F.S.

<sup>430</sup> Section 958.04(1)(a)-(c), F.S.

<sup>431</sup> Section 958.04(2)(a)-(d), F.S. Any of these sentencing combinations cannot exceed the maximum sentence for the offense for which the youthful offender was found guilty. If a youthful offender is sentenced to a period of incarceration, the court must adjudicate the youthful offender guilty.

<sup>432</sup> Office of the Attorney General, *Crime Victims' Services: Division of Victim Services*, available at <http://myfloridalegal.com/pages.nsf/main/1c7376f380d0704c85256cc6004b8ed3!OpenDocument> (last visited April 12, 2019).

<sup>433</sup> Section 960.05(2)(c), F.S.

### ***Effect of the Bill***

#### Filing of Claims for Compensation (Section 73)

Currently, s. 960.07, F.S., provides that a claim for compensation must be filed by a person eligible for compensation not later than *1 year* after the:

- Occurrence of the crime upon which the claim is based;
- Death of the victim or intervenor; or
- Death of the victim or intervenor is determined to be the result of the crime and the crime occurred after June 30, 1994.<sup>434</sup>

However, the DLA may extend the time for filing for a period *not exceeding 2 years* after such occurrence for good cause.<sup>435</sup> The bill extends these time constraints to *5 years* and *7 years*, respectively.

Further, s. 960.07(3), F.S., allows the victim or intervenor who was under the age of 18 at the time the crime occurred, to file a claim *within 1 year* of 18 and the DLA may extend this time period for an additional period not to exceed *1 year*, upon a showing of good cause. The bill extends these time constraints to *5 years* and *2 years*, respectively.

A victim of a sexually violent offense can file a claim for compensation for counseling or other mental health services within *1 year* after the filing of a petition pursuant to s. 394.914, F.S., to involuntarily civilly commit the individual who perpetrated the sexually violent offense.<sup>436</sup> The bill extends this time period to *5 years*.

This section of the bill is effective October 1, 2019.

#### Awards (Section 74)

Section 960.13, F.S., provides that the DLA must confirm that a crime was committed that directly resulted in personal injury to, psychiatric or psychological injury to, or death of, the victim or intervenor and that such crime was promptly reported to the proper authorities in order to give a financial award. A report must be made *within 72 hours* after the occurrence of such crime in order to be eligible for an award.<sup>437</sup>

The bill amends s. 960.13, F.S., extending this time period to *5 days*.

This section of the bill is effective October 1, 2019.

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<sup>434</sup> Section 960.07(1) and (2), F.S.

<sup>435</sup> *Id.*

<sup>436</sup> Section 960.07(4), F.S.

<sup>437</sup> Section 960.13(1), F.S.

### Awards to Elderly Persons or Disabled Adults for Property Loss (Section 75)

Section 960.195, F.S., provides that the DLA may award money to an elderly or disabled person who suffered a property loss as a result of a criminal or delinquent act that caused a substantial diminution in their quality of life, provided the criminal or delinquent act is reported to law enforcement within *72 hours*.<sup>438</sup>

The bill amends s. 960.195, F.S., extending this time period to *5 days*.

This section of the bill is effective October 1, 2019.

### Relocation Assistance for Victims of Human Trafficking (Section 76)

Section 960.196, F.S., permits the DLA to provide money to a victim of human trafficking who needs urgent assistance to escape from an unsafe environment directly related to the human trafficking offense provided the crime was reported to the proper authorities and the claim for such assistance was filed *within 1 year, or 2 years* with good cause.<sup>439</sup>

The bill extends these time periods to *5 years* and *7 years*, respectively.

This section of the bill is effective October 1, 2019.

### **Department of Juvenile Justice (Sections 77, 78, and 79)**

Diversion refers to a program that is designed to keep a juvenile from entering the juvenile justice system through the legal process.<sup>440</sup> The term diversion has been broadly used over the years, but typically refers to the placement of an individual on a track that is less restrictive and affords more opportunities for rehabilitation and restoration. Whether it is a prearrest or postarrest diversion program, the goal of the program is to maximize the opportunity for success and minimize the likelihood of recidivism.<sup>441</sup>

Section 985.12, F.S., requires that a civil citation or similar prearrest diversion program for misdemeanor offenses be established in each judicial circuit in the state. The state attorney and public defender of each circuit, the clerk of the court for each county in the circuit, and representatives of participating law enforcement agencies in the circuit are required to create the program and develop its policies and procedures.

In addition to the circuit program, current law permits a sheriff, police department, county, municipality, or public or private educational institution to operate an independent civil citation or similar prearrest diversion program if such program is reviewed by the state attorney and

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<sup>438</sup> Section 960.195(1), F.S.

<sup>439</sup> Section 960.196(1) and (2)

<sup>440</sup> Florida Department of Juvenile Justice, *Glossary*, available at <http://www.djj.state.fl.us/youth-families/glossary> (last visited April 14, 2019).

<sup>441</sup> Center for Health & Justice at TASC, *A National Survey of Criminal Justice Diversion Programs and Initiatives*, pg. 6, (December 2013), available at [http://www2.centerforhealthandjustice.org/sites/www2.centerforhealthandjustice.org/files/publications/CHJ%20Diversion%20Report\\_web.pdf](http://www2.centerforhealthandjustice.org/sites/www2.centerforhealthandjustice.org/files/publications/CHJ%20Diversion%20Report_web.pdf) (last visited April 14, 2019).

determined to be substantially similar to the circuit program. Additionally, the people tasked with creating the program for the judicial circuit may look to an existing independent program as a model for the development of the circuit program.<sup>442</sup>

The Juvenile Justice Information System includes Prevention Web which is utilized to track children participating in prevention programs that do not involve arrest, such as admission and release dates for Children in Need of Services and Families in Need of Services placements, among others.<sup>443</sup> Additionally, the record of a child's participation in a civil citation program is also maintained in Prevention Web in a separate module. Prevention Web data is highly confidential and is kept completely separate from delinquency data.

Section 985.12(2)(f), F.S., requires a copy of each civil citation or similar prearrest diversion program notice to be provided to the DJJ and thereupon requires the information of a child with a first-time misdemeanor offense be entered into Prevention Web. This would eliminate the ability to properly screen, assess, and track a child, which negatively impacts public safety.<sup>444</sup>

### ***Effect of the Bill***

#### **Civil Citation or Similar Prearrest Diversion Program (Section 77)**

The bill amends s. 985.12, F.S., adding “locally authorized entity” to the list of individuals or entities that are authorized to operate an independent civil citation or similar prearrest diversion program, provided such program is determined to be substantially similar to the program developed by the circuit. The bill makes the same addition to the list of authorized programs in which a judicial circuit can model its program after.

The bill repeals the requirement related to inputting specified information into the Prevention Web and instead provides that each civil citation or similar prearrest diversion program must enter the appropriate youth data into Prevention Web within 7 days of the admission of the youth into the program.

This section of the bill is effective upon becoming law.

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<sup>442</sup> Section 985.12(2), F.S.

<sup>443</sup> Email from Rachel Moscoso, Department of Juvenile Justice Legislative Affairs Director, April 15, 2019 (on file with the Senate Appropriations Subcommittee on Criminal and Civil Justice).

<sup>444</sup> Department of Juvenile Justice, *Prevention Web Letter to Providers*, August 1, 2018 (on file with the Senate Appropriations Subcommittee on Criminal and Civil Justice).

### Diversion Program Data Collection (Section 78)

Currently, s. 985.126, F.S., requires the issuing law enforcement officer to send a copy of documentation requiring a minor to participate in a diversion program, to the diversion program and the DJJ.<sup>445</sup> The bill removes the requirement to send this documentation to the DJJ and requires the diversion program to enter such information into Prevention Web within 7 days of the youth's admission into the program.

Section 985.126(3)(a), F.S., also requires certain data be submitted to the DJJ quarterly. The bill removes this requirement and provides that such data must be entered in Prevention Web within 7 days of the youth's admission into the program.

This section of the bill is effective upon becoming law.

### Responsibilities of the Department During Intake (Section 79)

Prevention Web is used to maintain records on all children referred for prevention services.<sup>446</sup> Section 985.145(1)(f), F.S., requires the DJJ to enter information related to a child with a first-time misdemeanor offense into the Prevention Web. This is not consistent with the uses of the system and therefore the bill repeals this provision.

This section of the bill is effective upon becoming law.

## **Mandatory Direct File (Section 80)**

### ***Transfer of a Child to Adult Court***

There are three methods of transferring a child to adult court for prosecution: judicial waiver,<sup>447</sup> indictment,<sup>448</sup> or direct filing an information.

Direct file is the process whereby a state attorney files an information charging a child in adult court. Pursuant to s. 985.557, F.S., direct file can be either discretionary or mandatory and is accomplished exclusively by the state attorney without requiring the court's approval. Direct file is the predominant method of transfer to adult court, accounting for 96.2 percent (870 children) of the transfers in 2017-18.<sup>449</sup>

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<sup>445</sup> Section 985.126(2), F.S.

<sup>446</sup> Department of Juvenile Justice, *Juvenile Justice Information System Business Rule*, (March 9, 2012), available at [http://www.djj.state.fl.us/docs/jjis-business-rules/prevention-web-12-001-\(r06-2015\).pdf?sfvrsn=2](http://www.djj.state.fl.us/docs/jjis-business-rules/prevention-web-12-001-(r06-2015).pdf?sfvrsn=2) (last visited April 12, 2019).

<sup>447</sup> Judicial waiver is the process in which a child or a state attorney may, or in some cases must, waive the jurisdiction of the juvenile courts and have the case transferred to adult court for prosecution. The three types of judicial waiver are voluntary, involuntary discretionary, and involuntary mandatory. *See* s. 985.556, F.S.

<sup>448</sup> A grand jury can indict a child of any age who is charged with an offense punishable by death or life imprisonment. Upon indictment, the child's case must be transferred to adult court for prosecution. *See* s. 985.56, F.S.

<sup>449</sup> Department of Juvenile Justice, *2019 Legislative Bill Analysis for SB 1260*, March 13, 2019 (on file with the Senate Appropriations Subcommittee on Criminal and Civil Justice).

### Discretionary Direct File

Section 985.557(1), F.S., provides the state attorney with discretion to file a case in adult court for certain cases when he or she believes the offense requires that adult sanctions be considered or imposed. Specifically, the state attorney may direct file a child when he or she is:

- 14 or 15 years of age and is charged for the commission of, attempt to commit, or conspiracy to commit an enumerated felony offense;<sup>450</sup>
- 16 or 17 years of age and is charged with any felony offense;<sup>451</sup> or
- 16 or 17 years of age and is charged with a misdemeanor, provided the child has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which was a felony.<sup>452</sup>

If a child who has been transferred to adult court pursuant to discretionary direct file is found to have committed a violation of state law or a lesser included offense for which he or she was charged as part of the criminal episode, the court may sentence the child as an adult, as a juvenile, or pursuant to ch. 958, F.S.<sup>453</sup>

### Mandatory Direct File

Section 985.557(2), F.S., requires the state attorney to file a case in adult court when the child is:

- 16 or 17 years of age at the time of the alleged offense and:
  - Is charged with a second or subsequent violent crime against a person and has been previously adjudicated delinquent for an enumerated felony;<sup>454</sup>
  - Is charged with a forcible felony<sup>455</sup> and has been previously adjudicated delinquent or had adjudication withheld for three felonies that each occurred at least 45 days apart from each other;<sup>456</sup> or

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<sup>450</sup> The enumerated felonies are: arson; sexual battery; robbery; kidnapping; aggravated child abuse; aggravated assault; aggravated stalking; murder; manslaughter; unlawful throwing, placing, or discharging of a destructive device or bomb; armed burglary in violation of s. 810.02(2)(b), F.S.; burglary of a dwelling or structure in violation of s. 810.02(2)(c), F.S.; burglary with an assault or battery in violation of s. 810.02(2)(a), F.S.; aggravated battery; any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age; carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony; grand theft in violation of s. 812.014(2)(a), F.S.; possessing or discharging any weapon or firearm on school property in violation of s. 790.115, F.S.; home invasion robbery; carjacking; grand theft of a motor vehicle in violation of s. 812.014(2)(c)6., F.S.; and grand theft of a motor vehicle valued at \$20,000 or more in violation of s. 812.014(2)(b), F.S., if the child has a previous adjudication for grand theft of a motor vehicle in violation of s. 812.014(2)(c)6. or (2)(b), F.S. *See* s. 985.557(1)(a)1.-19., F.S.

<sup>451</sup> Section 985.557(1)(b), F.S.

<sup>452</sup> *Id.*

<sup>453</sup> Section 985.565(4)(a)2., F.S.

<sup>454</sup> The enumerated felonies include: murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, or aggravated assault. *See* s. 985.557(2)(a), F.S.

<sup>455</sup> Section 776.08, F.S., defines “forcible felony” as treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the threat of physical force or violence against any individual.

<sup>456</sup> Section 985.557(2)(b), F.S., provides that this provision does not apply when the state attorney has good cause to believe that exceptional circumstances exist which preclude the just prosecution of the child in adult court.

- Is charged with committing or attempting to commit an offense listed in s. 775.087(2)1.a.-p., F.S.,<sup>457</sup> and during the commission of the offense the child actually possessed or discharged a firearm or destructive device;<sup>458</sup> or
- Any age and is alleged to have committed an act that involves stealing a vehicle in which the child, while possessing the vehicle, caused serious bodily injury or death to a person who was not involved in the underlying offense.

If the state attorney is required to direct file a child, the court must impose adult sanctions. Any sentence imposing adult sanctions is presumed appropriate and the court is not required to specify findings or criteria as the basis for its decision to impose such sanctions.<sup>459</sup>

### *Effect of the Bill*

Current law authorizes a state attorney to transfer a child to adult court pursuant to mandatory or discretionary direct file. The bill repeals all provisions relating to mandatory direct file.

These sections of the bill are effective upon becoming law.

## **IV. Constitutional Issues:**

### A. Municipality/County Mandates Restrictions:

#### **Recording of Custodial Interrogations (Section 46)**

It is possible that the requirements of the bill related to electronic recording could result in local fund expenditures for equipment, maintenance, and operation. However, because any such local funding resulting from the requirements of the bill will directly relate to the defense and prosecution of criminal offenses, under Article VII, subsection 18(d) of the Florida Constitution, it appears there is no unfunded mandate.

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

None.

### C. Trust Funds Restrictions:

None.

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<sup>457</sup> The offenses include murder; sexual battery; robbery; burglary; arson; aggravated battery; kidnapping; escape; aircraft piracy; aggravated child abuse; aggravated abuse of an elderly person or disabled adult; unlawful throwing, placing, or discharging of a destructive device or bomb; carjacking; home-invasion robbery; aggravated stalking; trafficking in cannabis; trafficking in cocaine; capital importation of cocaine; trafficking in illegal drugs; capital importation of illegal drugs; trafficking in phencyclidine; capital importation of phencyclidine; trafficking in methaqualone; capital importation of methaqualone; trafficking in amphetamine; capital importation of amphetamine; trafficking in flunitrazepam; trafficking in gamma-hydroxybutyric acid (GHB); trafficking in 1,4-Butaneidol; trafficking in Phenethylamines; or any other violation of s. 893.135(1), F.S. Section 775.087(2)(a)1.a.-p., F.S.

<sup>458</sup> The terms “firearm” and “destructive device” are defined in s. 790.001, F.S.

<sup>459</sup> Section 985.565(4)(a)3. and 4., F.S.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

**Prohibited Acts in Connection with Obscene or Lewd Materials (Section 41)**

The First Amendment of the U.S Constitution prevents the government from creating laws that restrict the speech of citizens.<sup>460</sup> The bill makes it a crime to knowingly possess, intend to sell or lend, among other things, an obscene child-like sex doll. To the extent that this prohibition restricts a person’s right to free speech, the bill may implicate the First Amendment. However, such a provision would likely be upheld as the courts have routinely not extended protection to obscene speech.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

SB 642 Section	Statute	Description/Summary	Fiscal Impact
1	Creating s. 25.025, F.S.	<p><b>Supreme Court Headquarters</b>                      Provides that the Chief Justice of the Florida Supreme Court shall, at the request of a justice:</p> <ul style="list-style-type: none"> <li>• Coordinate and designate a courthouse or other appropriate facility in the justice’s district as his or her official headquarters and private chambers; and</li> <li>• Reimburse the justice for travel and subsistence while in Tallahassee to the extent funding is available.</li> </ul>	The cost of travel reimbursement for justices who have private chambers outside Leon County in his or her district of residence may be paid only to the extent appropriated funds are available. An appropriation of \$209,930 recurring general revenue was made to the Supreme Court specifically for this purpose in the Fiscal Year 2018-19 General Appropriations Act. SB 2500, First Engrossed, the Senate’s proposed 2019-20 General

<sup>460</sup> U.S. CONST. amend. I.

			<p>Appropriations Bill, continues the funding for this purpose.</p>
<p>2</p>	<p>Section 26.031, F.S.</p>	<p><b><u>Circuit Judgeships</u></b>                  Adds two circuit court judgeships, one in the 9th and one in the 12th Judicial Circuit.</p>	<p>The cost to fund two circuit court judgeships, two judicial assistants, and two law clerks is: \$794,782 in salaries and benefits (recurring)                  \$ 30,666 in expense (non-recurring)  <u>\$ 1,218 for Human Resource Services (recurring)</u>                  \$826,666</p> <p>Article V, s. 14(c) of the Florida Constitution and s. 29.008, F.S., require counties to provide the court system, including the state attorney and the public defender, with facilities, security, and communication services, including information technology. Under the bill, the counties would incur an indeterminate amount of costs associated with providing those services to the new judges and judicial staff. SB 2500, First Engrossed, the Senate’s proposed 2019-20 General Appropriations Bill, includes funding for these positions.</p>

<p>3</p>	<p>Section 43.51, F.S.</p>	<p><b><u>Problem-solving Courts Reports</u></b>                  Requires OSCA to provide an annual report to the President of the Senate and the Speaker of the House of Representatives detailing the number of participants in each problem-solving court for each fiscal year the court has been operating. The report must also include the types of services provided, the source of funding for each court, and provide performance outcomes.</p>	<p>The additional reporting requirements will be absorbed within existing resources. No fiscal impact.</p>
<p>4</p>	<p>Section 212.15, F.S.</p>	<p><b><u>Threshold Values for Theft of State Funds Increases certain threshold values for theft of state funds.</u></b>                  Increases certain threshold values for theft of state funds.  <ul style="list-style-type: none"> <li>• 2nd degree misdemeanor threshold raised from &lt;\$300 to &lt;\$1,000.</li> <li>• 3rd degree felony threshold raised from ≥\$300 but &lt;\$20,000 to ≥\$1,000 but &lt;\$20,000.</li> </ul>                 Does not change the thresholds for first or second degree felony offenses.</p>	<p>Preliminary EDR Estimate Negative Insignificant - Decrease of 10 or fewer prison beds. At \$52.28 per diem, this is a savings of up to \$190,280. Per DOC, in FY 17-18 there was 1 offender sentenced for a third or subsequent conviction of a theft of state funds under \$300, with no offenders sentenced to prison. There were 23 offenders sentenced for the theft of state funds \$300 or more, but less than \$20,000, with 1 offender sentenced to prison.</p>
<p>5</p>	<p>Section 322.055, F.S.</p>	<p><b><u>Driver License (DL) Suspension for Controlled Substances Offense</u></b>                  Reduces the suspension of driving privileges for a person possessing, selling, trafficking, or conspiring to possess, sell, or traffic in a controlled substance from 1 year to 6 months.</p>	<p>No Fiscal impact. Only change is the length of the suspension. According to the FDLE, 30,396 people were convicted for violations of ss. 893.13 and 893.135, F.S. (<i>controlled substances offenses i.e. possessing, selling, trafficking, or conspiring to possess, sell or traffic in controlled substances</i>), in FY 2017-18.</p>

<p>6</p>	<p>Section 322.056, F.S.</p>	<p><b><u>DL Suspension for a Minor Found Guilty of a Substance or Alcohol Offense</u></b>                  Makes revocation of driving privileges for a first-time conviction for a controlled substance offense or alcohol offense 6 months and repeals all grounds for revocation based on alcohol offenses or failure to comply with penalties for tobacco violations.</p>	<p>In Calendar Year 2017, the Department of Highway Safety and Motor Vehicles (DHSMV) reported 100 total suspensions for possession of alcohol by a minor and possession of tobacco by a minor. This will have a negative, insignificant impact on revenues.</p>
<p>7</p>	<p>Section 322.057, F.S.</p>	<p><b><u>DL Suspension for Providing Alcohol to a Minor</u></b>                  Repeals the discretionary DL suspension for providing alcohol to a minor.</p>	<p>According to the Department of Highway Safety and Motor Vehicles (DHSMV), deleting section 322.057, F.S. will have a negative insignificant revenue impact. According to the FDLE, there were only 7 people convicted in relation to s. 562.11(1)(a) (<i>this is the specific subsection referenced in s. 322.057</i>) in FY 2017-18.</p>
<p>8</p>	<p>Section 322.34, F.S</p>	<p><b><u>Driving while license suspended, revoked, cancelled, or disqualified</u></b>                  Changes the penalty for a 3rd or subsequent conviction of driving while license suspended, revoked, canceled, or disqualified from a 3rd degree felony to a misdemeanor of the first degree.</p>	<p>According to the FDLE 2,000 people were convicted of s. 322.34(2)(c), F.S. (<i>third or subsequent violations</i>) in FY 2017-18. According to DOC, 286 people were sentenced to prison for driving with a suspended, revoked, cancelled, or disqualified license. At \$52.28 per diem, this is a cost savings of up to \$5,442,008 annually.</p>

<p>9</p>	<p>Creating s. 322.75, F.S</p>	<p><b><u>Drivers' License Reinstatement Days</u></b>                  Requires each clerk of court to establish a DL Reinstatement Days program for reinstating suspended DLs. Clerks may work collaboratively with DHSMV, the state attorney's office, the public defender's office, the circuit and country courts, and any interested community organizations. Participants pay the reinstatement fee unless waived by the clerk. Certain individuals are ineligible for the program, and clerks must report specified data.</p>	<p>The bill may assist the clerks in recouping outstanding court costs and fees not otherwise recoverable as participants would still be required to pay the reinstatement fee. The bill also allows the clerks to reduce or waive fees and costs to facilitate reinstatement; therefore, the total impact to local government revenues is indeterminate. DHSMV has indicated they expect no fiscal impact.</p>
<p>10</p>	<p>Section 394.47891,</p>	<p><b><u>Veterans Treatment Courts</u></b>                  Expands eligibility for veterans' treatment courts to individuals who are current or former U.S. Department of Defense contractors or military members of a foreign allied country.</p>	<p>The expansion of veterans' courts in the four judicial circuits that do not have a veterans' court alone will not create a fiscal impact on state funds. Recurring appropriations for problem-solving courts are allocated by the TCBC and an appropriation is already included in base budget.</p>
<p>11</p>	<p>Section 394.917, F.S.</p>	<p><b><u>Sexually Violent Predators</u></b>                  Adds a statutory mandate for the Florida Department of Children and Families (DCF) to provide rehabilitation of criminal offenders upon commitment of a sexually violent predator. This will allow DCF to administer a criminal justice function pursuant to statute and therefore qualify as a criminal justice agency under federal law. As a criminal justice agency, DCF will be able to access criminal history record information from the FBI's national and interstate criminal databases.</p>	<p>No fiscal impact. DCF has indicated this language has no fiscal impact and will serve to allow DCF to pull national criminal history checks.</p>
<p>12</p>	<p>Section 397.334, F.S.</p>	<p><b><u>Pretrial Drug Court</u></b>                  Clarifies when a court may order an eligible offender into pretrial drug court.</p>	<p>No fiscal impact.</p>

<p>13</p>	<p>Section 455.213, F.S.</p>	<p><b><u>Occupational Licensing (DBPR)</u></b> Limits the period for which a DBPR licensing board may consider an applicant's criminal history as an impairment to licensure. Permits a person to apply for a license while incarcerated or under supervision and requires a board to permit an applicant to appear by teleconference or video conference at a license application hearing. Requires the Department of Corrections (DOC) to coordinate with the board to facilitate the applicant's hearing appearance. Requires boards to post a list of crimes for which conviction does not impair an applicant's qualifications for licensure on DBPR's website.</p>	<p>According to the Department of Business and Professional Regulation, implementation costs will be minimal. The Department of Corrections indicated that teleconference equipment should be available for use at each institution. If an inmate needs to appear in person, transportation costs would be minimal.</p>
<p>14</p>	<p>Section 474.2165, F.S.</p>	<p><b><u>Veterinary Reporting</u></b> Permits a veterinarian to report a suspected criminal violation relating to a dog or cat to law enforcement, animal control, or an approved animal cruelty investigator, without notice to or authorization from a client.</p>	<p>Indeterminate. It is unknown how many new criminal violations would be reported by veterinarians if this language is adopted.</p>
<p>15</p>	<p>Section 489.126, F.S.</p>	<p><b><u>Construction Contracting Fraud</u></b> The bill provides a just cause defense to contracting fraud, removes the specific intent to defraud element required under the second form of contracting fraud above, and modifies the offense thresholds applicable to contracting fraud.</p>	<p>While it is not known how many theft offenses were committed by contractors, this bill's inclusion of higher monetary thresholds and lower felony levels could lower incarceration rates for future offenders. The clarification of "intent" could make it easier to prosecute such offenses.</p>

<p>16</p>	<p>Section 489.553</p>	<p><b><u>Occupational Licensing (DOH)</u></b> Limits the period for which DOH may consider criminal history as an impairment to licensure. Permits a person to apply for a license while incarcerated or under supervision and requires DOH to permit an applicant to appear by teleconference or video conference at a license application hearing. Requires DOC to coordinate with DOH to facilitate the applicant’s hearing appearance. Requires DOH to post a list of crimes for which a conviction does not impair an applicant’s qualifications for licensure on its website.</p>	<p>The Department of Business and Professional Regulation indicates that implementation costs would be minimal. The Department of Corrections indicated that teleconference equipment should be available for use at each institution. If an inmate needs to appear in person, transportation costs would be minimal.</p>
<p>17</p>	<p>Section 500.451, F.S.</p>	<p><b><u>Mandatory Minimum Sentences for Unlabeled Horse Meat</u></b> Abolishes mandatory minimum sentences for horse meat crimes.</p>	<p>Preliminary EDR Estimate: Negative Insignificant - Decrease of 10 or fewer prison beds. At \$52.28 per diem, this is a savings of up to \$190,280. Per DOC, in FY 17-18, nobody was sentenced for horse meat offenses.</p>
<p>18</p>	<p>Section 509.151, F.S.</p>	<p><b><u>Threshold Values for Intent to Defraud Operator of Public Food Service Establishment or Transient Establishment</u></b> Increases the threshold values for obtaining food, lodging, or other accommodations at any public food service establishment, or at any transient establishment, with the intent to defraud the operator thereof.  <ul style="list-style-type: none"> <li>· 2nd degree misdemeanor threshold raised from &lt;\$300 to &lt;\$1,000.</li> <li>· 3rd degree felony threshold raised from ≥\$300 to ≥\$1,000.</li> </ul> </p>	<p>Preliminary EDR Estimate: Negative Insignificant - Decrease of 10 or fewer prison beds. At \$52.28 per diem, this is a savings of up to \$190,280. Per DOC, in FY 17-18, there were 23 offenders sentenced for obtaining food or lodging with intent to defraud for \$300 or more, with no offenders sentenced to prison.</p>

19	Section 562.11, F.S.	<p><b><u>DL Suspension for Providing Alcohol to a Person under 21 or Misrepresenting Age to Obtain Alcohol</u></b></p> <p>Repeals DL suspensions for providing alcohol to an underage person and misrepresenting age to obtain alcohol.</p>	<p>DHSMV indicated that in Calendar Year 2017, there were 74 suspensions for misrepresenting age to obtain alcohol and suspensions for providing alcohol to minors. This results in a negative, insignificant revenue impact to DHSMV.</p>
20	Section 562.111, F.S.	<p><b><u>DL Suspension for Underage Possession of Alcohol</u></b></p> <p>Repeals the mandatory DL suspension for a person convicted or found delinquent of possessing alcohol underage.</p>	<p>The DHSMV has indicated that in Calendar Year 2017, there were 5 suspensions for underage possession of alcohol. This results in a negative insignificant revenue impact to DHSMV.</p>
21	Section 562.27, F.S.	<p><b><u>Penalty for Possessing a Still, Still Piping, Still Apparatus, or Related Items</u></b></p> <p>Reduces the penalty from a third degree felony to a second degree misdemeanor.</p>	<p>Preliminary EDR Estimate: Negative Insignificant - Decrease of 10 or fewer prison beds. At \$52.28 per diem, this is a savings of up to \$190,280. Per DOC, in FY 17-18, no one was sentenced for possessing a still or still apparatus.</p>
22	Section 562.451, F.S.	<p><b><u>Penalty for Possessing Illegally-Made Liquor</u></b></p> <p>Reduces the penalty for possessing one gallon or more of liquor that was not legally made or manufactured from a third degree felony to a first degree misdemeanor.</p>	<p>Negative Insignificant - Decrease of 10 or fewer prison beds. At \$52.28 per diem, this is a savings of up to \$190,280. Per DOC, in FY 17-18, there were no sentences for owning or possessing a gallon or more of illegally made or manufactured liquor.</p>
23	Section 569.11, F.S.	<p><b><u>Drivers License Suspension for Tobacco Possession</u></b></p> <p>Repeals the mandatory DL revocation for a minor who commits a third or subsequent tobacco possession or misrepresentation of age to obtain tobacco in a 12-week period.</p>	<p>In Calendar Year 2017, there was 95 suspensions for a person under 18 found to have committed a third or subsequent violation of nicotine possession. This results in a negative insignificant revenue impact to DHSMV.</p>

<p>24</p>	<p>Section 713.69, F.S.</p>	<p><b><u>Threshold Values for Removing Liened Property</u></b>                  Increases the threshold values for removing liened property from a hotel or other listed establishment without paying or having written consent.</p> <ul style="list-style-type: none"> <li>· 2nd degree misdemeanor threshold increased from <math>\geq</math>\$50 to <math>&lt;</math>\$1,000.</li> <li>· 3rd degree felony threshold increased from <math>&gt;</math>\$50 to <math>\geq</math>\$1,000.</li> </ul>	<p>No fiscal impact. The FDLE has indicated that in FY 2017-18 there were zero (0) convictions for violations of s. 713.69, F.S.</p>
<p>25</p>	<p>Section 775.082, F.S.</p>	<p><b><u>Prison Releasee Reoffender</u></b>                  Amends the definition of prison release reoffender to include a person released from a county detention facility for a prison sentence.</p>	<p>Per DOC, in FY 17-18, there were 484 releasee reoffenders admitted to the DOC. For potential reoffenders impacted by this language, in FY 17-18, there were roughly 570 offenders that were sentenced to time served and released before coming to prison.</p> <p>While each year following release there is a certain percentage of people returning to prison, many of the offenses listed under s. 775.082, F.S., are already receiving extended prison sentences that might not be impacted for many years. At the same time, it is not known how many of the offenders released under time served in jail eventually commit these offenses as reoffenders, nor can it be determined how many of those would receive a prison sentence as a releasee reoffender who would have been given a different sentence prior to this bill. State attorneys have discretion on whether or not to pursue sentencing under this statute and it is not known how often they choose this form of sentencing for an eligible</p>

			<p>offender. Due to these factors, the prison impact cannot be quantified.</p> <p>Preliminary EDR Estimate: Positive Indeterminate - Unquantifiable increase in prison beds.</p>
26	Section 775.087	<p><b><u>10/20/Life</u></b> Retroactively applies chapter 2016-7, L.O.F., to remove aggravated assault before July 1, 2016 from the list of predicate offenses for mandatory minimum term of imprisonment.</p>	<p>Per DOC, there are currently 150 cases eligible under this criteria, though it is unknown how their new sentences would be structured. At \$52.28 per diem, this is a savings of up to \$2,854,200.</p>
27	Section 784.046, F.S.	<p><b><u>Attorney Fees for Repeat, Dating, or Sexual Violence</u></b> Prohibits awarding attorney fees in injunction proceedings for repeat, dating, or sexual violence.</p>	<p>No fiscal impact.</p>

<p>28</p>	<p>Section 784.048, F.S.</p>	<p><b><u>Cyberstalking</u></b>                  Defines cyberstalking to include accessing, or attempting to access, the online accounts or Internet-connected home electronic systems of another person without that person’s permission.</p>	<p>Per DOC, in FY 17-18, there were 138 offenders sentenced for aggravated stalking and making a credible threat, and 44 of these offenders were sentenced to prison. There were 179 offenders sentenced for aggravated stalking, violation of injunction or court order, and 72 of these offenders were sentenced to prison. There were also 11 offenders sentenced for aggravated stalking of person under 16, and 5 of these offenders were sentenced to prison. Finally, there were 4 offenders sentenced for aggravated stalking, prohibited from contacting victim of sexual offender, and 3 of these offenders were sentenced to prison. The number of offenders sentenced for cyberstalking cannot be determined from the available data. Furthermore, it is not known how many additional offenders would be added with the expansion of the cyberstalking definition.</p> <p>Preliminary EDR Estimate: Positive Indeterminate- Unquantifiable increase in prison beds.</p>
<p>29</p>	<p>Section 784.0485, F.S.</p>	<p><b><u>Attorney Fees for Stalking</u></b>                  Prohibits awarding attorney fees in injunction proceedings for stalking.</p>	<p>No fiscal impact.</p>
<p>30</p>	<p>Creating s. 790.052, F.S.</p>	<p><b><u>Concealed Carry of Firearms by Off-Duty Law Enforcement Officers</u></b>                  Authorizes qualified active or retired law enforcement or correctional officers to carry a concealed firearm in any state.</p>	<p>No fiscal impact.</p>

<p>30</p>	<p>Section 784.049, F.S.</p>	<p><b><u>Sexual Cyberharassment</u></b>                  Expands the crime of sexual cyberharassment to include electronically disseminating a sexually explicit image; defines personal identification information to include an identifiable photograph of a person; and requires that publication or dissemination of a sexually explicit image be contrary to the depicted person’s reasonable expectation that the image would remain private.</p>	<p>Internet website was already included in a different part of the definition, so the actual expansion is in the dissemination through electronic means. Originally, the definition of "personal identification information" had the same meaning as provided in s. 817.568, F.S. While that definition included these terms and others, this definition adds that personal identification information is not limited to these terms. Currently, an unranked, 3rd degree felony exists for “a person who has one prior conviction for sexual cyberharassment and who commits a second or subsequent sexual cyberharassment.” Per DOC, in FY 17-18, nobody was sentenced for a second or subsequent sexual cyberharassment offense.</p> <p>Positive Insignificant</p>
<p>31</p>	<p>Section 790.22, F.S.</p>	<p><b><u>Drivers' License Suspension for Possession of a Firearm by a Minor</u></b>                  Makes DL suspension discretionary for a conviction for possession of a firearm by a minor or an offense involving the use or possession of a firearm by a minor.</p>	<p>This change from mandatory to discretionary suspensions will have an indeterminate negative revenue impact.</p>
<p>32</p>	<p>Section 800.09, F.S.</p>	<p><b><u>Lewd or Lascivious Exhibition in the Presence of an Employee</u></b>                  Extends the crime of lewd or lascivious exhibition in the presence of an employee to cover conduct in a county detention facility.</p>	<p>Per DOC, in FY 17-18, 5 offenders were sentenced under the current statute, with 2 offenders sentenced to prison.</p> <p>Preliminary EDR Estimate: Positive Insignificant - Increase of 10 or fewer prison beds.</p>

33	Section 806.13, F.S.	<p><b><u>DL Revocation for Graffiti</u></b>                  Makes DL revocation discretionary for a minor delinquently placing graffiti on public or private property.</p>	This change from mandatory to discretionary suspensions will have an indeterminate negative revenue impact.
34	Section 812.014, F.S.	<p><b><u>Theft Thresholds</u></b>                  Increases threshold values for specified theft offenses:</p> <ul style="list-style-type: none"> <li>· 2nd degree petit theft threshold increased from &lt;\$100 to &lt;\$500.</li> <li>· 1st degree petit theft threshold increased from ≥\$100, but &lt;\$300 to ≥\$500, but &lt;\$1,000.</li> <li>· 3rd degree grand theft threshold increased from ≥\$300, but &lt;\$20,000 to ≥\$1,000, but &lt;\$20,000.</li> <li>· 3rd degree grand theft of property from a dwelling or its enclosed curtilage increased from ≥\$100, but &lt;\$300 to ≥\$1,000, but &lt;\$5,000.</li> </ul>	Negative significant.
35	Section 812.015, F.S.	<p><b><u>Retail Theft Thresholds</u></b>                  Extends the aggregation period for multiple thefts from 48 hours to 30 days. Increases the threshold value for retail theft:</p> <ul style="list-style-type: none"> <li>· 2nd degree misdemeanor threshold increased from &lt;\$100 to &lt;\$50</li> <li>· 1st degree misdemeanor threshold increased from ≥\$100, but &lt;\$300 to ≥\$500, but &lt;\$1,000.</li> <li>· 3rd degree grand theft threshold increased from ≥\$300 to ≥\$1,000</li> </ul>	Negative significant.

36	Section 812.0155, F.S.	<p><b><u>DL Suspension for Misdemeanor Theft Conviction</u></b>  Repeals the court’s authority to suspend a DL for a misdemeanor theft conviction when a person is 18 or older. A court retains authority to suspend a DL in lieu of other penalties when the person is younger than 18 years of age.</p>	In Calendar Year 2017, there were 59 suspensions due to a misdemeanor theft conviction. This will result in a an insignificant, negative fiscal impact.
37	Section 815.03, F.S.	<p><b><u>Computer-Related Crimes</u></b>  Expands the term “access” for the purpose of computer-related crimes to include acts involving an electronic device.</p>	See fiscal impact in Section 28.
38	Section 815.06, F.S.	<p><b><u>Criminal Offenses Against Computer Users</u></b>  Includes acts “exceeding authorization” as offenses against users of computers, computer systems, computer networks, or electronic devices</p>	See fiscal impact in Section 28.
39	Section 817.413, F.S.	<p><b><u>Threshold Value for Misrepresenting Motor Vehicle Goods as New</u></b>  Increases the offense threshold value for knowingly misrepresenting that motor vehicle goods are new:</p> <ul style="list-style-type: none"> <li>· 2nd degree misdemeanor threshold increased to &lt;\$1,000</li> <li>· 3rd degree felony threshold increased from &gt;\$100 to ≥\$1,000</li> </ul>	Preliminary EDR Estimate: Negative Insignificant - Decrease of 10 or fewer prison beds. At \$52.28 per diem, this is a savings of up to \$190,280. Per DOC, in FY 17-18, nobody was sentenced for selling used motor vehicle goods as new for greater than \$100.
40	Section 831.28, F.S.	<p><b><u>Possession of a Counterfeit Instrument</u></b>  Adds an element of intent to defraud to the crime.</p>	Per DOC, in FY 17-18, there were 64 offenders sentenced under s. 831.28(2)(a), F.S., with 16 of these offenders sentenced to prison. It is not known how many were sentenced for possession without intent to defraud who would no longer be sentenced under this new definition. Preliminary EDR Estimate: Negative Insignificant

<p>41</p>	<p>Section 847.011, F.S.</p>	<p><b><u>Child-Like Sex Dolls</u></b>                  Criminalizes possessing, selling, lending, giving away, distributing, transmitting, showing, or advertising an obscene, child-like sex doll. Simple possession is a second degree misdemeanor for a first offense and a first degree misdemeanor for a second or subsequent offense. Possession with intent to sell and other acts are first degree misdemeanors. A second or subsequent offense, other than simple possession, is a third degree felony.</p>	<p>Preliminary EDR Estimate:                  Positive Insignificant - Increase of 10 or fewer prison beds.</p>
<p>42</p>	<p>Section 849.01, F.S.</p>	<p><b><u>Gaming or Gambling</u></b>                  Reduces the penalty for keeping, exercising, maintaining, or permitting a gaming table, room, implement, or apparatus, or a gaming or gambling establishment from a third degree felony to a second degree misdemeanor.</p>	<p>Per DOC, in FY 17-18, nobody was sentenced for keeping a gambling house.                   Preliminary EDR Estimate:                  Negative Insignificant - Decrease of 10 or fewer prison beds.</p>
<p>43</p>	<p>Section 877.112, F.S.</p>	<p><b><u>Driver's License Revocation for Possession of Nicotine by a Minor</u></b>                  Repeals revocation of a Driver's License for a person under 18 found to have committed a third or subsequent violation of nicotine possession or misrepresenting age to obtain nicotine.</p>	<p>No fiscal impact</p>

<p>44</p>	<p>Section 893.135, F.S.</p>	<p><b><u>Trafficking; Mandatory Sentences; Suspension or Reduction of Sentences</u></b>                  -Provides that the sale, purchase, manufacture, delivery or actual or constructive possession of fewer than 120 dosage units containing any controlled substance is not a violation of any other provision of this section.                  -120 or more dosage units commits a felony of the first degree;                  -120 or more dosage units, but less than 500, is 3 years in prison and \$25,000 fine;                  -500 or more dosage units, but less than 1,000, is 7 years in prison and \$50,000 fine;                  -1,000 or more units, but less than 5,000, is 25 years in prison and \$250,000 fine</p>	<p>It is not known which of the drug offenses in FY 17-18 involved substances in dosage unit form. Additionally, the current incarceration thresholds cannot be broken down any further to examine how possession, sale/manufacture/delivery, and trafficking offense sentences might be structured under the new dosage unit thresholds. However, for certain drugs, these new thresholds could lower the number of offenders receiving drug trafficking mandatory minimum sentences, as well as the number of mandatory minimum years served, due to the dosage unit number thresholds allowing greater weights for controlled substances before triggering mandatory minimum sentences than existing weight thresholds for the same substances. The data on dosage units for commercial drug products containing substances listed under s. 893.135, F.S. is insufficient to determine how prisons might be impacted.</p> <p>Preliminary EDR Estimate:                  Negative Indeterminate</p>
<p>45</p>	<p>Section 900.05, F.S.</p>	<p><b><u>Criminal Justice Data Collection</u></b>                  Revises the data required to be collected &amp; reported to FDLE by the certain offices and adds the Offices of Criminal Conflict and Civil Regional Counsel to the list of offices required to report data.</p>	<p>No fiscal impact</p>

46	Section 900.06, F.S.	<p><b><u>Recording of Custodial Interrogations for Certain Offenses</u></b></p> <p>Requires that a custodial interrogation at a place of detention, including the giving of a required warning, the advisement of the rights of the individual, must be electronically recorded in its entirety if the interrogation is related to a covered offense.</p>	No fiscal impact
47	Section 921.002, F.S.	<p><b><u>Criminal Punishment Code</u></b></p> <p>Provides that an inmate's sentence can not be shortened by meritorious gain-time to be less than 65 percent of time served.</p>	Negative significant. DOC is further evaluating.
48	Creating s. 943.0578, F.S.	<p><b><u>Lawful Self-Defense Expunction</u></b></p> <p>Moves provision for lawful self-defense expunction to a separate statutory section for clarity without substantive change.</p>	Preliminary EDR Estimate: Positive insignificant fiscal impact
49	Section 943.0581, F.S.	<p><b><u>Administrative Expunction</u></b></p> <p>Amends the section's title to clarify that administrative expunction is available to a person whose arrest was made contrary to law or mistake.</p>	No fiscal impact
50	Creating s. 943.0584, F.S.	<p><b><u>Sealing and Expunction</u></b></p> <p>Creates a new section of law listing ineligible offenses for court-ordered sealing and expunction by name and statute number for clarity and improved readability. Clarifies that an ineligible criminal history record is a conviction, information, indictment, notice to appear, or arrest for any enumerated offense.</p>	No fiscal impact
51	Section 943.0585, F.S.	<p><b><u>Court-Ordered Expunction</u></b></p> <p>Reorganizes section to improve readability.</p>	Indeterminate fiscal impact

52	Section 943.059, F.S.	<b>Court-Ordered Sealing</b> Reorganizes section to improve readability.	Indeterminate fiscal impact
53	Section 943.0595, F.S.	<b>Automatic Sealing</b> Creates an automatic sealing process for any criminal history record in which: (1) charges were not filed; (2) charges were dismissed, unless dismissal was due to incompetency to proceed; or (3) the defendant was acquitted, by either a verdict of not guilty or a judgment of acquittal.	No fiscal impact
54	Section 943.325, F.S.	<b>DNA Database</b> Provides authority to law enforcement to seek an arrest warrant based on an initial DNA database match. A judge must still determine that the initial DNA match is sufficient probable cause for an arrest and has the option to issue a search warrant to acquire a second sample.	No fiscal impact
55	Section 943.6871, F.S.	<b>Criminal Justice Data Transparency</b> Clarifies that information that is confidential and exempt retains its' confidentiality. Requires the department to commission a racial impact statement for each criminal justice bill heard in the Senate or House.	Preliminary EDR Estimate: Negative fiscal impact
56	Section 944.275, F.S.	<b>Gain-Time</b> For sentences imposed for offenses committed on or after October 1, 1995 and retroactive to October 1, 1995, the department may grant up to 20 days per month of incentive gain-time that except that: the time can not result in the prisoner serving less than 65 percent of the sentence imposed.	Negative significant. DOC is further evaluating.

<p>57</p>	<p>Section 944.47, F.S.</p>	<p><b><u>Contraband in State Correctional Institutions</u></b>                  Increases the offense level for introducing a cell phone to a level four offense on the offense severity ranking chart. Provides enhanced penalties if a correctional institution employee uses his or her position of employment to introduce contraband.</p>	<p>Per DOC, in FY 17-18, the incarceration rate for a Level 4, 3rd degree felony was 23.5%.</p> <p>Preliminary EDR Estimate: Positive insignificant fiscal impact</p>
<p>59</p>	<p>Section 944.704, F.S.</p>	<p><b><u>DOC Transition Assistance</u></b>                  Authorizes DOC to increase the number of transition assistance specialists in proportion to the number of inmates served at each of the major institutions. Requires job placement information to include any job assignment credentialing or industry certifications for which the inmate is eligible. Authorizes DOC to increase the number of employment specialists per judicial circuit based on the number of released inmates served under community supervision.</p>	<p>Negative fiscal impact to DOC operations.</p>

<p>60</p>	<p>Section 944.705, F.S.</p>	<p><b><u>DOC Reentry Programming Requires DOC to:</u></b></p> <ul style="list-style-type: none"> <li>· Provide inmates with a comprehensive community reentry resource directory before release;</li> <li>· Establish a telephone hotline for reentry resource referrals;</li> <li>· Expand the use of Spectrum to notify inmates about reentry resources;</li> <li>· Allow nonprofit faith-based, business and professional, civic, and community organizations to apply for registration to provide inmate reentry services and adopt policies for screening, approving, and registering organizations that apply.</li> </ul> <p>Authorizes DOC to:</p> <ul style="list-style-type: none"> <li>· Contract with public or private educational institutions to assist veteran inmates in applying for certain benefits; and</li> <li>· Contract with public or private organizations to establish transitional employment programs.</li> </ul>	<p>The DOC currently does not have the existing programming capability to provide an application method for business and organizations to be registered. It will likely need two FTE Government Operations Consultant I positions and six Data Entry Operators at a total cost of approximately \$391,364.</p>
<p>61</p>	<p>Section 944.801, F.S.</p>	<p><b><u>Prison Entrepreneurship Program</u></b></p> <p>Authorizes DOC to expand the use of job assignment credentialing and industry certifications. Requires DOC to develop a Prison Entrepreneurship Program and adopt procedures for inmate admission. The program includes in-prison and postrelease services including a component on developing a business plan, procedures for graduation, and at least 90 days of transitional and postrelease continuing education.</p>	<p>The DOC estimates that the entire fiscal impact for this provision, including contracted staff, materials, and supplies is \$200,000 per location.</p>

62	Section 948.001, F.S.	<b><u>Administrative Probation</u></b> Redefines administrative probation as a form of nonreporting supervision that a court may order or that results from DOC transfer, as authorized by law.	No fiscal impact
63	Section 948.013, F.S.	<b><u>Administrative Probation</u></b> Clarifies when DOC may transfer an offender to administrative probation.	No fiscal impact
64	Section 948.03, F.S.	<b><u>Terms and Conditions of Probation</u></b> The DOC must include in the Florida Crime Information Center system all conditions of probation as determined by the court for each probationer.	Indeterminate
65	Section 948.04, F.S.	<b><u>Early Termination or Conversion to Administrative Probation</u></b> Requires a court, subject to certain exceptions, to either early terminate or convert to administrative probation if an eligible offender has successfully completed half of his or her probation term, including all conditions, with no violations.	Indeterminate
66	Section 948.05, F.S.	<b><u>Graduated Incentives</u></b> Codifies existing DOC practice by requiring DOC to implement a system of graduated incentives to promote positive compliance with probation terms. Authorizes DOC to implement some incentives without leave of court.	No fiscal impact

<p>67</p>	<p>Section 948.06, F.S.</p>	<p><b><u>Alternative Sanctioning Program (ASP)</u></b>                  Creates a uniform statewide ASP, identifying eligible offenders, eligible violations, and permissible sanctions. Enumerated technical violations are classified as low-risk or moderate-risk. Certain offenders and certain violations are ineligible for the program. Participation is voluntary. The violation proceeds to a court resolution process if the offender withdraws or fails to complete the sanction within 90 days. The court must modify or continue probation, rather than revoke, for a first time, low-risk technical violation, and may include no more than 90 days of jail as a special condition of probation for such modification.</p>	<p>Preliminary impact estimate indicates this provision will have a negative significant impact on prison beds</p>
<p>68</p>	<p>Section 948.08, F.S.</p>	<p><b><u>Pretrial Drug Court</u></b>                  Expands eligibility for a pretrial drug court program to a person with up to two prior nonviolent felony convictions. Admission is mandatory for an eligible person with no prior convictions, but discretionary for a person with prior felony convictions. Expands eligibility for veterans' pretrial intervention programs to individuals who are current or former U.S. Department of Defense contractors or military members of a foreign allied country.</p>	<p>Per DOC, in FY 17-18, there were 8,377 offenders admitted to pretrial intervention, with 148 of these offenders admitted for veterans' treatment intervention. It is not known how many more eligible offenders there would be under this new language, so the number of offenders diverted from prison cannot be quantified.</p> <p>Preliminary impact estimate indicates this provision will have a negative indeterminate impact on prison beds.</p>

<p>69</p>	<p>Creating s. 948.081, F.S.</p>	<p><b><u>Community Courts</u></b>                  Allows each judicial circuit to establish a community court program for defendants charged with certain misdemeanors designated by the chief judge. Funding will generally come from sources other than the state.</p>	<p>This section encourages each judicial circuit to establish a community court program, and establishes guidelines for the program. The circuits that choose to establish the program will be required to fund it with resources other than the State for costs not assumed by the State pursuant to F.S. 29.004, Florida Statutes.</p> <p>Preliminary impact estimate indicates this provision will have a negative indeterminate impact on prison beds.</p>
<p>70</p>	<p>Section 948.16, F.S.</p>	<p><b><u>Veterans' Pretrial Intervention Programs</u></b>                  Expands eligibility for veterans' pretrial intervention programs to individuals who are current or former U.S. Department of Defense contractors or military members of a foreign allied country.</p>	<p>Per DOC, in FY 17-18, there were 8,377 offenders admitted to pretrial intervention, with 148 of these offenders admitted for veterans' treatment intervention. It is not known how many more eligible offenders there would be under this new language, so the number of offenders diverted from prison cannot be quantified.</p> <p>Preliminary impact estimate indicates this provision will have a Negative indeterminate impact on prison beds.</p>
<p>71</p>	<p>Section 948.21, F.S.</p>	<p><b><u>Veterans' Treatment Programs</u></b>                  Expands eligibility for postadjudicatory veterans' treatment programs to individuals who are current or former U.S. Department of Defense contractors or military members of a foreign allied country.</p>	<p>Preliminary impact estimate indicates this provision will have a Negative indeterminate impact on prison beds.</p>

72	Section 951.22, F.S.	<p><b><u>Contraband in County Detention Facilities</u></b> Prohibits cell phones and other portable communication devices in a county detention facility. Introduction of a cell phone into a county detention facility is a third degree felony and a level four offense. Introduction of the following items is reclassified from a third degree felony to a first degree misdemeanor: (1) written or recorded communication; (2) currency or coin; (3) food or clothing; (4) tobacco products, cigarette, or cigar; and (5) intoxicating beverage.</p>	Preliminary impact estimate indicates this provision will have a negative indeterminate impact on prison beds.
73	Section 958.04, F.S.	<p><b><u>Youthful Offenders</u></b> Authorizes a court to sentence a person meeting all other criteria as a youthful offender if he or she was 21 or younger at the time of the offense, regardless of age at the time of sentencing.</p>	No fiscal impact
74	Section 960.07, F.S.	<p><b><u>Filing of Claims for Compensation</u></b> Increases the timeframe for filing a crime victim compensation claim from 1 year to 5 years and 7 years in certain instances.</p>	Will result in more crime victim compensation claims to be paid from the Department of Legal Affairs (DLA) Crimes Compensation Trust Fund.
75	Section 960.13, F.S.	<p><b><u>Awards</u></b> Increases the timeframe for prompt reporting of a crime to be eligible for a victim compensation award from 72 hours to 5 days.</p>	Will result in more crime victim compensation claims to be paid from the Department of Legal Affairs (DLA) trust funds.
76	Section 960.195, F.S.	<p><b><u>Awards to Elderly Persons or Disabled Adults for Property Loss</u></b> Increases the timeframe for reporting a criminal act resulting in property loss of an elderly person or disabled adult from 72 hours to 5 days for the purpose of receiving compensation awards.</p>	Will result in more crime victim compensation claims to be paid from the Department of Legal Affairs (DLA) trust funds.

77	Section 960.196, F.S.	<p><b><u>Relocation assistance for Victims of Human Trafficking</u></b> Increases the timeframe to report certain human trafficking offenses to be eligible for a victim relocation assistance award from 1 year to 5 years or 7 years with good cause.</p>	Will result in more crime victim compensation claims to be paid from the Department of Legal Affairs (DLA) trust funds.
78	Section 985.12, F.S.	<p><b><u>Civil Citation or Similar Prearrest Diversion Programs</u></b> Provides that locally authorized entities may continue to operate an independent civil citation or similar prearrest diversion program that is in operation as of October 1, 2018.</p>	No fiscal impact
79	Section 985.126, F.S.	<p><b><u>Diversion Programs; Data Collection; Denial of Participation or Expunged Record</u></b> Removes the requirement for LEOs to submit a copy of documentation requiring a minor to participate in a diversion program to the DJJ instead requiring it to be entered into the Juvenile Justice Information System Prevention Web by the entity operating the Diversion Program within a 7 days of admission.</p>	No fiscal impact
80	Section 985.145, F.S.	<p><b><u>Responsibilities of the Department During Intake; Screenings and Assessments</u></b> Deletes the requirement that DJJ must enter certain information into the Juvenile Justice Information System Prevention Web in specified instances.</p>	No fiscal impact

<p>81</p>	<p>Section 985.557, F.S.</p>	<p><b><u>Mandatory Direct File</u></b>                  Repeals all mandatory direct file provisions, allowing but not requiring a state attorney to direct file an information against a child meeting discretionary direct file criteria.</p>	<p>Per DOC, there were approximately 659 inmates admitted to the prison system in FY 17-18 who committed their crimes when they were 16-17 years of age. Per OSCA, in FY 17-18, 1,068 juveniles transferred to adult court through direct files and 100 juveniles transferred through waivers.</p> <p>Given the existence of the involuntary discretionary waiver and involuntary mandatory waiver giving the state attorney different options to transfer a child to adult court (14 or older), as well as the ability to indict (child of any age), and without data on how many juveniles are sentenced to prison through each channel (direct file/waiver/indictment), the numerical impact that this bill would have on prison beds is not known.</p> <p>Preliminary impact estimate indicates this provision will have a Negative significant impact on prison beds.</p>
<p>82</p>	<p>Section 776.09, F.S.</p>	<p><b><u>Retention of Criminal History Records for Persons Found to be Acting in Lawful Self-Defense</u></b>                  Cross-reference changes.</p>	<p>No fiscal impact</p>
<p>83</p>	<p>Section 893.03, F.S.</p>	<p><b><u>Standards and Schedules for Controlled Substances</u></b>                  Cross-reference changes.</p>	<p>No fiscal impact</p>
<p>84</p>	<p>Section 943.053, F.S.</p>	<p><b><u>Dissemination of Criminal Justice Information - Fees</u></b>                  Cross-reference changes.</p>	<p>No fiscal impact</p>
<p>85</p>	<p>Section 943.0582, F.S.</p>	<p><b><u>Diversion Program Expunction</u></b>                  Cross-reference changes.</p>	<p>No fiscal impact</p>

86	Section 985.565, F.S.	<p><b><u>Mandatory Direct File</u></b> Removes statutory references to amendatory direct file.</p>	No fiscal impact
87	Section 921.0022, F.S.	<p><b><u>Offense Severity Ranking Chart</u></b> Conforms the offense severity ranking chart to changes made by the bill. Ranks the new offense of introduction of, or possession upon the ground of a county detention facility, of a cellular telephone or other portable communication device as a level four offense.</p>	No fiscal impact
88-168	Section 322.05, 316.027, 907.041, 910.035, 509.161, 790.065, 794.056, 847.0141, 901.41, 938.08, 938.085, 943.325, 948.06, 948.062, 960.001, 985.265, 1006.147, 316.0775, 95.18, 373.6055, 400.9935, 550.6305, 627.743, 634.421, 642.038, 705.102, 812.014, 893.138, 538.09, 538.23, 1006.147, 316.80, 775.30,	<p><b><u>Reenactments</u></b></p>	No fiscal impact

	775.33, 782.04, 934.07, 772.102, 847.02, 847.011, 847.09, 895.02, 933.02, 933.03, 943.325, 849.02, 373.6055, 397.4073, 414.095, 772.12, 775.087, 782.04, 810.02, 893.13, 893.1351, 900.05, 903.133, 907.041, 921.141, 921.142, 944.026, 944.4731, 447.203, 921.187, 948.012, 948.10, 948.20, 958.14, 796.07, 944.026, 948.036, 394.47892, 397.334, 910.035, 984.04, 958.045, 958.046, 985.565, 985.15, 985.26, 985.265, F.S		
169		<b>Effective Date</b>	No fiscal impact

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 212.15, 322.055, 322.056, 322.34, 394.47891, 394.917, 397.334, 455.213, 474.2165, 489.126, 489.553, 500.451, 562.11, 562.111, 562.27, 562.451, 569.11, 713.69, 775.082, 775.087, 784.046, 784.048, 784.0485, 790.052, 790.22, 800.09, 806.13, 812.014, 812.015, 812.0155, 815.03, 815.06, 817.413, 831.28, 847.011, 849.01, 877.112, 893.135, 900.05, 900.06, 921.002, 921.0022, 943.0578, 943.0581, 943.0585, 943.059, 943.0595, 943.325, 943.6871, 944.275, 944.704, 944.705, 944.801, 948.001, 948.013, 948.03, 948.04, 948.05, 948.06, 948.08, 948.16, 948.21, 951.22, 958.04, 960.07, 960.13, 960.195, 960.196, 985.12, 985.126, 985.145, and 985.557.

The bill creates the following sections of the Florida Statutes: 25.025, 26.031, 43.51, 322.75, 900.06, 943.0578, 943.0584, 943.0595, and 948.081.

The bill repeals section 322.057 of the Florida Statutes.

The bill reenacts the following sections of the Florida Statutes: 95.18, 316.027, 316.0775, 316.80, 322.05, 373.6055, 394.47892, 397.334, 397.4073, 400.9935, 414.095, 447.203, 509.161, 538.09, 538.23, 550.6305, 627.743, 634.421, 642.038, 705.102, 772.102, 772.12, 775.087, 775.30, 775.33, 782.04, 790.065, 794.056, 796.07, 810.02, 812.14, 847.0141, 847.02, 847.03, 843.09, 849.02, 893.13, 893.1351, 893.138, 900.05, 901.41, 903.133, 907.041, 910.035, 921.141, 921.142, 921.187, 933.02, 933.03, 934.07, 938.08, 938.085, 943.325, 944.026, 944.4731, 948.012, 948.036, 948.06, 948.062, 948.10, 948.20, 958.03, 958.045, 958.046, 958.14, 960.001, 985.02, 985.265, 985.15, 985.26, 985.265, 985.565, and 1006.147.

**IX. Additional Information:**

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

**Recommended CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on April 16, 2019:**

The Committee Substitute:

- Requires, at the request of any justice permanently residing outside of Leon County, the Chief Justice of the Florida Supreme Court to designate and coordinate a location in the justice's district for the justice's private chambers pursuant to s. 112.061, F.S.;
- Adds a circuit court judgeship to both the Ninth Judicial Circuit Court and the Twelfth Judicial Circuit Court;

- Requires the Office of the State Courts Administrator to provide an annual report to the detailing the number of participants in each problem-solving court for each fiscal year of operation;
- Allows each judicial circuit to establish a community court program for defendants charged with certain misdemeanor offenses and specifies program requirements;
- Requires the chief judge of each judicial circuit to establish a Veterans' court;
- Expands eligibility beyond veterans and active duty servicemembers to include individuals who are current or former United States Department of Defense contractors and current or former military members of a foreign allied country for veteran treatment courts, pretrial drug courts, and veteran pretrial intervention and treatment programs;
- Increases the threshold amounts of various theft offenses;
- Requires the Office of Program Policy Analysis and Government Accountability to review specified threshold amounts periodically and report its findings to the Governor, President of the Senate, and Speaker of the House of Representatives;
- Modifies several provisions relating to the revocation and suspension of a driver license;
- Removes any felony criminal penalties for a subsequent violation of driving while license suspended, revoked, etc.
- Requires the clerk of court to establish a Driver License Reinstatement Day Program to assist people seeking to have their driver license reinstated;
- Ensures the Sexually Violent Predator Program is considered to serve a criminal justice function to maintain its access to the National Crime Information Center database;
- Prohibits specified entities from considering convictions that have occurred more than five years from the date of a licensure or registration application from being a basis for denial of an occupational license or registration;
- Allows a veterinarian to report a certain suspected criminal violation to the appropriate authorities without notice to the client;
- Provides a just cause defense for criminal offenses and disciplinary violations against a contractor for failure to do certain things within a specified amount of time;
- Increases the felony thresholds applicable to the fraud provisions related to contractors;
- Removes the mandatory minimum sentence for horse meat offenses;
- Ensures that a person released from a county detention facility following incarceration for an offense for which the sentence pronounced was a prison sentence qualifies as a prison releasee reoffender if otherwise eligible;
- Retroactively applies legislative changes that removed aggravated assault and attempted aggravated assault as predicate offenses for mandatory minimum sentencing under the "10-20-Life" statute;
- Ensures that attorney's fees cannot be awarded in injunction proceedings for repeat, dating, or sexual violence or stalking;
- Provides that cyberstalking includes accessing or attempting to access the online accounts or Internet-connected home electronic systems of another person without that person's permission, causing substantial emotional distress to that person and serving no legitimate purpose;

- Specifies that a person who holds or held an active certification from the Criminal Justice Standards and Training Commission as a law enforcement or correctional officer and who meets other specified criteria meets the definition of “qualified law enforcement officer” found at 18 U.S.C. s. 926(B) and (C), thereby authorizing such person to carry a concealed firearm in Florida in accordance with federal requirements;
- Prohibits lewd or lascivious exhibition in the presence of any person employed at or performing contractual work for a county detention facility;
- Amends the definition of “access,” relating to computer crimes, to reference an electronic device, so unlawful access includes unlawfully accessing an electronic device;
- Provides for punishment of computer-related crimes when those crimes are committed willfully, knowingly, and exceeding authorization;
- Prohibits a person from selling, lending, giving away, distributing, transmitting, showing, transmuting, or possessing a child-like sex doll;
- Reduces the penalties from a third degree felony to a second degree misdemeanor for certain alcohol and gambling offenses;
- Creates a new drug trafficking offense called “trafficking in pharmaceuticals,” which will apply to trafficking in a specified number of dosage units containing a controlled substance specified in the drug trafficking statute;
- Authorizes a court to depart from the imposition of a mandatory minimum sentence in drug trafficking cases if certain circumstances are met;
- Retroactively applies ameliorative sentencing changes to trafficking in hydrocodone and oxycodone and mixtures containing either controlled substance;
- Modifies a number of definitions and data collection points necessary for efficient data collection in accordance with the Criminal Justice Data transparency Act;
- Ensures that data collected in accordance with s. 900.05, F.S., maintains the necessary confidential and exempt status when such data is reported to the Florida Department of Law Enforcement;
- Requires the FDLE to commission racial impacts statement for all criminal justice related bills heard by the Legislature during legislative session;
- Requires the recording of custodial interrogations for specified offenses;
- Increases monthly incentive gain-time awards that the DOC may grant from up to 10 days to up to 20 days for offenders sentenced for offenses committed on or after October 1, 1995;
- Reduces the amount of a sentence that must be served by a prisoner convicted of a nonviolent felony from no less than 85 percent to no less than 65 percent;
- Maintains the provision that requires a prisoner to serve no less than 85 percent of his or her sentence if convicted of a violent felony;
- Reorganizes the court-ordered sealing and expunction statutes for clarity;
- Creates an automatic sealing process for certain criminal history records of a minor or adult;
- Moves the provision for lawful self-defense to a separate statutory section for clarity;
- Allows matches between casework evidence DNA samples and DNA databases of offenders for an additional purpose of finding probable cause to obtain a warrant for an offender’s arrest;

- Enhances the Criminal Punishment Code ranking level for an employee who uses such position to introduce contraband into a state correctional facility;
- Adds cellular telephones to the list of items that are prohibited from being introduced into a county detention facility and applying criminal penalties for introducing such items;
- Authorizes the DOC to increase the number of transition assistance specialists;
- Requires transition assistance specialists to inform inmates about relevant job credentialing or industry certifications and expanding the use of such credentialing;
- Requires the DOC to create a toll-free hotline for released inmates to obtain information about community-based reentry services;
- Expands the use of the Spectrum program to provide inmates and offenders with community-specific reentry service provider referrals;
- Requires the DOC to provide inmates with a comprehensive community reentry resource directory that includes specified information related to services and portals available in the county to which the inmate is to be released;
- Permits specified entities to apply with the DOC to be registered to provide inmate reentry services and requiring the DOC to create a process for screening, approving, and registering such entities;
- Authorizes the DOC to contract with specified entities to assist veteran inmates in applying for veteran's benefits upon release;
- Authorizes the DOC to develop, within its existing resources, a Prison Entrepreneurship Program (PEP) that includes education with specified curriculum;
- Authorizes the court to order or the DOC to transfer offenders to administrative probation if the offender presents a low risk of harm to the community and has completed at least half of their term of probation;
- Requires a court to early terminate or transfer to administrative probation certain compliant probationers upon certain factors being met and providing for exceptions to such requirement;
- Codifies the DOC's current practice of using graduated incentives to promote compliance with probationers and offenders on community control on supervision with the DOC;
- Requires the court to modify or continue the supervision term of certain low-risk offenders with a first filed violation of probation and providing modification terms and exceptions;
- Requires each circuit to create an alternative sanctions program to handle specified types and occurrences of technical violations of probation or community control with the judge's concurrence;
- Requires the DOC to include in the Florida Crime Information Center system all conditions of probation as determined by the court;
- Permits a court to impose a sentence as a youthful offender if a person committed a felony before they turned 21 years of age;
- Increases the relevant timeframes in which a person who is eligible for financial compensation through the Department of Legal Affairs Crime Victim Services may apply for such compensation;
- Repeals all provisions related to transferring a child to adult court for prosecution pursuant to mandatory direct file;

- Includes locally authorized entity in the list of entities that may operate an independent civil citation or similar prearrest diversion program in addition to a circuit program; and
- Removes the requirement for the Department of Juvenile Justice to enter information related to a civil citation or prearrest diversion program into the Juvenile Justice Information System Prevention Web.

**CS by Criminal Justice on March 4, 2019:**

The Committee Substitute:

- Modifies the intent language providing that the DOC must attempt to place an inmate 300 miles, rather than 150 miles, from their primary residence.
- Clarifies the types of businesses offering reentry services that may register with the DOC to provide such services.
- Requires the DOC and county detention facilities to provide written notification of all outstanding terms of an offender's sentence upon release from imprisonment, probation, or community control.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2019	.	
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Appropriations Subcommittee on Criminal and Civil Justice  
(Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Effective July 1, 2019, section 25.025, Florida  
Statutes, is created to read:

25.025 Headquarters.—

(1) (a) A Supreme Court justice who permanently resides  
outside Leon County shall, if he or she so requests, have a  
district court of appeal courthouse, a county courthouse, or



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11 another appropriate facility in his or her district of residence  
12 designated as his or her official headquarters pursuant to s.  
13 112.061. This official headquarters may serve only as the  
14 justice's private chambers.

15 (b) A justice for whom an official headquarters is  
16 designated in his or her district of residence under this  
17 subsection is eligible for subsistence at a rate to be  
18 established by the Chief Justice for each day or partial day  
19 that the justice is at the Supreme Court Building for the  
20 conduct of the business of the court. In addition to the  
21 subsistence allowance, a justice is eligible for reimbursement  
22 for transportation expenses as provided in s. 112.061(7) for  
23 travel between the justice's official headquarters and the  
24 Supreme Court Building for the conduct of the business of the  
25 court.

26 (c) Payment of subsistence and reimbursement for  
27 transportation expenses relating to travel between a justice's  
28 official headquarters and the Supreme Court Building must be  
29 made to the extent that appropriated funds are available, as  
30 determined by the Chief Justice.

31 (2) The Chief Justice shall coordinate with each affected  
32 justice and other state and local officials as necessary to  
33 implement paragraph (1) (a).

34 (3) (a) This section does not require a county to provide  
35 space in a county courthouse for a justice. A county may enter  
36 into an agreement with the Supreme Court governing the use of  
37 space in a county courthouse.

38 (b) The Supreme Court may not use state funds to lease  
39 space in a district court of appeal courthouse, county



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40 courthouse, or other facility to allow a justice to establish an  
41 official headquarters pursuant to subsection (1).

42 Section 2. Subsections (9) and (12) of section 26.031,  
43 Florida Statutes, are amended to read:

44 26.031 Judicial circuits; number of judges.—The number of  
45 circuit judges in each circuit shall be as follows:

JUDICIAL CIRCUIT	TOTAL
(9) Ninth.....	44 <del>43</del>
(12) Twelfth.....	22 <del>21</del>

50 Section 3. Section 43.51, Florida Statutes, is created to  
51 read:

52 43.51 Problem-solving court reports.—

53 (1) The Office of the State Courts Administrator shall  
54 provide an annual report to the President of the Senate and the  
55 Speaker of the House of Representatives which details the number  
56 of participants in each problem-solving court for each fiscal  
57 year the court has been operating and the types of services  
58 provided, identifies each source of funding for each court  
59 during each fiscal year, and provides information on the  
60 performance of each court based upon outcome measures  
61 established by the courts.

62 (2) For purposes of this section, the term "problem-solving  
63 court" includes, but is not limited to, a drug court pursuant to  
64 s. 948.01, s. 948.06, s. 948.08, s. 948.16, or s. 948.20; a  
65 military veterans' and servicemembers' court pursuant to s.  
66 394.47891, s. 948.08, s. 948.16, or s. 948.21; a mental health  
67 court program pursuant to s. 394.47892, s. 948.01, s. 948.06, s.  
68 948.08, or s. 948.16; a community court pursuant to s. 948.081;



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69 or a delinquency pretrial intervention court program pursuant to  
70 s. 985.345.

71 Section 4. Subsection (2) of section 212.15, Florida  
72 Statutes, is amended to read:

73 212.15 Taxes declared state funds; penalties for failure to  
74 remit taxes; due and delinquent dates; judicial review.—

75 (2) Any person who, with intent to unlawfully deprive or  
76 defraud the state of its moneys or the use or benefit thereof,  
77 fails to remit taxes collected under this chapter commits is  
78 ~~guilty of~~ theft of state funds, punishable as follows:

79 (a) If the total amount of stolen revenue is less than  
80 \$1,000 ~~\$300~~, the offense is a misdemeanor of the second degree,  
81 punishable as provided in s. 775.082 or s. 775.083. Upon a  
82 second conviction, the offender commits is ~~guilty of~~ a  
83 misdemeanor of the first degree, punishable as provided in s.  
84 775.082 or s. 775.083. Upon a third or subsequent conviction,  
85 the offender commits is ~~guilty of~~ a felony of the third degree,  
86 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

87 (b) If the total amount of stolen revenue is \$1,000 ~~\$300~~ or  
88 more, but less than \$20,000, the offense is a felony of the  
89 third degree, punishable as provided in s. 775.082, s. 775.083,  
90 or s. 775.084.

91 (c) If the total amount of stolen revenue is \$20,000 or  
92 more, but less than \$100,000, the offense is a felony of the  
93 second degree, punishable as provided in s. 775.082, s. 775.083,  
94 or s. 775.084.

95 (d) If the total amount of stolen revenue is \$100,000 or  
96 more, the offense is a felony of the first degree, punishable as  
97 provided in s. 775.082, s. 775.083, or s. 775.084.



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98 Section 5. Subsections (1) through (4) of section 322.055,  
99 Florida Statutes, are amended to read:

100 322.055 Revocation or suspension of, or delay of  
101 eligibility for, driver license for persons 18 years of age or  
102 older convicted of certain drug offenses.—

103 (1) Notwithstanding s. 322.28, upon the conviction of a  
104 person 18 years of age or older for possession or sale of,  
105 trafficking in, or conspiracy to possess, sell, or traffic in a  
106 controlled substance, the court shall direct the department to  
107 suspend ~~revoke~~ the person's driver license or driving privilege  
108 ~~of the person~~. The suspension ~~period of such revocation~~ shall be  
109 6 months ~~1 year~~ or until the person is evaluated for and, if  
110 deemed necessary by the evaluating agency, completes a drug  
111 treatment and rehabilitation program approved or regulated by  
112 the Department of Children and Families. However, the court may,  
113 upon finding a compelling circumstance to warrant an exception  
114 ~~in its sound discretion~~, direct the department to issue a  
115 license for driving privilege restricted to business or  
116 employment purposes only, as defined by s. 322.271, if the  
117 person is otherwise qualified for such a license. ~~A driver whose~~  
118 ~~license or driving privilege has been suspended or revoked under~~  
119 ~~this section or s. 322.056 may, upon the expiration of 6 months,~~  
120 ~~petition the department for restoration of the driving privilege~~  
121 ~~on a restricted or unrestricted basis depending on length of~~  
122 ~~suspension or revocation. In no case shall a restricted license~~  
123 ~~be available until 6 months of the suspension or revocation~~  
124 ~~period has expired.~~

125 (2) If a person 18 years of age or older is convicted for  
126 the possession or sale of, trafficking in, or conspiracy to



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127 possess, sell, or traffic in a controlled substance and such  
128 person is eligible by reason of age for a driver license or  
129 privilege, the court shall direct the department to withhold  
130 issuance of such person's driver license or driving privilege  
131 for a period of 6 months ~~1-year~~ after the date the person was  
132 convicted or until the person is evaluated for and, if deemed  
133 necessary by the evaluating agency, completes a drug treatment  
134 and rehabilitation program approved or regulated by the  
135 Department of Children and Families. However, the court may,  
136 upon finding a compelling circumstance to warrant an exception  
137 ~~in its sound discretion~~, direct the department to issue a  
138 license for driving privilege restricted to business or  
139 employment purposes only, as defined by s. 322.271, if the  
140 person is otherwise qualified for such a license. ~~A driver whose~~  
141 ~~license or driving privilege has been suspended or revoked under~~  
142 ~~this section or s. 322.056 may, upon the expiration of 6 months,~~  
143 ~~petition the department for restoration of the driving privilege~~  
144 ~~on a restricted or unrestricted basis depending on the length of~~  
145 ~~suspension or revocation. In no case shall a restricted license~~  
146 ~~be available until 6 months of the suspension or revocation~~  
147 ~~period has expired.~~

148 (3) If a person 18 years of age or older is convicted for  
149 the possession or sale of, trafficking in, or conspiracy to  
150 possess, sell, or traffic in a controlled substance and such  
151 person's driver license or driving privilege is already under  
152 suspension or revocation for any reason, the court shall direct  
153 the department to extend the period of such suspension or  
154 revocation by an additional period of 6 months ~~1-year~~ or until  
155 the person is evaluated for and, if deemed necessary by the



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156 evaluating agency, completes a drug treatment and rehabilitation  
157 program approved or regulated by the Department of Children and  
158 Families. However, the court may, upon finding a compelling  
159 circumstance to warrant an exception ~~in its sound discretion,~~  
160 direct the department to issue a license for driving privilege  
161 restricted to business or employment purposes only, as defined  
162 by s. 322.271, if the person is otherwise qualified for such a  
163 license. ~~A driver whose license or driving privilege has been~~  
164 ~~suspended or revoked under this section or s. 322.056 may, upon~~  
165 ~~the expiration of 6 months, petition the department for~~  
166 ~~restoration of the driving privilege on a restricted or~~  
167 ~~unrestricted basis depending on the length of suspension or~~  
168 ~~revocation. In no case shall a restricted license be available~~  
169 ~~until 6 months of the suspension or revocation period has~~  
170 ~~expired.~~

171 (4) If a person 18 years of age or older is convicted for  
172 the possession or sale of, trafficking in, or conspiracy to  
173 possess, sell, or traffic in a controlled substance and such  
174 person is ineligible by reason of age for a driver license or  
175 driving privilege, the court shall direct the department to  
176 withhold issuance of such person's driver license or driving  
177 privilege for a period of 6 months ~~1 year~~ after the date that he  
178 or she would otherwise have become eligible or until he or she  
179 becomes eligible by reason of age for a driver license and is  
180 evaluated for and, if deemed necessary by the evaluating agency,  
181 completes a drug treatment and rehabilitation program approved  
182 or regulated by the Department of Children and Families.  
183 However, the court may, upon finding a compelling circumstance  
184 to warrant an exception ~~in its sound discretion,~~ direct the



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185 department to issue a license for driving privilege restricted  
186 to business or employment purposes only, as defined by s.  
187 322.271, if the person is otherwise qualified for such a  
188 license. ~~A driver whose license or driving privilege has been~~  
189 ~~suspended or revoked under this section or s. 322.056 may, upon~~  
190 ~~the expiration of 6 months, petition the department for~~  
191 ~~restoration of the driving privilege on a restricted or~~  
192 ~~unrestricted basis depending on the length of suspension or~~  
193 ~~revocation. In no case shall a restricted license be available~~  
194 ~~until 6 months of the suspension or revocation period has~~  
195 ~~expired.~~

196 Section 6. Section 322.056, Florida Statutes, is amended to  
197 read:

198 322.056 Mandatory revocation or suspension of, or delay of  
199 eligibility for, driver license for persons under age 18 found  
200 guilty of ~~certain alcohol, drug, or tobacco~~ offenses;  
201 prohibition.-

202 (1) Notwithstanding ~~the provisions of~~ s. 322.055, if a  
203 person under 18 years of age is found guilty of or delinquent  
204 for a violation of ~~s. 562.11(2), s. 562.111, or~~ chapter 893,  
205 and:

206 (a) The person is eligible by reason of age for a driver  
207 license or driving privilege, the court shall direct the  
208 department to revoke or to withhold issuance of his or her  
209 driver license or driving privilege for a period of 6 months:-

210 ~~1. Not less than 6 months and not more than 1 year for the~~  
211 ~~first violation.~~

212 ~~2. Two years, for a subsequent violation.~~

213 (b) The person's driver license or driving privilege is



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214 under suspension or revocation for any reason, the court shall  
215 direct the department to extend the period of suspension or  
216 revocation by an additional period of 6 months;

217 ~~1. Not less than 6 months and not more than 1 year for the~~  
218 ~~first violation.~~

219 ~~2. Two years, for a subsequent violation.~~

220 (c) The person is ineligible by reason of age for a driver  
221 license or driving privilege, the court shall direct the  
222 department to withhold issuance of his or her driver license or  
223 driving privilege for a period of:

224 ~~1. Not less than 6 months and not more than 1 year after~~  
225 ~~the date on which he or she would otherwise have become~~  
226 ~~eligible, for the first violation.~~

227 ~~2. Two years after the date on which he or she would~~  
228 ~~otherwise have become eligible, for a subsequent violation.~~

229  
230 However, the court may, upon finding a compelling circumstance  
231 to warrant an exception in its sound discretion, direct the  
232 department to issue a license for driving privileges restricted  
233 to business or employment purposes only, as defined in s.  
234 322.271, if the person is otherwise qualified for such a  
235 license.

236 ~~(2) If a person under 18 years of age is found by the court~~  
237 ~~to have committed a noncriminal violation under s. 569.11 or s.~~  
238 ~~877.112(6) or (7) and that person has failed to comply with the~~  
239 ~~procedures established in that section by failing to fulfill~~  
240 ~~community service requirements, failing to pay the applicable~~  
241 ~~fine, or failing to attend a locally available school-approved~~  
242 ~~anti-tobacco program, and:~~



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243       ~~(a) The person is eligible by reason of age for a driver~~  
244 ~~license or driving privilege, the court shall direct the~~  
245 ~~department to revoke or to withhold issuance of his or her~~  
246 ~~driver license or driving privilege as follows:~~

247           ~~1. For the first violation, for 30 days.~~

248           ~~2. For the second violation within 12 weeks of the first~~  
249 ~~violation, for 45 days.~~

250       ~~(b) The person's driver license or driving privilege is~~  
251 ~~under suspension or revocation for any reason, the court shall~~  
252 ~~direct the department to extend the period of suspension or~~  
253 ~~revocation by an additional period as follows:~~

254           ~~1. For the first violation, for 30 days.~~

255           ~~2. For the second violation within 12 weeks of the first~~  
256 ~~violation, for 45 days.~~

257       ~~(c) The person is ineligible by reason of age for a driver~~  
258 ~~license or driving privilege, the court shall direct the~~  
259 ~~department to withhold issuance of his or her driver license or~~  
260 ~~driving privilege as follows:~~

261           ~~1. For the first violation, for 30 days.~~

262           ~~2. For the second violation within 12 weeks of the first~~  
263 ~~violation, for 45 days.~~

264  
265 ~~Any second violation of s. 569.11 or s. 877.112(6) or (7) not~~  
266 ~~within the 12-week period after the first violation will be~~  
267 ~~treated as a first violation and in the same manner as provided~~  
268 ~~in this subsection.~~

269       ~~(3) If a person under 18 years of age is found by the court~~  
270 ~~to have committed a third violation of s. 569.11 or s.~~  
271 ~~877.112(6) or (7) within 12 weeks of the first violation, the~~



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272 ~~court must direct the Department of Highway Safety and Motor~~  
273 ~~Vehicles to suspend or withhold issuance of his or her driver~~  
274 ~~license or driving privilege for 60 consecutive days. Any third~~  
275 ~~violation of s. 569.11 or s. 877.112(6) or (7) not within the~~  
276 ~~12-week period after the first violation will be treated as a~~  
277 ~~first violation and in the same manner as provided in subsection~~  
278 ~~(2).~~

279       ~~(2)~~(4) A penalty imposed under this section shall be in  
280 addition to any other penalty imposed by law.

281       ~~(5) The suspension or revocation of a person's driver~~  
282 ~~license imposed pursuant to subsection (2) or subsection (3),~~  
283 ~~shall not result in or be cause for an increase of the convicted~~  
284 ~~person's, or his or her parent's or legal guardian's, automobile~~  
285 ~~insurance rate or premium or result in points assessed against~~  
286 ~~the person's driving record.~~

287       Section 7. Section 322.057, Florida Statutes, is repealed.

288       Section 8. Subsection (2) of section 322.34, Florida  
289 Statutes, is amended to read:

290       322.34 Driving while license suspended, revoked, canceled,  
291 or disqualified.—

292       (2) Any person whose driver license or driving privilege  
293 has been canceled, suspended, or revoked as provided by law,  
294 except persons defined in s. 322.264, who, knowing of such  
295 cancellation, suspension, or revocation, drives any motor  
296 vehicle upon the highways of this state while such license or  
297 privilege is canceled, suspended, or revoked, upon:

298       (a) A first conviction commits ~~is guilty of~~ a misdemeanor  
299 of the second degree, punishable as provided in s. 775.082 or s.  
300 775.083.



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301 (b) A second or third conviction commits ~~is guilty of~~ a  
302 misdemeanor of the first degree, punishable as provided in s.  
303 775.082 or s. 775.083.

304 (c) A fourth ~~third~~ or subsequent conviction commits ~~is~~  
305 ~~guilty of~~ a felony of the third degree, punishable as provided  
306 in s. 775.082, s. 775.083, or s. 775.084.

307  
308 The element of knowledge is satisfied if the person has been  
309 previously cited as provided in subsection (1); or the person  
310 admits to knowledge of the cancellation, suspension, or  
311 revocation; or the person received notice as provided in  
312 subsection (4). There shall be a rebuttable presumption that the  
313 knowledge requirement is satisfied if a judgment or order as  
314 provided in subsection (4) appears in the department's records  
315 for any case except for one involving a suspension by the  
316 department for failure to pay a traffic fine or for a financial  
317 responsibility violation.

318 Section 9. Section 322.75, Florida Statutes, is created to  
319 read:

320 322.75 Driver License Reinstatement Days.—

321 (1) Each clerk of court shall establish a Driver License  
322 Reinstatement Days program for reinstating suspended driver  
323 licenses. Participants may include, but are not limited to, the  
324 Department of Highway Safety and Motor Vehicles, the state  
325 attorney's office, the public defender's office, the circuit and  
326 county courts, the clerk of court, and any interested community  
327 organization.

328 (2) The clerk of court, in consultation with other  
329 participants, shall select one or more days annually for an



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330 event at which a person may have his or her driver license  
331 reinstated. The clerk may work with the Florida Court Clerks and  
332 Comptrollers to promote such program, develop communications,  
333 and coordinate the event. A person must pay the full license  
334 reinstatement fee; however, the clerk may reduce or waive other  
335 fees and costs to facilitate reinstatement.

336 (3) The clerk of court is encouraged to schedule at least  
337 one event on a weekend or with hours after 5 p.m. on a weekday.

338 (4) (a) A person is eligible for reinstatement under the  
339 program if his or her license was suspended due to:

- 340 1. Driving without a valid driver license;  
341 2. Driving with a suspended driver license;  
342 3. Failing to make a payment on penalties in collection;  
343 4. Failing to appear in court for a traffic violation; or  
344 5. Failing to comply with any provision of chapter 318 or  
345 this chapter.

346 (b) Notwithstanding paragraphs (5) (a)-(c), a person is  
347 eligible for reinstatement under the program if the period of  
348 suspension or revocation has elapsed, the person has completed  
349 any required course or program as described in paragraph (5) (c),  
350 and the person is otherwise eligible for reinstatement.

351 (5) A person is not eligible for reinstatement under the  
352 program if his or her driver license is suspended or revoked due  
353 to:

354 (a) The person's failure to fulfill a court-ordered child  
355 support obligation;

356 (b) A violation of s. 316.193;

357 (c) The person's failure to complete a driver training  
358 program, driver improvement course, or alcohol or substance



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359 abuse education or evaluation program required under s. 316.192,  
360 s. 316.193, s. 322.2616, s. 322.271, or s. 322.264;

361 (d) A traffic-related felony; or

362 (e) The person being designated as a habitual traffic  
363 offender under s. 322.264.

364 (6) The clerk of court and the Department of Highway Safety  
365 and Motor Vehicles shall verify any information necessary for  
366 reinstatement of a driver license under the program.

367 (7) The clerk of court must collect and report to the  
368 Florida Clerks of Court Operations Corporation all of the  
369 following:

370 (a) Number of cases paid in full.

371 (b) Number of cases put on a payment plan.

372 (c) Number of driver license reinstatements.

373 (d) Number of driver licenses made eligible for  
374 reinstatement.

375 (e) Amount of fees and costs collected, reported by the  
376 entity receiving the funds. The Florida Clerks of Court  
377 Operations Corporation must report the aggregate funds received  
378 by the clerks of court, the local governmental entities, and  
379 state entities, including General Revenue.

380 (f) The personnel, operating, security, and other  
381 expenditures incurred by the clerk of court.

382 (g) The number of cases that fail to comply with a payment  
383 plan and subsequently result in driver license suspension.

384 (8) The Florida Clerks of Court Operations Corporation  
385 shall report the information collected in subsection (7) in its  
386 annual report required by s. 28.35.

387 Section 10. Section 394.47891, Florida Statutes, is amended



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388 to read:

389           394.47891 Military veterans, ~~and~~ servicemembers, and others  
390 court programs.—The chief judge of each judicial circuit shall  
391 ~~may~~ establish a Military Veterans and Servicemembers Court  
392 Program under which veterans, as defined in s. 1.01, including  
393 veterans who were discharged or released under a general  
394 discharge, and servicemembers, as defined in s. 250.01;  
395 individuals who are current or former United States Department  
396 of Defense contractors; and individuals who are current or  
397 former military members of a foreign allied country, who are  
398 charged or convicted of a criminal offense and who suffer from a  
399 military-related mental illness, traumatic brain injury,  
400 substance abuse disorder, or psychological problem can be  
401 sentenced in accordance with chapter 921 in a manner that  
402 appropriately addresses the severity of the mental illness,  
403 traumatic brain injury, substance abuse disorder, or  
404 psychological problem through services tailored to the  
405 individual needs of the participant. Entry into any Military  
406 Veterans and Servicemembers Court Program must be based upon the  
407 sentencing court's assessment of the defendant's criminal  
408 history, military service, substance abuse treatment needs,  
409 mental health treatment needs, amenability to the services of  
410 the program, the recommendation of the state attorney and the  
411 victim, if any, and the defendant's agreement to enter the  
412 program.

413           Section 11. Subsection (2) of section 394.917, Florida  
414 Statutes, is amended to read:

415           394.917 Determination; commitment procedure; mistrials;  
416 housing; counsel and costs in indigent appellate cases.—



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417 (2) If the court or jury determines that the person is a  
418 sexually violent predator, upon the expiration of the  
419 incarcerative portion of all criminal sentences and disposition  
420 of any detainers, the person shall be committed to the custody  
421 of the Department of Children and Families for control, care,  
422 and treatment, and rehabilitation of criminal offenders, until  
423 such time as the person's mental abnormality or personality  
424 disorder has so changed that it is safe for the person to be at  
425 large. At all times, persons who are detained or committed under  
426 this part shall be kept in a secure facility segregated from  
427 patients of the department who are not detained or committed  
428 under this part.

429 Section 12. Subsection (2) of section 397.334, Florida  
430 Statutes, is amended to read:

431 397.334 Treatment-based drug court programs.—

432 (2) Entry into any pretrial treatment-based drug court  
433 program shall be voluntary. When neither s. 948.08(6)(c)1. nor  
434 2. s. 948.08(6)(a)1. nor 2. applies, the court may order an  
435 eligible individual to enter into a pretrial treatment-based  
436 drug court program only upon written agreement by the  
437 individual, which shall include a statement that the individual  
438 understands the requirements of the program and the potential  
439 sanctions for noncompliance.

440 Section 13. Present subsections (3) through (12) of section  
441 455.213, Florida Statutes, are redesignated as subsections (4)  
442 through (13), respectively, subsection (2) of that section is  
443 amended, and a new subsection (3) is added to that section, to  
444 read:

445 455.213 General licensing provisions.—



446 (2) Before the issuance of any license, the department may  
447 charge an initial license fee as determined by rule of the  
448 applicable board or, if no such board exists, by rule of the  
449 department. Upon receipt of the appropriate license fee, except  
450 as provided in subsection (4) ~~(3)~~, the department shall issue a  
451 license to any person certified by the appropriate board, or its  
452 designee, or the department when there is no board, as having  
453 met the applicable requirements imposed by law or rule. However,  
454 an applicant who is not otherwise qualified for licensure is not  
455 entitled to licensure solely based on a passing score on a  
456 required examination. Upon a determination by the department  
457 that it erroneously issued a license, or upon the revocation of  
458 a license by the applicable board, or by the department when  
459 there is no board, the licensee must surrender his or her  
460 license to the department.

461 (3) (a) Notwithstanding any other provisions of law, the  
462 department or applicable board shall use the process in this  
463 subsection for review of an applicant's criminal history record  
464 to determine his or her eligibility for licensure.

465 (b) A conviction, or any other adjudication, for a crime  
466 more than 5 years before the date of the application is received  
467 by the applicable board may not be grounds for denial of a  
468 license. For purposes of this paragraph, the term "conviction"  
469 means a determination of guilt that is the result of a plea or  
470 trial, regardless of whether adjudication is withheld. This  
471 paragraph does not limit the department or applicable board from  
472 considering an applicant's criminal history that includes a  
473 crime listed in s. 775.21(4) (a)1. or s. 776.08 at any time only  
474 if such criminal history has been found to relate to the



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475 practice of the applicable profession, or any crime if it has  
476 been found to relate to good moral character if the practice of  
477 the applicable profession requires such a standard.

478 (c)1. A person may apply for a license before his or her  
479 lawful release from confinement or supervision. The department  
480 may not charge an applicant an additional fee for being confined  
481 or under supervision. The department or applicable board may not  
482 deny an application for a license solely on the basis of the  
483 applicant's current confinement or supervision.

484 2. After a license application is approved, the department  
485 or applicable board may stay the issuance of a license until the  
486 applicant is lawfully released from confinement or supervision  
487 and the applicant notifies the department or applicable board of  
488 such release. The department or applicable board must verify the  
489 applicant's release with the Department of Corrections, or other  
490 applicable authority, before it issues a license.

491 3. If an applicant is unable to appear in person due to his  
492 or her confinement or supervision, the department or applicable  
493 board must permit the applicant to appear by teleconference or  
494 video conference, as appropriate, at any meeting of the  
495 applicable board or other hearing by the agency concerning his  
496 or her application.

497 4. If an applicant is confined or under supervision, the  
498 Department of Corrections, or other applicable authority, and  
499 the department or applicable board shall cooperate and  
500 coordinate to facilitate the appearance of the applicant at a  
501 board meeting or agency hearing in person, by teleconference, or  
502 by video conference, as appropriate.

503 (d) The department and each applicable board shall compile



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504 a list of crimes that do not relate to the practice of the  
505 profession or the ability to practice the profession and do not  
506 constitute grounds for denial of a license even when such crimes  
507 result in a conviction, regardless of adjudication. This list  
508 shall be made available on the department's website and be  
509 updated annually. Beginning October 1, 2019, each applicable  
510 board shall compile a list of crimes that although reported by  
511 an applicant for licensure, were not used as a basis for denial.  
512 The list must identify the crime reported for each license  
513 application and:

514 1. The date of conviction or the sentencing date, whichever  
515 occurs later; and

516 2. The date that adjudication was entered.

517 (e) The department and each applicable board shall compile  
518 a list of crimes that have been used as a basis for denial of a  
519 license in the past 2 years, which shall be made available on  
520 the department's website. Beginning October 1, 2019, the  
521 applicable board shall compile a list indicating each crime used  
522 as a basis for denial and update such list quarterly thereafter.  
523 For each crime listed, the applicable board must identify:

524 1. The date of conviction or the sentencing date, whichever  
525 occurs later; and

526 2. The date that adjudication was entered.

527  
528 Such denials must be made available to the public upon request.

529 Section 14. Subsection (4) of section 474.2165, Florida  
530 Statutes, is amended to read:

531 474.2165 Ownership and control of veterinary medical  
532 patient records; report or copies of records to be furnished.-



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533 (4) Except as otherwise provided in this section, such  
534 records may not be furnished to, and the medical condition of a  
535 patient may not be discussed with, any person other than the  
536 client or the client's legal representative or other  
537 veterinarians involved in the care or treatment of the patient,  
538 except upon written authorization of the client. However, such  
539 records may be furnished without written authorization under the  
540 following circumstances:

541 (a) To any person, firm, or corporation that has procured  
542 or furnished such examination or treatment with the client's  
543 consent.

544 (b) In any civil ~~or criminal~~ action, unless otherwise  
545 prohibited by law, upon the issuance of a subpoena from a court  
546 of competent jurisdiction and proper notice to the client or the  
547 client's legal representative by the party seeking such records.

548 (c) For statistical and scientific research, provided the  
549 information is abstracted in such a way as to protect the  
550 identity of the patient and the client, or provided written  
551 permission is received from the client or the client's legal  
552 representative.

553 (d) In any criminal action or situation where a  
554 veterinarian suspects a criminal violation. If a criminal  
555 violation is suspected, a veterinarian may, without notice to or  
556 authorization from the client, report the violation to a law  
557 enforcement officer, an animal control officer who is certified  
558 pursuant to s. 828.27(4)(a), or an agent appointed under s.  
559 828.03. However, if a suspected violation occurs at a commercial  
560 food-producing animal operation on land classified as  
561 agricultural under s. 193.461, the veterinarian must provide



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562 notice to the client or the client's legal representative before  
563 reporting the suspected violation to an officer or agent under  
564 this paragraph. The report may not include written medical  
565 records except upon the issuance of an order from a court of  
566 competent jurisdiction.

567 Section 15. Subsections (2) and (3) and present subsection  
568 (4) of section 489.126, Florida Statutes, are amended, and a new  
569 subsection (4) and subsections (5) and (6) are added to that  
570 section, to read:

571 489.126 Moneys received by contractors.—

572 (2) (a) A contractor who receives, as initial payment, money  
573 totaling more than 10 percent of the contract price for repair,  
574 restoration, improvement, or construction to residential real  
575 property must:

576 1. ~~(a)~~ Apply for permits necessary to do work within 30 days  
577 after the date payment is made, except where the work does not  
578 require a permit under the applicable codes and ordinances, and

579 2. ~~(b)~~ Start the work within 90 days after the date all  
580 necessary permits for work, if any, are issued,

581  
582 unless the contractor has just cause for failing to apply for  
583 the necessary permits, starting the work, or refunding the  
584 payment, or unless the person who made the payment agreed, in  
585 writing, to a longer period to apply for the necessary permits  
586 or start the work or to longer periods for both.

587 (b)1. In the event that a contractor fails to comply with  
588 paragraph (a), written demand must be made to the contractor in  
589 the form of a letter that includes a demand to apply for the  
590 necessary permits, start the work, or refund the payment sent



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591 via certified mail, return receipt requests, mailed to the  
592 address listed in the contracting agreement. If there is no  
593 address for the contractor listed in the contracting agreement,  
594 or no written agreement exists, the letter must be mailed to the  
595 address listed with the department for licensing purposes or the  
596 local construction industry licensing board, if applicable.

597 2. It may be inferred that a contractor does not have just  
598 cause if the contractor fails to apply for the necessary  
599 permits, start the work, or refund payments within 30 days of  
600 receiving written demand to apply for the necessary permits,  
601 start the work, or refund the payment from the person who made  
602 the payment.

603 (3) (a) A contractor who receives money for repair,  
604 restoration, addition, improvement, or construction of  
605 residential real property in excess of the value of the work  
606 performed may shall not, with intent to defraud the owner, fail  
607 or refuse to perform any work for any 90-day period.

608 (b) It is prima facie evidence ~~Proof~~ that a contractor  
609 received money for the repair, restoration, addition,  
610 improvement, or construction of residential real property and  
611 that the amount received exceeds the value of the work performed  
612 by the contractor when ~~and that:~~

613 1. The contractor failed to perform any of the work for  
614 which he or she contracted during any 90-day ~~60-day~~ period;

615 2. The failure to perform any such work during the 90-day  
616 ~~60-day~~ period was not related to the owner's termination of the  
617 contract or a material breach of the contract by the owner; and

618 3. The contractor failed to perform for 90 days without  
619 just cause or terminated the contract without proper



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620 notification to the owner.

621 a. Proper notification of termination for purposes of this  
622 subparagraph must be made by the contractor in the form of a  
623 letter that includes the reason for termination of the contract  
624 or the reason for failure to perform sent via certified mail,  
625 return receipt requested, mailed to the address of the owner  
626 listed in the contracting agreement. If no written agreement  
627 exists, the letter must be mailed to the address where the work  
628 was to be performed or the address listed on the permit, if  
629 applicable.

630 b. In the event that a contractor fails to comply with  
631 paragraph (b), written demand must be made to the contractor in  
632 the form of a letter that includes a demand to perform work, or  
633 refund the money received in excess of the value of the work  
634 performed, sent via certified mail, return receipt requested,  
635 mailed to the address listed in the contracting agreement. If  
636 there is no address for the contractor listed in the contracting  
637 agreement, or no agreement exists, the letter must be mailed to  
638 the address listed with the department for licensing purposes or  
639 the local construction industry licensing board, if applicable.

640 c. It may be inferred that a contractor does not have just  
641 cause if the contractor fails to perform work, or refund the  
642 money received in excess of the value of the work performed,  
643 within 30 days of receiving a written demand to perform the  
644 work, or refund the money received in excess of the value of the  
645 work performed, from the person who made the payment., ~~for an~~  
646 ~~additional 30-day period after the date of mailing of~~  
647 ~~notification as specified in paragraph (c), to perform any work~~  
648 ~~for which he or she contracted,~~



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649  
650 ~~gives rise to an inference that the money in excess of the value~~  
651 ~~of the work performed was taken with the intent to defraud.~~

652 ~~(c) Notification as contemplated in paragraph (b) consists~~  
653 ~~of a certified letter, return receipt requested, mailed to the~~  
654 ~~address of the contractor as listed in the written contracting~~  
655 ~~agreement. The letter must indicate that the contractor has~~  
656 ~~failed to perform any work for a 60-day period, that the failure~~  
657 ~~to perform the work was not the result of the owner's~~  
658 ~~termination of the contract or a material breach of the contract~~  
659 ~~by the owner, and that the contractor must recommence~~  
660 ~~construction within 30 days after the date of mailing of the~~  
661 ~~letter. If there is no address for the contractor listed in the~~  
662 ~~written contracting agreement, or no written agreement exists,~~  
663 ~~the letter must be mailed to the address of the contractor~~  
664 ~~listed in the building permit application.~~

665 (4) Any violation of subsection (2) or (3) must be  
666 prosecuted in accordance with the thresholds established in this  
667 section and the following:

668 (a) The required intent to prove a criminal violation may  
669 be shown to exist at the time that the contractor appropriated  
670 the money to his or her own use and is not required to be proven  
671 to exist at the time of the taking of the money from the owner  
672 or at the time the owner makes a payment to the contractor.

673 (b) It may be inferred that a contractor intended to  
674 deprive the owner of the right to the money owed, or deprive the  
675 owner of the benefit from it, and inferred that the contractor  
676 appropriated the money for his or her own use, or to a person  
677 not entitled to the use of the money, if the contractor fails to



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678 refund any portion of the money owed within 30 days after  
679 receiving a written demand for such money from the owner.

680 (c) In a prosecution for a violation of this section, the  
681 fact that the person so charged intended to return the money  
682 owed is not a defense.

683 (5) A person who violates subsection (2) commits:

684 (a) A misdemeanor of the first degree, punishable as  
685 provided in s. 775.082 or s. 775.083, if the total money  
686 received is less than \$1,000.

687 (b) A felony of the third degree, punishable as provided in  
688 s. 775.082, s. 775.083, or s. 775.084, if the total money  
689 received is \$1,000 or more, but less than \$20,000.

690 (c) A felony of the second degree, punishable as provided  
691 in s. 775.082, s. 775.083, or s. 775.084, if the total money  
692 received is \$20,000 or more, but less than \$200,000.

693 (d) A felony of the first degree, punishable as provided in  
694 s. 775.082, s. 775.083, or s. 775.084, if the total money  
695 received is \$200,000 or more.

696 (6) A person who violates subsection (3) commits:

697 (a) A misdemeanor of the first degree, punishable as  
698 provided in s. 775.082 or s. 775.083, if the total money  
699 received exceeding the value of the work performed is less than  
700 \$1,000.

701 (b) A felony of the third degree, punishable as provided in  
702 s. 775.082, s. 775.083, or s. 775.084, if the total money  
703 received exceeding the value of the work performed is \$1,000 or  
704 more, but less than \$20,000.

705 (c) A felony of the second degree, punishable as provided  
706 in s. 775.082, s. 775.083, or s. 775.084, if the total money



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707 received exceeding the value of the work performed is \$20,000 or  
708 more, but less than \$200,000.

709 (d) A felony of the first degree, punishable as provided in  
710 s. 775.082, s. 775.083, or s. 775.084, if the total money  
711 received exceeding the value of the work performed is \$200,000  
712 or more.

713 ~~(4) Any person who violates any provision of this section~~  
714 ~~is guilty of theft and shall be prosecuted and punished under s.~~  
715 ~~812.014.~~

716 Section 16. Present subsection (6) of section 489.553,  
717 Florida Statutes, is redesignated as subsection (10), and a new  
718 subsection (6) and subsections (7), (8), and (9) are added to  
719 that section, to read:

720 489.553 Administration of part; registration  
721 qualifications; examination.—

722 (6) Notwithstanding any other provision of law, a  
723 conviction, or any other adjudication, for a crime more than 5  
724 years before the date the application is received by the  
725 department may not be grounds for denial of registration. For  
726 purposes of this subsection, the term "conviction" means a  
727 determination of guilt that is the result of a plea or trial,  
728 regardless of whether adjudication is withheld. This subsection  
729 does not limit a board from considering an applicant's criminal  
730 history that includes any crime listed in s. 775.21(4)(a)1. or  
731 s. 776.08 at any time only if such criminal history has been  
732 found to relate to the practice of the applicable profession, or  
733 any crime if it has been found to relate to good moral  
734 character.

735 (7) (a) A person may apply to be registered before his or



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736 her lawful release from confinement or supervision. The  
737 department may not charge an applicant an additional fee for  
738 being confined or under supervision. The department may not deny  
739 an application for registration solely on the basis of the  
740 applicant's current confinement or supervision.

741 (b) After a registration application is approved, the  
742 department may stay the issuance of registration until the  
743 applicant is lawfully released from confinement or supervision  
744 and the applicant notifies the board of such release. The  
745 department must verify the applicant's release with the  
746 Department of Corrections, or other applicable authority, before  
747 it registers such applicant.

748 (c) If an applicant is unable to appear in person due to  
749 his or her confinement or supervision, the department must  
750 permit the applicant to appear by teleconference or video  
751 conference, as appropriate, at any meeting or hearing by the  
752 department concerning his or her application.

753 (d) If an applicant is confined or under supervision, the  
754 Department of Corrections, or other applicable authority, and  
755 the department shall cooperate and coordinate to facilitate the  
756 appearance of the applicant at a meeting or hearing in person,  
757 by teleconference, or by video conference, as appropriate.

758 (8) The department shall compile a list of crimes that do  
759 not relate to the practice of the profession or the ability to  
760 practice the profession and do not constitute grounds for denial  
761 of registration even when such crimes result in a conviction,  
762 regardless of adjudication. This list shall be made available on  
763 the department's website and be updated annually. Beginning  
764 October 1, 2019, and updated quarterly thereafter, the



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765 department shall add to this list such crimes that although  
766 reported by an applicant for registration, were not used as a  
767 basis for denial in the past 2 years. The list must identify the  
768 crime reported for each registration application and:

769 (a) The date of conviction or sentencing, whichever occurs  
770 later.

771 (b) The date adjudication was entered.

772 (9) The department shall compile a list of crimes that have  
773 been used as a basis for denial of registration in the past 2  
774 years, which shall be made available on the department's  
775 website. Beginning October 1, 2019, and updated quarterly  
776 thereafter, the department shall add to this list each crime  
777 used as a basis for denial. For each crime listed, the  
778 department must identify:

779 (a) The date of conviction or sentencing, whichever occurs  
780 later.

781 (b) The date adjudication was entered.

782  
783 Such denials must be made available to the public upon request.

784 Section 17. Subsection (2) of section 500.451, Florida  
785 Statutes, is amended to read:

786 500.451 Horse meat; offenses.—

787 (2) A person that violates this section commits a felony of  
788 the third degree, punishable as provided in s. 775.082, s.  
789 775.083, or s. 775.084, except that any person who commits a  
790 violation of this section must ~~shall~~ be sentenced to a minimum  
791 mandatory fine of \$3,500 ~~and a minimum mandatory period of~~  
792 ~~incarceration of 1 year.~~

793 Section 18. Subsection (1) of section 509.151, Florida



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794 Statutes, is amended to read:

795       509.151 Obtaining food or lodging with intent to defraud;  
796 penalty.—

797       (1) Any person who obtains food, lodging, or other  
798 accommodations having a value of less than \$1,000 ~~\$300~~ at any  
799 public food service establishment, or at any transient  
800 establishment, with intent to defraud the operator thereof,  
801 commits ~~is guilty of~~ a misdemeanor of the second degree,  
802 punishable as provided in s. 775.082 or s. 775.083; if such  
803 food, lodging, or other accommodations have a value of \$1,000  
804 ~~\$300~~ or more, such person commits ~~is guilty of~~ a felony of the  
805 third degree, punishable as provided in s. 775.082, s. 775.083,  
806 or s. 775.084.

807       Section 19. Paragraph (a) of subsection (1) and paragraph  
808 (c) of subsection (2) of section 562.11, Florida Statutes, are  
809 amended to read:

810       562.11 Selling, giving, or serving alcoholic beverages to  
811 person under age 21; providing a proper name; misrepresenting or  
812 misstating age or age of another to induce licensee to serve  
813 alcoholic beverages to person under 21; penalties.—

814       (1) (a) ~~1~~. A person may not sell, give, serve, or permit to  
815 be served alcoholic beverages to a person under 21 years of age  
816 or permit a person under 21 years of age to consume such  
817 beverages on the licensed premises. A person who violates this  
818 paragraph ~~subparagraph~~ commits a misdemeanor of the second  
819 degree, punishable as provided in s. 775.082 or s. 775.083. A  
820 person who violates this paragraph ~~subparagraph~~ a second or  
821 subsequent time within 1 year after a prior conviction commits a  
822 misdemeanor of the first degree, punishable as provided in s.



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823 775.082 or s. 775.083.

824 ~~2. In addition to any other penalty imposed for a violation~~  
825 ~~of subparagraph 1., the court may order the Department of~~  
826 ~~Highway Safety and Motor Vehicles to withhold the issuance of,~~  
827 ~~or suspend or revoke, the driver license or driving privilege,~~  
828 ~~as provided in s. 322.057, of any person who violates~~  
829 ~~subparagraph 1. This subparagraph does not apply to a licensee,~~  
830 ~~as defined in s. 561.01, who violates subparagraph 1. while~~  
831 ~~acting within the scope of his or her license or an employee or~~  
832 ~~agent of a licensee, as defined in s. 561.01, who violates~~  
833 ~~subparagraph 1. while engaged within the scope of his or her~~  
834 ~~employment or agency.~~

835 ~~3. A court that withholds the issuance of, or suspends or~~  
836 ~~revokes, the driver license or driving privilege of a person~~  
837 ~~pursuant to subparagraph 2. may direct the Department of Highway~~  
838 ~~Safety and Motor Vehicles to issue the person a license for~~  
839 ~~driving privilege restricted to business purposes only, as~~  
840 ~~defined in s. 322.271, if he or she is otherwise qualified.~~

841 (2) It is unlawful for any person to misrepresent or  
842 misstate his or her age or the age of any other person for the  
843 purpose of inducing any licensee or his or her agents or  
844 employees to sell, give, serve, or deliver any alcoholic  
845 beverages to a person under 21 years of age, or for any person  
846 under 21 years of age to purchase or attempt to purchase  
847 alcoholic beverages.

848 (c) In addition to any other penalty imposed for a  
849 violation of this subsection, if a person uses a driver license  
850 or identification card issued by the Department of Highway  
851 Safety and Motor Vehicles in violation of this subsection, the



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852 court~~+~~

853 ~~1.~~ may order the person to participate in public service or  
854 a community work project for a period not to exceed 40 hours~~+~~  
855 and

856 ~~2. Shall direct the Department of Highway Safety and Motor~~  
857 ~~Vehicles to withhold issuance of, or suspend or revoke, the~~  
858 ~~person's driver license or driving privilege, as provided in s.~~  
859 ~~322.056.~~

860 Section 20. Subsection (3) of section 562.111, Florida  
861 Statutes, is amended to read:

862 562.111 Possession of alcoholic beverages by persons under  
863 age 21 prohibited.-

864 ~~(3) In addition to any other penalty imposed for a~~  
865 ~~violation of subsection (1), the court shall direct the~~  
866 ~~Department of Highway Safety and Motor Vehicles to withhold~~  
867 ~~issuance of, or suspend or revoke, the violator's driver license~~  
868 ~~or driving privilege, as provided in s. 322.056.~~

869 Section 21. Subsection (8) of section 562.27, Florida  
870 Statutes, is amended, and subsections (1) through (7) of that  
871 section are republished, to read:

872 562.27 Seizure and forfeiture.-

873 (1) It is unlawful for any person to have in her or his  
874 possession, custody, or control, or to own, make, construct, or  
875 repair, any still, still piping, still apparatus, or still worm,  
876 or any piece or part thereof, designed or adapted for the  
877 manufacture of an alcoholic beverage, or to have in her or his  
878 possession, custody or control any receptacle or container  
879 containing any mash, wort, or wash, or other fermented liquids  
880 whatever capable of being distilled or manufactured into an



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881 alcoholic beverage, unless such possession, custody, control,  
882 ownership, manufacture, construction, or repairing be by or for  
883 a person authorized by law to manufacture such alcoholic  
884 beverage.

885 (2) It is unlawful for any person to have in her or his  
886 possession, custody, or control any raw materials or substance  
887 intended to be used in the distillation or manufacturing of an  
888 alcoholic beverage unless the person holds a license from the  
889 state authorizing the manufacture of the alcoholic beverage.

890 (3) The terms "raw material" or "substance" for the purpose  
891 of this chapter shall mean and include, but not be limited to,  
892 any of the following: Any grade or type of sugar, syrup, or  
893 molasses derived from sugarcane, sugar beets, corn, sorghum, or  
894 any other source; starch; potatoes; grain or cornmeal, corn  
895 chops, cracked corn, rye chops, middlings, shorts, bran, or any  
896 other grain derivative; malt; malt sugar or malt syrup; oak  
897 chips, charred or not charred; yeast; cider; honey; fruit;  
898 grapes; berries; fruit, grape or berry juices or concentrates;  
899 wine; caramel; burnt sugar; gin flavor; Chinese bean cake or  
900 Chinese wine cake; urea; ammonium phosphate, ammonium carbonate,  
901 ammonium sulphate, or any other yeast food; ethyl acetate or any  
902 other ethyl ester; any other material of the character used in  
903 the manufacture of distilled spirits or any chemical or other  
904 material suitable for promoting or accelerating fermentation;  
905 any chemical or material of the character used in the production  
906 of distilled spirits by chemical reaction; or any combination of  
907 such materials or chemicals.

908 (4) Any such raw materials, substance, or any still, still  
909 piping, still apparatus, or still worm, or any piece or part



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910 thereof, or any mash, wort, or wash, or other fermented liquid  
911 and the receptacle or container thereof, and any alcoholic  
912 beverage, together with all personal property used to facilitate  
913 the manufacture or production of the alcoholic beverage or to  
914 facilitate the violation of the alcoholic beverage control laws  
915 of this state or the United States, may be seized by the  
916 division or by any sheriff or deputy sheriff and shall be  
917 forfeited to the state.

918 (5) It shall be unlawful for any person to sell or  
919 otherwise dispose of raw materials or other substances knowing  
920 same are to be used in the distillation or manufacture of an  
921 alcoholic beverage unless such person receiving same, by  
922 purchase or otherwise, holds a license from the state  
923 authorizing the manufacture of such alcoholic beverage.

924 (6) Any vehicle, vessel, or aircraft used in the  
925 transportation or removal of or for the deposit or concealment  
926 of any illicit liquor still or stilling apparatus; any mash,  
927 wort, wash, or other fermented liquids capable of being  
928 distilled or manufactured into an alcoholic beverage; or any  
929 alcoholic beverage commonly known and referred to as "moonshine  
930 whiskey" shall be seized and may be forfeited as provided by the  
931 Florida Contraband Forfeiture Act. Any sheriff, deputy sheriff,  
932 employee of the division, or police officer may seize any of the  
933 vehicles, vessels, or conveyances, and the same may be forfeited  
934 as provided by law.

935 (7) The finding of any still, still piping, still  
936 apparatus, or still worm, or any piece or part thereof, or any  
937 mash, wort, or wash or other fermented liquids in the dwelling  
938 house or place of business, or so near thereto as to lead to the



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939 reasonable belief that they are within the possession, custody,  
940 or control of the occupants of the dwelling house or place of  
941 business, shall be prima facie evidence of a violation of this  
942 section by the occupants of the dwelling house or place of  
943 business.

944 (8) Any person violating any provisions of this section of  
945 the law commits ~~shall be guilty of a misdemeanor felony~~ of the  
946 second ~~third~~ degree, punishable as provided in s. 775.082 or s.  
947 775.083, ~~or s. 775.084~~.

948 Section 22. Subsections (1) and (2) of section 562.451,  
949 Florida Statutes, are amended to read:

950 562.451 Moonshine whiskey; ownership, possession, or  
951 control prohibited; penalties; rule of evidence.—

952 (1) Any person who owns or has in her or his possession or  
953 under her or his control less than 1 gallon of liquor, as  
954 defined in the Beverage Law, which was not made or manufactured  
955 in accordance with the laws in effect at the time when and place  
956 where the same was made or manufactured commits ~~shall be guilty~~  
957 ~~of~~ a misdemeanor of the second degree, punishable as provided in  
958 s. 775.082 or s. 775.083.

959 (2) Any person who owns or has in her or his possession or  
960 under her or his control 1 gallon or more of liquor, as defined  
961 in the Beverage Law, which was not made or manufactured in  
962 accordance with the laws in effect at the time when and place  
963 where the same was made or manufactured commits ~~shall be guilty~~  
964 ~~of~~ a misdemeanor ~~felony~~ of the first ~~third~~ degree, punishable as  
965 provided in s. 775.082 or s. 775.083, ~~or s. 775.084~~.

966 Section 23. Subsections (1), (2), and (5) of section  
967 569.11, Florida Statutes, are amended to read:



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968           569.11 Possession, misrepresenting age or military service  
969 to purchase, and purchase of tobacco products by persons under  
970 18 years of age prohibited; penalties; jurisdiction; disposition  
971 of fines.—

972           (1) It is unlawful for any person under 18 years of age to  
973 knowingly possess any tobacco product. Any person under 18 years  
974 of age who violates ~~the provisions of~~ this subsection commits a  
975 noncriminal violation as provided in s. 775.08(3), punishable  
976 by:

977           (a) For a first violation, 16 hours of community service  
978 or, instead of community service, a \$25 fine. In addition, the  
979 person must attend a school-approved anti-tobacco program, if  
980 locally available; or

981           (b) For a second or subsequent violation within 12 weeks  
982 after ~~of~~ the first violation, a \$25 fine; ~~or~~

983           ~~(c) For a third or subsequent violation within 12 weeks of~~  
984 ~~the first violation, the court must direct the Department of~~  
985 ~~Highway Safety and Motor Vehicles to withhold issuance of or~~  
986 ~~suspend or revoke the person's driver license or driving~~  
987 ~~privilege, as provided in s. 322.056.~~

988  
989 Any second or subsequent violation not within the 12-week ~~time~~  
990 period after the first violation is punishable as provided for a  
991 first violation.

992           (2) It is unlawful for any person under 18 years of age to  
993 misrepresent his or her age or military service for the purpose  
994 of inducing a dealer or an agent or employee of the dealer to  
995 sell, give, barter, furnish, or deliver any tobacco product, or  
996 to purchase, or attempt to purchase, any tobacco product from a



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997 person or a vending machine. Any person under 18 years of age  
998 who violates ~~a provision of~~ this subsection commits a  
999 noncriminal violation as provided in s. 775.08(3), punishable  
1000 by:

1001 (a) For a first violation, 16 hours of community service  
1002 or, instead of community service, a \$25 fine and, in addition,  
1003 the person must attend a school-approved anti-tobacco program,  
1004 if available; or

1005 (b) For a second or subsequent violation within 12 weeks  
1006 after ~~of~~ the first violation, a \$25 fine; ~~or~~

1007 ~~(c) For a third or subsequent violation within 12 weeks of~~  
1008 ~~the first violation, the court must direct the Department of~~  
1009 ~~Highway Safety and Motor Vehicles to withhold issuance of or~~  
1010 ~~suspend or revoke the person's driver license or driving~~  
1011 ~~privilege, as provided in s. 322.056.~~

1012  
1013 Any second or subsequent violation not within the 12-week time  
1014 period after the first violation is punishable as provided for a  
1015 first violation.

1016 (5) (a) If a person under 18 years of age is found by the  
1017 court to have committed a noncriminal violation under this  
1018 section and that person has failed to complete community  
1019 service, pay the fine as required by paragraph (1) (a) or  
1020 paragraph (2) (a), or attend a school-approved anti-tobacco  
1021 program, if locally available, the court may ~~must~~ direct the  
1022 Department of Highway Safety and Motor Vehicles to withhold  
1023 issuance of or suspend the driver license or driving privilege  
1024 of that person for a period of 30 consecutive days.

1025 (b) If a person under 18 years of age is found by the court



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1026 to have committed a noncriminal violation under this section and  
1027 that person has failed to pay the applicable fine as required by  
1028 paragraph (1)(b) or paragraph (2)(b), the court may ~~must~~ direct  
1029 the Department of Highway Safety and Motor Vehicles to withhold  
1030 issuance of or suspend the driver license or driving privilege  
1031 of that person for a period of 45 consecutive days.

1032 Section 24. Section 713.69, Florida Statutes, is amended to  
1033 read:

1034 713.69 Unlawful to remove property upon which lien has  
1035 accrued.—It is unlawful for any person to remove any property  
1036 upon which a lien has accrued under ~~the provisions of~~ s. 713.68  
1037 from any hotel, apartment house, roominghouse, lodginghouse,  
1038 boardinghouse or tenement house without first making full  
1039 payment to the person operating or conducting the same of all  
1040 sums due and payable for such occupancy or without first having  
1041 the written consent of such person so conducting or operating  
1042 such place to so remove such property. Any person who violates  
1043 ~~violating the provisions of~~ this section ~~shall~~, if the value of  
1044 the property removed in violation hereof is less than \$1,000 ~~be~~  
1045 ~~of the value of \$50 or less, commits be guilty of~~ a misdemeanor  
1046 of the second degree, punishable as provided in s. 775.082 or s.  
1047 775.083; and if the value of the property so removed is \$1,000  
1048 or more ~~should be of greater value than \$50 then~~ such person  
1049 commits shall be guilty of a felony of the third degree,  
1050 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1051 Section 25. Paragraphs (a) and (d) of subsection (9) of  
1052 section 775.082, Florida Statutes, are amended to read:

1053 775.082 Penalties; applicability of sentencing structures;  
1054 mandatory minimum sentences for certain reoffenders previously



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1055 released from prison.-  
1056 (9) (a) 1. "Prison releasee reoffender" means any defendant  
1057 who commits, or attempts to commit:  
1058 a. Treason;  
1059 b. Murder;  
1060 c. Manslaughter;  
1061 d. Sexual battery;  
1062 e. Carjacking;  
1063 f. Home-invasion robbery;  
1064 g. Robbery;  
1065 h. Arson;  
1066 i. Kidnapping;  
1067 j. Aggravated assault with a deadly weapon;  
1068 k. Aggravated battery;  
1069 l. Aggravated stalking;  
1070 m. Aircraft piracy;  
1071 n. Unlawful throwing, placing, or discharging of a  
1072 destructive device or bomb;  
1073 o. Any felony that involves the use or threat of physical  
1074 force or violence against an individual;  
1075 p. Armed burglary;  
1076 q. Burglary of a dwelling or burglary of an occupied  
1077 structure; or  
1078 r. Any felony violation of s. 790.07, s. 800.04, s. 827.03,  
1079 s. 827.071, or s. 847.0135(5);  
1080  
1081 within 3 years after being released from a state correctional  
1082 facility operated by the Department of Corrections or a private  
1083 vendor, or from a county detention facility, ~~or within 3 years~~



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1084 ~~after being released from~~ a correctional institution of another  
1085 state, the District of Columbia, the United States, any  
1086 possession or territory of the United States, or any foreign  
1087 jurisdiction, following incarceration for an offense for which  
1088 the sentence is punishable by more than 1 year in this state.

1089       2. "Prison releasee reoffender" also means any defendant  
1090 who commits or attempts to commit any offense listed in sub-  
1091 subparagraphs (a)1.a.-r. while the defendant was serving a  
1092 prison sentence or on escape status from a state correctional  
1093 facility operated by the Department of Corrections or a private  
1094 vendor or while the defendant was on escape status from a  
1095 correctional institution of another state, the District of  
1096 Columbia, the United States, any possession or territory of the  
1097 United States, or any foreign jurisdiction, following  
1098 incarceration for an offense for which the sentence is  
1099 punishable by more than 1 year in this state.

1100       3. If the state attorney determines that a defendant is a  
1101 prison releasee reoffender as defined in subparagraph 1., the  
1102 state attorney may seek to have the court sentence the defendant  
1103 as a prison releasee reoffender. Upon proof from the state  
1104 attorney that establishes by a preponderance of the evidence  
1105 that a defendant is a prison releasee reoffender as defined in  
1106 this section, such defendant is not eligible for sentencing  
1107 under the sentencing guidelines and must be sentenced as  
1108 follows:

1109       a. For a felony punishable by life, by a term of  
1110 imprisonment for life;

1111       b. For a felony of the first degree, by a term of  
1112 imprisonment of 30 years;



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1113 c. For a felony of the second degree, by a term of  
1114 imprisonment of 15 years; and

1115 d. For a felony of the third degree, by a term of  
1116 imprisonment of 5 years.

1117 (d)1. It is the intent of the Legislature that offenders  
1118 previously released from prison or a county detention facility  
1119 following incarceration for an offense punishable by a term of  
1120 imprisonment of more than one year who meet the criteria in  
1121 paragraph (a) be punished to the fullest extent of the law and  
1122 as provided in this subsection, unless the state attorney  
1123 determines that extenuating circumstances exist which preclude  
1124 the just prosecution of the offender, including whether the  
1125 victim recommends that the offender not be sentenced as provided  
1126 in this subsection.

1127 2. For every case in which the offender meets the criteria  
1128 in paragraph (a) and does not receive the mandatory minimum  
1129 prison sentence, the state attorney must explain the sentencing  
1130 deviation in writing and place such explanation in the case file  
1131 maintained by the state attorney.

1132 Section 26. Subsection (6) is added to section 775.087,  
1133 Florida Statutes, to read:

1134 775.087 Possession or use of weapon; aggravated battery;  
1135 felony reclassification; minimum sentence.-

1136 (6) It is the intent of the Legislature to retroactively  
1137 apply chapter 2016-7, Laws of Florida, only as provided in this  
1138 subsection to persons who committed aggravated assault or  
1139 attempted aggravated assault before July 1, 2016, the effective  
1140 date of chapter 2016-7, Laws of Florida, which amended this  
1141 section to remove aggravated assault or attempted aggravated



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1142 assault from the list of predicate offenses for mandatory  
1143 minimum terms of imprisonment under this section.

1144 (a) On or after October 1, 2019, a person who committed  
1145 aggravated assault or attempted aggravated assault before July  
1146 1, 2016, may not be sentenced to a mandatory minimum term of  
1147 imprisonment under this section as it existed at any time before  
1148 its amendment by chapter 2016-7, Laws of Florida.

1149 (b) A person who committed aggravated assault or attempted  
1150 aggravated assault before July 1, 2016, who was sentenced before  
1151 October 1, 2019, to a mandatory minimum term of imprisonment  
1152 pursuant to this section as it existed at any time before its  
1153 amendment by chapter 2016-7, Laws of Florida, and who is serving  
1154 such mandatory minimum term of imprisonment on or after October  
1155 1, 2019, shall be resentenced to a sentence without such  
1156 mandatory minimum term of imprisonment. The person shall be  
1157 resentenced to a sentence as provided in s. 775.082, s. 775.083,  
1158 or s. 775.084.

1159 (c) A person sentenced or resentenced pursuant to this  
1160 subsection is eligible to receive any gain-time pursuant to s.  
1161 944.275 which he or she was previously ineligible to receive  
1162 because of the imposition of the mandatory minimum term of  
1163 imprisonment.

1164 Section 27. Paragraph (f) is added to subsection (2) of  
1165 section 784.046, Florida Statutes, to read:

1166 784.046 Action by victim of repeat violence, sexual  
1167 violence, or dating violence for protective injunction; dating  
1168 violence investigations, notice to victims, and reporting;  
1169 pretrial release violations; public records exemption.—

1170 (2) There is created a cause of action for an injunction



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1171 for protection in cases of repeat violence, there is created a  
1172 separate cause of action for an injunction for protection in  
1173 cases of dating violence, and there is created a separate cause  
1174 of action for an injunction for protection in cases of sexual  
1175 violence.

1176 (f) Notwithstanding any other law, attorney fees may not be  
1177 awarded in any proceeding under this section.

1178 Section 28. Paragraph (d) of subsection (1) of section  
1179 784.048, Florida Statutes, is amended, and subsections (2)  
1180 through (5), and (7) of that section are republished, to read:

1181 784.048 Stalking; definitions; penalties.—

1182 (1) As used in this section, the term:

1183 (d) "Cyberstalk" means:

1184 1. To engage in a course of conduct to communicate, or to  
1185 cause to be communicated, words, images, or language by or  
1186 through the use of electronic mail or electronic communication,  
1187 directed at a specific person; or

1188 2. To access, or attempt to access the online accounts or  
1189 Internet-connected home electronic systems of another person  
1190 without that person's permission,

1191  
1192 causing substantial emotional distress to that person and  
1193 serving no legitimate purpose.

1194 (2) A person who willfully, maliciously, and repeatedly  
1195 follows, harasses, or cyberstalks another person commits the  
1196 offense of stalking, a misdemeanor of the first degree,  
1197 punishable as provided in s. 775.082 or s. 775.083.

1198 (3) A person who willfully, maliciously, and repeatedly  
1199 follows, harasses, or cyberstalks another person and makes a



1200 credible threat to that person commits the offense of aggravated  
1201 stalking, a felony of the third degree, punishable as provided  
1202 in s. 775.082, s. 775.083, or s. 775.084.

1203 (4) A person who, after an injunction for protection  
1204 against repeat violence, sexual violence, or dating violence  
1205 pursuant to s. 784.046, or an injunction for protection against  
1206 domestic violence pursuant to s. 741.30, or after any other  
1207 court-imposed prohibition of conduct toward the subject person  
1208 or that person's property, knowingly, willfully, maliciously,  
1209 and repeatedly follows, harasses, or cyberstalks another person  
1210 commits the offense of aggravated stalking, a felony of the  
1211 third degree, punishable as provided in s. 775.082, s. 775.083,  
1212 or s. 775.084.

1213 (5) A person who willfully, maliciously, and repeatedly  
1214 follows, harasses, or cyberstalks a child under 16 years of age  
1215 commits the offense of aggravated stalking, a felony of the  
1216 third degree, punishable as provided in s. 775.082, s. 775.083,  
1217 or s. 775.084.

1218 (7) A person who, after having been sentenced for a  
1219 violation of s. 794.011, s. 800.04, or s. 847.0135(5) and  
1220 prohibited from contacting the victim of the offense under s.  
1221 921.244, willfully, maliciously, and repeatedly follows,  
1222 harasses, or cyberstalks the victim commits the offense of  
1223 aggravated stalking, a felony of the third degree, punishable as  
1224 provided in s. 775.082, s. 775.083, or s. 775.084.

1225 Section 29. Paragraph (d) is added to subsection (2) of  
1226 section 784.0485, Florida Statutes, to read:

1227 784.0485 Stalking; injunction; powers and duties of court  
1228 and clerk; petition; notice and hearing; temporary injunction;



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1229 issuance of injunction; statewide verification system;  
1230 enforcement.—

1231 (2)

1232 (d) Notwithstanding any other law, attorney fees may not be  
1233 awarded in any proceeding under this section.

1234 Section 30. Subsection (1) of section 790.052, Florida  
1235 Statutes, is amended to read:

1236 790.052 Carrying concealed firearms; off-duty law  
1237 enforcement officers.—

1238 (1) (a) All persons holding active certifications from the  
1239 Criminal Justice Standards and Training Commission as law  
1240 enforcement officers or correctional officers as defined in s.  
1241 943.10(1), (2), (6), (7), (8), or (9) shall have the right to  
1242 carry, on or about their persons, concealed firearms, during  
1243 off-duty hours, at the discretion of their superior officers,  
1244 and may perform those law enforcement functions that they  
1245 normally perform during duty hours, utilizing their weapons in a  
1246 manner which is reasonably expected of on-duty officers in  
1247 similar situations.

1248 (b) All persons holding active certifications from the  
1249 Criminal Justice Standards and Training Commission as law  
1250 enforcement officers or correctional officers as defined in s.  
1251 943.10(1), (2), (6), (7), (8), or (9), meet the definition of  
1252 “qualified law enforcement officer” in 18 U.S.C. s. 926B(c).

1253 (c) All persons who held active certifications from the  
1254 Criminal Justice Standards and Training Commission as law  
1255 enforcement officers or correctional officers as defined in s.  
1256 943.10(1), (2), (6), (7), (8), or (9) while working for an  
1257 employing agency, as defined in s. 943.10(4), but have separated



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1258 from service under the conditions set forth in 18 U.S.C. s.  
1259 926C(c), meet the definition of "qualified retired law  
1260 enforcement officer."

1261 (d) However, Nothing in This section does not subsection  
1262 shall be construed to limit the right of a law enforcement  
1263 officer, correctional officer, or correctional probation officer  
1264 to carry a concealed firearm off duty as a private citizen under  
1265 the exemption provided in s. 790.06 that allows a law  
1266 enforcement officer, correctional officer, or correctional  
1267 probation officer as defined in s. 943.10(1), (2), (3), (6),  
1268 (7), (8), or (9) to carry a concealed firearm without a  
1269 concealed weapon or firearm license. The appointing or employing  
1270 agency or department of an officer carrying a concealed firearm  
1271 as a private citizen under s. 790.06 shall not be liable for the  
1272 use of the firearm in such capacity. Nothing herein limits the  
1273 authority of the appointing or employing agency or department  
1274 from establishing policies limiting law enforcement officers or  
1275 correctional officers from carrying concealed firearms during  
1276 off-duty hours in their capacity as appointees or employees of  
1277 the agency or department.

1278 Section 31. Subsections (5) and (10) of section 790.22,  
1279 Florida Statutes, are amended to read:

1280 790.22 Use of BB guns, air or gas-operated guns, or  
1281 electric weapons or devices by minor under 16; limitation;  
1282 possession of firearms by minor under 18 prohibited; penalties.-

1283 (5) (a) A minor who violates subsection (3) commits a  
1284 misdemeanor of the first degree; for a first offense, may serve  
1285 a period of detention of up to 3 days in a secure detention  
1286 facility; and, in addition to any other penalty provided by law,



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1287 shall be required to perform 100 hours of community service;  
1288 and:

1289       1. If the minor is eligible by reason of age for a driver  
1290 license or driving privilege, the court may ~~shall~~ direct the  
1291 Department of Highway Safety and Motor Vehicles to revoke or to  
1292 withhold issuance of the minor's driver license or driving  
1293 privilege for up to 1 year.

1294       2. If the minor's driver license or driving privilege is  
1295 under suspension or revocation for any reason, the court may  
1296 ~~shall~~ direct the Department of Highway Safety and Motor Vehicles  
1297 to extend the period of suspension or revocation by an  
1298 additional period of up to 1 year.

1299       3. If the minor is ineligible by reason of age for a driver  
1300 license or driving privilege, the court may ~~shall~~ direct the  
1301 Department of Highway Safety and Motor Vehicles to withhold  
1302 issuance of the minor's driver license or driving privilege for  
1303 up to 1 year after the date on which the minor would otherwise  
1304 have become eligible.

1305       (b) For a second or subsequent offense, a minor who  
1306 violates subsection (3) commits a felony of the third degree and  
1307 shall serve a period of detention of up to 15 days in a secure  
1308 detention facility and shall be required to perform not less  
1309 than 100 nor more than 250 hours of community service, and:

1310       1. If the minor is eligible by reason of age for a driver  
1311 license or driving privilege, the court may ~~shall~~ direct the  
1312 Department of Highway Safety and Motor Vehicles to revoke or to  
1313 withhold issuance of the minor's driver license or driving  
1314 privilege for up to 2 years.

1315       2. If the minor's driver license or driving privilege is



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1316 under suspension or revocation for any reason, the court may  
1317 ~~shall~~ direct the Department of Highway Safety and Motor Vehicles  
1318 to extend the period of suspension or revocation by an  
1319 additional period of up to 2 years.

1320 3. If the minor is ineligible by reason of age for a driver  
1321 license or driving privilege, the court may ~~shall~~ direct the  
1322 Department of Highway Safety and Motor Vehicles to withhold  
1323 issuance of the minor's driver license or driving privilege for  
1324 up to 2 years after the date on which the minor would otherwise  
1325 have become eligible.

1326  
1327 For the purposes of this subsection, community service shall be  
1328 performed, if possible, in a manner involving a hospital  
1329 emergency room or other medical environment that deals on a  
1330 regular basis with trauma patients and gunshot wounds.

1331 (10) If a minor is found to have committed an offense under  
1332 subsection (9), the court shall impose the following penalties  
1333 in addition to any penalty imposed under paragraph (9) (a) or  
1334 paragraph (9) (b):

1335 (a) For a first offense:

1336 1. If the minor is eligible by reason of age for a driver  
1337 license or driving privilege, the court may ~~shall~~ direct the  
1338 Department of Highway Safety and Motor Vehicles to revoke or to  
1339 withhold issuance of the minor's driver license or driving  
1340 privilege for up to 1 year.

1341 2. If the minor's driver license or driving privilege is  
1342 under suspension or revocation for any reason, the court may  
1343 ~~shall~~ direct the Department of Highway Safety and Motor Vehicles  
1344 to extend the period of suspension or revocation by an



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1345 additional period for up to 1 year.

1346         3. If the minor is ineligible by reason of age for a driver  
1347 license or driving privilege, the court may ~~shall~~ direct the  
1348 Department of Highway Safety and Motor Vehicles to withhold  
1349 issuance of the minor's driver license or driving privilege for  
1350 up to 1 year after the date on which the minor would otherwise  
1351 have become eligible.

1352             (b) For a second or subsequent offense:

1353         1. If the minor is eligible by reason of age for a driver  
1354 license or driving privilege, the court may ~~shall~~ direct the  
1355 Department of Highway Safety and Motor Vehicles to revoke or to  
1356 withhold issuance of the minor's driver license or driving  
1357 privilege for up to 2 years.

1358         2. If the minor's driver license or driving privilege is  
1359 under suspension or revocation for any reason, the court may  
1360 ~~shall~~ direct the Department of Highway Safety and Motor Vehicles  
1361 to extend the period of suspension or revocation by an  
1362 additional period for up to 2 years.

1363         3. If the minor is ineligible by reason of age for a driver  
1364 license or driving privilege, the court may ~~shall~~ direct the  
1365 Department of Highway Safety and Motor Vehicles to withhold  
1366 issuance of the minor's driver license or driving privilege for  
1367 up to 2 years after the date on which the minor would otherwise  
1368 have become eligible.

1369         Section 32. Section 800.09, Florida Statutes, is amended to  
1370 read:

1371             800.09 Lewd or lascivious exhibition in the presence of an  
1372 employee.—

1373             (1) As used in this section, the term:



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1374 (a) "Employee" means:

1375 1. Any person employed by or performing contractual

1376 services for a public or private entity operating a state

1377 correctional institution or private correctional facility; ~~or~~

1378 2. Any person employed by or performing contractual

1379 services for the corporation operating the prison industry

1380 enhancement programs or the correctional work programs under

1381 part II of chapter 946; ~~The term also includes~~

1382 3. Any person who is a parole examiner with the Florida

1383 Commission on Offender Review; or

1384 4. Any person employed at or performing contractual

1385 services for a county detention facility.

1386 (b) "Facility" means a state correctional institution as

1387 defined in s. 944.02, ~~or~~ a private correctional facility as

1388 defined in s. 944.710, or a county detention facility as defined

1389 in s. 951.23.

1390 (2) (a) A person who is detained in a facility may not:

1391 1. Intentionally masturbate;

1392 2. Intentionally expose the genitals in a lewd or

1393 lascivious manner; or

1394 3. Intentionally commit any other sexual act that does not

1395 involve actual physical or sexual contact with the victim,

1396 including, but not limited to, sadomasochistic abuse, sexual

1397 bestiality, or the simulation of any act involving sexual

1398 activity,

1399

1400 in the presence of a person he or she knows or reasonably should

1401 know is an employee.

1402 (b) A person who violates paragraph (a) commits lewd or



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1403 lascivious exhibition in the presence of an employee, a felony  
1404 of the third degree, punishable as provided in s. 775.082, s.  
1405 775.083, or s. 775.084.

1406 Section 33. Subsection (7) of section 806.13, Florida  
1407 Statutes, is amended, and subsection (8) of that section is  
1408 republished, to read:

1409 806.13 Criminal mischief; penalties; penalty for minor.—

1410 (7) In addition to any other penalty provided by law, if a  
1411 minor is found to have committed a delinquent act under this  
1412 section for placing graffiti on any public property or private  
1413 property, and:

1414 (a) The minor is eligible by reason of age for a driver  
1415 license or driving privilege, the court may ~~shall~~ direct the  
1416 Department of Highway Safety and Motor Vehicles to revoke or  
1417 withhold issuance of the minor's driver license or driving  
1418 privilege for not more than 1 year.

1419 (b) The minor's driver license or driving privilege is  
1420 under suspension or revocation for any reason, the court may  
1421 ~~shall~~ direct the Department of Highway Safety and Motor Vehicles  
1422 to extend the period of suspension or revocation by an  
1423 additional period of not more than 1 year.

1424 (c) The minor is ineligible by reason of age for a driver  
1425 license or driving privilege, the court may ~~shall~~ direct the  
1426 Department of Highway Safety and Motor Vehicles to withhold  
1427 issuance of the minor's driver license or driving privilege for  
1428 not more than 1 year after the date on which he or she would  
1429 otherwise have become eligible.

1430 (8) A minor whose driver license or driving privilege is  
1431 revoked, suspended, or withheld under subsection (7) may elect



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1432 to reduce the period of revocation, suspension, or withholding  
1433 by performing community service at the rate of 1 day for each  
1434 hour of community service performed. In addition, if the court  
1435 determines that due to a family hardship, the minor's driver  
1436 license or driving privilege is necessary for employment or  
1437 medical purposes of the minor or a member of the minor's family,  
1438 the court shall order the minor to perform community service and  
1439 reduce the period of revocation, suspension, or withholding at  
1440 the rate of 1 day for each hour of community service performed.  
1441 As used in this subsection, the term "community service" means  
1442 cleaning graffiti from public property.

1443 Section 34. Paragraphs (c), (d), and (e) of subsection (2)  
1444 of section 812.014, Florida Statutes, are amended, and  
1445 subsection (7) is added to that section, to read:

1446 812.014 Theft.—

1447 (2)

1448 (c) It is grand theft of the third degree and a felony of  
1449 the third degree, punishable as provided in s. 775.082, s.  
1450 775.083, or s. 775.084, if the property stolen is:

- 1451 1. Valued at \$750 ~~\$300~~ or more, but less than \$5,000.
- 1452 2. Valued at \$5,000 or more, but less than \$10,000.
- 1453 3. Valued at \$10,000 or more, but less than \$20,000.
- 1454 4. A will, codicil, or other testamentary instrument.
- 1455 5. A firearm.
- 1456 6. A motor vehicle, except as provided in paragraph (a).
- 1457 7. Any commercially farmed animal, including any animal of  
1458 the equine, avian, bovine, or swine class or other grazing  
1459 animal; a bee colony of a registered beekeeper; and aquaculture  
1460 species raised at a certified aquaculture facility. If the



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1461 property stolen is a commercially farmed animal, including an  
1462 animal of the equine, avian, bovine, or swine class or other  
1463 grazing animal; a bee colony of a registered beekeeper; or an  
1464 aquaculture species raised at a certified aquaculture facility,  
1465 a \$10,000 fine shall be imposed.

1466 8. Any fire extinguisher.

1467 9. Any amount of citrus fruit consisting of 2,000 or more  
1468 individual pieces of fruit.

1469 10. Taken from a designated construction site identified by  
1470 the posting of a sign as provided for in s. 810.09(2)(d).

1471 11. Any stop sign.

1472 12. Anhydrous ammonia.

1473 13. Any amount of a controlled substance as defined in s.  
1474 893.02. Notwithstanding any other law, separate judgments and  
1475 sentences for theft of a controlled substance under this  
1476 subparagraph and for any applicable possession of controlled  
1477 substance offense under s. 893.13 or trafficking in controlled  
1478 substance offense under s. 893.135 may be imposed when all such  
1479 offenses involve the same amount or amounts of a controlled  
1480 substance.

1481  
1482 However, if the property is stolen within a county that is  
1483 subject to a state of emergency declared by the Governor under  
1484 chapter 252, the property is stolen after the declaration of  
1485 emergency is made, and the perpetration of the theft is  
1486 facilitated by conditions arising from the emergency, the  
1487 offender commits a felony of the second degree, punishable as  
1488 provided in s. 775.082, s. 775.083, or s. 775.084, if the  
1489 property is valued at \$5,000 or more, but less than \$10,000, as



1490 provided under subparagraph 2., or if the property is valued at  
1491 \$10,000 or more, but less than \$20,000, as provided under  
1492 subparagraph 3. As used in this paragraph, the term "conditions  
1493 arising from the emergency" means civil unrest, power outages,  
1494 curfews, voluntary or mandatory evacuations, or a reduction in  
1495 the presence of or the response time for first responders or  
1496 homeland security personnel. For purposes of sentencing under  
1497 chapter 921, a felony offense that is reclassified under this  
1498 paragraph is ranked one level above the ranking under s.  
1499 921.0022 or s. 921.0023 of the offense committed.

1500 (d) It is grand theft of the third degree and a felony of  
1501 the third degree, punishable as provided in s. 775.082, s.  
1502 775.083, or s. 775.084, if the property stolen is valued at \$100  
1503 or more, but less than \$750 ~~\$300~~, and is taken from a dwelling  
1504 as defined in s. 810.011(2) or from the unenclosed curtilage of  
1505 a dwelling pursuant to s. 810.09(1).

1506 (e) Except as provided in paragraph (d), if the property  
1507 stolen is valued at \$100 or more, but less than \$750 ~~\$300~~, the  
1508 offender commits petit theft of the first degree, punishable as  
1509 a misdemeanor of the first degree, as provided in s. 775.082 or  
1510 s. 775.083.

1511 (7) The Office of Program Policy Analysis and Government  
1512 Accountability shall perform a study every 5 years to determine  
1513 the appropriateness of the threshold amounts included in this  
1514 section. The study's scope must include, but need not be limited  
1515 to, the crime trends related to theft offenses, the theft  
1516 threshold amounts of other states in effect at the time of the  
1517 study, the fiscal impact of any modifications to this state's  
1518 threshold amounts, and the effect on economic factors, such as



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1519 inflation. The study must include options for amending the  
1520 threshold amounts if the study finds that such amounts are  
1521 inconsistent with current trends. In conducting the study,  
1522 OPPAGA shall consult with the Office of Economic and Demographic  
1523 Research in addition to other interested entities. OPPAGA shall  
1524 submit a report to the Governor, the President of the Senate,  
1525 and the Speaker of the House of Representatives by September 1  
1526 of each fifth year.

1527       Section 35. Subsections (8) and (9) of section 812.015,  
1528 Florida Statutes, are amended, and subsections (10) and (11) are  
1529 added to that section, to read:

1530       812.015 Retail and farm theft; transit fare evasion;  
1531 mandatory fine; alternative punishment; detention and arrest;  
1532 exemption from liability for false arrest; resisting arrest;  
1533 penalties.—

1534       (8) Except as provided in subsection (9), a person who  
1535 commits retail theft commits a felony of the third degree,  
1536 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
1537 if the property stolen is valued at \$750 ~~\$300~~ or more, and the  
1538 person:

1539       (a) Individually commits retail theft, or in concert with  
1540 one or more other persons, coordinates the activities of one or  
1541 more individuals in committing the offense, which may occur  
1542 through multiple acts of retail theft, in which ~~case~~ the amount  
1543 of each individual theft is aggregated within a 30-day period to  
1544 determine the value of the property stolen;

1545       (b) Conspires with another person to commit retail theft  
1546 with the intent to sell the stolen property for monetary or  
1547 other gain, and subsequently takes or causes such property to be



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1548 placed in the control of another person in exchange for  
1549 consideration, in which the stolen property taken or placed  
1550 within a 30-day period is aggregated to determine the value of  
1551 the stolen property;

1552 (c)(b) Individually, or in concert with one or more other  
1553 persons, commits theft from more than one location within a 30-  
1554 day ~~48-hour~~ period, in which ~~case~~ the amount of each individual  
1555 theft is aggregated to determine the value of the property  
1556 stolen;

1557 (d)(e) Acts in concert with one or more other individuals  
1558 within one or more establishments to distract the merchant,  
1559 merchant's employee, or law enforcement officer in order to  
1560 carry out the offense, or acts in other ways to coordinate  
1561 efforts to carry out the offense; or

1562 (e)(d) Commits the offense through the purchase of  
1563 merchandise in a package or box that contains merchandise other  
1564 than, or in addition to, the merchandise purported to be  
1565 contained in the package or box.

1566 (9) A person commits a felony of the second degree,  
1567 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
1568 if the person:

1569 (a) Violates subsection (8) and has previously been  
1570 convicted of a violation of subsection (8); ~~or~~

1571 (b) Individually, or in concert with one or more other  
1572 persons, coordinates the activities of one or more persons in  
1573 committing the offense of retail theft, in which the amount of  
1574 each individual theft within a 30-day period is aggregated to  
1575 determine the value of the stolen property and such ~~where the~~  
1576 ~~stolen property has a value~~ is in excess of \$3,000; or



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1577           (c) Conspires with another person to commit retail theft  
1578 with the intent to sell the stolen property for monetary or  
1579 other gain, and subsequently takes or causes such property to be  
1580 placed in control of another person in exchange for  
1581 consideration, in which the stolen property taken or placed  
1582 within a 30-day period is aggregated to have a value in excess  
1583 of \$3,000.

1584           (10) If a person commits retail theft in more than one  
1585 judicial circuit within a 30-day period, the value of the stolen  
1586 property resulting from the thefts in each judicial circuit may  
1587 be aggregated and must be prosecuted by the Office of the  
1588 Statewide Prosecutor in accordance with s. 16.56.

1589           (11) The Office of Program Policy Analysis and Government  
1590 Accountability shall perform a study every 5 years to determine  
1591 the appropriateness of the threshold amounts included in this  
1592 section. The study's scope must include, but need not be limited  
1593 to, the crime trends related to theft offenses, the theft  
1594 threshold amounts of other states in effect at the time of the  
1595 study, the fiscal impact of any modifications to this state's  
1596 threshold amounts, and the effect on economic factors, such as  
1597 inflation. The study must include options for amending the  
1598 threshold amounts if the study finds that such amounts are  
1599 inconsistent with current trends. In conducting the study,  
1600 OPPAGA shall consult with the Office of Economic and Demographic  
1601 Research in addition to other interested entities. OPPAGA shall  
1602 submit a report to the Governor, the President of the Senate,  
1603 and the Speaker of the House of Representatives by September 1  
1604 of each fifth year.

1605           Section 36. Section 812.0155, Florida Statutes, is amended



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1606 to read:

1607 812.0155 Driver license suspension as an alternative  
1608 sentence for a person under 18 years of age ~~Suspension of driver~~  
1609 ~~license following an adjudication of guilt for theft.-~~

1610 ~~(1) Except as provided in subsections (2) and (3), the~~  
1611 ~~court may order the suspension of the driver license of each~~  
1612 ~~person adjudicated guilty of any misdemeanor violation of s.~~  
1613 ~~812.014 or s. 812.015, regardless of the value of the property~~  
1614 ~~stolen. Upon ordering the suspension of the driver license of~~  
1615 ~~the person adjudicated guilty, the court shall forward the~~  
1616 ~~driver license of the person adjudicated guilty to the~~  
1617 ~~Department of Highway Safety and Motor Vehicles in accordance~~  
1618 ~~with s. 322.25.~~

1619 ~~(a) The first suspension of a driver license under this~~  
1620 ~~subsection shall be for a period of up to 6 months.~~

1621 ~~(b) A second or subsequent suspension of a driver license~~  
1622 ~~under this subsection shall be for 1 year.~~

1623 ~~(1)(2)~~ The court may revoke, suspend, or withhold issuance  
1624 of a driver license of a person less than 18 years of age who  
1625 violates s. 812.014 or s. 812.015 as an alternative to  
1626 sentencing the person to:

1627 (a) Probation as defined in s. 985.03 or commitment to the  
1628 Department of Juvenile Justice, if the person is adjudicated  
1629 delinquent for such violation and has not previously been  
1630 convicted of or adjudicated delinquent for any criminal offense,  
1631 regardless of whether adjudication was withheld.

1632 (b) Probation as defined in s. 985.03, commitment to the  
1633 Department of Juvenile Justice, probation as defined in chapter  
1634 948, community control, or incarceration, if the person is



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1635 convicted as an adult of such violation and has not previously  
1636 been convicted of or adjudicated delinquent for any criminal  
1637 offense, regardless of whether adjudication was withheld.

1638 ~~(2)~~<sup>(3)</sup> As used in this subsection, the term "department"  
1639 means the Department of Highway Safety and Motor Vehicles. A  
1640 court that revokes, suspends, or withholds issuance of a driver  
1641 license under subsection ~~(1)~~<sup>(2)</sup> shall:

1642 (a) If the person is eligible by reason of age for a driver  
1643 license or driving privilege, direct the department to revoke or  
1644 withhold issuance of the person's driver license or driving  
1645 privilege for not less than 6 months and not more than 1 year;

1646 (b) If the person's driver license is under suspension or  
1647 revocation for any reason, direct the department to extend the  
1648 period of suspension or revocation by not less than 6 months and  
1649 not more than 1 year; or

1650 (c) If the person is ineligible by reason of age for a  
1651 driver license or driving privilege, direct the department to  
1652 withhold issuance of the person's driver license or driving  
1653 privilege for not less than 6 months and not more than 1 year  
1654 after the date on which the person would otherwise become  
1655 eligible.

1656 ~~(3)~~<sup>(4)</sup> This section does ~~Subsections (2) and (3) do not~~  
1657 preclude the court from imposing any other ~~specified or~~  
1658 ~~not specified in subsection (2) or subsection (3).~~

1659 ~~(5) A court that suspends the driver license of a person~~  
1660 ~~pursuant to subsection (1) may direct the Department of Highway~~  
1661 ~~Safety and Motor Vehicles to issue the person a license for~~  
1662 ~~driving privilege restricted to business purposes only, as~~  
1663 ~~defined in s. 322.271, if he or she is otherwise qualified.~~



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1664 Section 37. Subsection (1) of section 815.03, Florida  
1665 Statutes, is amended to read:

1666 815.03 Definitions.—As used in this chapter, unless the  
1667 context clearly indicates otherwise:

1668 (1) "Access" means to approach, instruct, communicate with,  
1669 store data in, retrieve data from, or otherwise make use of any  
1670 resources of a computer, a computer system, a ~~or~~ computer  
1671 network, or an electronic device.

1672 Section 38. Subsection (2) of section 815.06, Florida  
1673 Statutes, is amended, and subsection (3) of that section is  
1674 republished, to read:

1675 815.06 Offenses against users of computers, computer  
1676 systems, computer networks, and electronic devices.—

1677 (2) A person commits an offense against users of computers,  
1678 computer systems, computer networks, or electronic devices if he  
1679 or she willfully, knowingly, and without authorization or  
1680 exceeding authorization:

1681 (a) Accesses or causes to be accessed any computer,  
1682 computer system, computer network, or electronic device with  
1683 knowledge that such access is unauthorized or the manner of use  
1684 exceeds authorization;

1685 (b) Disrupts or denies or causes the denial of the ability  
1686 to transmit data to or from an authorized user of a computer,  
1687 computer system, computer network, or electronic device, which,  
1688 in whole or in part, is owned by, under contract to, or operated  
1689 for, on behalf of, or in conjunction with another;

1690 (c) Destroys, takes, injures, or damages equipment or  
1691 supplies used or intended to be used in a computer, computer  
1692 system, computer network, or electronic device;



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1693 (d) Destroys, injures, or damages any computer, computer  
1694 system, computer network, or electronic device;

1695 (e) Introduces any computer contaminant into any computer,  
1696 computer system, computer network, or electronic device; or

1697 (f) Engages in audio or video surveillance of an individual  
1698 by accessing any inherent feature or component of a computer,  
1699 computer system, computer network, or electronic device,  
1700 including accessing the data or information of a computer,  
1701 computer system, computer network, or electronic device that is  
1702 stored by a third party.

1703 (3) (a) Except as provided in paragraphs (b) and (c), a  
1704 person who violates subsection (2) commits a felony of the third  
1705 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1706 775.084.

1707 (b) A person commits a felony of the second degree,  
1708 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
1709 if he or she violates subsection (2) and:

1710 1. Damages a computer, computer equipment or supplies, a  
1711 computer system, or a computer network and the damage or loss is  
1712 at least \$5,000;

1713 2. Commits the offense for the purpose of devising or  
1714 executing any scheme or artifice to defraud or obtain property;

1715 3. Interrupts or impairs a governmental operation or public  
1716 communication, transportation, or supply of water, gas, or other  
1717 public service; or

1718 4. Intentionally interrupts the transmittal of data to or  
1719 from, or gains unauthorized access to, a computer, computer  
1720 system, computer network, or electronic device belonging to any  
1721 mode of public or private transit, as defined in s. 341.031.



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1722 (c) A person who violates subsection (2) commits a felony  
1723 of the first degree, punishable as provided in s. 775.082, s.  
1724 775.083, or s. 775.084, if the violation:

- 1725 1. Endangers human life; or  
1726 2. Disrupts a computer, computer system, computer network,  
1727 or electronic device that affects medical equipment used in the  
1728 direct administration of medical care or treatment to a person.

1729 Section 39. Section 817.413, Florida Statutes, is amended  
1730 to read:

1731 817.413 Sale of used motor vehicle goods as new; penalty.-

1732 (1) With respect to a transaction for which any charges  
1733 will be paid from the proceeds of a motor vehicle insurance  
1734 policy, ~~and in which the purchase price of motor vehicle goods~~  
1735 ~~exceeds \$100~~, it is unlawful for the seller to knowingly  
1736 misrepresent orally, in writing, or by failure to speak, that  
1737 the goods are new or original when they are used or repossessed  
1738 or have been used for sales demonstration.

1739 (2) A person who violates ~~the provisions of~~ this section,  
1740 if the purchase price of the motor vehicle goods is \$1,000 or  
1741 more, commits a felony of the third degree, punishable as  
1742 provided in s. 775.082, s. 775.083, or s. 775.084. If the  
1743 purchase price of the motor vehicle goods is less than \$1,000,  
1744 the person commits a misdemeanor of the first degree, punishable  
1745 as provided in s. 775.082 or s. 775.083.

1746 Section 40. Paragraph (a) of subsection (2) of section  
1747 831.28, Florida Statutes, is amended to read:

1748 831.28 Counterfeiting a payment instrument; possessing a  
1749 counterfeit payment instrument; penalties.-

1750 (2) (a) It is unlawful to counterfeit a payment instrument



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1751 with the intent to defraud a financial institution, account  
1752 holder, or any other person or organization or for a person to  
1753 have any counterfeit payment instrument in such person's  
1754 possession with the intent to defraud a financial institution,  
1755 an account holder, or any other person or organization. Any  
1756 person who violates this subsection commits a felony of the  
1757 third degree, punishable as provided in s. 775.082, s. 775.083,  
1758 or s. 775.084.

1759 Section 41. Present subsections (5) through (10) of section  
1760 847.011, Florida Statutes, are redesignated as subsections (6)  
1761 through (11), respectively, and a new subsection (5) is added to  
1762 that section, to read:

1763 847.011 Prohibition of certain acts in connection with  
1764 obscene, lewd, etc., materials; penalty.-

1765 (5) (a) A person may not knowingly sell, lend, give away,  
1766 distribute, transmit, show, or transmute; offer to sell, lend,  
1767 give away, distribute, transmit, show, or transmute; have in his  
1768 or her possession, custody, or control with the intent to sell,  
1769 lend, give away, distribute, transmit, show, or transmute; or  
1770 advertise in any manner an obscene, child-like sex doll. A  
1771 person who violates this paragraph commits a misdemeanor of the  
1772 first degree, punishable as provided in s. 775.082 or s.  
1773 775.083.

1774 (b) A person who is convicted of violating paragraph (a) a  
1775 second or subsequent time commits a felony of the third degree,  
1776 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1777 (c) A person who knowingly has in his or her possession,  
1778 custody, or control an obscene, child-like sex doll without  
1779 intent to sell, lend, give away, distribute, transmit, show,



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1780 transmute, or advertise the same, commits a misdemeanor of the  
1781 second degree, punishable as provided in s. 775.082 or s.  
1782 775.083. A person who, after having been convicted of violating  
1783 this subsection, thereafter violates any of its provisions  
1784 commits a misdemeanor of the first degree, punishable as  
1785 provided in s. 775.082 or s. 775.083. In any prosecution for  
1786 such possession, it is not necessary to allege or prove the  
1787 absence of such intent.

1788 Section 42. Section 849.01, Florida Statutes, is amended to  
1789 read:

1790 849.01 Keeping gambling houses, etc.—Whoever by herself or  
1791 himself, her or his servant, clerk or agent, or in any other  
1792 manner has, keeps, exercises or maintains a gaming table or  
1793 room, or gaming implements or apparatus, or house, booth, tent,  
1794 shelter or other place for the purpose of gaming or gambling or  
1795 in any place of which she or he may directly or indirectly have  
1796 charge, control or management, either exclusively or with  
1797 others, procures, suffers or permits any person to play for  
1798 money or other valuable thing at any game whatever, whether  
1799 heretofore prohibited or not, commits ~~shall be guilty of a~~  
1800 ~~misdemeanor felony~~ of the second ~~third~~ degree, punishable as  
1801 provided in s. 775.082 or, s. 775.083, ~~or s. 775.084.~~

1802 Section 43. Subsections (6) and (7) and paragraphs (c) and  
1803 (d) of subsection (8) of section 877.112, Florida Statutes, are  
1804 amended to read:

1805 877.112 Nicotine products and nicotine dispensing devices;  
1806 prohibitions for minors; penalties; civil fines; signage  
1807 requirements; preemption.—

1808 (6) PROHIBITIONS ON POSSESSION OF NICOTINE PRODUCTS OR



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1809 NICOTINE DISPENSING DEVICES BY MINORS.—It is unlawful for any  
1810 person under 18 years of age to knowingly possess any nicotine  
1811 product or a nicotine dispensing device. Any person under 18  
1812 years of age who violates this subsection commits a noncriminal  
1813 violation as defined in s. 775.08(3), punishable by:

1814 (a) For a first violation, 16 hours of community service  
1815 or, instead of community service, a \$25 fine. In addition, the  
1816 person must attend a school-approved anti-tobacco and nicotine  
1817 program, if locally available; or

1818 (b) For a second or subsequent violation within 12 weeks  
1819 after ~~of~~ the first violation, a \$25 fine. ~~;~~ ~~or~~

1820 ~~(c) For a third or subsequent violation within 12 weeks of~~  
1821 ~~the first violation, the court must direct the Department of~~  
1822 ~~Highway Safety and Motor Vehicles to withhold issuance of or~~  
1823 ~~suspend or revoke the person's driver license or driving~~  
1824 ~~privilege, as provided in s. 322.056.~~

1825  
1826 Any second or subsequent violation not within the 12-week time  
1827 period after the first violation is punishable as provided for a  
1828 first violation.

1829 (7) PROHIBITION ON MISREPRESENTING AGE.—It is unlawful for  
1830 any person under 18 years of age to misrepresent his or her age  
1831 or military service for the purpose of inducing a retailer of  
1832 nicotine products or nicotine dispensing devices or an agent or  
1833 employee of such retailer to sell, give, barter, furnish, or  
1834 deliver any nicotine product or nicotine dispensing device, or  
1835 to purchase, or attempt to purchase, any nicotine product or  
1836 nicotine dispensing device from a person or a vending machine.  
1837 Any person under 18 years of age who violates this subsection



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1838 commits a noncriminal violation as defined in s. 775.08(3),  
1839 punishable by:

1840 (a) For a first violation, 16 hours of community service  
1841 or, instead of community service, a \$25 fine and, in addition,  
1842 the person must attend a school-approved anti-tobacco and  
1843 nicotine program, if available; or

1844 (b) For a second violation within 12 weeks of the first  
1845 violation, a \$25 fine. ~~or~~

1846 ~~(c) For a third or subsequent violation within 12 weeks of~~  
1847 ~~the first violation, the court must direct the Department of~~  
1848 ~~Highway Safety and Motor Vehicles to withhold issuance of or~~  
1849 ~~suspend or revoke the person's driver license or driving~~  
1850 ~~privilege, as provided in s. 322.056.~~

1851  
1852 Any second or subsequent violation not within the 12-week time  
1853 period after the first violation is punishable as provided for a  
1854 first violation.

1855 (8) PENALTIES FOR MINORS.—

1856 (c) If a person under 18 years of age is found by the court  
1857 to have committed a noncriminal violation under this section and  
1858 that person has failed to complete community service, pay the  
1859 fine as required by paragraph (6) (a) or paragraph (7) (a), or  
1860 attend a school-approved anti-tobacco and nicotine program, if  
1861 locally available, the court may ~~must~~ direct the Department of  
1862 Highway Safety and Motor Vehicles to withhold issuance of or  
1863 suspend the driver license or driving privilege of that person  
1864 for 30 consecutive days.

1865 (d) If a person under 18 years of age is found by the court  
1866 to have committed a noncriminal violation under this section and



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1867 that person has failed to pay the applicable fine as required by  
1868 paragraph (6)(b) or paragraph (7)(b), the court may ~~must~~ direct  
1869 the Department of Highway Safety and Motor Vehicles to withhold  
1870 issuance of or suspend the driver license or driving privilege  
1871 of that person for 45 consecutive days.

1872 Section 44. Present subsections (6) and (7) of section  
1873 893.135, Florida Statutes, are redesignated as subsections (7)  
1874 and (8), respectively, paragraph (o) is added to subsection (1)  
1875 of that section and a new subsection (6) and subsection (9) are  
1876 added to that section, to read:

1877 893.135 Trafficking; mandatory sentences; suspension or  
1878 reduction of sentences; conspiracy to engage in trafficking.—

1879 (1) Except as authorized in this chapter or in chapter 499  
1880 and notwithstanding the provisions of s. 893.13:

1881 (o)1. As used in this paragraph, the term "dosage unit"  
1882 means an individual tablet, capsule, pill, transdermal patch,  
1883 unit of sublingual gelatin, or other visually distinctive form,  
1884 with a clear manufacturer marking on each unit, of a commercial  
1885 drug product approved by the United States Food and Drug  
1886 Administration and manufactured and distributed by a  
1887 pharmaceutical company lawfully doing business in the United  
1888 States.

1889 2. Notwithstanding any other provision of this section, the  
1890 sale, purchase, manufacture, delivery, or actual or constructive  
1891 possession of fewer than 120 dosage units containing any  
1892 controlled substance described in this section is not a  
1893 violation of any other provision of this section.

1894 3. A person who knowingly sells, purchases, delivers, or  
1895 brings into this state, or who is knowingly in actual or



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1896 constructive possession of, 120 or more dosage units containing  
1897 a controlled substance described in this section commits a  
1898 felony of the first degree, which felony shall be known as  
1899 "trafficking in pharmaceuticals," punishable as provided in s.  
1900 775.082, s. 775.083, or s. 775.084, and must be prosecuted under  
1901 this paragraph. If the quantity involved:

1902 a. Is 120 or more dosage units, but less than 500 dosage  
1903 units, such person shall be sentenced to a mandatory minimum  
1904 term of imprisonment of 3 years and shall be ordered to pay a  
1905 fine of up to \$25,000.

1906 b. Is 500 or more dosage units, but less than 1,000 dosage  
1907 units, such person shall be sentenced to a mandatory minimum  
1908 term of imprisonment of 7 years and shall be ordered to pay a  
1909 fine of up to \$50,000.

1910 c. Is 1,000 or more dosage units, but less than 5,000  
1911 dosage units, such person shall be sentenced to a mandatory  
1912 minimum term of imprisonment of 15 years and shall be ordered to  
1913 pay a fine of up to \$100,000.

1914 d. Is 5,000 or more dosage units, such person shall be  
1915 sentenced to a mandatory minimum term of imprisonment of 25  
1916 years and shall be ordered to pay a fine of up to \$250,000.

1917 (6) Notwithstanding any other provision of law, for an  
1918 offense under this section the court shall impose a sentence  
1919 pursuant to the Criminal Punishment Code under chapter 921 and  
1920 without regard to any statutory minimum sentence, if the court  
1921 finds at sentencing, after the state attorney has been afforded  
1922 the opportunity to make a recommendation, all of the following:

1923 (a) The defendant has not previously been convicted of a  
1924 dangerous crime as defined in s. 907.041(4) (a), or a violation



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1925 specified as a predicate offense for registration as a sexual  
1926 predator under s. 775.21 or for registration as a sexual  
1927 offender under s. 943.0435.

1928 (b) The defendant did not use violence or credible threats  
1929 of violence or possess a firearm or other dangerous weapon, or  
1930 induce another participant to do so, in connection with the  
1931 offense.

1932 (c) The offense did not result in death or serious bodily  
1933 injury to any person.

1934 (d) The defendant was not engaged in a continuing criminal  
1935 enterprise, as described in s. 893.20.

1936 (e) By the time of the sentencing hearing, the defendant  
1937 has truthfully provided to the state all information and  
1938 evidence the defendant has concerning the offense or offenses  
1939 that were part of the same course of conduct or of a common  
1940 scheme or plan. The fact that the defendant has no other  
1941 relevant or useful information to provide or that the state is  
1942 already aware of the information does not preclude a  
1943 determination by the court that the defendant has complied with  
1944 this requirement.

1945 (9) (a) It is the intent of the Legislature to retroactively  
1946 apply chapter 2014-176, Laws of Florida, only as provided in  
1947 this subsection, to violations of former s. 893.135(1)(c)1.  
1948 involving hydrocodone or oxycodone or any mixture containing  
1949 hydrocodone or oxycodone. A reference in this subsection to  
1950 "former s. 893.135(1)(c)1." is a reference to s. 893.135(1)(c)1.  
1951 as it existed at any time before the amendment of this section  
1952 by chapter 2014-176, Laws of Florida.

1953 (b) A person who committed a violation of former s.



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1954 893.135(1)(c)1. before July 1, 2014, but who was not sentenced  
1955 for such violation before October 1, 2019, shall be sentenced as  
1956 provided in this subsection. A person who was sentenced before  
1957 October 1, 2019, for a violation of former s. 893.135(1)(c)1.  
1958 committed before July 1, 2014, may petition the court for  
1959 resentencing pursuant to this subsection.

1960 (c) A violation of former s. 893.135(1)(c)1. is a felony of  
1961 the first degree, punishable as provided in s. 775.082, s.  
1962 775.083, or s. 775.084.

1963 (d) If the controlled substance involved in the violation  
1964 of former s. 893.135(1)(c)1. was hydrocodone or any mixture  
1965 containing hydrocodone, and the quantity involved:

1966 1. Was 4 grams or more, but less than 14 grams, such person  
1967 shall be sentenced or resentenced as provided in s. 775.082, s.  
1968 775.083, or s. 775.084.

1969 2. Was 14 grams or more, but less than 28 grams, such  
1970 person shall be sentenced or resentenced to a mandatory minimum  
1971 term of imprisonment of 3 years and shall be ordered to pay a  
1972 fine of \$50,000.

1973 3. Was 28 grams or more, but less than 50 grams, such  
1974 person shall be sentenced or resentenced to a mandatory minimum  
1975 term of imprisonment of 7 years and shall be ordered to pay a  
1976 fine of \$100,000.

1977 4. Was 50 grams or more, but less than 200 grams, such  
1978 person shall be sentenced or resentenced to a mandatory minimum  
1979 term of imprisonment of 15 years and shall be ordered to pay a  
1980 fine of \$500,000.

1981 5. Was 200 grams or more, but less than 30 kilograms, such  
1982 person shall be sentenced or resentenced to a mandatory minimum



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1983 term of imprisonment of 25 years and shall be ordered to pay a  
1984 fine of \$500,000.

1985 (c) If the controlled substance involved in the violation  
1986 of former s. 893.135(1)(c)1. was oxycodone or any mixture  
1987 containing oxycodone, and the quantity involved:

1988 1. Was 4 grams or more, but less than 7 grams, such person  
1989 shall be sentenced or resentenced as provided in s. 775.082, s.  
1990 775.083, or s. 775.084.

1991 2. Was 7 grams or more, but less than 14 grams, such person  
1992 shall be sentenced or resentenced to a mandatory minimum term of  
1993 imprisonment of 3 years and shall be ordered to pay a fine of  
1994 \$50,000.

1995 3. Was 14 grams or more, but less than 25 grams, such  
1996 person shall be sentenced or resentenced to a mandatory minimum  
1997 term of imprisonment of 7 years and shall be ordered to pay a  
1998 fine of \$100,000.

1999 4. Was 25 grams or more, but less than 100 grams, such  
2000 person shall be sentenced or resentenced to a mandatory minimum  
2001 term of imprisonment of 15 years and shall be ordered to pay a  
2002 fine of \$500,000.

2003 5. Was 100 grams or more, but less than 30 kilograms, such  
2004 person shall be sentenced or resentenced to a mandatory minimum  
2005 term of imprisonment of 25 years and shall be ordered to pay a  
2006 fine of \$500,000.

2007 Section 45. Effective upon becoming a law, section 900.05,  
2008 Florida Statutes, is amended to read:

2009 900.05 Criminal justice data collection.—

2010 (1) LEGISLATIVE FINDINGS AND INTENT.—It is the intent of  
2011 the Legislature to create a model of uniform criminal justice



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2012 data collection by requiring local and state criminal justice  
2013 agencies to report complete, accurate, and timely data, and  
2014 making such data available to the public. The Legislature finds  
2015 that it is an important state interest to implement a uniform  
2016 data collection process and promote criminal justice data  
2017 transparency.

2018 (2) DEFINITIONS.—As used in this section, the term:

2019 (a) "Annual felony caseload" means the yearly caseload of  
2020 each full-time state attorney and assistant state attorney, ~~or~~  
2021 public defender and assistant public defender, or regional  
2022 conflict counsel and assistant regional conflict counsel for  
2023 cases assigned to the circuit criminal division, based on the  
2024 number of felony cases reported to the Supreme Court under s.  
2025 25.075. The term does not include the appellate caseload of a  
2026 public defender, ~~or~~ assistant public defender, regional conflict  
2027 counsel, or assistant regional conflict counsel. Cases reported  
2028 pursuant to this term must be associated with a case number, and  
2029 each case number must only be reported once regardless of the  
2030 number of attorney assignments that occur during the course of  
2031 litigation. The caseload shall be calculated on June 30 and  
2032 reported once at the beginning of the reporting agency's fiscal  
2033 year.

2034 (b) "Annual felony conflict caseload" means the total  
2035 number of felony cases the office of the public defender or  
2036 office of regional conflict counsel has declined or withdrawn  
2037 from in the previous calendar year due to lack of qualified  
2038 counsel or due to excessive caseload. The caseload shall be  
2039 calculated on June 30 and reported once at the beginning of  
2040 reporting agency's fiscal year.



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2041            (c)~~(b)~~ "Annual misdemeanor caseload" means the yearly  
2042 caseload of each full-time state attorney and assistant state  
2043 attorney, ~~or~~ public defender and assistant public defender, or  
2044 regional conflict counsel and assistant regional conflict  
2045 counsel for cases assigned to the county criminal division,  
2046 based on the number of misdemeanor cases reported to the Supreme  
2047 Court under s. 25.075. The term does not include the appellate  
2048 caseload of a public defender, ~~or~~ assistant public defender,  
2049 regional conflict counsel, or assistant regional conflict  
2050 counsel. Cases reported pursuant to this term must be associated  
2051 with a case number, and each case number must only be reported  
2052 once regardless of the number of attorney assignments that occur  
2053 during the course of litigation. The caseload shall be  
2054 calculated on June 30 and reported once at the beginning of the  
2055 reporting agency's fiscal year.

2056            (d) "Annual misdemeanor conflict caseload" means the total  
2057 number of misdemeanor cases the office of the public defender or  
2058 office of regional conflict counsel has declined or withdrawn  
2059 from in the previous calendar year due to lack of qualified  
2060 counsel or due to excessive caseload. The caseload shall be  
2061 calculated on June 30 and reported once at the beginning of the  
2062 reporting agency's fiscal year.

2063            (e)~~(e)~~ "Attorney assignment date" means the date a court-  
2064 appointed attorney is assigned to the case or, if privately  
2065 retained, the date an attorney files a notice of appearance with  
2066 the clerk of court.

2067            (f)~~(d)~~ "Attorney withdrawal date" means the date the court  
2068 removes court-appointed counsel from a case or, for a privately  
2069 retained attorney, the date a motion to withdraw is granted by



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2070 the court.

2071 (g)~~(e)~~ "Case number" means the uniform case identification  
2072 number assigned by the clerk of court to a criminal case.

2073 (h)~~(f)~~ "Case status" means whether a case is open, active,  
2074 inactive, closed, reclosed, or reopened due to a violation of  
2075 probation or community control.

2076 (i)~~(g)~~ "Charge description" means the statement of the  
2077 conduct that is alleged to have been violated, the associated  
2078 statutory section establishing such conduct as criminal, and the  
2079 misdemeanor or felony classification that is provided for in the  
2080 statutory section alleged to have been violated.

2081 (j) "Charge disposition" means the final adjudication for  
2082 each charged crime, including, but not limited to, dismissal by  
2083 state attorney, dismissal by judge, acquittal, no contest plea,  
2084 guilty plea, or guilty finding at trial.

2085 (k)~~(h)~~ "Charge modifier" means an aggravating circumstance  
2086 of an alleged crime that enhances or reclassifies a charge to a  
2087 more serious misdemeanor or felony offense level.

2088 (l)~~(i)~~ "Concurrent or consecutive sentence flag" means an  
2089 indication that a defendant is serving another sentence  
2090 concurrently or consecutively in addition to the sentence for  
2091 which data is being reported.

2092 (m)~~(j)~~ "Daily number of correctional officers" means the  
2093 number of full-time, part-time, and auxiliary correctional  
2094 officers who are actively providing supervision, protection,  
2095 care, custody, and control of inmates in a county detention  
2096 facility or state correctional institution or facility each day.

2097 (n)~~(k)~~ "Defense attorney type" means whether the attorney  
2098 is a public defender, regional conflict counsel, or other



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2099 counsel court-appointed for the defendant; the attorney is  
2100 privately retained by the defendant; or the defendant is  
2101 represented pro se.

2102 (o)~~(l)~~ "Deferred prosecution or pretrial diversion  
2103 agreement date" means the date an agreement ~~a contract~~ is signed  
2104 by the parties regarding a defendant's admission into a deferred  
2105 prosecution or pretrial diversion program.

2106 (p)~~(m)~~ "Deferred prosecution or pretrial diversion hearing  
2107 date" means each date that a hearing, including a status  
2108 hearing, is held on a case that is in a deferred prosecution or  
2109 pretrial diversion program, if applicable.

2110 (q)~~(n)~~ "Disciplinary violation and action" means any  
2111 conduct performed by an inmate in violation of the rules of a  
2112 county detention facility or state correctional institution or  
2113 facility that results in the initiation of disciplinary  
2114 proceedings by the custodial entity and the consequences of such  
2115 disciplinary proceedings.

2116 (r)~~(o)~~ "Disposition date" means the date of final judgment,  
2117 adjudication, adjudication withheld, dismissal, or nolle  
2118 prosequi for the case and if different dates apply, the  
2119 disposition dates of each charge.

2120 (s) "Disposition type" means the manner in which the charge  
2121 was closed, including final judgment, adjudication, adjudication  
2122 withheld, dismissal, or nolle prosequi.

2123 (t)~~(p)~~ "Domestic violence flag" means an indication that a  
2124 filed charge involves domestic violence as defined in s. 741.28.

2125 (u)~~(q)~~ "Gang affiliation flag" means an indication that a  
2126 defendant is involved in or associated with a criminal gang as  
2127 defined in s. 874.03 at the time of the current offense.



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2128        (v)~~(r)~~ "Gain-time credit earned" means a credit of time  
2129 awarded to an inmate in a county detention facility in  
2130 accordance with s. 951.22 or a state correctional institution or  
2131 facility in accordance with s. 944.275.

2132        (w)~~(s)~~ "Habitual offender flag" means an indication that a  
2133 defendant is a habitual felony offender as defined in s. 775.084  
2134 or a habitual misdemeanor offender as defined in s. 775.0837.

2135        (x) "Habitual violent felony offender flag" means an  
2136 indication that a defendant is a habitual violent felony  
2137 offender as defined in s. 775.084.

2138        ~~(t) "Judicial transfer date" means a date on which a~~  
2139 ~~defendant's case is transferred to another court or presiding~~  
2140 ~~judge.~~

2141        (y)~~(u)~~ "Number of contract attorneys representing indigent  
2142 defendants for the office of the public defender" means the  
2143 number of attorneys hired on a temporary basis, by contract, to  
2144 represent indigent clients who were appointed a public defender.

2145        (z)~~(v)~~ "Pretrial release violation flag" means an  
2146 indication that the defendant has violated the terms of his or  
2147 her pretrial release.

2148        (aa)~~(w)~~ "Prior incarceration within the state" means any  
2149 prior history of a defendant's incarceration ~~defendant being~~  
2150 ~~incarcerated in a county detention facility or state~~  
2151 ~~correctional institution or facility.~~

2152        (bb) "Prison releasee reoffender flag" means an indication  
2153 that the defendant is a prison releasee reoffender as defined in  
2154 s. 775.082 or any other statute.

2155        (dd)~~(\*)~~ "Tentative release date" means the anticipated date  
2156 that an inmate will be released from incarceration after the



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2157 application of adjustments for any gain-time earned or credit  
2158 for time served.

2159 ~~(cc)(y)~~ "Sexual offender flag" means an indication that a  
2160 defendant was ~~is~~ required to register as a sexual predator as  
2161 defined in s. 775.21 or as a sexual offender as defined in s.  
2162 943.0435.

2163 (ee) "Three-time violent felony offender flag" means an  
2164 indication that the defendant is a three-time violent felony  
2165 offender as defined in s. 775.084 or any other statute.

2166 (ff) "Violent career criminal flag" means an indication  
2167 that the defendant is a violent career criminal as defined in s.  
2168 775.084 or any other statute.

2169 (3) DATA COLLECTION AND REPORTING. ~~Beginning January 1,~~  
2170 ~~2019,~~ An entity required to collect data in accordance with this  
2171 subsection shall collect the specified data and ~~required of the~~  
2172 ~~entity on a biweekly basis. Each entity shall report it the data~~  
2173 ~~collected~~ in accordance with this subsection to the Department  
2174 of Law Enforcement on a monthly basis.

2175 (a) *Clerk of the court.* ~~Each~~ clerk of court shall collect  
2176 the following data for each criminal case:

- 2177 1. Case number.  
2178 2. Date that the alleged offense occurred.  
2179 ~~3. County in which the offense is alleged to have occurred.~~

2180 ~~3.4.~~ 3.4. Date the defendant is taken into physical custody by a  
2181 law enforcement agency or is issued a notice to appear on a  
2182 criminal charge, ~~if such date is different from the date the~~  
2183 ~~offense is alleged to have occurred.~~

2184 4. Whether the case originated by notice to appear.

2185 5. Date that the criminal prosecution of a defendant is



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2186 ~~formally initiated through the filing, with the clerk of the~~  
2187 ~~court, of an information by the state attorney or an indictment~~  
2188 ~~issued by a grand jury.~~

2189 6. Arraignment date.

2190 7. Attorney appointment ~~assignment~~ date.

2191 8. Attorney withdrawal date.

2192 9. Case status.

2193 10. Charge disposition.

2194 11.10. Disposition date and disposition type.

2195 12.11. Information related to each defendant, including:

2196 a. Identifying information, including name, known aliases,  
2197 date of birth, ~~age,~~ race, ~~or~~ ethnicity, and gender.

2198 b. Zip code of last known address ~~primary residence.~~

2199 c. Primary language.

2200 d. Citizenship.

2201 e. Immigration status, if applicable.

2202 f. Whether the defendant has been found ~~by a court~~ to be  
2203 indigent under ~~pursuant to~~ s. 27.52.

2204 13.12. Information related to the ~~formal~~ charges filed  
2205 against the defendant, including:

2206 a. Charge description.

2207 b. Charge modifier description and statute, if applicable.

2208 c. Drug type for each drug charge, if known.

2209 d. Qualification for a flag designation as defined in this  
2210 section, including a domestic violence flag, gang affiliation  
2211 flag, sexual offender flag, habitual offender flag, habitual  
2212 violent felony offender flag, ~~or~~ pretrial release violation  
2213 flag, prison releasee reoffender flag, three-time violent felony  
2214 offender flag, or violent career criminal flag.



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2215           ~~14.13.~~ Information related to bail or bond and pretrial  
2216 release determinations, including the dates of any such  
2217 determinations:

2218           a. Pretrial release determination made at a first  
2219 appearance hearing that occurs within 24 hours of arrest,  
2220 including any ~~all~~ monetary and nonmonetary conditions of  
2221 release.

2222           b. Modification of bail or bond conditions made by a court  
2223 having jurisdiction to try the defendant or, in the absence of  
2224 the judge of the trial court, by the circuit court, including  
2225 modifications to any monetary and nonmonetary conditions of  
2226 release.

2227           c. Cash bail or bond payment, including whether the  
2228 defendant utilized a bond agent to post a surety bond.

2229           d. Date defendant is released on bail, bond, or pretrial  
2230 release for the current case.

2231           e. Bail or bond revocation due to a new offense, a failure  
2232 to appear, or a violation of the terms of bail or bond, if  
2233 applicable.

2234           ~~15.14.~~ Information related to court dates and dates of  
2235 motions and appearances, including:

2236           a. Date of any court appearance and the type of proceeding  
2237 scheduled for each date reported.

2238           b. Date of any failure to appear in court, if applicable.

2239           c. Deferred prosecution or pretrial diversion hearing, if  
2240 applicable.

2241           ~~e. Judicial transfer date, if applicable.~~

2242           d. Each scheduled trial date.

2243           e. Date that a defendant files a notice to participate in



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2244 discovery.

2245       f. Speedy trial motion date and each hearing dates, if

2246 applicable.

2247       g. Dismissal motion date and each hearing date ~~dates~~, if

2248 applicable.

2249       ~~16.15.~~ Defense attorney type.

2250       ~~17.16.~~ Information related to sentencing, including:

2251       a. Date that a court enters a sentence against a defendant.

2252       b. Charge sentenced to, including charge sequence number,

2253 and charge description, ~~statute, type, and charge class~~

2254 ~~severity~~.

2255       c. Sentence type and length imposed by the court in the

2256 current case, reported in years, months, and days, including,

2257 but not limited to, the total duration of incarceration

2258 ~~imprisonment~~ in a county detention facility or state

2259 correctional institution or facility, and conditions of

2260 probation or community control supervision.

2261       d. Amount of time served in custody by the defendant

2262 related to each charge ~~the reported criminal case~~ that is

2263 credited at the time of disposition of the charge ~~case~~ to reduce

2264 the imposed ~~actual~~ length of time the defendant will serve on

2265 the term of incarceration ~~imprisonment~~ that is ordered by the

2266 court at disposition.

2267       e. Total amount of court costs ~~fees~~ imposed by the court at

2268 the disposition of the case.

2269       ~~f. Outstanding balance of the defendant's court fees~~

2270 ~~imposed by the court at disposition of the case.~~

2271       ~~f.g.~~ Total amount of fines imposed by the court at the

2272 disposition of the case.



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2273 ~~h. Outstanding balance of the defendant's fines imposed by~~  
2274 ~~the court at disposition of the case.~~

2275 ~~g.i. Restitution amount ordered at sentencing, including~~  
2276 ~~the amount collected by the court and the amount paid to the~~  
2277 ~~victim, if applicable.~~

2278 ~~j. Digitized sentencing scoresheet prepared in accordance~~  
2279 ~~with s. 921.0024.~~

2280 ~~18.17. The sentencing judge or magistrate, or their~~  
2281 ~~equivalent, number of judges or magistrates, or their~~  
2282 ~~equivalents, hearing cases in circuit or county criminal~~  
2283 ~~divisions of the circuit court. Judges or magistrates, or their~~  
2284 ~~equivalents, who solely hear appellate cases from the county~~  
2285 ~~criminal division are not to be reported under this~~  
2286 ~~subparagraph.~~

2287 (b) *State attorney.*—Each state attorney shall collect the  
2288 following data:

2289 1. Information related to a human victim of a criminal  
2290 offense, including:

2291 a. Identifying information of the victim, including race,  
2292 ~~or~~ ethnicity, gender, and age at the time of the offense.

2293 b. Relationship to the offender, if any.

2294 2. Number of full-time prosecutors.

2295 3. Number of part-time prosecutors.

2296 4. Annual felony caseload.

2297 5. Annual misdemeanor caseload.

2298 6. Any charge referred to the state attorney by a law  
2299 enforcement agency or sworn complainant related to an episode of  
2300 criminal activity.

2301 7. Disposition of each referred charge, such as filed,



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2302 declined, or diverted.

2303 8.7. Number of cases in which a no-information was filed.

2304 9.8. Information related to each defendant, including:

2305 a. Each charge referred to the state attorney by a law

2306 enforcement agency or sworn complainant related to an episode of

2307 criminal activity.

2308 b. Case number, name, and date of birth.

2309 c.8. Drug type for each drug charge, if applicable.

2310 d. Deferred prosecution or pretrial diversion agreement

2311 date, if applicable.

2312 (c) *Public defender.*—Each public defender shall collect the

2313 following data ~~for each criminal case:~~

2314 1. Number of full-time public defenders.

2315 2. Number of part-time public defenders.

2316 3. Number of contract attorneys representing indigent

2317 defendants for the office of the public defender.

2318 4. Annual felony caseload.

2319 5. Annual felony conflict caseload.

2320 6.5. Annual misdemeanor caseload.

2321 7. Annual misdemeanor conflict caseload.

2322 (d) *County detention facility.*—The administrator of each

2323 county detention facility shall collect the following data:

2324 1. Maximum capacity for the county detention facility.

2325 2. Weekly admissions to the county detention facility for a

2326 revocation of probation or community control.

2327 3. Weekly admissions to the county detention facility for a

2328 revocation of pretrial release.

2329 4.3. Daily population of the county detention facility,

2330 including the specific number of inmates in the custody of the



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2331 county that:

2332       a. Are awaiting case disposition.

2333       b. Have been sentenced by a court to a term of

2334 incarceration ~~imprisonment~~ in the county detention facility.

2335       c. Have been sentenced by a court to a term of imprisonment

2336 with the Department of Corrections and who are awaiting

2337 transportation to the department.

2338       d. Have a federal detainer, ~~or~~ are awaiting disposition of

2339 a case in federal court, or are awaiting other federal

2340 disposition.

2341       5.4. Information related to each inmate, including:

2342       a. Identifying information, including name, date of birth,

2343 race, ethnicity, gender, case number, and identification number

2344 assigned by the county detention facility.

2345       b.a. Date when an inmate ~~a defendant~~ is processed and

2346 booked into the county detention facility subsequent to an

2347 arrest for a new violation of law, ~~or~~ for a violation of

2348 probation or community control, or for a violation of pretrial

2349 release.

2350       c.b. Reason why an inmate ~~a defendant~~ is processed and

2351 booked into the county detention facility, including if it is

2352 ~~for~~ a new law violation, or a violation of probation or

2353 community control, or a violation of pretrial release.

2354       d.e. Qualification for a flag designation as defined in

2355 this section, including domestic violence flag, gang affiliation

2356 flag, habitual offender flag, habitual violent felony offender

2357 flag, pretrial release violation flag, or sexual offender flag,

2358 prison releasee reoffender flag, three-time violent felony

2359 offender flag, or violent career criminal flag.



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2360 5. Total population of the county detention facility at  
2361 year-end. This data must include the same specified  
2362 classifications as subparagraph 3.

2363 6. Per diem rate for a county detention facility bed.

2364 7. Daily number of correctional officers for the county  
2365 detention facility.

2366 8. Annual county detention facility budget. This  
2367 information only needs to be reported once annually at the  
2368 beginning of the county's fiscal year.

2369 9. Annual revenue generated for the county from the  
2370 temporary incarceration of federal defendants or inmates.

2371 (e) *Department of Corrections.*—The Department of  
2372 Corrections shall collect the following data:

2373 1. Information related to each inmate, including:

2374 a. Identifying information, including name, date of birth,  
2375 race, ~~or~~ ethnicity, gender, case number, and identification  
2376 number assigned by the department.

2377 ~~b. Number of children.~~

2378 ~~b.e. Highest education level, including any vocational~~  
2379 ~~training.~~

2380 ~~c.d.~~ Date the inmate was admitted to the custody of the  
2381 department for his or her current incarceration.

2382 ~~d.e.~~ Current institution placement and the security level  
2383 assigned to the institution.

2384 ~~e.f.~~ Custody level assignment.

2385 ~~f.g.~~ Qualification for a flag designation as defined in  
2386 this section, including sexual offender flag, habitual offender  
2387 flag, habitual violent felony offender flag, prison releasee  
2388 reoffender flag, three-time violent felony offender flag,



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2389 violent career criminal flag, gang affiliation flag, or  
2390 concurrent or consecutive sentence flag.

2391 ~~g.h.~~ County that committed the prisoner to the custody of  
2392 the department.

2393 ~~h.i.~~ Whether the reason for admission to the department is  
2394 for a new conviction or a violation of probation, community  
2395 control, or parole. For an admission for a probation, community  
2396 control, or parole violation, the department shall report  
2397 whether the violation was technical or based on a new violation  
2398 of law.

2399 ~~i.j.~~ Specific statutory citation for which the inmate was  
2400 committed to the department, including, for an inmate convicted  
2401 of drug trafficking under s. 893.135, the statutory citation for  
2402 each specific drug trafficked.

2403 j. Length of sentence served.

2404 k. Length of sentence or concurrent or consecutive  
2405 sentences served.

2406 l. Tentative release date.

2407 m. Gain time earned in accordance with s. 944.275.

2408 n. Prior incarceration within the state.

2409 o. Disciplinary violation and action.

2410 p. Participation in rehabilitative or educational programs  
2411 while in the custody of the department.

2412 q. Digitized sentencing scoresheet prepared in accordance  
2413 with s. 921.0024.

2414 2. Information about each state correctional institution or  
2415 facility, including:

2416 a. Budget for each state correctional institution or  
2417 facility.



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2418           b. Daily prison population of all inmates incarcerated in a  
2419 state correctional institution or facility.

2420           c. Daily number of correctional officers for each state  
2421 correctional institution or facility.

2422           3. Information related to persons supervised by the  
2423 department on probation or community control, including:

2424           a. Identifying information for each person supervised by  
2425 the department on probation or community control, including his  
2426 or her name, date of birth, race, ~~or~~ ethnicity, gender, case  
2427 number ~~sex~~, and department-assigned case number.

2428           b. Length of probation or community control sentence  
2429 imposed and amount of time that has been served on such  
2430 sentence.

2431           c. Projected termination date for probation or community  
2432 control.

2433           d. Revocation of probation or community control due to a  
2434 violation, including whether the revocation is due to a  
2435 technical violation of the conditions of supervision or from the  
2436 commission of a new law violation.

2437           4. Per diem rates for:

2438           a. Prison bed.

2439           b. Probation.

2440           c. Community control.

2441  
2442 This information only needs to be reported once annually at the  
2443 time the most recent per diem rate is published.

2444           (f) Justice Administrative Commission.—The Justice  
2445 Administrative Commission shall collect the following data:

2446           1. Number of private registry attorneys representing



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2447 indigent adult defendants.  
2448 2. Annual felony caseload assigned to private registry  
2449 contract attorneys.  
2450 3. Annual misdemeanor caseload assigned to private registry  
2451 contract attorneys.  
2452 (g) Criminal conflict regional counsel.—Each office of  
2453 criminal conflict regional counsel shall report the following  
2454 data:  
2455 1. Number of full-time assistant regional conflict counsel  
2456 handling criminal cases.  
2457 2. Number of part-time assistant regional conflict counsel  
2458 handling criminal cases.  
2459 3. Number of contract attorneys representing indigent adult  
2460 defendants.  
2461 4. Annual felony caseload.  
2462 5. Annual felony conflict caseload.  
2463 6. Annual misdemeanor caseload.  
2464 7. Annual misdemeanor conflict caseload.  
2465 (4) DATA PUBLICLY AVAILABLE.—~~Beginning January 1, 2019,~~ The  
2466 Department of Law Enforcement shall publish datasets in its  
2467 possession in a modern, open, electronic format that is machine-  
2468 readable and readily accessible by the public on the  
2469 department's website. The published data must be searchable, at  
2470 a minimum, by ~~each~~ data elements, county, circuit, and unique  
2471 identifier. Beginning March 1, 2019, the department shall  
2472 publish ~~begin publishing~~ the data received under subsection (3)  
2473 ~~(2)~~ in the same modern, open, electronic format that is machine-  
2474 readable and readily accessible to the public on the  
2475 department's website. The department shall publish all data



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2476 received under subsection (3)(2) no later than January 1, 2020,  
2477 and monthly thereafter July 1, 2019.

2478 (5) NONCOMPLIANCE.—Notwithstanding any other provision of  
2479 law, an entity required to collect and transmit data under  
2480 subsection (3) paragraph (3)(a) or paragraph (3)(d) which does  
2481 not comply with the requirements of this section is ineligible  
2482 to receive funding from the General Appropriations Act, any  
2483 state grant program administered by the Department of Law  
2484 Enforcement, or any other state agency for 5 years after the  
2485 date of noncompliance.

2486 (6) CONFIDENTIALITY.—Information collected by any reporting  
2487 agency which is confidential and exempt upon collection remains  
2488 confidential and exempt when reported to the Department of Law  
2489 Enforcement under this section.

2490 Section 46. Effective July 1, 2020, section 900.06, Florida  
2491 Statutes, is created to read:

2492 900.06 Recording of custodial interrogations for certain  
2493 offenses.—

2494 (1) As used in this section, the term:

2495 (a) "Custodial interrogation" means questioning or other  
2496 conduct by a law enforcement officer which is reasonably likely  
2497 to elicit an incriminating response from an individual and which  
2498 occurs under circumstances in which a reasonable individual in  
2499 the same circumstances would consider himself or herself to be  
2500 in the custody of a law enforcement agency.

2501 (b) "Electronic recording" means an audio recording or an  
2502 audio and video recording that accurately records a custodial  
2503 interrogation.

2504 (c) "Covered offense" includes:



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- 2505        1. Arson.
- 2506        2. Sexual battery.
- 2507        3. Robbery.
- 2508        4. Kidnapping.
- 2509        5. Aggravated child abuse.
- 2510        6. Aggravated abuse of an elderly person or disabled adult.
- 2511        7. Aggravated assault with a deadly weapon.
- 2512        8. Murder.
- 2513        9. Manslaughter.
- 2514        10. Aggravated manslaughter of an elderly person or  
2515 disabled adult.
- 2516        11. Aggravated manslaughter of a child.
- 2517        12. The unlawful throwing, placing, or discharging of a  
2518 destructive device or bomb.
- 2519        13. Armed burglary.
- 2520        14. Aggravated battery.
- 2521        15. Aggravated stalking.
- 2522        16. Home-invasion robbery.
- 2523        17. Carjacking.
- 2524        (d) "Place of detention" means a police station, sheriff's  
2525 office, correctional facility, prisoner holding facility, county  
2526 detention facility, or other governmental facility where an  
2527 individual may be held in connection with a criminal charge that  
2528 has been or may be filed against the individual.
- 2529        (e) "Statement" means a communication that is oral,  
2530 written, electronic, nonverbal, or in sign language.
- 2531        (2) (a) A custodial interrogation at a place of detention,  
2532 including the giving of a required warning, the advisement of  
2533 the rights of the individual being questioned, and the waiver of



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2534 any rights by the individual, must be electronically recorded in  
2535 its entirety if the interrogation is related to a covered  
2536 offense.

2537 (b) If a law enforcement officer conducts a custodial  
2538 interrogation at a place of detention without electronically  
2539 recording the interrogation, the officer must prepare a written  
2540 report explaining the reason why he or she did not record the  
2541 interrogation.

2542 (c) As soon as practicable, a law enforcement officer who  
2543 conducts a custodial interrogation at a place other than a place  
2544 of detention shall prepare a written report explaining the  
2545 circumstances of the interrogation at that place and summarizing  
2546 the custodial interrogation process and the individual's  
2547 statements made at that place.

2548 (d) Paragraph (a) does not apply:

2549 1. If an unforeseen equipment malfunction prevents  
2550 recording the custodial interrogation in its entirety;

2551 2. If a suspect refuses to participate in a custodial  
2552 interrogation if his or her statements are to be electronically  
2553 recorded;

2554 3. If an equipment operator error prevents recording the  
2555 custodial interrogation in its entirety;

2556 4. If the statement is made spontaneously and not in  
2557 response to a custodial interrogation question;

2558 5. If the statement is made during the processing of the  
2559 arrest of a suspect;

2560 6. If the custodial interrogation occurs when the law  
2561 enforcement officer participating in the interrogation does not  
2562 have any knowledge of facts and circumstances that would lead an



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2563 officer to reasonably believe that the individual being  
2564 interrogated may have committed a covered offense;

2565 7. If the law enforcement officer conducting the custodial  
2566 interrogation reasonably believes that making an electronic  
2567 recording would jeopardize the safety of the officer, the  
2568 individual being interrogated, or others; or

2569 8. If the custodial interrogation is conducted outside of  
2570 this state.

2571 (3) Unless a court finds that one or more of the  
2572 circumstances specified in paragraph (2) (d) apply, the court  
2573 must consider the circumstances of an interrogation conducted by  
2574 a law enforcement officer in which he or she did not  
2575 electronically record all or part of a custodial interrogation  
2576 in determining whether a statement made during the interrogation  
2577 is admissible. If the court admits into evidence a statement  
2578 made during a custodial interrogation that was not  
2579 electronically recorded as required under paragraph (2) (a), the  
2580 court must, upon request of the defendant, give cautionary  
2581 instructions to the jury regarding the law enforcement officer's  
2582 failure to comply with that requirement.

2583 (4) A law enforcement agency in this state which has  
2584 enforced rules adopted pursuant to this section which are  
2585 reasonably designed to ensure compliance with the requirements  
2586 of this section is not subject to civil liability for damages  
2587 arising from a violation of this section. This section does not  
2588 create a cause of action against a law enforcement officer.

2589 Section 47. Paragraph (e) of subsection (1) of section  
2590 921.002, Florida Statutes, is amended to read:

2591 921.002 The Criminal Punishment Code.—The Criminal



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2592 Punishment Code shall apply to all felony offenses, except  
2593 capital felonies, committed on or after October 1, 1998.

2594 (1) The provision of criminal penalties and of limitations  
2595 upon the application of such penalties is a matter of  
2596 predominantly substantive law and, as such, is a matter properly  
2597 addressed by the Legislature. The Legislature, in the exercise  
2598 of its authority and responsibility to establish sentencing  
2599 criteria, to provide for the imposition of criminal penalties,  
2600 and to make the best use of state prisons so that violent  
2601 criminal offenders are appropriately incarcerated, has  
2602 determined that it is in the best interest of the state to  
2603 develop, implement, and revise a sentencing policy. The Criminal  
2604 Punishment Code embodies the principles that:

2605 (e) The sentence imposed by the sentencing judge reflects  
2606 the length of actual time to be served, shortened only by the  
2607 application of incentive and meritorious gain-time as provided  
2608 by law, and may not be shortened if the defendant would  
2609 consequently serve less than 65 percent of his or her term of  
2610 imprisonment as provided in s. 944.275(4)(b)3.a. or 85 percent  
2611 of his or her term of imprisonment as provided in s. 944.275(4)  
2612 or s. 944.275(4)(b)3.b. The provisions of chapter 947, relating  
2613 to parole, do not ~~shall not~~ apply to persons sentenced under the  
2614 Criminal Punishment Code. This paragraph applies retroactively  
2615 to October 1, 1995, as provided in s. 944.275(4)(b)3.a. and b.

2616 Section 48. Section 943.0578, Florida Statutes, is created  
2617 to read:

2618 943.0578 Lawful Self-Defense Expunction.—

2619 (1) Notwithstanding the eligibility requirements defined in  
2620 s. 943.0585(1) and (2), the department shall issue a certificate



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2621 of eligibility for expunction under this section to a person who  
2622 is the subject of a criminal history record if that person has  
2623 obtained, and submitted to the department, on a form provided by  
2624 the department, a written, certified statement from the  
2625 appropriate state attorney or statewide prosecutor which states  
2626 whether an information, indictment, or other charging document  
2627 was not filed or was dismissed by the state attorney, or  
2628 dismissed by the court, because it was found that the person  
2629 acted in lawful self-defense pursuant to chapter 776.

2630 (2) Each petition to expunge a criminal history record  
2631 pursuant to this section must be accompanied by:

2632 (a) A valid certificate of eligibility for expunction  
2633 issued by the department pursuant to this section; and

2634 (b) The petitioner's sworn statement attesting that the  
2635 petitioner is eligible for such an expunction to the best of his  
2636 or her knowledge or belief.

2637  
2638 Any person who knowingly provides false information on such  
2639 sworn statement to the court commits a felony of the third  
2640 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
2641 775.084.

2642 (3) This section does not confer any right to the  
2643 expunction of a criminal history record, and any request for  
2644 expunction of a criminal history record may be denied at the  
2645 discretion of the court.

2646 (4) Section 943.0585(5) and (6) apply to an expunction  
2647 ordered under this section.

2648 (5) The department shall adopt rules to establish  
2649 procedures for applying for and issuing a certificate of



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2650 eligibility for expunction under this section.

2651 Section 49. Section 943.0581, Florida Statutes, is amended  
2652 to read:

2653 943.0581 Administrative expunction for arrests made  
2654 contrary to law or by mistake.—

2655 (1) Notwithstanding any law dealing generally with the  
2656 preservation and destruction of public records, the department  
2657 may adopt a rule pursuant to chapter 120 for the administrative  
2658 expunction of any nonjudicial record of an arrest of a minor or  
2659 an adult made contrary to law or by mistake.

2660 (2) A law enforcement agency shall apply to the department  
2661 in the manner prescribed by rule for the administrative  
2662 expunction of any nonjudicial record of any arrest of a minor or  
2663 an adult who is subsequently determined by the agency, at its  
2664 discretion, or by the final order of a court of competent  
2665 jurisdiction, to have been arrested contrary to law or by  
2666 mistake.

2667 (3) An adult or, in the case of a minor child, the parent  
2668 or legal guardian of the minor child, may apply to the  
2669 department in the manner prescribed by rule for the  
2670 administrative expunction of any nonjudicial record of an arrest  
2671 alleged to have been made contrary to law or by mistake,  
2672 provided that the application is supported by the endorsement of  
2673 the head of the arresting agency or his or her designee or the  
2674 state attorney of the judicial circuit in which the arrest  
2675 occurred or his or her designee.

2676 (4) An application for administrative expunction shall  
2677 include the date and time of the arrest, the name of the person  
2678 arrested, the offender-based tracking system (OBTS) number, and



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2679 the crime or crimes charged. The application shall be on the  
2680 submitting agency's letterhead and shall be signed by the head  
2681 of the submitting agency or his or her designee.

2682 (5) If the person was arrested on a warrant, capias, or  
2683 pickup order, a request for an administrative expunction may be  
2684 made by the sheriff of the county in which the warrant, capias,  
2685 or pickup order was issued or his or her designee or by the  
2686 state attorney of the judicial circuit in which the warrant,  
2687 capias, or pickup order was issued or his or her designee.

2688 (6) An application or endorsement under this section is not  
2689 admissible as evidence in any judicial or administrative  
2690 proceeding and may not be construed in any way as an admission  
2691 of liability in connection with an arrest.

2692 Section 50. Section 943.0584, Florida Statutes, is created  
2693 to read:

2694 943.0584 Criminal history records ineligible for court-  
2695 ordered expunction or court-ordered sealing.-

2696 (1) As used in this section, the term "conviction" means a  
2697 determination of guilt which is the result of a trial or the  
2698 entry of a plea of guilty or nolo contendere, regardless of  
2699 whether adjudication is withheld, or if the defendant was a  
2700 minor, a finding that the defendant committed or pled guilty or  
2701 nolo contendere to committing a delinquent act, regardless of  
2702 whether adjudication of delinquency is withheld.

2703 (2) A criminal history record is ineligible for a  
2704 certificate of eligibility for expunction or a court-ordered  
2705 expunction pursuant to s. 943.0585 or a certificate of  
2706 eligibility for sealing or a court-ordered sealing pursuant to  
2707 s. 943.059 if the record is a conviction, information,



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2708 indictment, notice to appear, or arrest for any of the following  
2709 offenses:

2710 (a) Sexual misconduct, as defined in s. 393.135, s.  
2711 394.4593, or s. 916.1075;

2712 (b) Illegal use of explosives, as defined in chapter 552;

2713 (c) Terrorism, as defined in s. 775.30;

2714 (d) Murder, as defined in s. 782.04, s. 782.065, or s.  
2715 782.09;

2716 (e) Manslaughter or homicide, as defined in s. 782.07, s.  
2717 782.071, or s. 782.072;

2718 (f) Assault or battery, as defined in ss. 784.011 and  
2719 784.03, respectively, of one family or household member by  
2720 another family or household member, as defined in s. 741.28(3);

2721 (g) Aggravated assault, as defined in s. 784.021;

2722 (h) Felony battery, domestic battery by strangulation, or  
2723 aggravated battery, as defined in s. 784.03, s. 784.041, and s.  
2724 784.045, respectively;

2725 (i) Stalking or aggravated stalking, as defined in s.  
2726 784.048;

2727 (j) Luring or enticing a child, as defined in s. 787.025;

2728 (k) Human trafficking, as defined in s. 787.06;

2729 (l) Kidnapping or false imprisonment, as defined in s.  
2730 787.01 or s. 787.02;

2731 (m) Any offense defined in chapter 794;

2732 (n) Procuring a person under the age of 18 for  
2733 prostitution, as defined in former s. 796.03;

2734 (o) Lewd or lascivious offenses committed upon or in the  
2735 presence of persons less than 16 years of age, as defined in s.  
2736 800.04;



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- 2737        (p) Arson, as defined in s. 806.01;  
2738        (q) Burglary of a dwelling, as defined in s. 810.02;  
2739        (r) Voyeurism or video voyeurism, as defined in s. 810.14  
2740 and s. 810.145, respectively;  
2741        (s) Robbery or robbery by sudden snatching, as defined in  
2742 s. 812.13 and s. 812.131, respectively;  
2743        (t) Carjacking, as defined in s. 812.133;  
2744        (u) Home-invasion robbery, as defined in s. 812.135;  
2745        (v) A violation of the Florida Communications Fraud Act, s.  
2746 817.034;  
2747        (w) Abuse of an elderly person or disabled adult, or  
2748 aggravated abuse of an elderly person or disabled adult, as  
2749 defined in s. 825.102;  
2750        (x) Lewd or lascivious offenses committed upon or in the  
2751 presence of an elderly person or disabled person, as defined in  
2752 s. 825.1025;  
2753        (y) Child abuse or aggravated child abuse, as defined in s.  
2754 827.03;  
2755        (z) Sexual performance by a child, as defined in s.  
2756 827.071;  
2757        (aa) Any offense defined in chapter 839;  
2758        (bb) Certain acts in connection with obscenity, as defined  
2759 in s. 847.0133;  
2760        (cc) Any offense defined in s. 847.0135;  
2761        (dd) Selling or buying of minors, as defined in s.  
2762 847.0145;  
2763        (ee) Aircraft piracy, as defined in s. 860.16;  
2764        (ff) Manufacturing a controlled substance in violation of  
2765 chapter 893;



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2766 (gg) Drug trafficking, as defined in s. 893.135; or  
2767 (hh) Any violation specified as a predicate offense for  
2768 registration as a sexual predator pursuant to s. 775.21, or  
2769 sexual offender pursuant to s. 943.0435, without regard to  
2770 whether that offense alone is sufficient to require such  
2771 registration.

2772 Section 51. Section 943.0585, Florida Statutes, is amended  
2773 to read:

2774 (Substantial rewording of section. See  
2775 s. 943.0585, F.S., for present text.)

2776 943.0585 Court-ordered expunction of criminal history  
2777 records.-

2778 (1) ELIGIBILITY.-A person is eligible to petition a court  
2779 to expunge a criminal history record when:

2780 (a) An indictment, information, or other charging document  
2781 was not filed or issued in the case giving rise to the criminal  
2782 history record.

2783 (b) If an indictment, information, or other charging  
2784 document was filed or issued in the case giving rise to the  
2785 criminal history record, it was dismissed or nolle prosequi by  
2786 the state attorney or statewide prosecutor, or was dismissed by  
2787 a court of competent jurisdiction, or a judgment of acquittal  
2788 was rendered by a judge, or a verdict of not guilty was rendered  
2789 by a judge or jury.

2790 (c) The person is not seeking to expunge a criminal history  
2791 record that is ineligible for court-ordered expunction pursuant  
2792 to s. 943.0584.

2793 (d) The person has never, as of the date the application  
2794 for a certificate of expunction is filed, been adjudicated



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2795 guilty in this state of a criminal offense or been adjudicated  
2796 delinquent in this state for committing any felony or any of the  
2797 following misdemeanors, unless the record of such adjudication  
2798 of delinquency has been expunged pursuant to s. 943.0515:

2799 1. Assault, as defined in s. 784.011;

2800 2. Battery, as defined in s. 784.03;

2801 3. Assault on a law enforcement officer, a firefighter, or  
2802 other specified officers, as defined in s. 784.07(2)(a);

2803 4. Carrying a concealed weapon, as defined in s. 790.01(1);

2804 5. Open carrying of a weapon, as defined in s. 790.053;

2805 6. Unlawful possession or discharge of a weapon or firearm  
2806 at a school-sponsored event or on school property, as defined in  
2807 s. 790.115;

2808 7. Unlawful use of destructive devices or bombs, as defined  
2809 in s. 790.1615(1);

2810 8. Unlawful possession of a firearm, as defined in s.  
2811 790.22(5);

2812 9. Exposure of sexual organs, as defined in s. 800.03;

2813 10. Arson, as defined in s. 806.031(1);

2814 11. Petit theft, as defined in s. 812.014(3);

2815 12. Neglect of a child, as defined in s. 827.03(1)(e); or

2816 13. Cruelty to animals, as defined in s. 828.12(1).

2817 (e) The person has not been adjudicated guilty of, or  
2818 adjudicated delinquent for committing, any of the acts stemming  
2819 from the arrest or alleged criminal activity to which the  
2820 petition pertains.

2821 (f) The person is no longer under court supervision  
2822 applicable to the disposition of arrest or alleged criminal  
2823 activity to which the petition to expunge pertains.



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2824 (g) The person has never secured a prior sealing or  
2825 expunction of a criminal history record under this section, s.  
2826 943.059, former s. 893.14, former s. 901.33, or former s.  
2827 943.058, unless expunction is sought of a criminal history  
2828 record previously sealed for 10 years pursuant to paragraph (h)  
2829 and the record is otherwise eligible for expunction.

2830 (h) The person has previously obtained a court order  
2831 sealing the criminal history record under this section, former  
2832 s. 893.14, former s. 901.33, or former s. 943.058 for a minimum  
2833 of 10 years because adjudication was withheld or because all  
2834 charges related to the arrest or alleged criminal activity to  
2835 which the petition to expunge pertains were not dismissed before  
2836 trial, without regard to whether the outcome of the trial was  
2837 other than an adjudication of guilt. The requirement for the  
2838 record to have previously been sealed for a minimum of 10 years  
2839 does not apply when a plea was not entered or all charges  
2840 related to the arrest or alleged criminal activity to which the  
2841 petition to expunge pertains were dismissed before trial or a  
2842 judgment of acquittal was rendered by a judge or a verdict of  
2843 not guilty was rendered by a judge or jury.

2844 (2) CERTIFICATE OF ELIGIBILITY.—Before petitioning a court  
2845 to expunge a criminal history record, a person seeking to  
2846 expunge a criminal history record shall apply to the department  
2847 for a certificate of eligibility for expunction. The department  
2848 shall adopt rules to establish procedures for applying for and  
2849 issuing a certificate of eligibility for expunction.

2850 (a) The department shall issue a certificate of eligibility  
2851 for expunction to a person who is the subject of a criminal  
2852 history record if that person:



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2853 1. Satisfies the eligibility criteria in paragraphs (1) (a)-  
2854 (h) and is not ineligible under s. 943.0584.

2855 2. Has submitted to the department a written certified  
2856 statement from the appropriate state attorney or statewide  
2857 prosecutor which confirms the criminal history record complies  
2858 with the criteria in paragraph (1) (a) or paragraph (1) (b) and  
2859 (c).

2860 3. Has submitted to the department a certified copy of the  
2861 disposition of the charge to which the petition to expunge  
2862 pertains.

2863 4. Remits a \$75 processing fee to the department for  
2864 placement in the Department of Law Enforcement Operating Trust  
2865 Fund, unless the executive director waives such fee.

2866 (b) A certificate of eligibility for expunction is valid  
2867 for 12 months after the date stamped on the certificate when  
2868 issued by the department. After that time, the petitioner must  
2869 reapply to the department for a new certificate of eligibility.  
2870 The petitioner's status and the law in effect at the time of the  
2871 renewal application determines the petitioner's eligibility.

2872 (3) PETITION.—Each petition to expunge a criminal history  
2873 record must be accompanied by:

2874 (a) A valid certificate of eligibility issued by the  
2875 department.

2876 (b) The petitioner's sworn statement that he or she:

2877 1. Satisfies the eligibility requirements for expunction in  
2878 subsection (1).

2879 2. Is eligible for expunction to the best of his or her  
2880 knowledge and does not have any other petition to seal or  
2881 expunge a criminal history record pending before any court.



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2882  
2883 A person who knowingly provides false information on such sworn  
2884 statement commits a felony of the third degree, punishable as  
2885 provided in s. 775.082, s. 775.083, or s. 775.084.

2886 (4) COURT AUTHORITY.—

2887 (a) The courts of this state have jurisdiction over their  
2888 own procedures, including the maintenance, expunction, and  
2889 correction of judicial records containing criminal history  
2890 information to the extent that such procedures are not  
2891 inconsistent with the conditions, responsibilities, and duties  
2892 established by this section.

2893 (b) A court of competent jurisdiction may order a criminal  
2894 justice agency to expunge the criminal history record of a minor  
2895 or an adult who complies with the requirements of this section.  
2896 The court may not order a criminal justice agency to expunge a  
2897 criminal history record until the person seeking to expunge a  
2898 criminal history record has applied for and received a  
2899 certificate of eligibility under subsection (2).

2900 (c) The court may only order expunction of a criminal  
2901 history record pertaining to one arrest or one incident of  
2902 alleged criminal activity, except that the court may order the  
2903 expunction of a criminal history record pertaining to more than  
2904 one arrest if the additional arrests directly relate to the  
2905 original arrest. If the court intends to order the expunction of  
2906 records pertaining to such additional arrests, such intent must  
2907 be specified in the order. A criminal justice agency may not  
2908 expunge any record pertaining to such additional arrests if the  
2909 order to expunge does not articulate the intention of the court  
2910 to expunge a record pertaining to more than one arrest. This



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2911 section does not prevent the court from ordering the expunction  
2912 of only a portion of a criminal history record pertaining to one  
2913 arrest or one incident of alleged criminal activity.

2914 (d) Notwithstanding any law to the contrary, a criminal  
2915 justice agency may comply with laws, court orders, and official  
2916 requests of other jurisdictions relating to expunction,  
2917 correction, or confidential handling of criminal history records  
2918 or information derived therefrom.

2919 (e) This section does not confer any right to expunction of  
2920 any criminal history record, and any request for expunction of a  
2921 criminal history record may be denied at the sole discretion of  
2922 the court.

2923 (5) PROCESSING OF A PETITION OR AN ORDER.-

2924 (a) In judicial proceedings under this section, a copy of  
2925 the completed petition to expunge shall be served upon the  
2926 appropriate state attorney or the statewide prosecutor and upon  
2927 the arresting agency; however, it is not necessary to make any  
2928 agency other than the state a party. The appropriate state  
2929 attorney or the statewide prosecutor and the arresting agency  
2930 may respond to the court regarding the completed petition to  
2931 expunge.

2932 (b) If relief is granted by the court, the clerk of the  
2933 court shall certify copies of the order to the appropriate state  
2934 attorney or the statewide prosecutor and the arresting agency.  
2935 The arresting agency shall forward the order to any other agency  
2936 to which the arresting agency disseminated the criminal history  
2937 record information to which the order pertains. The department  
2938 shall forward the order to expunge to the Federal Bureau of  
2939 Investigation. The clerk of the court shall certify a copy of



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2940 the order to any other agency which the records of the court  
2941 reflect has received the criminal history record from the court.

2942 (c) The department or any other criminal justice agency is  
2943 not required to act on an order to expunge entered by a court  
2944 when such order does not comply with the requirements of this  
2945 section. Upon receipt of such an order, the department must  
2946 notify the issuing court, the appropriate state attorney or  
2947 statewide prosecutor, the petitioner or the petitioner's  
2948 attorney, and the arresting agency of the reason for  
2949 noncompliance. The appropriate state attorney or statewide  
2950 prosecutor shall take action within 60 days to correct the  
2951 record and petition the court to void the order. No cause of  
2952 action, including contempt of court, shall arise against any  
2953 criminal justice agency for failure to comply with an order to  
2954 expunge when the petitioner for such order failed to obtain the  
2955 certificate of eligibility as required by this section or such  
2956 order does not otherwise comply with the requirements of this  
2957 section.

2958 (6) EFFECT OF EXPUNCTION ORDER.-

2959 (a) Any criminal history record of a minor or an adult  
2960 which is ordered expunged by a court of competent jurisdiction  
2961 pursuant to this section must be physically destroyed or  
2962 obliterated by any criminal justice agency having custody of  
2963 such record; except that any criminal history record in the  
2964 custody of the department must be retained in all cases. A  
2965 criminal history record ordered expunged which is retained by  
2966 the department is confidential and exempt from s. 119.07(1) and  
2967 s. 24(a), Art. I of the State Constitution and not available to  
2968 any person or entity except upon order of a court of competent



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2969 jurisdiction. A criminal justice agency may retain a notation  
2970 indicating compliance with an order to expunge.

2971 (b) The person who is the subject of a criminal history  
2972 record that is expunged under this section or under other  
2973 provisions of law, including former s. 893.14, former s. 901.33,  
2974 and former s. 943.058, may lawfully deny or fail to acknowledge  
2975 the arrests covered by the expunged record, except when the  
2976 subject of the record:

2977 1. Is a candidate for employment with a criminal justice  
2978 agency;

2979 2. Is a defendant in a criminal prosecution;

2980 3. Concurrently or subsequently petitions for relief under  
2981 this section, s. 943.0583, or s. 943.059;

2982 4. Is a candidate for admission to The Florida Bar;

2983 5. Is seeking to be employed or licensed by or to contract  
2984 with the Department of Children and Families, the Division of  
2985 Vocational Rehabilitation within the Department of Education,  
2986 the Agency for Health Care Administration, the Agency for  
2987 Persons with Disabilities, the Department of Health, the  
2988 Department of Elderly Affairs, or the Department of Juvenile  
2989 Justice or to be employed or used by such contractor or licensee  
2990 in a sensitive position having direct contact with children, the  
2991 disabled, or the elderly;

2992 6. Is seeking to be employed or licensed by the Department  
2993 of Education, any district school board, any university  
2994 laboratory school, any charter school, any private or parochial  
2995 school, or any local governmental entity that licenses child  
2996 care facilities;

2997 7. Is seeking to be licensed by the Division of Insurance



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2998 Agent and Agency Services within the Department of Financial  
2999 Services; or  
3000 8. Is seeking to be appointed as a guardian pursuant to s.  
3001 744.3125.  
3002 (c) Subject to the exceptions in paragraph (b), a person  
3003 who has been granted an expunction under this section, former s.  
3004 893.14, former s. 901.33, or former s. 943.058 may not be held  
3005 under any provision of law of this state to commit perjury or to  
3006 be otherwise liable for giving a false statement by reason of  
3007 such person's failure to recite or acknowledge an expunged  
3008 criminal history record.  
3009 (d) Information relating to the existence of an expunged  
3010 criminal history record which is provided in accordance with  
3011 paragraph (a) is confidential and exempt from s. 119.07(1) and  
3012 s. 24(a), Art. I of the State Constitution, except that the  
3013 department shall disclose the existence of a criminal history  
3014 record ordered expunged to the entities set forth in  
3015 subparagraphs (b)1., 4., 5., 6., 7., and 8. for their respective  
3016 licensing, access authorization, and employment purposes, and to  
3017 criminal justice agencies for their respective criminal justice  
3018 purposes. It is unlawful for any employee of an entity set forth  
3019 in subparagraph (b)1., 4., 5., 6., 7., or 8. to disclose  
3020 information relating to the existence of an expunged criminal  
3021 history record of a person seeking employment, access  
3022 authorization, or licensure with such entity or contractor,  
3023 except to the person to whom the criminal history record relates  
3024 or to persons having direct responsibility for employment,  
3025 access authorization, or licensure decisions. Any person who  
3026 violates this paragraph commits a misdemeanor of the first



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3027 degree, punishable as provided in s. 775.082 or s. 775.083.  
3028 Section 52. Section 943.059, Florida Statutes, is amended  
3029 to read:  
3030 (Substantial rewording of section. See  
3031 s. 943.059, F.S., for present text.)  
3032 943.059 Court-ordered sealing of criminal history records.-  
3033 (1) ELIGIBILITY.-A person is eligible to petition a court  
3034 to seal a criminal history record when:  
3035 (a) The criminal history record is not ineligible for  
3036 court-ordered sealing under s. 943.0584;  
3037 (b) The person has never, before the date the application  
3038 for a certificate of eligibility is filed, been adjudicated  
3039 guilty in this state of a criminal offense, or been adjudicated  
3040 delinquent in this state for committing any felony or any of the  
3041 following misdemeanor offenses, unless the record of such  
3042 adjudication of delinquency has been expunged pursuant to s.  
3043 943.0515:  
3044 1. Assault, as defined in s. 784.011;  
3045 2. Battery, as defined in s. 784.03;  
3046 3. Assault on a law enforcement officer, a firefighter, or  
3047 other specified officers, as defined in s. 784.07(2)(a);  
3048 4. Carrying a concealed weapon, as defined in s. 790.01(1);  
3049 5. Open carrying of a weapon, as defined in s. 790.053;  
3050 6. Unlawful possession or discharge of a weapon or firearm  
3051 at a school-sponsored event or on school property, as defined in  
3052 s. 790.115;  
3053 7. Unlawful use of destructive devices or bombs, as defined  
3054 in s. 790.1615(1);  
3055 8. Unlawful possession of a firearm by a minor, as defined



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3056 in s. 790.22(5);

3057 9. Exposure of sexual organs, as defined in s. 800.03;

3058 10. Arson, as defined in s. 806.031(1);

3059 11. Petit theft, as defined in s. 812.014(3);

3060 12. Neglect of a child, as defined in s. 827.03(1)(e); or

3061 13. Cruelty to animals, as defined in s. 828.12(10).

3062 (c) The person has not been adjudicated guilty of, or  
3063 adjudicated delinquent for committing, any of the acts stemming  
3064 from the arrest or alleged criminal activity to which the  
3065 petition to seal pertains.

3066 (d) The person is no longer under court supervision  
3067 applicable to the disposition of arrest or alleged criminal  
3068 activity to which the petition to seal pertains.

3069 (e) The person has never secured a prior sealing or  
3070 expunction of a criminal history record under this section, s.  
3071 943.0585, former s. 893.14, former s. 901.33, or former s.  
3072 943.058.

3073 (2) CERTIFICATE OF ELIGIBILITY.—Before petitioning the  
3074 court to seal a criminal history record, a person seeking to  
3075 seal a criminal history record shall apply to the department for  
3076 a certificate of eligibility for sealing. The department shall  
3077 adopt rules relating to the application for and issuance of  
3078 certificates of eligibility for sealing.

3079 (a) The department shall issue a certificate of eligibility  
3080 for sealing to a person who is the subject of a criminal history  
3081 record if that person:

3082 1. Satisfies the eligibility criteria in paragraphs (1)(a)-  
3083 (e) and is not ineligible for court-ordered sealing under s.  
3084 943.0584.



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3085           2. Has submitted to the department a certified copy of the  
3086 disposition of charge to which the petition pertains.

3087           3. Remits a \$75 processing fee to the department for  
3088 placement in the Department of Law Enforcement Operating Trust  
3089 Fund, unless the executive directors waives such fee.

3090           (b) A certificate of eligibility for sealing is valid for  
3091 12 months after the date stamped on the certificate when issued  
3092 by the department. After that time, the petitioner must reapply  
3093 to the department for a new certificate of eligibility. The  
3094 status of the applicant and the law in effect at the time of the  
3095 renewal application determines the petitioner's eligibility.

3096           (3) PETITION.—Each petition to a court to seal a criminal  
3097 history record is complete only when accompanied by:

3098           (a) A valid certificate of eligibility issued by the  
3099 department pursuant to this section.

3100           (b) The petitioner's sworn statement that the petitioner:

3101           1. Satisfies the eligibility requirements for sealing in  
3102 subsection (1).

3103           2. Is eligible for sealing to the best of his or her  
3104 knowledge and does not have any other petition to seal or  
3105 expunge a criminal history record pending before any court.

3106  
3107 Any person who knowingly provides false information on such  
3108 sworn statement to the court commits a felony of the third  
3109 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
3110 775.084.

3111           (4) COURT AUTHORITY.—

3112           (a) The courts of this state have jurisdiction over their  
3113 own procedures, including the maintenance, sealing, and



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3114 correction of judicial records containing criminal history  
3115 information to the extent that such procedures are not  
3116 inconsistent with the conditions, responsibilities, and duties  
3117 established by this section.

3118 (b) Any court of competent jurisdiction may order a  
3119 criminal justice agency to seal the criminal history record of a  
3120 minor or an adult who complies with the requirements of this  
3121 section. The court may not order a criminal justice agency to  
3122 seal a criminal history record until the person seeking to seal  
3123 a criminal history record has applied for and received a  
3124 certificate of eligibility pursuant to subsection (2).

3125 (c) The court may only order the sealing of a criminal  
3126 history record pertaining to one arrest or one incident of  
3127 alleged criminal activity, except the court may order the  
3128 sealing of a criminal history record pertaining to more than one  
3129 arrest if the additional arrests directly relate to the original  
3130 arrest. If the court intends to order the sealing of records  
3131 pertaining to such additional arrests, such intent must be  
3132 specified in the order. A criminal justice agency may not seal  
3133 any record pertaining to such additional arrests if the order to  
3134 seal does not articulate the intention of the court to seal a  
3135 record pertaining to more than one arrest. This section does not  
3136 prevent the court from ordering the sealing of only a portion of  
3137 a criminal history record pertaining to one arrest or one  
3138 incident of alleged criminal activity.

3139 (d) Notwithstanding any law to the contrary, a criminal  
3140 justice agency may comply with laws, court orders, and official  
3141 requests of other jurisdictions relating to sealing, correction,  
3142 or confidential handling of criminal history records or



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3143 information derived therefrom.

3144 (e) This section does not confer any right to the sealing  
3145 of any criminal history record, and any request for sealing of a  
3146 criminal history record may be denied at the sole discretion of  
3147 the court.

3148 (5) PROCESSING OF A PETITION OR ORDER.—

3149 (a) In judicial proceedings under this section, a copy of  
3150 the completed petition to seal shall be served upon the  
3151 appropriate state attorney or the statewide prosecutor and upon  
3152 the arresting agency; however, it is not necessary to make any  
3153 agency other than the state a party. The appropriate state  
3154 attorney or the statewide prosecutor and the arresting agency  
3155 may respond to the court regarding the completed petition to  
3156 seal.

3157 (b) If relief is granted by the court, the clerk of the  
3158 court shall certify copies of the order to the appropriate state  
3159 attorney or the statewide prosecutor and the arresting agency.  
3160 The arresting agency is responsible for forwarding the order to  
3161 any other agency to which the arresting agency disseminated the  
3162 criminal history record information to which the order pertains.  
3163 The department shall forward the order to seal to the Federal  
3164 Bureau of Investigation. The clerk of the court shall certify a  
3165 copy of the order to any other agency which the records of the  
3166 court reflect has received the criminal history record from the  
3167 court.

3168 (c) The department or any other criminal justice agency is  
3169 not required to act on an order to seal entered by a court when  
3170 such order does not comply with the requirements of this  
3171 section. Upon receipt of such an order, the department must



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3172 notify the issuing court, the appropriate state attorney or  
3173 statewide prosecutor, the petitioner or the petitioner's  
3174 attorney, and the arresting agency of the reason for  
3175 noncompliance. The appropriate state attorney or statewide  
3176 prosecutor shall take action within 60 days to correct the  
3177 record and petition the court to void the order. No cause of  
3178 action, including contempt of court, shall arise against any  
3179 criminal justice agency for failure to comply with an order to  
3180 seal when the petitioner for such order failed to obtain the  
3181 certificate of eligibility as required by this section or such  
3182 order does not otherwise comply with the requirements of this  
3183 section.

3184 (6) EFFECT OF ORDER.—

3185 (a) A criminal history record of a minor or an adult which  
3186 is ordered sealed by a court pursuant to this section is  
3187 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
3188 of the State Constitution and is available only to the following  
3189 persons:

3190 1. The subject of the record;

3191 2. The subject's attorney;

3192 3. Criminal justice agencies for their respective criminal  
3193 justice purposes, which include conducting a criminal history  
3194 background check for approval of firearms purchases or transfers  
3195 as authorized by state or federal law;

3196 4. Judges in the state courts system for the purpose of  
3197 assisting them in their case-related decision making  
3198 responsibilities, as set forth in s. 943.053(5); or

3199 5. To those entities set forth in subparagraphs (b)1., 4.,  
3200 5., 6., 8., 9., and 10. for their respective licensing access



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3201 authorization and employment purposes.  
3202 (b) The subject of the criminal history record sealed under  
3203 this section or under other provisions of law, including former  
3204 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully  
3205 deny or fail to acknowledge the arrests covered by the sealed  
3206 record, except when the subject of the record:  
3207 1. Is a candidate for employment with a criminal justice  
3208 agency;  
3209 2. Is a defendant in a criminal prosecution;  
3210 3. Concurrently or subsequently petitions for relief under  
3211 this section, s. 943.0583 or s. 943.0585;  
3212 4. Is a candidate for admission to the Florida Bar;  
3213 5. Is seeking to be employed or licensed by or to contract  
3214 with the Department of Children and Families, the Division of  
3215 Vocational Rehabilitation within the Department of Education,  
3216 the Agency for Health Care Administration, the Agency for  
3217 Persons with Disabilities, the Department of Health, the  
3218 Department of Elderly Affairs, or the Department of Juvenile  
3219 Justice or to be employed or used by such contractor or licensee  
3220 in a sensitive position having direct contact with children, the  
3221 disabled, or the elderly;  
3222 6. Is seeking to be employed or licensed by the Department  
3223 of Education, a district school board, a university laboratory  
3224 school, a charter school, a private or parochial school, or a  
3225 local governmental entity that licenses child care facilities;  
3226 7. Is attempting to purchase a firearm from a licensed  
3227 importer, licensed manufacturer, or licensed dealer and is  
3228 subject to a criminal history check under state or federal law;  
3229 8. Is seeking to be licensed by the Division of Insurance



3230 Agent and Agency Services within the Department of Financial  
3231 Services;  
3232 9. Is seeking to be appointed as a guardian pursuant to s.  
3233 744.3125; or  
3234 10. Is seeking to be licensed by the Bureau of License  
3235 Issuance of the Division of Licensing within the Department of  
3236 Agriculture and Consumer Services to carry a concealed weapon or  
3237 concealed firearm. This subparagraph applies only in the  
3238 determination of an applicant's eligibility under s. 790.06.  
3239 (c) Subject to the exceptions in paragraph (b), a person  
3240 who has been granted a sealing under this section, former s.  
3241 893.14, former s. 901.33, or former s. 943.058 may not be held  
3242 under any provision of law of this state to commit perjury or to  
3243 be otherwise liable for giving a false statement by reason of  
3244 such person's failure to recite or acknowledge a sealed criminal  
3245 history record.  
3246 (d) Information relating to the existence of a sealed  
3247 criminal record provided in accordance with paragraph (b) is  
3248 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
3249 of the State Constitution, except that the department shall  
3250 disclose the sealed criminal history record to the entities set  
3251 forth in subparagraphs (b)1., 4., 5., 6., 8., 9., and 10., for  
3252 their respective licensing, access authorization, and employment  
3253 purposes. An employee of an entity set forth in subparagraph  
3254 (b)1., 4., 5., 6., 8., 9., or 10. may not disclose information  
3255 relating to the existence of a sealed criminal history record of  
3256 a person seeking employment, access authorization, or licensure  
3257 with such entity or contractor, except to the person to whom the  
3258 criminal history record relates or to persons having direct



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3259 responsibility for employment, access authorization, or  
3260 licensure decisions. A person who violates this paragraph  
3261 commits a misdemeanor of the first degree, punishable as  
3262 provided in s. 775.082 or s. 775.083.

3263 Section 53. Section 943.0595, Florida Statutes, is created  
3264 to read:

3265 943.0595 AUTOMATIC SEALING OF CRIMINAL HISTORY RECORDS.-

3266 (1) RULEMAKING.-Notwithstanding any law dealing generally  
3267 with the preservation and destruction of public records, the  
3268 department shall adopt rules addressing the automatic sealing of  
3269 any criminal history record of a minor or adult described in  
3270 this section.

3271 (2) ELIGIBILITY.-

3272 (a) The department shall automatically seal a criminal  
3273 history record when:

3274 1. An indictment, information, or other charging document  
3275 was not filed or issued in the case giving rise to the criminal  
3276 history record.

3277 2. An indictment, information, or other charging document  
3278 was filed in the case giving rise to the criminal history  
3279 record, but was dismissed or nolle prosequi by the state  
3280 attorney or statewide prosecutor, or was dismissed by a court of  
3281 competent jurisdiction. However, a person is not eligible for  
3282 automatic sealing under this section if the dismissal was  
3283 pursuant to s. 916.145 or s. 985.19.

3284 3. A not guilty verdict was rendered by a judge or jury.  
3285 However, a person is not eligible for automatic sealing under  
3286 this section if the defendant was found not guilty by reason of  
3287 insanity.



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3288           4. A judgment of acquittal was rendered by a judge.  
3289           (b) There is no limitation on the number of times a person  
3290 may obtain an automatic sealing for a criminal history record  
3291 described in paragraph (a).  
3292           (3) PROCESS FOR AND EFFECT OF AUTOMATIC SEALING.—  
3293           (a) Upon the disposition of a criminal case resulting in a  
3294 criminal history record eligible for automatic sealing under  
3295 paragraph (2) (a), the clerk of the court shall transmit a  
3296 certified copy of the disposition of the criminal history record  
3297 to the department, which shall seal the criminal history record  
3298 upon receipt of the certified copy.  
3299           (b) Automatic sealing of a criminal history record does not  
3300 require sealing by the court or other criminal justice agencies,  
3301 or that such record be surrendered to the court, and such record  
3302 shall continue to be maintained by the department and other  
3303 criminal justice agencies.  
3304           (c) Except as provided in this section, automatic sealing  
3305 of a criminal history record shall have the same effect, and the  
3306 department may disclose such a record in the same manner, as a  
3307 record sealed under s. 943.059.  
3308           Section 54. Paragraph (b) of subsection (1) of section  
3309 943.325, Florida Statutes, is amended to read:  
3310           943.325 DNA database.—  
3311           (1) LEGISLATIVE INTENT.—  
3312           (b) The Legislature also finds that upon establishment of  
3313 the Florida DNA database, a match between casework evidence DNA  
3314 samples from a criminal investigation and DNA samples from a  
3315 state or federal DNA database of certain offenders may be used  
3316 to find probable cause for the issuance of a warrant for arrest



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3317 or to obtain the DNA sample from an offender.

3318 Section 55. Effective upon becoming a law, subsection (9)  
3319 is added to section 943.6871, Florida Statutes, to read:

3320 943.6871 Criminal justice data transparency.—In order to  
3321 facilitate the availability of comparable and uniform criminal  
3322 justice data, the department shall:

3323 (9) Keep all information received by the department under  
3324 s. 900.05 which is confidential and exempt when collected by the  
3325 reporting agency confidential and exempt for purposes of this  
3326 section and s. 900.05.

3327 Section 56. Paragraphs (b) and (f) of subsection (4) of  
3328 section 944.275, Florida Statutes, are amended to read:

3329 944.275 Gain-time.—

3330 (4)

3331 (b) For each month in which an inmate works diligently,  
3332 participates in training, uses time constructively, or otherwise  
3333 engages in positive activities, the department may grant  
3334 incentive gain-time in accordance with this paragraph. The rate  
3335 of incentive gain-time in effect on the date the inmate  
3336 committed the offense that ~~which~~ resulted in his or her  
3337 incarceration shall be the inmate's rate of eligibility to earn  
3338 incentive gain-time throughout the period of incarceration and  
3339 may ~~shall~~ not be altered by a subsequent change in the severity  
3340 level of the offense for which the inmate was sentenced.

3341 1. For sentences imposed for offenses committed before  
3342 ~~prior to~~ January 1, 1994, up to 20 days of incentive gain-time  
3343 may be granted. If granted, such gain-time shall be credited and  
3344 applied monthly.

3345 2. For sentences imposed for offenses committed on or after



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3346 January 1, 1994, and before October 1, 1995:

3347 a. For offenses ranked in offense severity levels 1 through  
3348 7, under former s. 921.0012 or former s. 921.0013, up to 25 days  
3349 of incentive gain-time may be granted. If granted, such gain-  
3350 time shall be credited and applied monthly.

3351 b. For offenses ranked in offense severity levels 8, 9, and  
3352 10, under former s. 921.0012 or former s. 921.0013, up to 20  
3353 days of incentive gain-time may be granted. If granted, such  
3354 gain-time shall be credited and applied monthly.

3355 3. For sentences imposed for offenses committed on or after  
3356 October 1, 1995 and retroactive to October 1, 1995, the  
3357 department may grant up to 20 ~~10~~ days per month of incentive  
3358 gain-time except that:

3359 a. If the offense is a nonviolent felony, as defined in s.  
3360 948.08(6), the prisoner is not eligible to earn any type of  
3361 gain-time in an amount that would cause a sentence to expire,  
3362 end, or terminate, or that would result in a prisoner's release,  
3363 before he or she serves a minimum of 65 percent of the sentence  
3364 imposed. For purposes of this sub-subparagraph, credits awarded  
3365 by the court for time physically incarcerated must be credited  
3366 toward satisfaction of 65 percent of the sentence imposed. A  
3367 prisoner who is granted incentive gain-time pursuant to this  
3368 sub-subparagraph may not accumulate further gain-time awards at  
3369 any point when the tentative release date is the same as that  
3370 date at which the prisoner will have served 65 percent of the  
3371 sentence imposed. State prisoners sentenced to life imprisonment  
3372 must be incarcerated for the rest of their natural lives, unless  
3373 granted pardon or clemency.

3374 b. If the offense is not a nonviolent felony, as defined in



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3375 s. 948.08(6), the prisoner is not eligible to earn any type of  
3376 gain-time in an amount that would cause a sentence to expire,  
3377 end, or terminate, or that would result in a prisoner's release,  
3378 before he or she serves a minimum of 85 percent of the sentence  
3379 imposed. For purposes of this sub-subparagraph, credits awarded  
3380 by the court for time physically incarcerated must be credited  
3381 toward satisfaction of 85 percent of the sentence imposed. A  
3382 prisoner who is granted incentive gain-time pursuant to this  
3383 sub-subparagraph may not accumulate further gain-time awards at  
3384 any point when the tentative release date is the same as that  
3385 date at which the prisoner will have served 85 percent of the  
3386 sentence imposed. State prisoners sentenced to life imprisonment  
3387 must be incarcerated for the rest of their natural lives, unless  
3388 granted pardon or clemency.

3389 ~~(f) An inmate who is subject to subparagraph (b)3. is not~~  
3390 ~~eligible to earn or receive gain-time under paragraph (a),~~  
3391 ~~paragraph (b), paragraph (c), or paragraph (d) or any other type~~  
3392 ~~of gain-time in an amount that would cause a sentence to expire,~~  
3393 ~~end, or terminate, or that would result in a prisoner's release,~~  
3394 ~~prior to serving a minimum of 85 percent of the sentence~~  
3395 ~~imposed. For purposes of this paragraph, credits awarded by the~~  
3396 ~~court for time physically incarcerated shall be credited toward~~  
3397 ~~satisfaction of 85 percent of the sentence imposed. Except as~~  
3398 ~~provided by this section, a prisoner may not accumulate further~~  
3399 ~~gain-time awards at any point when the tentative release date is~~  
3400 ~~the same as that date at which the prisoner will have served 85~~  
3401 ~~percent of the sentence imposed. State prisoners sentenced to~~  
3402 ~~life imprisonment shall be incarcerated for the rest of their~~  
3403 ~~natural lives, unless granted pardon or clemency.~~



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3404 Section 57. Subsection (2) of section 944.47, Florida  
3405 Statutes, is amended to read:

3406 944.47 Introduction, removal, or possession of contraband  
3407 ~~certain articles unlawful~~; penalty.—

3408 (2) (a) A person who violates ~~any provision of~~ this section  
3409 as it pertains to an article of contraband described in  
3410 subparagraph (1)(a)1., subparagraph (1)(a)2., or subparagraph  
3411 (1)(a)6. commits a felony of the third degree, punishable as  
3412 provided in s. 775.082, s. 775.083, or s. 775.084. Otherwise ~~In~~  
3413 ~~all other cases~~, a violation of ~~a provision of~~ this section is  
3414 ~~constitutes~~ a felony of the second degree, punishable as  
3415 provided in s. 775.082, s. 775.083, or s. 775.084.

3416 (b) A violation of this section by an employee, as defined  
3417 in s. 944.115(2)(b), who uses or attempts to use the powers,  
3418 rights, privileges, duties, or position of his or her employment  
3419 in the commission of the violation is ranked one level above the  
3420 ranking specified in s. 921.0022 or s. 921.0023 for the offense  
3421 committed.

3422 Section 58. Subsection (2) of section 944.611, Florida  
3423 Statutes, is amended to read:

3424 944.611 Legislative intent.—The Legislature finds and  
3425 declares that:

3426 (2) It is the intent of the Legislature that:

3427 (a) The secretary shall designate the place of each  
3428 inmate's confinement and shall, subject to bed availability and  
3429 the inmate's security designation, programmatic needs, and  
3430 mental and medical health needs, place each inmate in an  
3431 institution or facility as close as practicable to within 300  
3432 driving miles of the inmate's primary residence, unless the



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3433 safety of department employees or inmates requires other  
3434 placement. Subject to bed availability and the inmate's security  
3435 designation, the department shall transfer an inmate to an  
3436 institution or facility that is as close as practicable to  
3437 within 300 driving miles of the inmate's primary residence,  
3438 unless the inmate chooses to remain at his or her current  
3439 institution or facility.

3440 (b)~~(a)~~ To the extent possible, an inmate be returned, upon  
3441 release, to the same area from which the inmate was committed.

3442 (c)~~(b)~~ An inmate being released from a community work-  
3443 release program is not eligible for the provision of  
3444 transportation.

3445 (d)~~(e)~~ Transportation provided for an eligible inmate upon  
3446 release shall be to one of the following points:

- 3447 1. The county where parole placement has been approved and  
3448 supervision is to commence.
- 3449 2. Another state.
- 3450 3. The county of employment within the state.
- 3451 4. The county of legal residence within the state.
- 3452 5. The county of original commitment within the state.

3453 (e)~~(d)~~ Each releasee who is eligible for the provision of  
3454 transportation shall be escorted to the site of embarkation by  
3455 an officer of the correctional facility, who shall remain until  
3456 the releasee has departed.

3457 Section 59. Section 944.704, Florida Statutes, is amended  
3458 to read:

3459 944.704 Staff who provide transition assistance; duties.—

3460 (1) The department shall provide a transition assistance  
3461 specialist at each of the major institutions.



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3462           (2) The department may increase the number of transition  
3463 assistance specialists in proportion to the number of inmates  
3464 served at each of the major institutions and may increase the  
3465 number of employment specialists per judicial circuit based on  
3466 the number of released inmates served under community  
3467 supervision in that circuit, subject to appropriations.

3468           (3) The transition assistance specialists' ~~whose~~ duties  
3469 include, but are not limited to:

3470           (a) ~~(1)~~ Coordinating delivery of transition assistance  
3471 program services at the institution and at the community  
3472 correctional centers authorized pursuant to s. 945.091(1)(b).

3473           (b) ~~(2)~~ Assisting in the development of each inmate's  
3474 postrelease plan.

3475           (c) ~~(3)~~ Obtaining job placement information. Such  
3476 information must include identifying any job assignment  
3477 credentialing or industry certifications for which the inmate is  
3478 eligible.

3479           (d) ~~(4)~~ Providing a written medical discharge plan and  
3480 referral to a county health department.

3481           (e) ~~(5)~~ For an inmate who is known to be HIV positive,  
3482 providing a 30-day supply of all HIV/AIDS-related medication  
3483 that the inmate is taking before ~~prior to~~ release, if required  
3484 under protocols of the Department of Corrections and treatment  
3485 guidelines of the United States Department of Health and Human  
3486 Services.

3487           (f) ~~(6)~~ Facilitating placement in a private transition  
3488 housing program, if requested by any eligible inmate. If an  
3489 inmate who is nearing his or her date of release requests  
3490 placement in a contracted substance abuse transition housing



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3491 program, the transition assistance specialist shall inform the  
3492 inmate of program availability and assess the inmate's need and  
3493 suitability for transition housing assistance. If an inmate is  
3494 approved for placement, the specialist shall assist the inmate  
3495 and coordinate the release of the inmate with the selected  
3496 program. If an inmate requests and is approved for placement in  
3497 a contracted faith-based substance abuse transition housing  
3498 program, the specialist must consult with the chaplain before  
3499 ~~prior to~~ such placement. In selecting inmates who are nearing  
3500 their date of release for placement in a faith-based program,  
3501 the department shall ensure that an inmate's faith orientation,  
3502 or lack thereof, will not be considered in determining admission  
3503 to the program and that the program does not attempt to convert  
3504 an inmate toward a particular faith or religious preference.

3505 (g) ~~(7)~~ Providing a photo identification card to all inmates  
3506 before ~~prior to~~ their release.

3507 (4) A ~~The~~ transition assistance specialist may not be a  
3508 correctional officer or correctional probation officer as  
3509 defined in s. 943.10.

3510 Section 60. Present subsections (3) through (6) of section  
3511 944.705, Florida Statutes, are redesignated as subsections (4)  
3512 through (7), respectively, and a new subsection (3) and  
3513 subsections (8) through (12) are added to that section, to read:

3514 944.705 Release orientation program.—

3515 (3) (a) The department shall establish a toll-free hotline  
3516 for the benefit of released inmates. The hotline shall provide  
3517 information to released inmates seeking to obtain post-release  
3518 referrals for community-based reentry services.

3519 (b) Before an inmate's release, the department shall



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3520 provide the inmate with a comprehensive community reentry  
3521 resource directory organized by county and which must include  
3522 the name, address, and a description of the services offered by  
3523 each reentry service provider. The directory must also include  
3524 the name, address, and telephone number of existing portals of  
3525 entry and the toll-free hotline number required by paragraph  
3526 (a).

3527 (c) The department shall expand the use of the Spectrum  
3528 system to provide inmates and offenders with community-specific  
3529 reentry service provider referrals.

3530 (8) A nonprofit faith-based or professional business, or a  
3531 civic or community organization, may apply for registration with  
3532 the department to provide inmate reentry services. Reentry  
3533 services include, but are not limited to, counseling; providing  
3534 information on housing and job placement; money management  
3535 assistance; and programs that address substance abuse, mental  
3536 health, or co-occurring conditions.

3537 (9) The department shall adopt policies and procedures for  
3538 screening, approving, and registering an organization that  
3539 applies under subsection (8). The department may deny approval  
3540 and registration of an organization or a representative from an  
3541 organization if it determines that the organization or  
3542 representative does not meet the department's policies and  
3543 procedures.

3544 (10) The department may contract with a public or private  
3545 educational institution's Veteran Advocacy Clinic or Veteran  
3546 Legal Clinic to assist qualified veteran inmates in applying for  
3547 veteran's benefits upon release.

3548 (11) The department may contract with public or private



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3549 organizations to establish transitional employment programs that  
3550 provide employment opportunities for released inmates.

3551 (12) The department shall adopt rules to implement this  
3552 section.

3553 Section 61. Present subsections (4), (5), and (6) of  
3554 section 944.801, Florida Statutes, are redesignated as  
3555 subsections (6), (7), and (8), respectively, and new subsections  
3556 (4) and (5) are added to that section, to read:

3557 944.801 Education for state prisoners.—

3558 (4) The department may expand the use of job assignment  
3559 credentialing and industry certifications.

3560 (5) The Correctional Education Program may establish a  
3561 Prison Entrepreneurship Program and adopt procedures for  
3562 admitting student inmates. If the department elects to develop  
3563 the program, it must include at least 180 days of in-prison  
3564 education. The program curriculum must include a component on  
3565 developing a business plan, procedures for graduation and  
3566 certification of successful student inmates, and at least 90  
3567 days of transitional and postrelease continuing educational  
3568 services. Transitional and postrelease continuing educational  
3569 services may be offered to graduate student inmates on a  
3570 voluntary basis and are not a requirement for completion of the  
3571 program. The department shall enter into agreements with public  
3572 or private colleges or universities or other nonprofit entities  
3573 to implement the program. The program must be funded with  
3574 existing resources.

3575 Section 62. Subsection (1) of section 948.001, Florida  
3576 Statutes, is amended to read:

3577 948.001 Definitions.—As used in this chapter, the term:



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3578 (1) "Administrative probation" means a form of no contact,  
3579 nonreporting supervision that may be imposed by order of the  
3580 court or transfer by the Department of Corrections as provided  
3581 in s. 948.013 in which an offender who presents a low risk of  
3582 harm to the community may, upon satisfactory completion of half  
3583 the term of probation, be transferred by the Department of  
3584 Corrections to this type of reduced level of supervision, as  
3585 provided in s. 948.013.

3586 Section 63. Subsection (1) of section 948.013, Florida  
3587 Statutes, is amended to read:

3588 948.013 Administrative probation.-

3589 (1) The Department of Corrections may transfer an offender  
3590 to administrative probation if he or she presents a low risk of  
3591 harm to the community and has satisfactorily completed at least  
3592 half of his or her probation term. The department ~~of Corrections~~  
3593 may establish procedures for transferring an offender to  
3594 administrative probation. The department may collect an initial  
3595 processing fee of up to \$50 for each probationer transferred to  
3596 administrative probation. The offender is exempt from further  
3597 payment for the cost of supervision as required in s. 948.09.

3598 Section 64. Subsection (3) is added to section 948.03,  
3599 Florida Statutes, to read:

3600 948.03 Terms and conditions of probation.-

3601 (3) The Department of Corrections shall include in the  
3602 Florida Crime Information Center system all conditions of  
3603 probation as determined by the court for each probationer.

3604 Section 65. Subsections (4), (5), and (6) are added to  
3605 section 948.04, Florida Statutes, to read:

3606 948.04 Period of probation; duty of probationer; early



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3607 termination; conversion of term.-

3608 (4) Except as provided in subsection (5), for defendants  
3609 sentenced to probation on or after October 1, 2019, the court,  
3610 upon motion by the probationer or the probation officer, shall  
3611 either early terminate the probationer's supervision or convert  
3612 the supervisory term to administrative probation if all of the  
3613 following requirements are met:

3614 (a) The probationer has completed at least half of the term  
3615 of probation to which he or she was sentenced.

3616 (b) The probationer has successfully completed all other  
3617 conditions of probation.

3618 (c) The court has not found the probationer in violation of  
3619 probation pursuant to a filed affidavit of violation of  
3620 probation at any point during the current supervisory term.

3621 (d) The parties did not specifically exclude the  
3622 possibility of early termination or conversion to administrative  
3623 probation as part of a negotiated sentence.

3624 (e) The probationer does not qualify as a violent felony  
3625 offender of special concern under s. 948.06(8)(b).

3626 (5) Upon making written findings that continued reporting  
3627 probation is necessary to protect the community or the interests  
3628 of justice, the court may decline to early terminate the  
3629 probationary term or convert the term to administrative  
3630 probation for a probationer who is otherwise eligible under  
3631 subsection (4).

3632 (6) Subsections (4) and (5) do not apply to an offender on  
3633 community control. If an offender on community control is  
3634 subsequently placed on probation, he or she must complete half  
3635 of the probationary term to which he or she was sentenced,



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3636 without receiving credit for time served on community control,  
3637 before being eligible for mandatory early termination or  
3638 conversion to administrative probation under this section.

3639 Section 66. Section 948.05, Florida Statutes, is amended to  
3640 read:

3641 948.05 Court to admonish or commend probationer or offender  
3642 in community control; graduated incentives.-

3643 (1) A court may at any time cause a probationer or offender  
3644 in community control to appear before it to be admonished or  
3645 commended, and, when satisfied that its action will be for the  
3646 best interests of justice and the welfare of society, it may  
3647 discharge the probationer or offender in community control from  
3648 further supervision.

3649 (2) The department shall implement a system of graduated  
3650 incentives to promote compliance with the terms of supervision  
3651 and prioritize the highest levels of supervision for offenders  
3652 presenting the greatest risk of recidivism.

3653 (a) As part of the graduated incentives system, the  
3654 department may, without leave of court, offer the following  
3655 incentives to a compliant probationer or offender in community  
3656 control:

3657 1. Up to 25 percent reduction of required community service  
3658 hours;

3659 2. Waiver of supervision fees;

3660 3. Reduction in frequency of reporting;

3661 4. Permission to report by mail or telephone; or

3662 5. Transfer of an eligible offender to administrative  
3663 probation as authorized under s. 948.013.

3664 (b) The department may also incentivize positive behavior



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3665 and compliance with recommendations to the court to modify the  
3666 terms of supervision, including recommending:

- 3667 1. Permission to travel;  
3668 2. Reduction of supervision type;  
3669 3. Modification or cessation of curfew;  
3670 4. Reduction or cessation of substance abuse testing; or  
3671 5. Early termination of supervision.

3672 (c) An offender who commits a subsequent violation of  
3673 probation may forfeit any previously earned probation incentive,  
3674 as determined appropriate by his or her probation officer.

3675 Section 67. Present paragraphs (c) through (g) of  
3676 subsection (1) of section 948.06, Florida Statutes, are  
3677 redesignated as paragraphs (d) through (h), respectively, a new  
3678 paragraph (c) is added to that subsection, and present paragraph  
3679 (h) of that subsection is amended, present paragraphs (f)  
3680 through (j) of subsection (2) are redesignated as paragraphs (g)  
3681 through (k), respectively, and a new paragraph (f) is added to  
3682 that subsection, and subsection (9) is added to that section, to  
3683 read:

3684 948.06 Violation of probation or community control;  
3685 revocation; modification; continuance; failure to pay  
3686 restitution or cost of supervision.—

3687 (1)

3688 (c) If a probationer or offender on community control  
3689 commits a technical violation, the probation officer shall  
3690 determine whether the probationer or offender on community  
3691 control is eligible for the alternative sanctioning program  
3692 under subsection (9). If the probation officer determines that  
3693 the probationer or offender on community control is eligible,



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3694 the probation officer may proceed with the alternative  
3695 sanctioning program in lieu of filing an affidavit of violation  
3696 with the court. For purposes of this section, the term  
3697 "technical violation" means an alleged violation of supervision  
3698 that is not a new felony offense, misdemeanor offense, or  
3699 criminal traffic offense.

3700 ~~(h)1. The chief judge of each judicial circuit, in~~  
3701 ~~consultation with the state attorney, the public defender, and~~  
3702 ~~the department, may establish an alternative sanctioning program~~  
3703 ~~in which the department, after receiving court approval, may~~  
3704 ~~enforce specified sanctions for certain technical violations of~~  
3705 ~~supervision. For purposes of this paragraph, the term "technical~~  
3706 ~~violation" means any alleged violation of supervision that is~~  
3707 ~~not a new felony offense, misdemeanor offense, or criminal~~  
3708 ~~traffic offense.~~

3709 ~~2. To establish an alternative sanctioning program, the~~  
3710 ~~chief judge must issue an administrative order specifying:~~

3711 ~~a. Eligibility criteria.~~

3712 ~~b. The technical violations that are eligible for the~~  
3713 ~~program.~~

3714 ~~c. The sanctions that may be recommended by a probation~~  
3715 ~~officer for each technical violation.~~

3716 ~~d. The process for reporting technical violations through~~  
3717 ~~the alternative sanctioning program, including approved forms.~~

3718 ~~3. If an offender is alleged to have committed a technical~~  
3719 ~~violation of supervision that is eligible for the program, the~~  
3720 ~~offender may:~~

3721 ~~a. Waive participation in the alternative sanctioning~~  
3722 ~~program, in which case the probation officer may submit a~~



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3723 ~~violation report, affidavit, and warrant to the court in~~  
3724 ~~accordance with this section; or~~  
3725 ~~b. Elect to participate in the alternative sanctioning~~  
3726 ~~program after receiving written notice of an alleged technical~~  
3727 ~~violation and a disclosure of the evidence against the offender,~~  
3728 ~~admit to the technical violation, agree to comply with the~~  
3729 ~~probation officer's recommended sanction if subsequently ordered~~  
3730 ~~by the court, and agree to waive the right to:~~  
3731 ~~(I) Be represented by legal counsel.~~  
3732 ~~(II) Require the state to prove his or her guilt before a~~  
3733 ~~neutral and detached hearing body.~~  
3734 ~~(III) Subpoena witnesses and present to a judge evidence in~~  
3735 ~~his or her defense.~~  
3736 ~~(IV) Confront and cross-examine adverse witnesses.~~  
3737 ~~(V) Receive a written statement from a factfinder as to the~~  
3738 ~~evidence relied on and the reasons for the sanction imposed.~~  
3739 ~~4. If the offender admits to committing the technical~~  
3740 ~~violation and agrees with the probation officer's recommended~~  
3741 ~~sanction, the probation officer must, before imposing the~~  
3742 ~~sanction, submit the recommended sanction to the court as well~~  
3743 ~~as documentation reflecting the offender's admission to the~~  
3744 ~~technical violation and agreement with the recommended sanction.~~  
3745 ~~5. The court may impose the recommended sanction or may~~  
3746 ~~direct the department to submit a violation report, affidavit,~~  
3747 ~~and warrant to the court in accordance with this section.~~  
3748 ~~6. An offender's participation in an alternative~~  
3749 ~~sanctioning program is voluntary. The offender may elect to~~  
3750 ~~waive or discontinue participation in an alternative sanctioning~~  
3751 ~~program at any time before the issuance of a court order~~



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3752 ~~imposing the recommended sanction.~~

3753 ~~7. If an offender waives or discontinues participation in~~  
3754 ~~an alternative sanctioning program, the probation officer may~~  
3755 ~~submit a violation report, affidavit, and warrant to the court~~  
3756 ~~in accordance with this section. The offender's prior admission~~  
3757 ~~to the technical violation may not be used as evidence in~~  
3758 ~~subsequent proceedings.~~

3759 (2)

3760 (f)1. Except as provided in subparagraph 3. or upon waiver  
3761 by the probationer, the court shall modify or continue a  
3762 probationary term upon finding a probationer in violation when  
3763 any of the following applies:

3764 a. The term of supervision is probation.

3765 b. The probationer does not qualify as a violent felony  
3766 offender of special concern, as defined in paragraph (8)(b).

3767 c. The violation is a low-risk technical violation, as  
3768 defined in paragraph (9)(b).

3769 d. The court has not previously found the probationer in  
3770 violation of his or her probation pursuant to a filed violation  
3771 of probation affidavit during the current term of supervision. A  
3772 probationer who has successfully completed sanctions through the  
3773 alternative sanctioning program is eligible for mandatory  
3774 modification or continuation of his or her probation.

3775 2. Upon modifying probation under subparagraph 1., the  
3776 court may include in the sentence a maximum of 90 days in county  
3777 jail as a special condition of probation.

3778 3. Notwithstanding s. 921.0024, if a probationer has less  
3779 than 90 days of supervision remaining on his or her term of  
3780 probation and meets the criteria for mandatory modification or



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3781 continuation in subparagraph 1., the court may revoke probation  
3782 and sentence the probationer to a maximum of 90 days in county  
3783 jail.

3784 4. For purposes of imposing a jail sentence under this  
3785 paragraph only, the court may grant credit only for time served  
3786 in the county jail since the probationer's most recent arrest  
3787 for the violation. However, the court may not order the  
3788 probationer to a total term of incarceration greater than the  
3789 maximum provided by s. 775.082.

3790 (9) (a) Each judicial circuit shall establish an alternative  
3791 sanctioning program as provided in this subsection. The chief  
3792 judge of each judicial circuit may, by administrative order,  
3793 define additional sanctions or eligibility criteria and specify  
3794 the process for reporting technical violations through the  
3795 alternative sanctioning program. Any sanctions recommended for  
3796 imposition through an alternative sanctions program must be  
3797 submitted to the court by the probation officer for approval  
3798 before imposing the sanction.

3799 (b) As used in this subsection, the term "low-risk  
3800 violation," when committed by a probationer, means any of the  
3801 following:

- 3802 1. A positive drug or alcohol test result.
- 3803 2. Failure to report to the probation office.
- 3804 3. Failure to report a change in address or other required  
3805 information.
- 3806 4. Failure to attend a required class, treatment or  
3807 counseling session, or meeting.
- 3808 5. Failure to submit to a drug or alcohol test.
- 3809 6. A violation of curfew.



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- 3810           7. Failure to meet a monthly quota on any required  
3811 probation condition, including, but not limited to, making  
3812 restitution payments, paying court costs, or completing  
3813 community service hours.
- 3814           8. Leaving the county without permission.
- 3815           9. Failure to report a change in employment.
- 3816           10. Associating with a person engaged in criminal activity.
- 3817           11. Any other violation as determined by administrative  
3818 order of the chief judge of the circuit.
- 3819           (c) As used in this subsection, the term "moderate-risk  
3820 violation" means any of the following:
- 3821           1. A violation identified in paragraph (b), when committed  
3822 by an offender on community control.
- 3823           2. Failure to remain at an approved residence by an  
3824 offender on community control.
- 3825           3. A third violation identified in paragraph (b) by a  
3826 probationer within the current term of supervision.
- 3827           4. Any other violation as determined by administrative  
3828 order of the chief judge of the circuit.
- 3829           (d) A probationer or offender on community control is not  
3830 eligible for an alternative sanction if:
- 3831           1. He or she is a violent felony offender of special  
3832 concern as defined in paragraph (8) (b);
- 3833           2. The violation is a felony, misdemeanor, or criminal  
3834 traffic offense;
- 3835           3. The violation is absconding;
- 3836           4. The violation is of a stay-away order or no-contact  
3837 order;
- 3838           5. The violation is not identified as low-risk or moderate-



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3839 risk under this subsection or by administrative order;  
3840 6. He or she has a prior moderate-risk level violation  
3841 during the current term of supervision;  
3842 7. He or she has three prior low-risk level violations  
3843 during the same term of supervision;  
3844 8. The term of supervision is scheduled to terminate in  
3845 less than 90 days; or  
3846 9. The terms of the sentence prohibit alternative  
3847 sanctioning.  
3848 (e) For a first or second low-risk violation, as defined in  
3849 paragraph (b), within the current term of supervision, a  
3850 probation officer may offer an eligible probationer one or more  
3851 of the following as an alternative sanction:  
3852 1. Up to 5 days in the county jail.  
3853 2. Up to 50 additional community service hours.  
3854 3. Counseling or treatment.  
3855 4. Support group attendance.  
3856 5. Drug testing.  
3857 6. Loss of travel or other privileges.  
3858 7. Curfew for up to 30 days.  
3859 8. House arrest for up to 30 days.  
3860 9.a. Any other sanction as determined by administrative  
3861 order of the chief judge of the circuit.  
3862 b. However, in no circumstance shall participation in an  
3863 alternative sanctioning program convert a withheld adjudication  
3864 to an adjudication of guilt.  
3865 (f) For a first moderate-risk violation, as defined in  
3866 paragraph (c), within the current term of supervision, a  
3867 probation officer, with a supervisor's approval, may offer an



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3868 eligible probationer or offender on community control one or  
3869 more of the following as an alternative sanction:

- 3870 1. Up to 21 days in the county jail.  
3871 2. Curfew for up to 90 days.  
3872 3. House arrest for up to 90 days.  
3873 4. Electronic monitoring for up to 90 days.  
3874 5. Residential treatment for up to 90 days.  
3875 6. Any other sanction available for a low-risk violation.  
3876 7.a. Any other sanction as determined by administrative  
3877 order of the chief judge of the circuit.

3878 b. However, in no circumstance shall participation in an  
3879 alternative sanctioning program convert a withheld adjudication  
3880 to an adjudication of guilt.

3881 (g) The participation of a probationer or an offender on  
3882 community control in the program is voluntary. The probationer  
3883 or offender on community control may waive or discontinue  
3884 participation in the program at any time before the court  
3885 imposes a recommended sanction.

3886 (h)1. If a probationer or offender on community control is  
3887 eligible for the alternative sanctioning program under this  
3888 subsection, he or she may:

3889 a. Waive participation in the program, in which case the  
3890 probation officer may submit a violation report, affidavit, and  
3891 warrant to the court; or

3892 b. Elect to participate in the program after receiving  
3893 written notice of an alleged technical violation and disclosure  
3894 of the evidence against him or her, and admit the technical  
3895 violation, agree to comply with the probation officer's  
3896 recommended sanction if subsequently ordered by the court, and



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3897 agree to waive the right to:  
3898 (I) Be represented by legal counsel.  
3899 (II) Require the state to prove his or her guilt before a  
3900 neutral and detached hearing body.  
3901 (III) Subpoena witnesses and present to a judge evidence in  
3902 his or her defense.  
3903 (IV) Confront and cross-examine adverse witnesses.  
3904 (V) Receive a written statement from a judge as to the  
3905 evidence relied on and the reasons for the sanction imposed.  
3906 2. If the probationer or offender on community control  
3907 admits to committing the technical violation and agrees with the  
3908 probation officer's recommended sanction, the probation officer  
3909 must, before imposing the sanction, submit the recommended  
3910 sanction to the court with documentation reflecting the  
3911 probationer's admission to the technical violation and agreement  
3912 with the recommended sanction.  
3913 (i) The court may impose the recommended sanction or direct  
3914 the department to submit a violation report, affidavit, and  
3915 warrant to the court.  
3916 (j) If a probationer or offender on community control  
3917 waives or discontinues participation in the program or fails to  
3918 successfully complete all alternative sanctions within 90 days  
3919 after imposition or within the timeframe specified in the agreed  
3920 upon sanction, the probation officer may submit a violation  
3921 report, affidavit, and warrant to the court. A prior admission  
3922 by the probationer or offender on community control to a  
3923 technical violation may not be used as evidence in subsequent  
3924 proceedings.  
3925 Section 68. Subsection (6) and paragraph (a) of subsection



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3926 (7) of section 948.08, Florida Statutes, are amended to read:  
3927 948.08 Pretrial intervention program.—

3928 (6) (a) For purposes of this subsection, the term  
3929 “nonviolent felony” means a third degree felony violation of  
3930 chapter 810 or any other felony offense that is not a forcible  
3931 felony as defined in s. 776.08.

3932 (b) Notwithstanding any provision of this section, a person  
3933 ~~who is charged with a nonviolent felony and is identified as~~  
3934 ~~having a substance abuse problem or is charged with a felony of~~  
3935 ~~the second or third degree for purchase or possession of a~~  
3936 ~~controlled substance under chapter 893, prostitution, tampering~~  
3937 ~~with evidence, solicitation for purchase of a controlled~~  
3938 ~~substance, or obtaining a prescription by fraud; who has not~~  
3939 ~~been charged with a crime involving violence, including, but not~~  
3940 ~~limited to, murder, sexual battery, robbery, carjacking, home-~~  
3941 ~~invasion robbery, or any other crime involving violence; and who~~  
3942 ~~has not previously been convicted of a felony~~ is eligible for  
3943 voluntary admission into a pretrial substance abuse education  
3944 and treatment intervention program, including a treatment-based  
3945 drug court program established pursuant to s. 397.334, approved  
3946 by the chief judge of the circuit, for a period of not less than  
3947 1 year in duration, if he or she:

3948 1. Is identified as having a substance abuse problem and is  
3949 amenable to treatment.

3950 2. Is charged with a nonviolent felony.

3951 3. Has never been charged with a crime involving violence  
3952 including, but not limited to, murder, sexual battery, robbery,  
3953 carjacking, home-invasion robbery, or any other crime involving  
3954 violence.



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3955           4. Has two or fewer felony convictions, provided that the  
3956 prior convictions are for nonviolent felonies.

3957           (c) Upon motion of either party or the court's own motion,  
3958 and with the agreement of the defendant, the court shall admit  
3959 an eligible person into a pretrial substance abuse education and  
3960 treatment intervention program, except:

3961           1. If a defendant was previously offered admission to a  
3962 pretrial substance abuse education and treatment intervention  
3963 program at any time before ~~prior to~~ trial and the defendant  
3964 rejected that offer on the record, ~~then~~ the court or the state  
3965 attorney may deny the defendant's admission to such a program.

3966           2. If the state attorney believes that the facts and  
3967 circumstances of the case suggest the defendant's involvement in  
3968 the dealing and selling of controlled substances, the court  
3969 shall hold a preadmission hearing. If the state attorney  
3970 establishes, by a preponderance of the evidence at such hearing,  
3971 that the defendant was involved in the dealing or selling of  
3972 controlled substances, the court shall deny the defendant's  
3973 admission into a pretrial intervention program.

3974           3. If the defendant has two or fewer prior felony  
3975 convictions as provided in subparagraph (b)4., the court, in its  
3976 discretion, may deny admission to such a program.

3977           (d) ~~(b)~~ While enrolled in a pretrial intervention program  
3978 authorized by this subsection, the participant is subject to a  
3979 coordinated strategy developed by a drug court team under s.  
3980 397.334(4). The coordinated strategy may include a protocol of  
3981 sanctions that may be imposed upon the participant for  
3982 noncompliance with program rules. The protocol of sanctions may  
3983 include, but is not limited to, placement in a substance abuse



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3984 treatment program offered by a licensed service provider as  
3985 defined in s. 397.311 or in a jail-based treatment program or  
3986 serving a period of incarceration within the time limits  
3987 established for contempt of court. The coordinated strategy must  
3988 be provided in writing to the participant before the participant  
3989 agrees to enter into a pretrial treatment-based drug court  
3990 program or other pretrial intervention program. Any person whose  
3991 charges are dismissed after successful completion of the  
3992 treatment-based drug court program, if otherwise eligible, may  
3993 have his or her arrest record and plea of nolo contendere to the  
3994 dismissed charges expunged under s. 943.0585.

3995 (e)~~(e)~~ At the end of the pretrial intervention period, the  
3996 court shall consider the recommendation of the administrator  
3997 pursuant to subsection (5) and the recommendation of the state  
3998 attorney as to disposition of the pending charges. The court  
3999 shall determine, by written finding, whether the defendant has  
4000 successfully completed the pretrial intervention program.

4001 Notwithstanding the coordinated strategy developed by a drug  
4002 court team pursuant to s. 397.334(4), if the court finds that  
4003 the defendant has not successfully completed the pretrial  
4004 intervention program, the court may order the person to continue  
4005 in education and treatment, which may include substance abuse  
4006 treatment programs offered by licensed service providers as  
4007 defined in s. 397.311 or jail-based treatment programs, or order  
4008 that the charges revert to normal channels for prosecution. The  
4009 court shall dismiss the charges upon a finding that the  
4010 defendant has successfully completed the pretrial intervention  
4011 program.

4012 (f)~~(d)~~ Any entity, whether public or private, providing a



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4013 pretrial substance abuse education and treatment intervention  
4014 program under this subsection must contract with the county or  
4015 appropriate governmental entity, and the terms of the contract  
4016 must include, but need not be limited to, the requirements  
4017 established for private entities under s. 948.15(3).

4018 (7) (a) Notwithstanding any provision of this section, a  
4019 person who is charged with a felony, other than a felony listed  
4020 in s. 948.06(8)(c), and identified as a veteran, as defined in  
4021 s. 1.01, including a veteran who is discharged or released under  
4022 a general discharge, or servicemember, as defined in s. 250.01;  
4023 an individual who is a current or former United States  
4024 Department of Defense contractor; or an individual who is a  
4025 current or former military member of a foreign allied country,  
4026 who suffers from a military service-related mental illness,  
4027 traumatic brain injury, substance abuse disorder, or  
4028 psychological problem, is eligible for voluntary admission into  
4029 a pretrial veterans' treatment intervention program approved by  
4030 the chief judge of the circuit, upon motion of either party or  
4031 the court's own motion, except:

4032 1. If a defendant was previously offered admission to a  
4033 pretrial veterans' treatment intervention program at any time  
4034 before trial and the defendant rejected that offer on the  
4035 record, the court may deny the defendant's admission to such a  
4036 program.

4037 2. If a defendant previously entered a court-ordered  
4038 veterans' treatment program, the court may deny the defendant's  
4039 admission into the pretrial veterans' treatment program.

4040 Section 69. Section 948.081, Florida Statutes, is created  
4041 to read:



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4042           948.081 Community court programs.-  
4043           (1) Each judicial circuit may establish a community court  
4044 program for defendants charged with certain misdemeanor  
4045 offenses. Each community court shall, at a minimum:  
4046           (a) Adopt a nonadversarial approach.  
4047           (b) Establish an advisory committee to recommend solutions  
4048 and sanctions in each case.  
4049           (c) Provide for judicial leadership and interaction.  
4050           (d) In each particular case, consider the needs of the  
4051 victim, consider individualized treatment services for the  
4052 defendant, and monitor the defendant's compliance.  
4053           (2) The chief judge of the judicial circuit, by  
4054 administrative order, shall specify each misdemeanor offense  
4055 eligible for the community court program. In making such  
4056 determination, the chief judge shall consider the particular  
4057 needs and concerns of the communities within the judicial  
4058 circuit.  
4059           (3) A defendant's entry into any community court program  
4060 must be voluntary.  
4061           (4) The chief judge shall appoint a community court  
4062 resource coordinator, who shall:  
4063           (a) Coordinate the responsibilities of the participating  
4064 agencies and service providers.  
4065           (b) Provide case management services.  
4066           (c) Monitor compliance by defendants with court  
4067 requirements.  
4068           (d) Manage the collection of data for program evaluation  
4069 and accountability.  
4070           (5) The chief judge of the judicial circuit shall appoint



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4071 members to an advisory committee for each community court. The  
4072 members of the advisory committee must include, at a minimum:

4073 (a) The chief judge or a community court judge designated  
4074 by the chief judge, who shall serve as chair.

4075 (b) The state attorney or his or her designee.

4076 (c) The public defender or his or her designee.

4077 (d) The community court resource coordinator.

4078

4079 The committee may also include community stakeholders, treatment  
4080 representatives, and other persons the chair deems appropriate.

4081 (6) The advisory committee shall review each defendant's  
4082 case. Each committee member may make recommendations to the  
4083 judge, including appropriate sanctions and treatment solutions  
4084 for the defendant. The judge shall consider such recommendations  
4085 and make the final decision concerning sanctions and treatment  
4086 with respect to each defendant.

4087 (7) Each judicial circuit shall report client-level and  
4088 programmatic data to the Office of State Courts Administrator  
4089 annually for program evaluation. Client-level data include  
4090 primary offenses resulting in the community court referral or  
4091 sentence, treatment compliance, completion status, reasons for  
4092 failing to complete the program, offenses committed during  
4093 treatment and sanctions imposed, frequency of court appearances,  
4094 and units of service. Programmatic data include referral and  
4095 screening procedures, eligibility criteria, type and duration of  
4096 treatment offered, and residential treatment resources.

4097 (8) The Department of Corrections, the Department of  
4098 Juvenile Justice, the Department of Health, the Department of  
4099 Law Enforcement, the Department of Education, law enforcement



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4100 agencies, and other governmental entities involved in the  
4101 criminal justice system shall support such community court  
4102 programs.

4103 (9) Community court program funding must be secured from  
4104 sources other than the state for costs not assumed by the state  
4105 under s. 29.004. However, this subsection does not preclude the  
4106 use of funds provided for treatment and other services through  
4107 state executive branch agencies.

4108 Section 70. Paragraph (a) of subsection (2) of section  
4109 948.16, Florida Statutes, is amended to read:

4110 948.16 Misdemeanor pretrial substance abuse education and  
4111 treatment intervention program; misdemeanor pretrial veterans'  
4112 treatment intervention program; misdemeanor pretrial mental  
4113 health court program.-

4114 (2) (a) A veteran, ~~as defined in s. 1.01,~~ including a  
4115 veteran who is discharged or released under a general discharge,  
4116 or servicemember, as defined in s. 250.01; an individual who is  
4117 a current or former United States Department of Defense  
4118 contractor; or an individual who is a current or former military  
4119 member of a foreign allied country, who suffers from a military  
4120 service-related mental illness, traumatic brain injury,  
4121 substance abuse disorder, or psychological problem, and who is  
4122 charged with a misdemeanor is eligible for voluntary admission  
4123 into a misdemeanor pretrial veterans' treatment intervention  
4124 program approved by the chief judge of the circuit, for a period  
4125 based on the program's requirements and the treatment plan for  
4126 the offender, upon motion of either party or the court's own  
4127 motion. However, the court may deny the defendant admission into  
4128 a misdemeanor pretrial veterans' treatment intervention program



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4129 if the defendant has previously entered a court-ordered  
4130 veterans' treatment program.

4131 Section 71. Subsection (2) of section 948.21, Florida  
4132 Statutes, is amended to read:

4133 948.21 Condition of probation or community control;  
4134 military servicemembers, ~~and~~ veterans, and others.—

4135 (2) Effective for a probationer or community controllee  
4136 whose crime is committed on or after July 1, 2016, and who is a  
4137 veteran, as defined in s. 1.01, including a veteran who is  
4138 discharged or released under a general discharge, or  
4139 servicemember, as defined in s. 250.01; an individual who is a  
4140 current or former United States Department of Defense  
4141 contractor; or an individual who is a current or former military  
4142 member of a foreign allied country, who suffers from a military  
4143 service-related mental illness, traumatic brain injury,  
4144 substance abuse disorder, or psychological problem, the court  
4145 may, in addition to any other conditions imposed, impose a  
4146 condition requiring the probationer or community controllee to  
4147 participate in a treatment program capable of treating the  
4148 probationer or community controllee's mental illness, traumatic  
4149 brain injury, substance abuse disorder, or psychological  
4150 problem.

4151 Section 72. Section 951.22, Florida Statutes, is amended to  
4152 read:

4153 951.22 County detention facilities; contraband articles.—

4154 (1) It is unlawful, except through regular channels as duly  
4155 authorized by the sheriff or officer in charge, to introduce  
4156 into or possess upon the grounds of any county detention  
4157 facility as defined in s. 951.23 or to give to or receive from



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4158 any inmate of any such facility wherever said inmate is located  
4159 at the time or to take or to attempt to take or send therefrom  
4160 any of the following articles, which are hereby declared to be  
4161 contraband:

4162 (a) for the purposes of this act, to wit: Any written or  
4163 recorded communication.

4164 (b) Any currency or coin.

4165 (c) Any article of food or clothing.

4166 (d) Any tobacco products as defined in s. 210.25(12).

4167 (e) Any cigarette as defined in s. 210.01(1).

4168 (f) Any cigar.

4169 (g) Any intoxicating beverage or beverage ~~that which~~ causes  
4170 or may cause an intoxicating effect.

4171 (h) Any narcotic, hypnotic, or excitative drug or drug of  
4172 any kind or nature, including nasal inhalators, sleeping pills,  
4173 barbiturates, and controlled substances as defined in s.  
4174 893.02(4).

4175 (i) Any firearm or any instrumentality customarily used or  
4176 which is intended to be used as a dangerous weapon.

4177 (j) Any instrumentality of any nature ~~which that~~ may be or  
4178 is intended to be used as an aid in effecting or attempting to  
4179 effect an escape from a county facility.

4180 (k) Any cellular telephone or other portable communication  
4181 device as described in s. 944.47(1)(a)6. The term does not  
4182 include any device that has communication capabilities which has  
4183 been approved or issued by the sheriff or officer in charge for  
4184 investigative or institutional security purposes or for  
4185 conducting other official business.

4186 (2) A person who ~~Whoever~~ violates paragraph (1)(a),



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4187 paragraph (1)(b), paragraph (1)(c), paragraph (1)(d), paragraph  
4188 (1)(e), paragraph (1)(f), or paragraph (1)(g) commits a  
4189 misdemeanor of the first degree, punishable as provided in s.  
4190 775.082 or s. 775.083. A person who violates paragraph (1)(h),  
4191 paragraph (1)(i), paragraph (1)(j), or paragraph (1)(k) commits  
4192 subsection (1) shall be guilty of a felony of the third degree,  
4193 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4194 Section 73. Subsection (1) of section 958.04, Florida  
4195 Statutes, is amended to read:

4196 958.04 Judicial disposition of youthful offenders.—

4197 (1) The court may sentence as a youthful offender any  
4198 person:

4199 (a) Who is at least 18 years of age or who has been  
4200 transferred for prosecution to the criminal division of the  
4201 circuit court pursuant to chapter 985;

4202 (b) Who is found guilty of or who has tendered, and the  
4203 court has accepted, a plea of nolo contendere or guilty to a  
4204 crime that is, under the laws of this state, a felony if such  
4205 crime was committed before the defendant turned 21 years of age  
4206 ~~the offender is younger than 21 years of age at the time~~  
4207 ~~sentence is imposed;~~ and

4208 (c) Who has not previously been classified as a youthful  
4209 offender under ~~the provisions of~~ this act; however, a person who  
4210 has been found guilty of a capital or life felony may not be  
4211 sentenced as a youthful offender under this act.

4212 Section 74. Subsections (2), (3), and (4) of section  
4213 960.07, Florida Statutes, are amended to read:

4214 960.07 Filing of claims for compensation.—

4215 (2) Except as provided in subsection (3), a claim must be



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4216 filed not later than 5 years ~~1 year~~ after:

4217 (a) The occurrence of the crime upon which the claim is  
4218 based.

4219 (b) The death of the victim or intervenor.

4220 (c) The death of the victim or intervenor is determined to  
4221 be the result of a crime, and the crime occurred after June 30,  
4222 1994.

4223  
4224 However, for good cause the department may extend the time for  
4225 filing for a period not exceeding 7 ~~2~~ years after such  
4226 occurrence.

4227 (3) Notwithstanding ~~the provisions of~~ subsection (2) and  
4228 regardless of when the crime occurred, if the victim or  
4229 intervenor was under the age of 18 at the time the crime upon  
4230 which the claim is based occurred, a claim may be filed in  
4231 accordance with this subsection.

4232 (a) The victim's or intervenor's parent or guardian may  
4233 file a claim on behalf of the victim or intervenor while the  
4234 victim or intervenor is less than 18 years of age; or

4235 (b) When a victim or intervenor who was under the age of 18  
4236 at the time the crime occurred reaches the age of 18, the victim  
4237 or intervenor has 5 years ~~1 year~~ within which to file a claim.

4238  
4239 For good cause, the department may extend the time period  
4240 allowed for filing a claim under paragraph (b) for an additional  
4241 period not to exceed 2 years ~~1 year~~.

4242 (4) Notwithstanding ~~The provisions of~~ subsection (2)  
4243 ~~notwithstanding~~, and regardless of when the crime occurred, a  
4244 victim of a sexually violent offense as defined in s. 394.912,



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4245 may file a claim for compensation for counseling or other mental  
4246 health services within 5 years ~~1 year~~ after the filing of a  
4247 petition under s. 394.914, to involuntarily civilly commit the  
4248 individual who perpetrated the sexually violent offense.

4249 Section 75. Paragraph (b) of subsection (1) of section  
4250 960.13, Florida Statutes, is amended to read:

4251 960.13 Awards.—

4252 (1)

4253 (b) In no case may an award be made when the record shows  
4254 that such report was made more than 5 days ~~72 hours~~ after the  
4255 occurrence of such crime unless the department, for good cause  
4256 shown, finds the delay to have been justified. The department,  
4257 upon finding that any claimant or award recipient has not duly  
4258 cooperated with the state attorney, all law enforcement  
4259 agencies, and the department, may deny, reduce, or withdraw any  
4260 award, as the case may be.

4261 Section 76. Subsection (1) of section 960.195, Florida  
4262 Statutes, is amended to read:

4263 960.195 Awards to elderly persons or disabled adults for  
4264 property loss.—

4265 (1) Notwithstanding the criteria in s. 960.13, for crime  
4266 victim compensation awards, the department may award a maximum  
4267 of \$500 on any one claim and a lifetime maximum of \$1,000 on all  
4268 claims to elderly persons or disabled adults who suffer a  
4269 property loss that causes a substantial diminution in their  
4270 quality of life when:

4271 (a) There is proof that a criminal or delinquent act was  
4272 committed;

4273 (b) The criminal or delinquent act is reported to law



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4274 enforcement authorities within 5 days ~~72 hours~~, unless the  
4275 department, for good cause shown, finds the delay to have been  
4276 justified;

4277 (c) There is proof that the tangible personal property in  
4278 question belonged to the claimant;

4279 (d) The claimant did not contribute to the criminal or  
4280 delinquent act;

4281 (e) There is no other source of reimbursement or  
4282 indemnification available to the claimant; and

4283 (f) The claimant would not be able to replace the tangible  
4284 personal property in question without incurring a serious  
4285 financial hardship.

4286 Section 77. Paragraph (b) of subsection (2) of section  
4287 960.196, Florida Statutes, is amended to read:

4288 960.196 Relocation assistance for victims of human  
4289 trafficking.—

4290 (2) In order for an award to be granted to a victim for  
4291 relocation assistance:

4292 (b) The crime must be reported to the proper authorities  
4293 and the claim must be filed within 5 years ~~1 year~~, or 7 ~~2~~ years  
4294 with good cause, after the date of the last human trafficking  
4295 offense, as described in s. 787.06(3) (b), (d), (f), or (g). In a  
4296 case that exceeds the 7 ~~2~~-year requirement due to an active and  
4297 ongoing investigation, a state attorney, statewide prosecutor,  
4298 or federal prosecutor may certify in writing a human trafficking  
4299 victim's need to relocate from an unsafe environment due to the  
4300 threat of future violence which is directly related to the human  
4301 trafficking offense.

4302 Section 78. Effective upon becoming a law, paragraphs (c),



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4303 (d), and (f) of subsection (2) of section 985.12, Florida  
4304 Statutes, are amended to read:

4305 985.12 Civil citation or similar prearrest diversion  
4306 programs.—

4307 (2) JUDICIAL CIRCUIT CIVIL CITATION OR SIMILAR PREARREST  
4308 DIVERSION PROGRAM DEVELOPMENT, IMPLEMENTATION, AND OPERATION.—

4309 (c) The state attorney of each circuit shall operate a  
4310 civil citation or similar prearrest diversion program in each  
4311 circuit. A sheriff, police department, county, municipality,  
4312 locally authorized entity, or public or private educational  
4313 institution may continue to operate an independent civil  
4314 citation or similar prearrest diversion program that is in  
4315 operation as of October 1, 2018, if the independent program is  
4316 reviewed by the state attorney of the applicable circuit and he  
4317 or she determines that the independent program is substantially  
4318 similar to the civil citation or similar prearrest diversion  
4319 program developed by the circuit. If the state attorney  
4320 determines that the independent program is not substantially  
4321 similar to the civil citation or similar prearrest diversion  
4322 program developed by the circuit, the operator of the  
4323 independent diversion program may revise the program and the  
4324 state attorney may conduct an additional review of the  
4325 independent program.

4326 (d) A judicial circuit may model an existing sheriff's,  
4327 police department's, county's, municipality's, locally  
4328 authorized entity's, or public or private educational  
4329 institution's independent civil citation or similar prearrest  
4330 diversion program in developing the civil citation or similar  
4331 prearrest diversion program for the circuit.



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4332           (f) Each civil citation or similar prearrest diversion  
4333 program shall enter the appropriate youth data into the Juvenile  
4334 Justice Information System Prevention Web within 7 days after  
4335 the admission of the youth into the program ~~A copy of each civil~~  
4336 ~~citation or similar prearrest diversion program notice issued~~  
4337 ~~under this section shall be provided to the department, and the~~  
4338 ~~department shall enter appropriate information into the juvenile~~  
4339 ~~offender information system.~~

4340           Section 79. Effective upon becoming a law, subsection (2)  
4341 and paragraph (c) of subsection (3) of section 985.126, Florida  
4342 Statutes, are amended to read:

4343           985.126 Diversion programs; data collection; denial of  
4344 participation or expunged record.—

4345           (2) Upon issuance of documentation requiring a minor to  
4346 participate in a diversion program, before or without an arrest,  
4347 the issuing law enforcement officer shall send a copy of such  
4348 documentation to the entity designated to operate the diversion  
4349 program ~~and to the department~~, which shall enter such  
4350 information into the Juvenile Justice Information System  
4351 Prevention Web within 7 days after the youth's admission into  
4352 the program.

4353           (3)

4354           (c) The data required pursuant to paragraph (a) shall be  
4355 entered into the Juvenile Justice Information System Prevention  
4356 Web within 7 days after the youth's admission into the program  
4357 ~~submitted to the department quarterly.~~

4358           Section 80. Effective upon becoming a law, paragraph (f) of  
4359 subsection (1) of section 985.145, Florida Statutes, is amended  
4360 to read:



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4361           985.145 Responsibilities of the department during intake;  
4362 screenings and assessments.—

4363           (1) The department shall serve as the primary case manager  
4364 for the purpose of managing, coordinating, and monitoring the  
4365 services provided to the child. Each program administrator  
4366 within the Department of Children and Families shall cooperate  
4367 with the primary case manager in carrying out the duties and  
4368 responsibilities described in this section. In addition to  
4369 duties specified in other sections and through departmental  
4370 rules, the department shall be responsible for the following:

4371           ~~(f) Prevention web. For a child with a first-time~~  
4372 ~~misdemeanor offense, the department shall enter all related~~  
4373 ~~information into the Juvenile Justice Information System~~  
4374 ~~Prevention Web until such time as formal charges are filed. If~~  
4375 ~~formal charges are not filed, the information shall remain in~~  
4376 ~~the Juvenile Justice Information System Prevention Web until~~  
4377 ~~removed pursuant to department policies.~~

4378           Section 81. Subsection (2) of section 985.557, Florida  
4379 Statutes, is amended to read:

4380           985.557 Direct filing of an information; discretionary and  
4381 mandatory criteria.—

4382           ~~(2) MANDATORY DIRECT FILE.—~~

4383           ~~(a) With respect to any child who was 16 or 17 years of age~~  
4384 ~~at the time the alleged offense was committed, the state~~  
4385 ~~attorney shall file an information if the child has been~~  
4386 ~~previously adjudicated delinquent for an act classified as a~~  
4387 ~~felony, which adjudication was for the commission of, attempt to~~  
4388 ~~commit, or conspiracy to commit murder, sexual battery, armed or~~  
4389 ~~strong-armed robbery, carjacking, home-invasion robbery,~~



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4390 ~~aggravated battery, or aggravated assault, and the child is~~  
4391 ~~currently charged with a second or subsequent violent crime~~  
4392 ~~against a person.~~

4393 ~~(b) With respect to any child 16 or 17 years of age at the~~  
4394 ~~time an offense classified as a forcible felony, as defined in~~  
4395 ~~s. 776.08, was committed, the state attorney shall file an~~  
4396 ~~information if the child has previously been adjudicated~~  
4397 ~~delinquent or had adjudication withheld for three acts~~  
4398 ~~classified as felonies each of which occurred at least 45 days~~  
4399 ~~apart from each other. This paragraph does not apply when the~~  
4400 ~~state attorney has good cause to believe that exceptional~~  
4401 ~~circumstances exist which preclude the just prosecution of the~~  
4402 ~~juvenile in adult court.~~

4403 ~~(c) The state attorney must file an information if a child,~~  
4404 ~~regardless of the child's age at the time the alleged offense~~  
4405 ~~was committed, is alleged to have committed an act that would be~~  
4406 ~~a violation of law if the child were an adult, that involves~~  
4407 ~~stealing a motor vehicle, including, but not limited to, a~~  
4408 ~~violation of s. 812.133, relating to carjacking, or s.~~  
4409 ~~812.014(2)(c)6., relating to grand theft of a motor vehicle, and~~  
4410 ~~while the child was in possession of the stolen motor vehicle~~  
4411 ~~the child caused serious bodily injury to or the death of a~~  
4412 ~~person who was not involved in the underlying offense. For~~  
4413 ~~purposes of this section, the driver and all willing passengers~~  
4414 ~~in the stolen motor vehicle at the time such serious bodily~~  
4415 ~~injury or death is inflicted shall also be subject to mandatory~~  
4416 ~~transfer to adult court. "Stolen motor vehicle," for the~~  
4417 ~~purposes of this section, means a motor vehicle that has been~~  
4418 ~~the subject of any criminal wrongful taking. For purposes of~~



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4419 ~~this section, "willing passengers" means all willing passengers~~  
4420 ~~who have participated in the underlying offense.~~

4421 ~~(d)1. With respect to any child who was 16 or 17 years of~~  
4422 ~~age at the time the alleged offense was committed, the state~~  
4423 ~~attorney shall file an information if the child has been charged~~  
4424 ~~with committing or attempting to commit an offense listed in s.~~  
4425 ~~775.087(2)(a)1.a.p., and, during the commission of or attempt~~  
4426 ~~to commit the offense, the child:~~

4427 ~~a. Actually possessed a firearm or destructive device, as~~  
4428 ~~those terms are defined in s. 790.001.~~

4429 ~~b. Discharged a firearm or destructive device, as described~~  
4430 ~~in s. 775.087(2)(a)2.~~

4431 ~~c. Discharged a firearm or destructive device, as described~~  
4432 ~~in s. 775.087(2)(a)3., and, as a result of the discharge, death~~  
4433 ~~or great bodily harm was inflicted upon any person.~~

4434 ~~2. Upon transfer, any child who is:~~

4435 ~~a. Charged under sub-subparagraph 1.a. and who has been~~  
4436 ~~previously adjudicated or had adjudication withheld for a~~  
4437 ~~forcible felony offense or any offense involving a firearm, or~~  
4438 ~~who has been previously placed in a residential commitment~~  
4439 ~~program, shall be subject to sentencing under s. 775.087(2)(a),~~  
4440 ~~notwithstanding s. 985.565.~~

4441 ~~b. Charged under sub-subparagraph 1.b. or sub-subparagraph~~  
4442 ~~1.c., shall be subject to sentencing under s. 775.087(2)(a),~~  
4443 ~~notwithstanding s. 985.565.~~

4444 ~~3. Upon transfer, any child who is charged under this~~  
4445 ~~paragraph, but who does not meet the requirements specified in~~  
4446 ~~subparagraph 2., shall be sentenced under s. 985.565; however,~~  
4447 ~~if the court imposes a juvenile sanction, the court must commit~~



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4448 ~~the child to a high risk or maximum risk juvenile facility.~~

4449 ~~4. This paragraph shall not apply if the state attorney has~~  
4450 ~~good cause to believe that exceptional circumstances exist that~~  
4451 ~~preclude the just prosecution of the child in adult court.~~

4452 ~~5. The Department of Corrections shall make every~~  
4453 ~~reasonable effort to ensure that any child 16 or 17 years of age~~  
4454 ~~who is convicted and sentenced under this paragraph be~~  
4455 ~~completely separated such that there is no physical contact with~~  
4456 ~~adult offenders in the facility, to the extent that it is~~  
4457 ~~consistent with chapter 958.~~

4458 Section 82. Subsection (3) of section 776.09, Florida  
4459 Statutes, is amended to read:

4460 776.09 Retention of records pertaining to persons found to  
4461 be acting in lawful self-defense; expunction of criminal history  
4462 records.—

4463 (3) Under either condition described in subsection (1) or  
4464 subsection (2), the person accused may apply for a certificate  
4465 of eligibility to expunge the associated criminal history  
4466 record, pursuant to s. 943.0578 ~~s. 943.0585(5)~~, notwithstanding  
4467 the eligibility requirements prescribed in s. 943.0585(1) ~~s.~~  
4468 ~~943.0585(1)(b)~~ or (2).

4469 Section 83. Paragraph (c) of subsection (3) of section  
4470 893.03, Florida Statutes, is amended to read:

4471 893.03 Standards and schedules.—The substances enumerated  
4472 in this section are controlled by this chapter. The controlled  
4473 substances listed or to be listed in Schedules I, II, III, IV,  
4474 and V are included by whatever official, common, usual,  
4475 chemical, trade name, or class designated. The provisions of  
4476 this section shall not be construed to include within any of the



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4477 schedules contained in this section any excluded drugs listed  
4478 within the purview of 21 C.F.R. s. 1308.22, styled "Excluded  
4479 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical  
4480 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted  
4481 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt  
4482 Anabolic Steroid Products."

4483 (3) SCHEDULE III.—A substance in Schedule III has a  
4484 potential for abuse less than the substances contained in  
4485 Schedules I and II and has a currently accepted medical use in  
4486 treatment in the United States, and abuse of the substance may  
4487 lead to moderate or low physical dependence or high  
4488 psychological dependence or, in the case of anabolic steroids,  
4489 may lead to physical damage. The following substances are  
4490 controlled in Schedule III:

4491 (c) Unless specifically excepted or unless listed in  
4492 another schedule, any material, compound, mixture, or  
4493 preparation containing limited quantities of any of the  
4494 following controlled substances or any salts thereof:

4495 1. Not more than 1.8 grams of codeine per 100 milliliters  
4496 or not more than 90 milligrams per dosage unit, with an equal or  
4497 greater quantity of an isoquinoline alkaloid of opium.

4498 2. Not more than 1.8 grams of codeine per 100 milliliters  
4499 or not more than 90 milligrams per dosage unit, with recognized  
4500 therapeutic amounts of one or more active ingredients which are  
4501 not controlled substances.

4502 3. Not more than 300 milligrams of hydrocodone per 100  
4503 milliliters or not more than 15 milligrams per dosage unit, with  
4504 a fourfold or greater quantity of an isoquinoline alkaloid of  
4505 opium.



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4506           4. Not more than 300 milligrams of hydrocodone per 100  
4507 milliliters or not more than 15 milligrams per dosage unit, with  
4508 recognized therapeutic amounts of one or more active ingredients  
4509 that are not controlled substances.

4510           5. Not more than 1.8 grams of dihydrocodeine per 100  
4511 milliliters or not more than 90 milligrams per dosage unit, with  
4512 recognized therapeutic amounts of one or more active ingredients  
4513 which are not controlled substances.

4514           6. Not more than 300 milligrams of ethylmorphine per 100  
4515 milliliters or not more than 15 milligrams per dosage unit, with  
4516 one or more active, nonnarcotic ingredients in recognized  
4517 therapeutic amounts.

4518           7. Not more than 50 milligrams of morphine per 100  
4519 milliliters or per 100 grams, with recognized therapeutic  
4520 amounts of one or more active ingredients which are not  
4521 controlled substances.

4522  
4523 For purposes of charging a person with a violation of s. 893.135  
4524 involving any controlled substance described in subparagraph 3.  
4525 or subparagraph 4., the controlled substance is a Schedule III  
4526 controlled substance pursuant to this paragraph but the weight  
4527 of the controlled substance per milliliters or per dosage unit  
4528 is not relevant to the charging of a violation of s. 893.135.  
4529 The weight of the controlled substance shall be determined  
4530 pursuant to s. 893.135(7) ~~s. 893.135(6)~~.

4531           Section 84. Paragraph (c) of subsection (3) of section  
4532 943.053, Florida Statutes, is amended to read:

4533           943.053 Dissemination of criminal justice information;  
4534 fees.—



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4535 (3)  
4536 (c)1. Criminal history information relating to juveniles,  
4537 including criminal history information consisting in whole or in  
4538 part of information that is confidential and exempt under  
4539 paragraph (b), shall be available to:  
4540 a. A criminal justice agency for criminal justice purposes  
4541 on a priority basis and free of charge;  
4542 b. The person to whom the record relates, or his or her  
4543 attorney;  
4544 c. The parent, guardian, or legal custodian of the person  
4545 to whom the record relates, provided such person has not reached  
4546 the age of majority, been emancipated by a court, or been  
4547 legally married; or  
4548 d. An agency or entity specified in s. 943.0585(6) ~~s.~~  
4549 ~~943.0585(4)~~ or s. 943.059(6) ~~s. 943.059(4)~~, for the purposes  
4550 specified therein, and to any person within such agency or  
4551 entity who has direct responsibility for employment, access  
4552 authorization, or licensure decisions.  
4553 2. After providing the program with all known personal  
4554 identifying information, the criminal history information  
4555 relating to a juvenile which is not confidential and exempt  
4556 under this subsection may be released to the private sector and  
4557 noncriminal justice agencies not specified in s. 943.0585(6) ~~s.~~  
4558 ~~943.0585(4)~~ or s. 943.059(6) ~~s. 943.059(4)~~ in the same manner as  
4559 provided in paragraph (a). Criminal history information relating  
4560 to a juvenile which is not confidential and exempt under this  
4561 subsection is the entire criminal history information relating  
4562 to a juvenile who satisfies any of the criteria listed in sub-  
4563 subparagraphs (b)1.a.-d., except for any portion of such



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4564 juvenile's criminal history record which has been expunged or  
4565 sealed under any law applicable to such record.

4566 3. All criminal history information relating to juveniles,  
4567 other than that provided to criminal justice agencies for  
4568 criminal justice purposes, shall be provided upon tender of fees  
4569 as established in this subsection and in the manner prescribed  
4570 by rule of the Department of Law Enforcement.

4571 Section 85. Paragraph (b) of subsection (2) of section  
4572 943.0582, Florida Statutes, is amended to read:

4573 943.0582 Diversion program expunction.-

4574 (2) As used in this section, the term:

4575 (b) "Expunction" has the same meaning ascribed in and  
4576 effect as s. 943.0585, except that:

4577 1. Section ~~The provisions of~~ 943.0585(6) (b) does s.  
4578 ~~943.0585(4) (a) do~~ not apply, except that the criminal history  
4579 record of a person whose record is expunged pursuant to this  
4580 section shall be made available only to criminal justice  
4581 agencies for the purpose of:

4582 a. Determining eligibility for diversion programs;

4583 b. A criminal investigation; or

4584 c. Making a prosecutorial decision under s. 985.15.

4585 2. Records maintained by local criminal justice agencies in  
4586 the county in which the arrest occurred that are eligible for  
4587 expunction pursuant to this section shall be sealed as the term  
4588 is used in s. 943.059.

4589 Section 86. Paragraphs (a) and (b) of subsection (4) of  
4590 section 985.565, Florida Statutes, are amended to read:

4591 985.565 Sentencing powers; procedures; alternatives for  
4592 juveniles prosecuted as adults.-



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4593 (4) SENTENCING ALTERNATIVES.—  
4594 (a) *Adult sanctions*.—  
4595 1. Cases prosecuted on indictment.—If the child is found to  
4596 have committed the offense punishable by death or life  
4597 imprisonment, the child shall be sentenced as an adult. If the  
4598 juvenile is not found to have committed the indictable offense  
4599 but is found to have committed a lesser included offense or any  
4600 other offense for which he or she was indicted as a part of the  
4601 criminal episode, the court may sentence as follows:  
4602 a. As an adult;  
4603 b. Under chapter 958; or  
4604 c. As a juvenile under this section.  
4605 2. Other cases.—If a child who has been transferred for  
4606 criminal prosecution pursuant to information or waiver of  
4607 juvenile court jurisdiction is found to have committed a  
4608 violation of state law or a lesser included offense for which he  
4609 or she was charged as a part of the criminal episode, the court  
4610 may sentence as follows:  
4611 a. As an adult;  
4612 b. Under chapter 958; or  
4613 c. As a juvenile under this section.  
4614 3. Notwithstanding any other provision to the contrary, if  
4615 the state attorney is required to file a motion to transfer and  
4616 certify the juvenile for prosecution as an adult under s.  
4617 985.556(3) and that motion is granted, ~~or if the state attorney~~  
4618 ~~is required to file an information under s. 985.557(2) (a) or~~  
4619 ~~(b)~~, the court must impose adult sanctions.  
4620 4. Any sentence imposing adult sanctions is presumed  
4621 appropriate, and the court is not required to set forth specific



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4622 findings or enumerate the criteria in this subsection as any  
4623 basis for its decision to impose adult sanctions.

4624         5. When a child has been transferred for criminal  
4625 prosecution as an adult and has been found to have committed a  
4626 violation of state law, the disposition of the case may include  
4627 the enforcement of any restitution ordered in any juvenile  
4628 proceeding.

4629         (b) *Juvenile sanctions.*—For juveniles transferred to adult  
4630 court but who do not qualify for such transfer under s.  
4631 985.556(3) ~~or s. 985.557(2)(a) or (b)~~, the court may impose  
4632 juvenile sanctions under this paragraph. If juvenile sentences  
4633 are imposed, the court shall, under this paragraph, adjudge the  
4634 child to have committed a delinquent act. Adjudication of  
4635 delinquency may ~~shall~~ not be deemed a conviction, nor shall it  
4636 operate to impose any of the civil disabilities ordinarily  
4637 resulting from a conviction. The court shall impose an adult  
4638 sanction or a juvenile sanction and may not sentence the child  
4639 to a combination of adult and juvenile punishments. An adult  
4640 sanction or a juvenile sanction may include enforcement of an  
4641 order of restitution or probation previously ordered in any  
4642 juvenile proceeding. However, if the court imposes a juvenile  
4643 sanction and the department determines that the sanction is  
4644 unsuitable for the child, the department shall return custody of  
4645 the child to the sentencing court for further proceedings,  
4646 including the imposition of adult sanctions. Upon adjudicating a  
4647 child delinquent under subsection (1), the court may:

4648         1. Place the child in a probation program under the  
4649 supervision of the department for an indeterminate period of  
4650 time until the child reaches the age of 19 years or sooner if



4651 discharged by order of the court.

4652         2. Commit the child to the department for treatment in an  
4653 appropriate program for children for an indeterminate period of  
4654 time until the child is 21 or sooner if discharged by the  
4655 department. The department shall notify the court of its intent  
4656 to discharge no later than 14 days before ~~prior to~~ discharge.  
4657 Failure of the court to timely respond to the department's  
4658 notice shall be considered approval for discharge.

4659         3. Order disposition under ss. 985.435, 985.437, 985.439,  
4660 985.441, 985.45, and 985.455 as an alternative to youthful  
4661 offender or adult sentencing if the court determines not to  
4662 impose youthful offender or adult sanctions.

4663  
4664 It is the intent of the Legislature that the criteria and  
4665 guidelines in this subsection are mandatory and that a  
4666 determination of disposition under this subsection is subject to  
4667 the right of the child to appellate review under s. 985.534.

4668         Section 87. Subsection (3) of section 921.0022, Florida  
4669 Statutes, is amended to read:

4670         921.0022 Criminal Punishment Code; offense severity ranking  
4671 chart.—

4672         (3) OFFENSE SEVERITY RANKING CHART

4673         (a) LEVEL 1

4674

Florida Statute	Felony Degree	Description
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.

4675



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4676	212.054 (2) (b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
4677	212.15 (2) (b)	3rd	Failure to remit sales taxes, amount greater than <u>\$1,000</u> <del>\$300</del> but less than \$20,000.
4678	316.1935 (1)	3rd	Fleeing or attempting to elude law enforcement officer.
4679	319.30 (5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
4680	319.35 (1) (a)	3rd	Tamper, adjust, change, etc., an odometer.
4681	320.26 (1) (a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
4682	322.212 (1) (a) - (c)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver



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4683			license; possession of simulated identification.
	322.212 (4)	3rd	Supply or aid in supplying unauthorized driver license or identification card.
4684			
	322.212 (5) (a)	3rd	False application for driver license or identification card.
4685			
	414.39 (3) (a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.
4686			
	443.071 (1)	3rd	False statement or representation to obtain or increase reemployment assistance benefits.
4687			
	509.151 (1)	3rd	Defraud an innkeeper, food or lodging value greater than <u>\$1,000</u> <del>\$300</del> .
4688			
	517.302 (1)	3rd	Violation of the Florida Securities and Investor Protection Act.
4689			



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4690	<del>562.27(1)</del>	3rd	<del>Possess still or still apparatus.</del>
4691	713.69	3rd	Tenant removes property upon which lien has accrued, value more than <u>\$1,000</u> <del>\$50</del> .
4692	812.014 (3) (c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).
4693	812.081 (2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
4694	815.04 (5) (a)	3rd	Offense against intellectual property (i.e., computer programs, data).
4695	817.52 (2)	3rd	Hiring with intent to defraud, motor vehicle services.
	817.569 (2)	3rd	Use of public record or public records information or providing false information to facilitate commission of a felony.



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4696	826.01	3rd	Bigamy.
4697	828.122 (3)	3rd	Fighting or baiting animals.
4698	831.04 (1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
4699	831.31 (1) (a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
4700	832.041 (1)	3rd	Stopping payment with intent to defraud \$150 or more.
4701	832.05 (2) (b) & (4) (c)	3rd	Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.
4702	838.15 (2)	3rd	Commercial bribe receiving.
4703	838.16	3rd	Commercial bribery.
4704	843.18	3rd	Fleeing by boat to elude a



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4705			law enforcement officer.
	847.011 (1) (a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
4706	<del>849.01</del>	<del>3rd</del>	<del>Keeping gambling house.</del>
4707	849.09 (1) (a) - (d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
4708	849.23	3rd	Gambling-related machines; "common offender" as to property rights.
4709	849.25 (2)	3rd	Engaging in bookmaking.
4710	860.08	3rd	Interfere with a railroad signal.
4711	860.13 (1) (a)	3rd	Operate aircraft while under the influence.
4712	893.13 (2) (a) 2.	3rd	Purchase of cannabis.
4713			



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4714	893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
4715	934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.
4716			
4717			
4718			
4719	(b) LEVEL 2		
4720			
4721	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.
4722	379.2431(1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
4723	403.413(6)(c)	3rd	Dumps waste litter exceeding 500 lbs. in



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			weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
4724	517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.
4725	590.28(1)	3rd	Intentional burning of lands.
4726	784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
4727	787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
4728	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.



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4729	810.061 (2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
4730	810.09 (2) (e)	3rd	Trespassing on posted commercial horticulture property.
4731	812.014 (2) (c) 1.	3rd	Grand theft, 3rd degree; <u>\$750</u> <del>\$300</del> or more but less than \$5,000.
4732	812.014 (2) (d)	3rd	Grand theft, 3rd degree; \$100 or more but less than <u>\$750</u> <del>\$300</del> , taken from unenclosed curtilage of dwelling.
4733	812.015 (7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
4734	817.234 (1) (a) 2.	3rd	False statement in support of insurance claim.



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4735	817.481 (3) (a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
4736	817.52 (3)	3rd	Failure to redeliver hired vehicle.
4737	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
4738	817.60 (5)	3rd	Dealing in credit cards of another.
4739	817.60 (6) (a)	3rd	Forgery; purchase goods, services with false card.
4740	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
4741	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.



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4742	831.01	3rd	Forgery.
4743	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
4744	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
4745	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
4746	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
4747	831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
4748	832.05 (3) (a)	3rd	Cashing or depositing item with intent to defraud.
4749			



4750	843.08	3rd	False personation.
	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.
4751	893.147 (2)	3rd	Manufacture or delivery of drug paraphernalia.
4752			
4753			
4754			
4755			
4756	(c) LEVEL 3		
4757			
	Florida	Felony	
	Statute	Degree	Description
4758	119.10 (2) (b)	3rd	Unlawful use of confidential information from police reports.
4759	316.066 (3) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.



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4760	316.193 (2) (b)	3rd	Felony DUI, 3rd conviction.
4761	316.1935 (2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
4762	319.30 (4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
4763	319.33 (1) (a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
4764	319.33 (1) (c)	3rd	Procure or pass title on stolen vehicle.
4765	319.33 (4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
4766	327.35 (2) (b)	3rd	Felony BUI.



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4767

328.05(2) 3rd Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.

4768

328.07(4) 3rd Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.

4769

376.302(5) 3rd Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.

4770

379.2431 3rd Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.  
(1) (e) 5.

4771



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4772	379.2431 (1) (e) 6.	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.
4773	379.2431 (1) (e) 7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
4774	400.9935 (4) (a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
4775	400.9935 (4) (e)	3rd	Filing a false license application or other required information or failing to report information.
4776	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.



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4777	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
4778	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
4779	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
4780	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.
4781	697.08	3rd	Equity skimming.
4782	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.



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4783	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
4784	810.09 (2) (c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
4785	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
4786	812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
4787	<u>812.015 (8) (b)</u>	<u>3rd</u>	<u>Retail theft with intent to sell; coordination with others.</u>
4788	815.04 (5) (b)	2nd	Computer offense devised to defraud or obtain property.
4789	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less



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4790			than \$20,000.
4791	817.233	3rd	Burning to defraud insurer.
4792	817.234 (8) (b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
4793	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
4794	817.236	3rd	Filing a false motor vehicle insurance application.
4795	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
4796	817.413 (2)	3rd	Sale of used goods as new.
4797	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument <u>with intent to defraud</u> .



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4798	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
4799	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
4800	843.19	3rd	Injure, disable, or kill police dog or horse.
4801	860.15 (3)	3rd	Overcharging for repairs and parts.
4802	870.01 (2)	3rd	Riot; inciting or encouraging.
4803	893.13 (1) (a) 2.	3rd	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).
	893.13 (1) (d) 2.	2nd	Sell, manufacture, or deliver s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2.,



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4804	893.13(1)(f)2.	2nd	(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 university.
4805	893.13(4)(c)	3rd	Sell, manufacture, or deliver 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 public housing facility.
4806	893.13(6)(a)	3rd	Use or hire of minor; deliver to minor other controlled substances.
4807	893.13(7)(a)8.	3rd	Possession of any controlled substance other than felony possession of cannabis.  Withhold information from practitioner regarding previous receipt of or prescription for a



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4808			controlled substance.
	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
4809			
	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
4810			
	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
4811			
	893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
4812			
	893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other



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4813			person, or owner of an animal in obtaining a controlled substance.
	893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
4814			
	893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
4815			
	918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
4816			
	944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
4817			
	944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
4818			
	985.721	3rd	Escapes from a juvenile



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facility (secure detention  
or residential commitment  
facility).

4819  
4820  
4821  
4822  
4823  
4824

(d) LEVEL 4

Florida  
Statute

Felony  
Degree

Description

4825

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.

4826

499.0051 (1)

3rd

Failure to maintain or  
deliver transaction  
history, transaction  
information, or  
transaction statements.

4827

499.0051 (5)

2nd

Knowing sale or  
delivery, or possession



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4828			with intent to sell, contraband prescription drugs.
	517.07 (1)	3rd	Failure to register securities.
4829			
	517.12 (1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
4830			
	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.
4831			
	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
4832			
	784.075	3rd	Battery on detention or commitment facility staff.
4833			
	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.



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4834	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
4835	784.081 (3)	3rd	Battery on specified official or employee.
4836	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
4837	784.083 (3)	3rd	Battery on code inspector.
4838	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
4839	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
4840	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody



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4841			proceedings.
	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
4842			
	787.07	3rd	Human smuggling.
4843			
	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
4844			
	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
4845			
	790.115 (2) (c)	3rd	Possessing firearm on school property.
4846			
	800.04 (7) (c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
4847			



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4848	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
4849	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
4850	810.06	3rd	Burglary; possession of tools.
4851	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
4852	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
4853	812.014 (2) (c) 4.-10.	3rd	Grand theft, 3rd degree; <u>specified items</u> , <del>a will, firearm, motor vehicle, livestock, etc.</del>
	812.0195 (2)	3rd	Dealing in stolen



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4854			property by use of the Internet; property stolen \$300 or more.
4855	817.505 (4) (a)	3rd	Patient brokering.
4856	817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
4857	817.568 (2) (a)	3rd	Fraudulent use of personal identification information.
4858	817.625 (2) (a)	3rd	Fraudulent use of scanning device, skimming device, or reencoder.
4859	817.625 (2) (c)	3rd	Possess, sell, or deliver skimming device.
	828.125 (1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or



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4860			cattle.
	837.02 (1)	3rd	Perjury in official proceedings.
4861			
	837.021 (1)	3rd	Make contradictory statements in official proceedings.
4862			
	838.022	3rd	Official misconduct.
4863			
	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
4864			
	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Families.
4865			
	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
4866			
	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or



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4867			communication.
	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
4868			
	847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
4869			
	874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
4870			
	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).
4871			
	914.14(2)	3rd	Witnesses accepting bribes.
4872			
	914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
4873			



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4874	914.23 (2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
4875	918.12	3rd	Tampering with jurors.
4876	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
4877	<u>944.47 (1) (a) 6.</u>	<u>3rd</u>	<u>Introduction of contraband (cellular telephone or other portable communication device) into correctional institution.</u>
4878	<u>951.22 (1) (h), (j), &amp; (k)</u>	<u>3rd</u>	<u>Intoxicating drug, instrumentality, or cellular telephone or other device to aid escape introduced into county detention facility.</u>
4879			



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4880			
4881			
4882	(e) LEVEL 5		
4883			
	Florida	Felony	
	Statute	Degree	Description
4884	316.027 (2) (a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
4885	316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
4886	316.80 (2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
4887	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
4888	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.



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4889

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.

4890

379.367(4)

3rd

Willful molestation of a



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4891			commercial harvester's spiny lobster trap, line, or buoy.
	379.407 (5) (b) 3.	3rd	Possession of 100 or more undersized spiny lobsters.
4892			
	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
4893			
	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
4894			
	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
4895			
	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
4896			



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4897	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
4898	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
4899	790.01 (2)	3rd	Carrying a concealed firearm.
4900	790.162	2nd	Threat to throw or discharge destructive device.
4901	790.163 (1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
4902	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
	790.23	2nd	Felons in possession of



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4903			firearms, ammunition, or electronic weapons or devices.
4904	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.
4905	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
4906	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
4907	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
4908	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
	812.015 (8) <u>(a), (c), (d), &amp; (e)</u>	3rd	Retail theft; property stolen is valued at <u>\$750</u> <del>\$300</del> or more and one or more specified acts.



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4909	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
4910	812.131 (2) (b)	3rd	Robbery by sudden snatching.
4911	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
4912	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
4913	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
4914	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.
4915	817.568 (2) (b)	2nd	Fraudulent use of



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4916			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.
4916	817.611 (2) (a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards or related documents.
4917	817.625 (2) (b)	2nd	Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.
4918	825.1025 (4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
4919	827.071 (4)	2nd	Possess with intent to



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4920	827.071 (5)	3rd	promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
4921	828.12 (2)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
4922	839.13 (2) (b)	2nd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
4923	843.01	3rd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death. Resist officer with violence to person; resist arrest with violence.



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4924	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
4925	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
4926	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
4927	874.05 (1) (b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
4928	874.05 (2) (a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
4929	893.13 (1) (a) 1.	2nd	Sell, manufacture, or deliver cocaine (or



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4930

893.13(1)(c)2.

2nd

other s. 893.03(1)(a),  
(1)(b), (1)(d), (2)(a),  
(2)(b), or (2)(c)5.  
drugs).

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.

4931

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.

4932



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	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.
4933	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.
4934	893.13(4)(b)	2nd	Use or hire of minor; deliver to minor other controlled substance.
4935	893.1351(1)	3rd	Ownership, lease, or rental for trafficking



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in or manufacturing of  
controlled substance.

4936  
4937  
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4942  
  
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4945  
  
4946

(f) LEVEL 6

Florida Statute	Felony Degree	Description
316.027 (2) (b)	2nd	Leaving the scene of a crash involving serious bodily injury.
316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent conviction.
400.9935 (4) (c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
499.0051 (2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.



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4947	499.0051 (3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
4948	499.0051 (4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
4949	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
4950	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
4951	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
4952	784.041	3rd	Felony battery; domestic battery by strangulation.
4953	784.048 (3)	3rd	Aggravated stalking; credible threat.
4954	784.048 (5)	3rd	Aggravated stalking of person under 16.



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4955	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
4956	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
4957	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
4958	784.081 (2)	2nd	Aggravated assault on specified official or employee.
4959	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
4960	784.083 (2)	2nd	Aggravated assault on code inspector.
4961	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.



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4962	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
4963	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
4964	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.
4965	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
4966	794.011 (8) (a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
	794.05 (1)	2nd	Unlawful sexual activity with specified minor.



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4967	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.
4968	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
4969	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
4970	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
4971	810.145 (8) (b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
4972	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.



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4973	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
4974	812.015 (9) (a)	2nd	Retail theft; property stolen <u>\$750</u> <del>\$300</del> or more; second or subsequent conviction.
4975	812.015 (9) (b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
4976	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
4977	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
4978	817.505 (4) (b)	2nd	Patient brokering; 10 or more patients.
4979	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.



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4980	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.
4981	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
4982	825.103 (3) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
4983	827.03 (2) (c)	3rd	Abuse of a child.
4984	827.03 (2) (d)	3rd	Neglect of a child.
4985	827.071 (2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
4986	836.05	2nd	Threats; extortion.
4987	836.10	2nd	Written threats to kill, do bodily injury, or conduct a mass shooting



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4988			or an act of terrorism.
	843.12	3rd	Aids or assists person to escape.
4989			
	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
4990			
	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
4991			
	847.0135 (2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
4992			
	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
4993			
	944.35 (3) (a) 2.	3rd	Committing malicious



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4994			battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
4995	944.40	2nd	Escapes.
4996	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
4997	944.47 (1) (a) 5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
4998	<u>951.22 (1) (i)</u>	3rd	<del>Intoxicating drug,</del>
4999	<del>951.22 (1)</del>		Firearm, or weapon
5000			introduced into county
5001			<u>detention</u> facility.
5002	(g) LEVEL 7		



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5003	Florida Statute	Felony Degree	Description
5004	316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
5005	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
5006	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.
5007	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
5008	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent



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5009			disfiguration, permanent disability, or death.
	409.920 (2) (b) 1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
5010			
	409.920 (2) (b) 1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
5011			
	456.065 (2)	3rd	Practicing a health care profession without a license.
5012			
	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
5013			
	458.327 (1)	3rd	Practicing medicine without a license.
5014			
	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
5015			
	460.411 (1)	3rd	Practicing chiropractic medicine without a license.



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5016	461.012 (1)	3rd	Practicing podiatric medicine without a license.
5017	462.17	3rd	Practicing naturopathy without a license.
5018	463.015 (1)	3rd	Practicing optometry without a license.
5019	464.016 (1)	3rd	Practicing nursing without a license.
5020	465.015 (2)	3rd	Practicing pharmacy without a license.
5021	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
5022	467.201	3rd	Practicing midwifery without a license.
5023	468.366	3rd	Delivering respiratory care services without a license.
5024	483.828 (1)	3rd	Practicing as clinical



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5025			laboratory personnel without a license.
5026	483.901 (7)	3rd	Practicing medical physics without a license.
5027	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
5028	484.053	3rd	Dispensing hearing aids without a license.
5029	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.
5030	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.
	560.125 (5) (a)	3rd	Money services business by unauthorized person,



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5031	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
5032	775.21 (10) (a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
5033	775.21 (10) (b)	3rd	Sexual predator working where children regularly congregate.
5034	775.21 (10) (g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
5035	782.051 (3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or



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5036			the perpetrator of an attempted felony.
	782.07 (1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
5037			
	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
5038			
	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
5039			
	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
5040			
	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
5041			
	784.045 (1) (b)	2nd	Aggravated battery;



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5042			perpetrator aware victim pregnant.
	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
5043			
	784.048 (7)	3rd	Aggravated stalking; violation of court order.
5044			
	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
5045			
	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
5046			
	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
5047			
	784.081 (1)	1st	Aggravated battery on specified official or employee.
5048			
	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
5049			



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5050	784.083 (1)	1st	Aggravated battery on code inspector.
5051	787.06 (3) (a) 2.	1st	Human trafficking using coercion for labor and services of an adult.
5052	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.
5053	790.07 (4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
5054	790.16 (1)	1st	Discharge of a machine gun under specified circumstances.
5055	790.165 (2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
	790.165 (3)	2nd	Possessing, displaying, or threatening to use any



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5056			hoax bomb while committing or attempting to commit a felony.
	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
5057			
	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
5058			
	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
5059			
	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.
5060			
	796.05(1)	1st	Live on earnings of a



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5061			prostitute; 2nd offense.
	796.05 (1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
5062			
	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
5063			
	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.
5064			
	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.
5065			
	806.01 (2)	2nd	Maliciously damage structure by fire or



5066			explosive.
	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
5067			
	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
5068			
	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
5069			
	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
5070			
	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.
5071			
	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in



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5072			2nd degree.
	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
5073			
	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
5074			
	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
5075			
	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
5076			
	812.131 (2) (a)	2nd	Robbery by sudden snatching.
5077			
	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
5078			
	817.034 (4) (a) 1.	1st	Communications fraud,



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5079			value greater than \$50,000.
	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
5080			
	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
5081			
	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
5082			
	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.
5083			
	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
5084			
	817.611 (2) (b)	2nd	Traffic in or possess 15 to 49 counterfeit credit



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5085	825.102 (3) (b)	2nd	cards or related documents. Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
5086	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.
5087	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
5088	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
5089	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.



5090	838.015	2nd	Bribery.
5091	838.016	2nd	Unlawful compensation or reward for official behavior.
5092	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
5093	838.22	2nd	Bid tampering.
5094	843.0855 (2)	3rd	Impersonation of a public officer or employee.
5095	843.0855 (3)	3rd	Unlawful simulation of legal process.
5096	843.0855 (4)	3rd	Intimidation of a public officer or employee.
5097	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
5098	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.



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5099	872.06	2nd	Abuse of a dead human body.
5100	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
5101	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
5102	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.



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5103	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.
5104	893.13(4)(a)	1st	Use or hire of minor; deliver to minor other controlled substance.
5105	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
5106	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
5107	893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
5108	893.135 (1)(c)2.a.	1st	Trafficking in hydrocodone, 14 grams or



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5109			more, less than 28 grams.
	893.135 (1) (c) 2.b.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
5110			
	893.135 (1) (c) 3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
5111			
	893.135 (1) (c) 3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
5112			
	893.135 (1) (c) 4.b. (I)	1st	Trafficking in fentanyl, 4 grams or more, less than 14 grams.
5113			
	893.135 (1) (d) 1.a.	1st	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.
5114			
	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.
5115			
	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, 14 grams or



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5116			more, less than 28 grams.
	893.135	1st	Trafficking in
	(1) (g) 1.a.		flunitrazepam, 4 grams or more, less than 14 grams.
5117			
	893.135	1st	Trafficking in gamma-
	(1) (h) 1.a.		hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
5118			
	893.135	1st	Trafficking in 1,4-
	(1) (j) 1.a.		Butanediol, 1 kilogram or more, less than 5 kilograms.
5119			
	893.135	1st	Trafficking in
	(1) (k) 2.a.		Phenethylamines, 10 grams or more, less than 200 grams.
5120			
	893.135	1st	Trafficking in synthetic
	(1) (m) 2.a.		cannabinoids, 280 grams or more, less than 500 grams.
5121			
	893.135	1st	Trafficking in synthetic
	(1) (m) 2.b.		cannabinoids, 500 grams or more, less than 1,000 grams.



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5122	893.135 (1) (n) 2.a.	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.
5123	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
5124	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
5125	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
5126	943.0435 (4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
5127	943.0435 (8)	2nd	Sexual offender; remains



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5128	943.0435 (9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
5129	943.0435 (13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
5130	943.0435 (14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
5131	944.607 (9)	3rd	Sexual offender; failure to comply with reporting requirements.
5132	944.607 (10) (a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.



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5133	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
5134	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
5135	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
5136	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
5137	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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(h) LEVEL 8

Florida Statute	Felony Degree	Description
316.193 (3) (c) 3.a.	2nd	DUI manslaughter.
316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
499.0051 (6)	1st	Knowing trafficking in contraband prescription drugs.
499.0051 (7)	1st	Knowing forgery of prescription labels or prescription drug labels.
560.123 (8) (b) 2.	2nd	Failure to report

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5150	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 by money transmitter.
5151	655.50 (10) (b) 2.	2nd	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
5152	777.03 (2) (a)	1st	Accessory after the fact, capital felony.
5153	782.04 (4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery,



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			burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.
5154	782.051 (2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04 (3).
5155	782.071 (1) (b)	1st	Committing vehicular homicide and failing to render aid or give information.
5156	782.072 (2)	1st	Committing vessel homicide and failing to render aid or give information.
5157	787.06 (3) (a) 1.	1st	Human trafficking for labor and services of a child.
5158	787.06 (3) (b)	1st	Human trafficking using



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5159			coercion for commercial sexual activity of an adult.
	787.06(3)(c)2.	1st	Human trafficking using coercion for labor and services of an unauthorized alien adult.
5160			
	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.
5161			
	787.06(3)(f)2.	1st	Human trafficking using coercion for commercial sexual activity by the transfer or transport of any adult from outside Florida to within the state.
5162			
	790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
5163			



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5164	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.
5165	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.
5166	794.011 (5) (c)	2nd	Sexual battery; victim 12 years of age or older; offender younger than 18 years; offender does not use physical force likely to cause injury.
	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.



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5167	794.08 (3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
5168	800.04 (4) (b)	2nd	Lewd or lascivious battery.
5169	800.04 (4) (c)	1st	Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.
5170	806.01 (1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
5171	810.02 (2) (a)	1st, PBL	Burglary with assault or battery.
5172	810.02 (2) (b)	1st, PBL	Burglary; armed with explosives or dangerous weapon.
5173			



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5174	810.02 (2) (c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
5175	812.014 (2) (a) 2.	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
5176	812.13 (2) (b)	1st	Robbery with a weapon.
5177	812.135 (2) (c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
5178	817.505 (4) (c)	1st	Patient brokering; 20 or more patients.
5179	817.535 (2) (b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.
	817.535 (3) (a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or



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5180			employee.
	817.535 (4) (a) 1.	2nd	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.
5181			
	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.
5182			
	817.568 (6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
5183			
	817.611 (2) (c)	1st	Traffic in or possess 50 or more counterfeit credit cards or related documents.
5184			
	825.102 (2)	1st	Aggravated abuse of an elderly person or disabled adult.



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5185	825.1025 (2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
5186	825.103 (3) (a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$50,000 or more.
5187	837.02 (2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
5188	837.021 (2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
5189	860.121 (2) (c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
5190	860.16	1st	Aircraft piracy.
5191			



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5192	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).
5193	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
5194	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
5195	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
5196	893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
5197	893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
	893.135	1st	Trafficking in



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5198	(1) (c) 2.c.		hydrocodone, 50 grams or more, less than 200 grams.
	893.135	1st	Trafficking in oxycodone, 25 grams or more, less than 100 grams.
5199	(1) (c) 3.c.		
	893.135	1st	Trafficking in fentanyl, 14 grams or more, less than 28 grams.
5200	(1) (c) 4.b. (II)		
	893.135	1st	Trafficking in phencyclidine, 200 grams or more, less than 400 grams.
5201	(1) (d) 1.b.		
	893.135	1st	Trafficking in methaqualone, 5 kilograms or more, less than 25 kilograms.
5202	(1) (e) 1.b.		
	893.135	1st	Trafficking in amphetamine, 28 grams or more, less than 200 grams.
5203	(1) (f) 1.b.		
	893.135	1st	Trafficking in flunitrazepam, 14 grams
	(1) (g) 1.b.		



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5204	893.135 (1) (h) 1.b.	1st	or more, less than 28 grams. Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
5205	893.135 (1) (j) 1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
5206	893.135 (1) (k) 2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
5207	893.135 (1) (m) 2.c.	1st	Trafficking in synthetic cannabinoids, 1,000 grams or more, less than 30 kilograms.
5208	893.135 (1) (n) 2.b.	1st	Trafficking in n-benzyl phenethylamines, 100 grams or more, less than 200 grams.
5209			



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5210	893.1351 (3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
5211	895.03 (1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
5212	895.03 (2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
5213	895.03 (3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
5214	896.101 (5) (b)	2nd	Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.
	896.104 (4) (a) 2.	2nd	Structuring transactions



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to evade reporting or  
registration  
requirements, financial  
transactions totaling or  
exceeding \$20,000 but  
less than \$100,000.

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(i) LEVEL 9

Florida  
Statute

Felony  
Degree

Description

5221  
  
  
5222  
  
  
5223  
  
  
5224

316.193  
(3) (c) 3.b.

1st

DUI manslaughter; failing  
to render aid or give  
information.

327.35  
(3) (c) 3.b.

1st

BUI manslaughter; failing  
to render aid or give  
information.

409.920  
(2) (b) 1.c.

1st

Medicaid provider fraud;  
\$50,000 or more.

499.0051 (8)

1st

Knowing sale or purchase  
of contraband  
prescription drugs



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5225			resulting in great bodily harm.
	560.123 (8) (b) 3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
5226			
	560.125 (5) (c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
5227			
	655.50 (10) (b) 3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
5228			
	775.0844	1st	Aggravated white collar crime.
5229			
	782.04 (1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
5230			



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5231	782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, aggravated fleeing or eluding with serious bodily injury or death, and other specified felonies.
5232	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
5233	782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
5234	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
5235	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with



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5236			performance of any governmental or political function.
	787.02 (3) (a)	1st, PBL	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
5237			
	787.06 (3) (c) 1.	1st	Human trafficking for labor and services of an unauthorized alien child.
5238			
	787.06 (3) (d)	1st	Human trafficking using coercion for commercial sexual activity of an unauthorized adult alien.
5239			
	787.06 (3) (f) 1.	1st, PBL	Human trafficking for commercial sexual activity by the transfer or transport of any child from outside Florida to within the state.
5240			



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5241	790.161	1st	Attempted capital destructive device offense.
5242	790.166 (2)	1st, PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
5243	794.011 (2)	1st	Attempted sexual battery; victim less than 12 years of age.
5244	794.011 (2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
5245	794.011 (4) (a)	1st, PBL	Sexual battery, certain circumstances; victim 12 years of age or older but younger than 18 years; offender 18 years or older.
	794.011 (4) (b)	1st	Sexual battery, certain circumstances; victim and offender 18 years of age



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5246	794.011 (4) (c)	1st	Sexual battery, certain circumstances; victim 12 years of age or older; offender younger than 18 years.
5247	794.011 (4) (d)	1st, PBL	Sexual battery, certain circumstances; victim 12 years of age or older; prior conviction for specified sex offenses.
5248	794.011 (8) (b)	1st, PBL	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
5249	794.08 (2)	1st	Female genital mutilation; victim younger than 18 years of age.
5250	800.04 (5) (b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.



5251	812.13 (2) (a)	1st,PBL	Robbery with firearm or other deadly weapon.
5252	812.133 (2) (a)	1st,PBL	Carjacking; firearm or other deadly weapon.
5253	812.135 (2) (b)	1st	Home-invasion robbery with weapon.
5254	817.535 (3) (b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or employee.
5255	817.535 (4) (a) 2.	1st	Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.
5256	817.535 (5) (b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; owner of the property incurs



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5257	817.568 (7)	2nd, PBL	financial loss as a result of the false instrument.  Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.
5258	827.03 (2) (a)	1st	Aggravated child abuse.
5259	847.0145 (1)	1st	Selling, or otherwise transferring custody or control, of a minor.
5260	847.0145 (2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
5261	859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill



			or injure another person.
5262	893.135	1st	Attempted capital trafficking offense.
5263	893.135 (1) (a) 3.	1st	Trafficking in cannabis, more than 10,000 lbs.
5264	893.135 (1) (b) 1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
5265	893.135 (1) (c) 1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
5266	893.135 (1) (c) 2.d.	1st	Trafficking in hydrocodone, 200 grams or more, less than 30 kilograms.
5267	893.135 (1) (c) 3.d.	1st	Trafficking in oxycodone, 100 grams or more, less than 30 kilograms.
5268	893.135 (1) (c) 4.b. (III)	1st	Trafficking in fentanyl, 28 grams or more.
5269			



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5270	893.135 (1) (d) 1.c.	1st	Trafficking in phencyclidine, 400 grams or more.
5271	893.135 (1) (e) 1.c.	1st	Trafficking in methaqualone, 25 kilograms or more.
5272	893.135 (1) (f) 1.c.	1st	Trafficking in amphetamine, 200 grams or more.
5273	893.135 (1) (h) 1.c.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 10 kilograms or more.
5274	893.135 (1) (j) 1.c.	1st	Trafficking in 1,4- Butanediol, 10 kilograms or more.
5275	893.135 (1) (k) 2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
5276	893.135 (1) (m) 2.d.	1st	Trafficking in synthetic cannabinoids, 30 kilograms or more.



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5277	893.135 (1) (n) 2.c.	1st	Trafficking in n-benzyl phenethylamines, 200 grams or more.
5278	896.101 (5) (c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.
5279	896.104 (4) (a) 3.	1st	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$100,000.
5280			
5281			
5282			
5283	(j) LEVEL 10		
5284			
5285	Florida Statute	Felony Degree	Description
5286	499.0051 (9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in death.



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5287	782.04 (2)	1st, PBL	Unlawful killing of human; act is homicide, unpremeditated.
5288	782.07 (3)	1st	Aggravated manslaughter of a child.
5289	787.01 (1) (a) 3.	1st, PBL	Kidnapping; inflict bodily harm upon or terrorize victim.
5290	787.01 (3) (a)	Life	Kidnapping; child under age 13, perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
5291	787.06 (3) (g)	Life	Human trafficking for commercial sexual activity of a child under the age of 18 or mentally defective or incapacitated person.
	787.06 (4) (a)	Life	Selling or buying of minors into human trafficking.



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794.011(3)	Life	Sexual battery; victim 12 years or older, offender uses or threatens to use deadly weapon or physical force to cause serious injury.
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812.135(2)(a)	1st,PBL	Home-invasion robbery with firearm or other deadly weapon.
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876.32	1st	Treason against the state.
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5299       Section 88. For the purpose of incorporating the amendment  
5300 made by this act to section 322.056, Florida Statutes, in a  
5301 reference thereto, subsection (11) of section 322.05, Florida  
5302 Statutes, is reenacted to read:

5303       322.05 Persons not to be licensed.—The department may not  
5304 issue a license:

5305       (11) To any person who is ineligible under s. 322.056.

5306       Section 89. For the purpose of incorporating the amendment  
5307 made by this act to section 322.34, Florida Statutes, in a  
5308 reference thereto, paragraph (c) of subsection (2) of section  
5309 316.027, Florida Statutes, is reenacted to read:



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5310 316.027 Crash involving death or personal injuries.-

5311 (2)

5312 (c) The driver of a vehicle involved in a crash occurring  
5313 on public or private property which results in the death of a  
5314 person shall immediately stop the vehicle at the scene of the  
5315 crash, or as close thereto as possible, and shall remain at the  
5316 scene of the crash until he or she has fulfilled the  
5317 requirements of s. 316.062. A person who is arrested for a  
5318 violation of this paragraph and who has previously been  
5319 convicted of a violation of this section, s. 316.061, s.  
5320 316.191, or s. 316.193, or a felony violation of s. 322.34,  
5321 shall be held in custody until brought before the court for  
5322 admittance to bail in accordance with chapter 903. A person who  
5323 willfully violates this paragraph commits a felony of the first  
5324 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
5325 775.084, and shall be sentenced to a mandatory minimum term of  
5326 imprisonment of 4 years. A person who willfully commits such a  
5327 violation while driving under the influence as set forth in s.  
5328 316.193(1) shall be sentenced to a mandatory minimum term of  
5329 imprisonment of 4 years.

5330 Section 90. For the purpose of incorporating the amendment  
5331 made by this act to section 322.34, Florida Statutes, in a  
5332 reference thereto, paragraph (c) of subsection (4) of section  
5333 907.041, Florida Statutes, is reenacted to read:

5334 907.041 Pretrial detention and release.-

5335 (4) PRETRIAL DETENTION.-

5336 (c) The court may order pretrial detention if it finds a  
5337 substantial probability, based on a defendant's past and present  
5338 patterns of behavior, the criteria in s. 903.046, and any other



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5339 relevant facts, that any of the following circumstances exist:

5340 1. The defendant has previously violated conditions of  
5341 release and that no further conditions of release are reasonably  
5342 likely to assure the defendant's appearance at subsequent  
5343 proceedings;

5344 2. The defendant, with the intent to obstruct the judicial  
5345 process, has threatened, intimidated, or injured any victim,  
5346 potential witness, juror, or judicial officer, or has attempted  
5347 or conspired to do so, and that no condition of release will  
5348 reasonably prevent the obstruction of the judicial process;

5349 3. The defendant is charged with trafficking in controlled  
5350 substances as defined by s. 893.135, that there is a substantial  
5351 probability that the defendant has committed the offense, and  
5352 that no conditions of release will reasonably assure the  
5353 defendant's appearance at subsequent criminal proceedings;

5354 4. The defendant is charged with DUI manslaughter, as  
5355 defined by s. 316.193, and that there is a substantial  
5356 probability that the defendant committed the crime and that the  
5357 defendant poses a threat of harm to the community; conditions  
5358 that would support a finding by the court pursuant to this  
5359 subparagraph that the defendant poses a threat of harm to the  
5360 community include, but are not limited to, any of the following:

5361 a. The defendant has previously been convicted of any crime  
5362 under s. 316.193, or of any crime in any other state or  
5363 territory of the United States that is substantially similar to  
5364 any crime under s. 316.193;

5365 b. The defendant was driving with a suspended driver  
5366 license when the charged crime was committed; or

5367 c. The defendant has previously been found guilty of, or



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5368 has had adjudication of guilt withheld for, driving while the  
5369 defendant's driver license was suspended or revoked in violation  
5370 of s. 322.34;

5371         5. The defendant poses the threat of harm to the community.  
5372 The court may so conclude, if it finds that the defendant is  
5373 presently charged with a dangerous crime, that there is a  
5374 substantial probability that the defendant committed such crime,  
5375 that the factual circumstances of the crime indicate a disregard  
5376 for the safety of the community, and that there are no  
5377 conditions of release reasonably sufficient to protect the  
5378 community from the risk of physical harm to persons;

5379         6. The defendant was on probation, parole, or other release  
5380 pending completion of sentence or on pretrial release for a  
5381 dangerous crime at the time the current offense was committed;

5382         7. The defendant has violated one or more conditions of  
5383 pretrial release or bond for the offense currently before the  
5384 court and the violation, in the discretion of the court,  
5385 supports a finding that no conditions of release can reasonably  
5386 protect the community from risk of physical harm to persons or  
5387 assure the presence of the accused at trial; or

5388         8.a. The defendant has ever been sentenced pursuant to s.  
5389 775.082(9) or s. 775.084 as a prison releasee reoffender,  
5390 habitual violent felony offender, three-time violent felony  
5391 offender, or violent career criminal, or the state attorney  
5392 files a notice seeking that the defendant be sentenced pursuant  
5393 to s. 775.082(9) or s. 775.084, as a prison releasee reoffender,  
5394 habitual violent felony offender, three-time violent felony  
5395 offender, or violent career criminal;

5396         b. There is a substantial probability that the defendant



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5397 committed the offense; and

5398       c. There are no conditions of release that can reasonably  
5399 protect the community from risk of physical harm or ensure the  
5400 presence of the accused at trial.

5401       Section 91. For the purpose of incorporating the amendment  
5402 made by this act to section 394.47891, Florida Statutes, in a  
5403 reference thereto, subsection (5) of section 910.035, Florida  
5404 Statutes, is reenacted to read:

5405       910.035 Transfer from county for plea, sentence, or  
5406 participation in a problem-solving court.—

5407       (5) TRANSFER FOR PARTICIPATION IN A PROBLEM-SOLVING COURT.—

5408       (a) For purposes of this subsection, the term "problem-  
5409 solving court" means a drug court pursuant to s. 948.01, s.  
5410 948.06, s. 948.08, s. 948.16, or s. 948.20; a military veterans'  
5411 and servicemembers' court pursuant to s. 394.47891, s. 948.08,  
5412 s. 948.16, or s. 948.21; a mental health court program pursuant  
5413 to s. 394.47892, s. 948.01, s. 948.06, s. 948.08, or s. 948.16;  
5414 or a delinquency pretrial intervention court program pursuant to  
5415 s. 985.345.

5416       (b) Any person eligible for participation in a problem-  
5417 solving court shall, upon request by the person or a court, have  
5418 the case transferred to a county other than that in which the  
5419 charge arose if the person agrees to the transfer, the  
5420 authorized representative of the trial court consults with the  
5421 authorized representative of the problem-solving court in the  
5422 county to which transfer is desired, and both representatives  
5423 agree to the transfer.

5424       (c) If all parties agree to the transfer as required by  
5425 paragraph (b), the trial court shall enter a transfer order



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5426 directing the clerk to transfer the case to the county which has  
5427 accepted the defendant into its problem-solving court.

5428 (d)1. When transferring a pretrial problem-solving court  
5429 case, the transfer order shall include a copy of the probable  
5430 cause affidavit; any charging documents in the case; all  
5431 reports, witness statements, test results, evidence lists, and  
5432 other documents in the case; the defendant's mailing address and  
5433 telephone number; and the defendant's written consent to abide  
5434 by the rules and procedures of the receiving county's problem-  
5435 solving court.

5436 2. When transferring a postadjudicatory problem-solving  
5437 court case, the transfer order shall include a copy of the  
5438 charging documents in the case; the final disposition; all  
5439 reports, test results, and other documents in the case; the  
5440 defendant's mailing address and telephone number; and the  
5441 defendant's written consent to abide by the rules and procedures  
5442 of the receiving county's problem-solving court.

5443 (e) After the transfer takes place, the receiving clerk  
5444 shall set the matter for a hearing before the problem-solving  
5445 court in the receiving jurisdiction to ensure the defendant's  
5446 entry into the problem-solving court.

5447 (f) Upon successful completion of the problem-solving court  
5448 program, the jurisdiction to which the case has been transferred  
5449 shall dispose of the case. If the defendant does not complete  
5450 the problem-solving court program successfully, the jurisdiction  
5451 to which the case has been transferred shall dispose of the case  
5452 within the guidelines of the Criminal Punishment Code.

5453 Section 92. For the purpose of incorporating the amendment  
5454 made by this act to section 509.151, Florida Statutes, in a



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5455 reference thereto, section 509.161, Florida Statutes, is  
5456 reenacted to read:

5457       509.161 Rules of evidence in prosecutions.—In prosecutions  
5458 under s. 509.151, proof that lodging, food, or other  
5459 accommodations were obtained by false pretense; by false or  
5460 fictitious show of baggage or other property; by absconding  
5461 without paying or offering to pay for such food, lodging, or  
5462 accommodations; or by surreptitiously removing or attempting to  
5463 remove baggage shall constitute prima facie evidence of  
5464 fraudulent intent. If the operator of the establishment has  
5465 probable cause to believe, and does believe, that any person has  
5466 obtained food, lodging, or other accommodations at such  
5467 establishment with intent to defraud the operator thereof, the  
5468 failure to make payment upon demand therefor, there being no  
5469 dispute as to the amount owed, shall constitute prima facie  
5470 evidence of fraudulent intent in such prosecutions.

5471       Section 93. For the purpose of incorporating the amendment  
5472 made by this act to section 784.048, Florida Statutes, in a  
5473 reference thereto, paragraph (c) of subsection (2) of section  
5474 790.065, Florida Statutes, is reenacted to read:

5475       790.065 Sale and delivery of firearms.—

5476       (2) Upon receipt of a request for a criminal history record  
5477 check, the Department of Law Enforcement shall, during the  
5478 licensee's call or by return call, forthwith:

5479       (c)1. Review any records available to it to determine  
5480 whether the potential buyer or transferee has been indicted or  
5481 has had an information filed against her or him for an offense  
5482 that is a felony under either state or federal law, or, as  
5483 mandated by federal law, has had an injunction for protection



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5484 against domestic violence entered against the potential buyer or  
5485 transferee under s. 741.30, has had an injunction for protection  
5486 against repeat violence entered against the potential buyer or  
5487 transferee under s. 784.046, or has been arrested for a  
5488 dangerous crime as specified in s. 907.041(4) (a) or for any of  
5489 the following enumerated offenses:

- 5490 a. Criminal anarchy under ss. 876.01 and 876.02.
- 5491 b. Extortion under s. 836.05.
- 5492 c. Explosives violations under s. 552.22(1) and (2).
- 5493 d. Controlled substances violations under chapter 893.
- 5494 e. Resisting an officer with violence under s. 843.01.
- 5495 f. Weapons and firearms violations under this chapter.
- 5496 g. Treason under s. 876.32.
- 5497 h. Assisting self-murder under s. 782.08.
- 5498 i. Sabotage under s. 876.38.
- 5499 j. Stalking or aggravated stalking under s. 784.048.

5500

5501 If the review indicates any such indictment, information, or  
5502 arrest, the department shall provide to the licensee a  
5503 conditional nonapproval number.

5504 2. Within 24 working hours, the department shall determine  
5505 the disposition of the indictment, information, or arrest and  
5506 inform the licensee as to whether the potential buyer is  
5507 prohibited from receiving or possessing a firearm. For purposes  
5508 of this paragraph, "working hours" means the hours from 8 a.m.  
5509 to 5 p.m. Monday through Friday, excluding legal holidays.

5510 3. The office of the clerk of court, at no charge to the  
5511 department, shall respond to any department request for data on  
5512 the disposition of the indictment, information, or arrest as



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5513 soon as possible, but in no event later than 8 working hours.

5514 4. The department shall determine as quickly as possible  
5515 within the allotted time period whether the potential buyer is  
5516 prohibited from receiving or possessing a firearm.

5517 5. If the potential buyer is not so prohibited, or if the  
5518 department cannot determine the disposition information within  
5519 the allotted time period, the department shall provide the  
5520 licensee with a conditional approval number.

5521 6. If the buyer is so prohibited, the conditional  
5522 nonapproval number shall become a nonapproval number.

5523 7. The department shall continue its attempts to obtain the  
5524 disposition information and may retain a record of all approval  
5525 numbers granted without sufficient disposition information. If  
5526 the department later obtains disposition information which  
5527 indicates:

5528 a. That the potential buyer is not prohibited from owning a  
5529 firearm, it shall treat the record of the transaction in  
5530 accordance with this section; or

5531 b. That the potential buyer is prohibited from owning a  
5532 firearm, it shall immediately revoke the conditional approval  
5533 number and notify local law enforcement.

5534 8. During the time that disposition of the indictment,  
5535 information, or arrest is pending and until the department is  
5536 notified by the potential buyer that there has been a final  
5537 disposition of the indictment, information, or arrest, the  
5538 conditional nonapproval number shall remain in effect.

5539 Section 94. For the purpose of incorporating the amendment  
5540 made by this act to section 784.048, Florida Statutes, in a  
5541 reference thereto, subsection (1) of section 794.056, Florida



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5542 Statutes, is reenacted to read:

5543 794.056 Rape Crisis Program Trust Fund.—

5544 (1) The Rape Crisis Program Trust Fund is created within  
5545 the Department of Health for the purpose of providing funds for  
5546 rape crisis centers in this state. Trust fund moneys shall be  
5547 used exclusively for the purpose of providing services for  
5548 victims of sexual assault. Funds credited to the trust fund  
5549 consist of those funds collected as an additional court  
5550 assessment in each case in which a defendant pleads guilty or  
5551 nolo contendere to, or is found guilty of, regardless of  
5552 adjudication, an offense provided in s. 775.21(6) and (10)(a),  
5553 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.  
5554 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.  
5555 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.  
5556 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;  
5557 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.  
5558 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.  
5559 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.  
5560 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.  
5561 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a),  
5562 (13), and (14)(c); or s. 985.701(1). Funds credited to the trust  
5563 fund also shall include revenues provided by law, moneys  
5564 appropriated by the Legislature, and grants from public or  
5565 private entities.

5566 Section 95. For the purpose of incorporating the amendment  
5567 made by this act to section 784.048, Florida Statutes, in a  
5568 reference thereto, subsection (4) of section 847.0141, Florida  
5569 Statutes, is reenacted to read:

5570 847.0141 Sexting; prohibited acts; penalties.—



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5571 (4) This section does not prohibit the prosecution of a  
5572 minor for a violation of any law of this state if the photograph  
5573 or video that depicts nudity also includes the depiction of  
5574 sexual conduct or sexual excitement, and does not prohibit the  
5575 prosecution of a minor for stalking under s. 784.048.

5576 Section 96. For the purpose of incorporating the amendment  
5577 made by this act to section 784.048, Florida Statutes, in a  
5578 reference thereto, subsection (5) of section 901.41, Florida  
5579 Statutes, is reenacted to read:

5580 901.41 Prearrest diversion programs.—

5581 (5) ELIGIBILITY.—A violent misdemeanor, a misdemeanor crime  
5582 of domestic violence, as defined in s. 741.28, or a misdemeanor  
5583 under s. 741.29, s. 741.31, s. 784.046, s. 784.047, s. 784.048,  
5584 s. 784.0487, or s. 784.049 does not qualify for a civil citation  
5585 or prearrest diversion program.

5586 Section 97. For the purpose of incorporating the amendment  
5587 made by this act to section 784.048, Florida Statutes, in a  
5588 reference thereto, section 938.08, Florida Statutes, is  
5589 reenacted to read:

5590 938.08 Additional cost to fund programs in domestic  
5591 violence.—In addition to any sanction imposed for a violation of  
5592 s. 784.011, s. 784.021, s. 784.03, s. 784.041, s. 784.045, s.  
5593 784.048, s. 784.07, s. 784.08, s. 784.081, s. 784.082, s.  
5594 784.083, s. 784.085, s. 794.011, or for any offense of domestic  
5595 violence described in s. 741.28, the court shall impose a  
5596 surcharge of \$201. Payment of the surcharge shall be a condition  
5597 of probation, community control, or any other court-ordered  
5598 supervision. The sum of \$85 of the surcharge shall be deposited  
5599 into the Domestic Violence Trust Fund established in s. 741.01.



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5600 The clerk of the court shall retain \$1 of each surcharge that  
5601 the clerk of the court collects as a service charge of the  
5602 clerk's office. The remainder of the surcharge shall be provided  
5603 to the governing board of the county and must be used only to  
5604 defray the costs of incarcerating persons sentenced under s.  
5605 741.283 and provide additional training to law enforcement  
5606 personnel in combating domestic violence.

5607 Section 98. For the purpose of incorporating the amendment  
5608 made by this act to section 784.048, Florida Statutes, in a  
5609 reference thereto, section 938.085, Florida Statutes, is  
5610 reenacted to read:

5611 938.085 Additional cost to fund rape crisis centers.—In  
5612 addition to any sanction imposed when a person pleads guilty or  
5613 nolo contendere to, or is found guilty of, regardless of  
5614 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and  
5615 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;  
5616 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.  
5617 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.  
5618 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.  
5619 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s.  
5620 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.  
5621 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.  
5622 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.  
5623 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and  
5624 (14)(c); or s. 985.701(1), the court shall impose a surcharge of  
5625 \$151. Payment of the surcharge shall be a condition of  
5626 probation, community control, or any other court-ordered  
5627 supervision. The sum of \$150 of the surcharge shall be deposited  
5628 into the Rape Crisis Program Trust Fund established within the



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5629 Department of Health by chapter 2003-140, Laws of Florida. The  
5630 clerk of the court shall retain \$1 of each surcharge that the  
5631 clerk of the court collects as a service charge of the clerk's  
5632 office.

5633 Section 99. For the purpose of incorporating the amendment  
5634 made by this act to section 784.048, Florida Statutes, in a  
5635 reference thereto, paragraph (g) of subsection (2) of section  
5636 943.325, Florida Statutes, is reenacted to read:

5637 943.325 DNA database.—

5638 (2) DEFINITIONS.—As used in this section, the term:

5639 (g) "Qualifying offender" means any person, including  
5640 juveniles and adults, who is:

5641 1.a. Committed to a county jail;

5642 b. Committed to or under the supervision of the Department  
5643 of Corrections, including persons incarcerated in a private  
5644 correctional institution operated under contract pursuant to s.  
5645 944.105;

5646 c. Committed to or under the supervision of the Department  
5647 of Juvenile Justice;

5648 d. Transferred to this state under the Interstate Compact  
5649 on Juveniles, part XIII of chapter 985; or

5650 e. Accepted under Article IV of the Interstate Corrections  
5651 Compact, part III of chapter 941; and who is:

5652 2.a. Convicted of any felony offense or attempted felony  
5653 offense in this state or of a similar offense in another  
5654 jurisdiction;

5655 b. Convicted of a misdemeanor violation of s. 784.048, s.  
5656 810.14, s. 847.011, s. 847.013, s. 847.0135, or s. 877.26, or an  
5657 offense that was found, pursuant to s. 874.04, to have been



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5658 committed for the purpose of benefiting, promoting, or  
5659 furthering the interests of a criminal gang as defined in s.  
5660 874.03; or

5661 c. Arrested for any felony offense or attempted felony  
5662 offense in this state.

5663 Section 100. For the purpose of incorporating the amendment  
5664 made by this act to section 784.048, Florida Statutes, in a  
5665 reference thereto, paragraph (c) of subsection (8) of section  
5666 948.06, Florida Statutes, is reenacted to read:

5667 948.06 Violation of probation or community control;  
5668 revocation; modification; continuance; failure to pay  
5669 restitution or cost of supervision.—

5670 (8)

5671 (c) For purposes of this section, the term "qualifying  
5672 offense" means any of the following:

5673 1. Kidnapping or attempted kidnapping under s. 787.01,  
5674 false imprisonment of a child under the age of 13 under s.  
5675 787.02(3), or luring or enticing a child under s. 787.025(2)(b)  
5676 or (c).

5677 2. Murder or attempted murder under s. 782.04, attempted  
5678 felony murder under s. 782.051, or manslaughter under s. 782.07.

5679 3. Aggravated battery or attempted aggravated battery under  
5680 s. 784.045.

5681 4. Sexual battery or attempted sexual battery under s.  
5682 794.011(2), (3), (4), or (8)(b) or (c).

5683 5. Lewd or lascivious battery or attempted lewd or  
5684 lascivious battery under s. 800.04(4), lewd or lascivious  
5685 molestation under s. 800.04(5)(b) or (c)2., lewd or lascivious  
5686 conduct under s. 800.04(6)(b), lewd or lascivious exhibition



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5687 under s. 800.04(7)(b), or lewd or lascivious exhibition on  
5688 computer under s. 847.0135(5)(b).

5689         6. Robbery or attempted robbery under s. 812.13, carjacking  
5690 or attempted carjacking under s. 812.133, or home invasion  
5691 robbery or attempted home invasion robbery under s. 812.135.

5692         7. Lewd or lascivious offense upon or in the presence of an  
5693 elderly or disabled person or attempted lewd or lascivious  
5694 offense upon or in the presence of an elderly or disabled person  
5695 under s. 825.1025.

5696         8. Sexual performance by a child or attempted sexual  
5697 performance by a child under s. 827.071.

5698         9. Computer pornography under s. 847.0135(2) or (3),  
5699 transmission of child pornography under s. 847.0137, or selling  
5700 or buying of minors under s. 847.0145.

5701         10. Poisoning food or water under s. 859.01.

5702         11. Abuse of a dead human body under s. 872.06.

5703         12. Any burglary offense or attempted burglary offense that  
5704 is either a first degree felony or second degree felony under s.  
5705 810.02(2) or (3).

5706         13. Arson or attempted arson under s. 806.01(1).

5707         14. Aggravated assault under s. 784.021.

5708         15. Aggravated stalking under s. 784.048(3), (4), (5), or  
5709 (7).

5710         16. Aircraft piracy under s. 860.16.

5711         17. Unlawful throwing, placing, or discharging of a  
5712 destructive device or bomb under s. 790.161(2), (3), or (4).

5713         18. Treason under s. 876.32.

5714         19. Any offense committed in another jurisdiction which  
5715 would be an offense listed in this paragraph if that offense had



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5716 | been committed in this state.

5717 |         Section 101. For the purpose of incorporating the amendment  
5718 | made by this act to section 784.048, Florida Statutes, in a  
5719 | reference thereto, subsection (1) of section 948.062, Florida  
5720 | Statutes, is reenacted to read:

5721 |         948.062 Reviewing and reporting serious offenses committed  
5722 | by offenders placed on probation or community control.—

5723 |         (1) The department shall review the circumstances related  
5724 | to an offender placed on probation or community control who has  
5725 | been arrested while on supervision for the following offenses:

5726 |             (a) Any murder as provided in s. 782.04;

5727 |             (b) Any sexual battery as provided in s. 794.011 or s.  
5728 | 794.023;

5729 |             (c) Any sexual performance by a child as provided in s.  
5730 | 827.071;

5731 |             (d) Any kidnapping, false imprisonment, or luring of a  
5732 | child as provided in s. 787.01, s. 787.02, or s. 787.025;

5733 |             (e) Any lewd and lascivious battery or lewd and lascivious  
5734 | molestation as provided in s. 800.04(4) or (5);

5735 |             (f) Any aggravated child abuse as provided in s.  
5736 | 827.03(2) (a);

5737 |             (g) Any robbery with a firearm or other deadly weapon, home  
5738 | invasion robbery, or carjacking as provided in s. 812.13(2) (a),  
5739 | s. 812.135, or s. 812.133;

5740 |             (h) Any aggravated stalking as provided in s. 784.048(3),  
5741 | (4), or (5);

5742 |             (i) Any forcible felony as provided in s. 776.08, committed  
5743 | by a person on probation or community control who is designated  
5744 | as a sexual predator; or



5745 (j) Any DUI manslaughter as provided in s. 316.193(3)(c),  
5746 or vehicular or vessel homicide as provided in s. 782.071 or s.  
5747 782.072, committed by a person who is on probation or community  
5748 control for an offense involving death or injury resulting from  
5749 a driving incident.

5750 Section 102. For the purpose of incorporating the amendment  
5751 made by this act to section 784.048, Florida Statutes, in a  
5752 reference thereto, paragraph (b) of subsection (1) of section  
5753 960.001, Florida Statutes, is reenacted to read:

5754 960.001 Guidelines for fair treatment of victims and  
5755 witnesses in the criminal justice and juvenile justice systems.-

5756 (1) The Department of Legal Affairs, the state attorneys,  
5757 the Department of Corrections, the Department of Juvenile  
5758 Justice, the Florida Commission on Offender Review, the State  
5759 Courts Administrator and circuit court administrators, the  
5760 Department of Law Enforcement, and every sheriff's department,  
5761 police department, or other law enforcement agency as defined in  
5762 s. 943.10(4) shall develop and implement guidelines for the use  
5763 of their respective agencies, which guidelines are consistent  
5764 with the purposes of this act and s. 16(b), Art. I of the State  
5765 Constitution and are designed to implement s. 16(b), Art. I of  
5766 the State Constitution and to achieve the following objectives:

5767 (b) *Information for purposes of notifying victim or*  
5768 *appropriate next of kin of victim or other designated contact of*  
5769 *victim.*-In the case of a homicide, pursuant to chapter 782; or a  
5770 sexual offense, pursuant to chapter 794; or an attempted murder  
5771 or sexual offense, pursuant to chapter 777; or stalking,  
5772 pursuant to s. 784.048; or domestic violence, pursuant to s.  
5773 25.385:



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5774           1. The arresting law enforcement officer or personnel of an  
5775 organization that provides assistance to a victim or to the  
5776 appropriate next of kin of the victim or other designated  
5777 contact must request that the victim or appropriate next of kin  
5778 of the victim or other designated contact complete a victim  
5779 notification card. However, the victim or appropriate next of  
5780 kin of the victim or other designated contact may choose not to  
5781 complete the victim notification card.

5782           2. Unless the victim or the appropriate next of kin of the  
5783 victim or other designated contact waives the option to complete  
5784 the victim notification card, a copy of the victim notification  
5785 card must be filed with the incident report or warrant in the  
5786 sheriff's office of the jurisdiction in which the incident  
5787 report or warrant originated. The notification card shall, at a  
5788 minimum, consist of:

5789           a. The name, address, and phone number of the victim; or

5790           b. The name, address, and phone number of the appropriate  
5791 next of kin of the victim; or

5792           c. The name, address, and telephone number of a designated  
5793 contact other than the victim or appropriate next of kin of the  
5794 victim; and

5795           d. Any relevant identification or case numbers assigned to  
5796 the case.

5797           3. The chief administrator, or a person designated by the  
5798 chief administrator, of a county jail, municipal jail, juvenile  
5799 detention facility, or residential commitment facility shall  
5800 make a reasonable attempt to notify the alleged victim or  
5801 appropriate next of kin of the alleged victim or other  
5802 designated contact within 4 hours following the release of the



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5803 defendant on bail or, in the case of a juvenile offender, upon  
5804 the release from residential detention or commitment. If the  
5805 chief administrator, or designee, is unable to contact the  
5806 alleged victim or appropriate next of kin of the alleged victim  
5807 or other designated contact by telephone, the chief  
5808 administrator, or designee, must send to the alleged victim or  
5809 appropriate next of kin of the alleged victim or other  
5810 designated contact a written notification of the defendant's  
5811 release.

5812         4. Unless otherwise requested by the victim or the  
5813 appropriate next of kin of the victim or other designated  
5814 contact, the information contained on the victim notification  
5815 card must be sent by the chief administrator, or designee, of  
5816 the appropriate facility to the subsequent correctional or  
5817 residential commitment facility following the sentencing and  
5818 incarceration of the defendant, and unless otherwise requested  
5819 by the victim or the appropriate next of kin of the victim or  
5820 other designated contact, he or she must be notified of the  
5821 release of the defendant from incarceration as provided by law.

5822         5. If the defendant was arrested pursuant to a warrant  
5823 issued or taken into custody pursuant to s. 985.101 in a  
5824 jurisdiction other than the jurisdiction in which the defendant  
5825 is being released, and the alleged victim or appropriate next of  
5826 kin of the alleged victim or other designated contact does not  
5827 waive the option for notification of release, the chief  
5828 correctional officer or chief administrator of the facility  
5829 releasing the defendant shall make a reasonable attempt to  
5830 immediately notify the chief correctional officer of the  
5831 jurisdiction in which the warrant was issued or the juvenile was



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5832 taken into custody pursuant to s. 985.101, and the chief  
5833 correctional officer of that jurisdiction shall make a  
5834 reasonable attempt to notify the alleged victim or appropriate  
5835 next of kin of the alleged victim or other designated contact,  
5836 as provided in this paragraph, that the defendant has been or  
5837 will be released.

5838 Section 103. For the purpose of incorporating the amendment  
5839 made by this act to section 784.048, Florida Statutes, in a  
5840 reference thereto, paragraph (b) of subsection (3) of section  
5841 985.265, Florida Statutes, is reenacted to read:

5842 985.265 Detention transfer and release; education; adult  
5843 jails.—

5844 (3)

5845 (b) When a juvenile is released from secure detention or  
5846 transferred to nonsecure detention, detention staff shall  
5847 immediately notify the appropriate law enforcement agency,  
5848 school personnel, and victim if the juvenile is charged with  
5849 committing any of the following offenses or attempting to commit  
5850 any of the following offenses:

- 5851 1. Murder, under s. 782.04;
- 5852 2. Sexual battery, under chapter 794;
- 5853 3. Stalking, under s. 784.048; or
- 5854 4. Domestic violence, as defined in s. 741.28.

5855 Section 104. For the purpose of incorporating the amendment  
5856 made by this act to section 784.048, Florida Statutes, in a  
5857 reference thereto, paragraph (e) of subsection (3) of section  
5858 1006.147, Florida Statutes, is reenacted to read:

5859 1006.147 Bullying and harassment prohibited.—

5860 (3) For purposes of this section:



5861 (e) Definitions in s. 815.03 and the definition in s.  
5862 784.048(1)(d) relating to stalking are applicable to this  
5863 section.

5864 Section 105. For the purpose of incorporating the amendment  
5865 made by this act to section 806.13, Florida Statutes, in a  
5866 reference thereto, subsection (1) of section 316.0775, Florida  
5867 Statutes, is reenacted to read:

5868 316.0775 Interference with official traffic control devices  
5869 or railroad signs or signals.—

5870 (1) A person may not, without lawful authority, attempt to  
5871 or in fact alter, deface, injure, knock down, or remove any  
5872 official traffic control device or any railroad sign or signal  
5873 or any inscription, shield, or insignia thereon, or any other  
5874 part thereof. A violation of this subsection is a criminal  
5875 violation pursuant to s. 318.17 and shall be punishable as set  
5876 forth in s. 806.13 related to criminal mischief and graffiti,  
5877 beginning on or after July 1, 2000.

5878 Section 106. For the purpose of incorporating the amendment  
5879 made by this act to section 812.014, Florida Statutes, in a  
5880 reference thereto, subsection (10) of section 95.18, Florida  
5881 Statutes, is reenacted to read:

5882 95.18 Real property actions; adverse possession without  
5883 color of title.—

5884 (10) A person who occupies or attempts to occupy a  
5885 residential structure solely by claim of adverse possession  
5886 under this section and offers the property for lease to another  
5887 commits theft under s. 812.014.

5888 Section 107. For the purpose of incorporating the amendment  
5889 made by this act to section 812.014, Florida Statutes, in a



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5890 reference thereto, paragraph (c) of subsection (3) of section  
5891 373.6055, Florida Statutes, is reenacted to read:

5892 373.6055 Criminal history checks for certain water  
5893 management district employees and others.—

5894 (3)

5895 (c) In addition to other requirements for employment or  
5896 access established by any water management district pursuant to  
5897 its water management district's security plan for buildings,  
5898 facilities, and structures, each water management district's  
5899 security plan shall provide that:

5900 1. Any person who has within the past 7 years been  
5901 convicted, regardless of whether adjudication was withheld, for  
5902 a forcible felony as defined in s. 776.08; an act of terrorism  
5903 as defined in s. 775.30; planting of a hoax bomb as provided in  
5904 s. 790.165; any violation involving the manufacture, possession,  
5905 sale, delivery, display, use, or attempted or threatened use of  
5906 a weapon of mass destruction or hoax weapon of mass destruction  
5907 as provided in s. 790.166; dealing in stolen property; any  
5908 violation of s. 893.135; any violation involving the sale,  
5909 manufacturing, delivery, or possession with intent to sell,  
5910 manufacture, or deliver a controlled substance; burglary;  
5911 robbery; any felony violation of s. 812.014; any violation of s.  
5912 790.07; any crime an element of which includes use or possession  
5913 of a firearm; any conviction for any similar offenses under the  
5914 laws of another jurisdiction; or conviction for conspiracy to  
5915 commit any of the listed offenses may not be qualified for  
5916 initial employment within or authorized regular access to  
5917 buildings, facilities, or structures defined in the water  
5918 management district's security plan as restricted access areas.



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5919           2. Any person who has at any time been convicted of any of  
5920 the offenses listed in subparagraph 1. may not be qualified for  
5921 initial employment within or authorized regular access to  
5922 buildings, facilities, or structures defined in the water  
5923 management district's security plan as restricted access areas  
5924 unless, after release from incarceration and any supervision  
5925 imposed as a sentence, the person remained free from a  
5926 subsequent conviction, regardless of whether adjudication was  
5927 withheld, for any of the listed offenses for a period of at  
5928 least 7 years prior to the employment or access date under  
5929 consideration.

5930           Section 108. For the purpose of incorporating the amendment  
5931 made by this act to section 812.014, Florida Statutes, in a  
5932 reference thereto, subsection (3) of section 400.9935, Florida  
5933 Statutes, is reenacted to read:

5934           400.9935 Clinic responsibilities.—

5935           (3) A charge or reimbursement claim made by or on behalf of  
5936 a clinic that is required to be licensed under this part but  
5937 that is not so licensed, or that is otherwise operating in  
5938 violation of this part, regardless of whether a service is  
5939 rendered or whether the charge or reimbursement claim is paid,  
5940 is an unlawful charge and is noncompensable and unenforceable. A  
5941 person who knowingly makes or causes to be made an unlawful  
5942 charge commits theft within the meaning of and punishable as  
5943 provided in s. 812.014.

5944           Section 109. For the purpose of incorporating the amendment  
5945 made by this act to section 812.014, Florida Statutes, in a  
5946 reference thereto, subsection (10) of section 550.6305, Florida  
5947 Statutes, is reenacted to read:



5948           550.6305 Intertrack wagering; guest track payments;  
5949 accounting rules.—

5950           (10) All races or games conducted at a permitholder's  
5951 facility, all broadcasts of such races or games, and all  
5952 broadcast rights relating thereto are owned by the permitholder  
5953 at whose facility such races or games are conducted and  
5954 constitute the permitholder's property as defined in s.  
5955 812.012(4). Transmission, reception of a transmission,  
5956 exhibition, use, or other appropriation of such races or games,  
5957 broadcasts of such races or games, or broadcast rights relating  
5958 thereto without the written consent of the permitholder  
5959 constitutes a theft of such property under s. 812.014; and in  
5960 addition to the penal sanctions contained in s. 812.014, the  
5961 permitholder has the right to avail itself of the civil remedies  
5962 specified in ss. 772.104, 772.11, and 812.035 in addition to any  
5963 other remedies available under applicable state or federal law.

5964           Section 110. For the purpose of incorporating the amendment  
5965 made by this act to section 812.014, Florida Statutes, in a  
5966 reference thereto, subsection (2) of section 627.743, Florida  
5967 Statutes, is reenacted to read:

5968           627.743 Payment of third-party claims.—

5969           (2) When making any payment on a third party claim for  
5970 damage to an automobile for a partial loss, the insurer shall  
5971 have printed on the loss estimate, if prepared by the insurer,  
5972 the following: "Failure to use the insurance proceeds in  
5973 accordance with the security agreement, if any, could be a  
5974 violation of s. 812.014, Florida Statutes. If you have any  
5975 questions, contact your lending institution." However, this  
5976 subsection does not apply if the insurer does not prepare the



5977 loss estimate.

5978 Section 111. For the purpose of incorporating the amendment  
5979 made by this act to section 812.014, Florida Statutes, in a  
5980 reference thereto, subsection (2) of section 634.421, Florida  
5981 Statutes, is reenacted to read:

5982 634.421 Reporting and accounting for funds.—

5983 (2) Any sales representative who, not being entitled  
5984 thereto, diverts or appropriates funds or any portion thereof to  
5985 her or his own use commits theft as provided in s. 812.014.

5986 Section 112. For the purpose of incorporating the amendment  
5987 made by this act to section 812.014, Florida Statutes, in a  
5988 reference thereto, subsection (2) of section 642.038, Florida  
5989 Statutes, is reenacted to read:

5990 642.038 Reporting and accounting for funds.—

5991 (2) Any sales representative who, not being entitled  
5992 thereto, diverts or appropriates such funds or any portion  
5993 thereof to his or her own use commits theft as provided in s.  
5994 812.014.

5995 Section 113. For the purpose of incorporating the amendment  
5996 made by this act to section 812.014, Florida Statutes, in a  
5997 reference thereto, subsection (4) of section 705.102, Florida  
5998 Statutes, is reenacted to read:

5999 705.102 Reporting lost or abandoned property.—

6000 (4) Any person who unlawfully appropriates such lost or  
6001 abandoned property to his or her own use or refuses to deliver  
6002 such property when required commits theft as defined in s.  
6003 812.014, punishable as provided in s. 775.082, s. 775.083, or s.  
6004 775.084.

6005 Section 114. For the purpose of incorporating the amendment



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6006 made by this act to section 812.014, Florida Statutes, in a  
6007 reference thereto, subsection (7) of section 812.14, Florida  
6008 Statutes, is reenacted to read:

6009       812.14 Trespass and larceny with relation to utility  
6010 fixtures; theft of utility services.-

6011       (7) An owner, lessor, or sublessor who willfully violates  
6012 subsection (5) commits a misdemeanor of the first degree,  
6013 punishable as provided in s. 775.082 or s. 775.083. Prosecution  
6014 for a violation of subsection (5) does not preclude prosecution  
6015 for theft pursuant to subsection (8) or s. 812.014.

6016       Section 115. For the purpose of incorporating the amendment  
6017 made by this act to section 812.014, Florida Statutes, in a  
6018 reference thereto, subsection (3) of section 893.138, Florida  
6019 Statutes, is reenacted to read:

6020       893.138 Local administrative action to abate drug-related,  
6021 prostitution-related, or stolen-property-related public  
6022 nuisances and criminal gang activity.-

6023       (3) Any pain-management clinic, as described in s. 458.3265  
6024 or s. 459.0137, which has been used on more than two occasions  
6025 within a 6-month period as the site of a violation of:

6026       (a) Section 784.011, s. 784.021, s. 784.03, or s. 784.045,  
6027 relating to assault and battery;

6028       (b) Section 810.02, relating to burglary;

6029       (c) Section 812.014, relating to theft;

6030       (d) Section 812.131, relating to robbery by sudden  
6031 snatching; or

6032       (e) Section 893.13, relating to the unlawful distribution  
6033 of controlled substances,

6034



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6035 may be declared to be a public nuisance, and such nuisance may  
6036 be abated pursuant to the procedures provided in this section.

6037 Section 116. For the purpose of incorporating the amendment  
6038 made by this act to section 812.015, Florida Statutes, in a  
6039 reference thereto, subsection (5) of section 538.09, Florida  
6040 Statutes, is reenacted to read:

6041 538.09 Registration.—

6042 (5) In addition to the fine provided in subsection (4),  
6043 registration under this section may be denied or any  
6044 registration granted may be revoked, restricted, or suspended by  
6045 the department if the department determines that the applicant  
6046 or registrant:

6047 (a) Has violated any provision of this chapter or any rule  
6048 or order made pursuant to this chapter;

6049 (b) Has made a material false statement in the application  
6050 for registration;

6051 (c) Has been guilty of a fraudulent act in connection with  
6052 any purchase or sale or has been or is engaged in or is about to  
6053 engage in any practice, purchase, or sale which is fraudulent or  
6054 in violation of the law;

6055 (d) Has made a misrepresentation or false statement to, or  
6056 concealed any essential or material fact from, any person in  
6057 making any purchase or sale;

6058 (e) Is making purchases or sales through any business  
6059 associate not registered in compliance with the provisions of  
6060 this chapter;

6061 (f) Has, within the preceding 10-year period for new  
6062 registrants who apply for registration on or after October 1,  
6063 2006, been convicted of, or has entered a plea of guilty or nolo



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6064 | contendere to, or had adjudication withheld for, a crime against  
6065 | the laws of this state or any other state or of the United  
6066 | States which relates to registration as a secondhand dealer or  
6067 | which involves theft, larceny, dealing in stolen property,  
6068 | receiving stolen property, burglary, embezzlement, obtaining  
6069 | property by false pretenses, possession of altered property, any  
6070 | felony drug offense, any violation of s. 812.015, or any  
6071 | fraudulent dealing;

6072 |         (g) Has had a final judgment entered against her or him in  
6073 | a civil action upon grounds of fraud, embezzlement,  
6074 | misrepresentation, or deceit; or

6075 |         (h) Has failed to pay any sales tax owed to the Department  
6076 | of Revenue.

6077 |  
6078 | In the event the department determines to deny an application or  
6079 | revoke a registration, it shall enter a final order with its  
6080 | findings on the register of secondhand dealers and their  
6081 | business associates, if any; and denial, suspension, or  
6082 | revocation of the registration of a secondhand dealer shall also  
6083 | deny, suspend, or revoke the registration of such secondhand  
6084 | dealer's business associates.

6085 |         Section 117. For the purpose of incorporating the amendment  
6086 | made by this act to section 812.015, Florida Statutes, in a  
6087 | reference thereto, subsection (2) of section 538.23, Florida  
6088 | Statutes, is reenacted to read:

6089 |             538.23 Violations and penalties.—

6090 |             (2) A secondary metals recycler is presumed to know upon  
6091 | receipt of stolen regulated metals property in a purchase  
6092 | transaction that the regulated metals property has been stolen



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6093 from another if the secondary metals recycler knowingly and  
6094 intentionally fails to maintain the information required in s.  
6095 538.19 and shall, upon conviction of a violation of s. 812.015,  
6096 be punished as provided in s. 812.014(2) or (3).

6097 Section 118. For the purpose of incorporating the amendment  
6098 made by this act to section 815.03, Florida Statutes, in a  
6099 reference thereto, paragraph (e) of subsection (3) of section  
6100 1006.147, Florida Statutes, is reenacted to read:

6101 1006.147 Bullying and harassment prohibited.—

6102 (3) For purposes of this section:

6103 (e) Definitions in s. 815.03 and the definition in s.  
6104 784.048(1)(d) relating to stalking are applicable to this  
6105 section.

6106 Section 119. For the purpose of incorporating the amendment  
6107 made by this act to section 815.06, Florida Statutes, in a  
6108 reference thereto, subsection (2) of section 316.80, Florida  
6109 Statutes, is reenacted to read:

6110 316.80 Unlawful conveyance of fuel; obtaining fuel  
6111 fraudulently.—

6112 (2) A person who violates subsection (1) commits a felony  
6113 of the second degree, punishable as provided in s. 775.082, s.  
6114 775.083, or s. 775.084, if he or she has attempted to or has  
6115 fraudulently obtained motor or diesel fuel by:

6116 (a) Presenting a credit card or a credit card account  
6117 number in violation of ss. 817.57-817.685;

6118 (b) Using unauthorized access to any computer network in  
6119 violation of s. 815.06; or

6120 (c) Using a fraudulently scanned or lost or stolen payment  
6121 access device, whether credit card or contactless device.



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6122 Section 120. For the purpose of incorporating the amendment  
6123 made by this act to section 815.06, Florida Statutes, in  
6124 references thereto, subsections (1) and (2) of section 775.30,  
6125 Florida Statutes, are reenacted to read:

6126 775.30 Terrorism; defined; penalties.—

6127 (1) As used in this chapter and the Florida Criminal Code,  
6128 the terms "terrorism" or "terrorist activity" mean an activity  
6129 that:

6130 (a) Involves:

6131 1. A violent act or an act dangerous to human life which is  
6132 a violation of the criminal laws of this state or of the United  
6133 States; or

6134 2. A violation of s. 815.06; and

6135 (b) Is intended to:

6136 1. Intimidate, injure, or coerce a civilian population;

6137 2. Influence the policy of a government by intimidation or  
6138 coercion; or

6139 3. Affect the conduct of government through destruction of  
6140 property, assassination, murder, kidnapping, or aircraft piracy.

6141 (2) A person who violates s. 782.04(1)(a)1. or (2), s.  
6142 782.065, s. 782.07(1), s. 782.09, s. 784.045, s. 784.07, s.  
6143 787.01, s. 787.02, s. 787.07, s. 790.115, s. 790.15, s. 790.16,  
6144 s. 790.161, s. 790.1615, s. 790.162, s. 790.166, s. 790.19, s.  
6145 806.01, s. 806.031, s. 806.111, s. 815.06, s. 815.061, s.  
6146 859.01, or s. 876.34, in furtherance of intimidating or coercing  
6147 the policy of a government, or in furtherance of affecting the  
6148 conduct of a government by mass destruction, assassination, or  
6149 kidnapping, commits the crime of terrorism, a felony of the  
6150 first degree, punishable as provided in s. 775.082, s. 775.083,



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6151 or s. 775.084.

6152 Section 121. For the purpose of incorporating the amendment  
6153 made by this act to section 815.06, Florida Statutes, in a  
6154 reference thereto, subsection (2) of section 775.33, Florida  
6155 Statutes, is reenacted to read:

6156 775.33 Providing material support or resources for  
6157 terrorism or to terrorist organizations.—

6158 (2) A person commits a felony of the first degree,  
6159 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
6160 if the person:

6161 (a) Provides material support or resources or conceals or  
6162 disguises the nature, location, source, or ownership of the  
6163 material support or resources, knowing or intending that the  
6164 support or resources are to be used in preparation for or in  
6165 carrying out a violation of s. 775.30, s. 775.32, s. 775.34, s.  
6166 775.35, s. 790.16, s. 790.161(2), (3), or (4), s. 790.166, s.  
6167 790.19, s. 815.06, s. 859.01, s. 860.121, s. 860.16, s. 876.32,  
6168 s. 876.34, or s. 876.36;

6169 (b) Conceals an escape from the commission of a violation  
6170 of paragraph (a); or

6171 (c) Attempts or conspires to commit a violation of  
6172 paragraph (a).

6173 Section 122. For the purpose of incorporating the amendment  
6174 made by this act to section 815.06, Florida Statutes, in a  
6175 reference thereto, subsection (5) of section 782.04, Florida  
6176 Statutes, is reenacted to read:

6177 782.04 Murder.—

6178 (5) As used in this section, the term "terrorism" means an  
6179 activity that:



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6180 (a)1. Involves a violent act or an act dangerous to human  
6181 life which is a violation of the criminal laws of this state or  
6182 of the United States; or

6183 2. Involves a violation of s. 815.06; and

6184 (b) Is intended to:

6185 1. Intimidate, injure, or coerce a civilian population;

6186 2. Influence the policy of a government by intimidation or  
6187 coercion; or

6188 3. Affect the conduct of government through destruction of  
6189 property, assassination, murder, kidnapping, or aircraft piracy.

6190 Section 123. For the purpose of incorporating the amendment  
6191 made by this act to section 815.06, Florida Statutes, in a  
6192 reference thereto, subsection (3) of section 934.07, Florida  
6193 Statutes, is reenacted to read:

6194 934.07 Authorization for interception of wire, oral, or  
6195 electronic communications.—

6196 (3) As used in this section, the term "terrorism" means an  
6197 activity that:

6198 (a)1. Involves a violent act or an act dangerous to human  
6199 life which is a violation of the criminal laws of this state or  
6200 of the United States; or

6201 2. Involves a violation of s. 815.06; and

6202 (b) Is intended to:

6203 1. Intimidate, injure, or coerce a civilian population;

6204 2. Influence the policy of a government by intimidation or  
6205 coercion; or

6206 3. Affect the conduct of government through destruction of  
6207 property, assassination, murder, kidnapping, or aircraft piracy.

6208 Section 124. For the purpose of incorporating the amendment



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6209 made by this act to section 847.011, Florida Statutes, in a  
6210 reference thereto, paragraph (a) of subsection (1) of section  
6211 772.102, Florida Statutes, is reenacted to read:

6212 772.102 Definitions.—As used in this chapter, the term:

6213 (1) "Criminal activity" means to commit, to attempt to  
6214 commit, to conspire to commit, or to solicit, coerce, or  
6215 intimidate another person to commit:

6216 (a) Any crime that is chargeable by indictment or  
6217 information under the following provisions:

6218 1. Section 210.18, relating to evasion of payment of  
6219 cigarette taxes.

6220 2. Section 414.39, relating to public assistance fraud.

6221 3. Section 440.105 or s. 440.106, relating to workers'  
6222 compensation.

6223 4. Part IV of chapter 501, relating to telemarketing.

6224 5. Chapter 517, relating to securities transactions.

6225 6. Section 550.235 or s. 550.3551, relating to dogracing  
6226 and horseracing.

6227 7. Chapter 550, relating to jai alai frontons.

6228 8. Chapter 552, relating to the manufacture, distribution,  
6229 and use of explosives.

6230 9. Chapter 562, relating to beverage law enforcement.

6231 10. Section 624.401, relating to transacting insurance  
6232 without a certificate of authority, s. 624.437(4)(c)1., relating  
6233 to operating an unauthorized multiple-employer welfare  
6234 arrangement, or s. 626.902(1)(b), relating to representing or  
6235 aiding an unauthorized insurer.

6236 11. Chapter 687, relating to interest and usurious  
6237 practices.



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- 6238           12. Section 721.08, s. 721.09, or s. 721.13, relating to  
6239 real estate timeshare plans.
- 6240           13. Chapter 782, relating to homicide.
- 6241           14. Chapter 784, relating to assault and battery.
- 6242           15. Chapter 787, relating to kidnapping or human  
6243 trafficking.
- 6244           16. Chapter 790, relating to weapons and firearms.
- 6245           17. Former s. 796.03, s. 796.04, s. 796.05, or s. 796.07,  
6246 relating to prostitution.
- 6247           18. Chapter 806, relating to arson.
- 6248           19. Section 810.02(2)(c), relating to specified burglary of  
6249 a dwelling or structure.
- 6250           20. Chapter 812, relating to theft, robbery, and related  
6251 crimes.
- 6252           21. Chapter 815, relating to computer-related crimes.
- 6253           22. Chapter 817, relating to fraudulent practices, false  
6254 pretenses, fraud generally, and credit card crimes.
- 6255           23. Section 827.071, relating to commercial sexual  
6256 exploitation of children.
- 6257           24. Chapter 831, relating to forgery and counterfeiting.
- 6258           25. Chapter 832, relating to issuance of worthless checks  
6259 and drafts.
- 6260           26. Section 836.05, relating to extortion.
- 6261           27. Chapter 837, relating to perjury.
- 6262           28. Chapter 838, relating to bribery and misuse of public  
6263 office.
- 6264           29. Chapter 843, relating to obstruction of justice.
- 6265           30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or  
6266 s. 847.07, relating to obscene literature and profanity.



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6267           31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.  
6268 849.25, relating to gambling.

6269           32. Chapter 893, relating to drug abuse prevention and  
6270 control.

6271           33. Section 914.22 or s. 914.23, relating to witnesses,  
6272 victims, or informants.

6273           34. Section 918.12 or s. 918.13, relating to tampering with  
6274 jurors and evidence.

6275           Section 125. For the purpose of incorporating the amendment  
6276 made by this act to section 847.011, Florida Statutes, in a  
6277 reference thereto, section 847.02, Florida Statutes, is  
6278 reenacted to read:

6279           847.02 Confiscation of obscene material.—Whenever anyone is  
6280 convicted under s. 847.011, the court in awarding sentence shall  
6281 make an order confiscating said obscene material and authorize  
6282 the sheriff of the county in which the material is held to  
6283 destroy the same. The sheriff shall file with the court a  
6284 certificate of his or her compliance.

6285           Section 126. For the purpose of incorporating the amendment  
6286 made by this act to section 847.011, Florida Statutes, in a  
6287 reference thereto, section 847.03, Florida Statutes, is  
6288 reenacted to read:

6289           847.03 Officer to seize obscene material.—Whenever any  
6290 officer arrests any person charged with any offense under s.  
6291 847.011, the officer shall seize said obscene material and take  
6292 the same into his or her custody to await the sentence of the  
6293 court upon the trial of the offender.

6294           Section 127. For the purpose of incorporating the amendment  
6295 made by this act to section 847.011, Florida Statutes, in a



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6296 reference thereto, subsection (2) of section 847.09, Florida  
6297 Statutes, is reenacted to read:

6298 847.09 Legislative intent.—

6299 (2) Nothing in ss. 847.07-847.09 shall be construed to  
6300 repeal or in any way supersede the provisions of s. 847.011, s.  
6301 847.012, or s. 847.013.

6302 Section 128. For the purpose of incorporating the amendment  
6303 made by this act to section 847.011, Florida Statutes, in a  
6304 reference thereto, paragraph (a) of subsection (8) of section  
6305 895.02, Florida Statutes, is reenacted to read:

6306 895.02 Definitions.—As used in ss. 895.01-895.08, the term:

6307 (8) "Racketeering activity" means to commit, to attempt to  
6308 commit, to conspire to commit, or to solicit, coerce, or  
6309 intimidate another person to commit:

6310 (a) Any crime that is chargeable by petition, indictment,  
6311 or information under the following provisions of the Florida  
6312 Statutes:

6313 1. Section 210.18, relating to evasion of payment of  
6314 cigarette taxes.

6315 2. Section 316.1935, relating to fleeing or attempting to  
6316 elude a law enforcement officer and aggravated fleeing or  
6317 eluding.

6318 3. Section 403.727(3)(b), relating to environmental  
6319 control.

6320 4. Section 409.920 or s. 409.9201, relating to Medicaid  
6321 fraud.

6322 5. Section 414.39, relating to public assistance fraud.

6323 6. Section 440.105 or s. 440.106, relating to workers'  
6324 compensation.



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6325           7. Section 443.071(4), relating to creation of a fictitious  
6326 employer scheme to commit reemployment assistance fraud.

6327           8. Section 465.0161, relating to distribution of medicinal  
6328 drugs without a permit as an Internet pharmacy.

6329           9. Section 499.0051, relating to crimes involving  
6330 contraband, adulterated, or misbranded drugs.

6331           10. Part IV of chapter 501, relating to telemarketing.

6332           11. Chapter 517, relating to sale of securities and  
6333 investor protection.

6334           12. Section 550.235 or s. 550.3551, relating to dogracing  
6335 and horseracing.

6336           13. Chapter 550, relating to jai alai frontons.

6337           14. Section 551.109, relating to slot machine gaming.

6338           15. Chapter 552, relating to the manufacture, distribution,  
6339 and use of explosives.

6340           16. Chapter 560, relating to money transmitters, if the  
6341 violation is punishable as a felony.

6342           17. Chapter 562, relating to beverage law enforcement.

6343           18. Section 624.401, relating to transacting insurance  
6344 without a certificate of authority, s. 624.437(4)(c)1., relating  
6345 to operating an unauthorized multiple-employer welfare  
6346 arrangement, or s. 626.902(1)(b), relating to representing or  
6347 aiding an unauthorized insurer.

6348           19. Section 655.50, relating to reports of currency  
6349 transactions, when such violation is punishable as a felony.

6350           20. Chapter 687, relating to interest and usurious  
6351 practices.

6352           21. Section 721.08, s. 721.09, or s. 721.13, relating to  
6353 real estate timeshare plans.



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6354           22. Section 775.13(5) (b), relating to registration of  
6355 persons found to have committed any offense for the purpose of  
6356 benefiting, promoting, or furthering the interests of a criminal  
6357 gang.

6358           23. Section 777.03, relating to commission of crimes by  
6359 accessories after the fact.

6360           24. Chapter 782, relating to homicide.

6361           25. Chapter 784, relating to assault and battery.

6362           26. Chapter 787, relating to kidnapping or human  
6363 trafficking.

6364           27. Chapter 790, relating to weapons and firearms.

6365           28. Chapter 794, relating to sexual battery, but only if  
6366 such crime was committed with the intent to benefit, promote, or  
6367 further the interests of a criminal gang, or for the purpose of  
6368 increasing a criminal gang member's own standing or position  
6369 within a criminal gang.

6370           29. Former s. 796.03, former s. 796.035, s. 796.04, s.  
6371 796.05, or s. 796.07, relating to prostitution.

6372           30. Chapter 806, relating to arson and criminal mischief.

6373           31. Chapter 810, relating to burglary and trespass.

6374           32. Chapter 812, relating to theft, robbery, and related  
6375 crimes.

6376           33. Chapter 815, relating to computer-related crimes.

6377           34. Chapter 817, relating to fraudulent practices, false  
6378 pretenses, fraud generally, credit card crimes, and patient  
6379 brokering.

6380           35. Chapter 825, relating to abuse, neglect, or  
6381 exploitation of an elderly person or disabled adult.

6382           36. Section 827.071, relating to commercial sexual



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6383 exploitation of children.  
6384         37. Section 828.122, relating to fighting or baiting  
6385 animals.  
6386         38. Chapter 831, relating to forgery and counterfeiting.  
6387         39. Chapter 832, relating to issuance of worthless checks  
6388 and drafts.  
6389         40. Section 836.05, relating to extortion.  
6390         41. Chapter 837, relating to perjury.  
6391         42. Chapter 838, relating to bribery and misuse of public  
6392 office.  
6393         43. Chapter 843, relating to obstruction of justice.  
6394         44. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or  
6395 s. 847.07, relating to obscene literature and profanity.  
6396         45. Chapter 849, relating to gambling, lottery, gambling or  
6397 gaming devices, slot machines, or any of the provisions within  
6398 that chapter.  
6399         46. Chapter 874, relating to criminal gangs.  
6400         47. Chapter 893, relating to drug abuse prevention and  
6401 control.  
6402         48. Chapter 896, relating to offenses related to financial  
6403 transactions.  
6404         49. Sections 914.22 and 914.23, relating to tampering with  
6405 or harassing a witness, victim, or informant, and retaliation  
6406 against a witness, victim, or informant.  
6407         50. Sections 918.12 and 918.13, relating to tampering with  
6408 jurors and evidence.  
6409         Section 129. For the purpose of incorporating the amendment  
6410 made by this act to section 847.011, Florida Statutes, in a  
6411 reference thereto, subsection (2) of section 933.02, Florida



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6412 Statutes, is reenacted to read:

6413           933.02 Grounds for issuance of search warrant.—Upon proper  
6414 affidavits being made, a search warrant may be issued under the  
6415 provisions of this chapter upon any of the following grounds:

6416           (2) When any property shall have been used:

6417           (a) As a means to commit any crime;

6418           (b) In connection with gambling, gambling implements and  
6419 appliances; or

6420           (c) In violation of s. 847.011 or other laws in reference  
6421 to obscene prints and literature;

6422

6423 This section also applies to any papers or documents used as a  
6424 means of or in aid of the commission of any offense against the  
6425 laws of the state.

6426           Section 130. For the purpose of incorporating the amendment  
6427 made by this act to section 847.011, Florida Statutes, in a  
6428 reference thereto, section 933.03, Florida Statutes, is  
6429 reenacted to read:

6430           933.03 Destruction of obscene prints and literature.—All  
6431 obscene prints and literature, or other things mentioned in s.  
6432 847.011 found by an officer in executing a search warrant, or  
6433 produced or brought into court, shall be safely kept so long as  
6434 is necessary for the purpose of being used as evidence in any  
6435 case, and as soon as may be afterwards, shall be destroyed by  
6436 order of the court before whom the case is brought.

6437           Section 131. For the purpose of incorporating the amendment  
6438 made by this act to section 847.011, Florida Statutes, in a  
6439 reference thereto, paragraph (g) of subsection (2) of section  
6440 943.325, Florida Statutes, is reenacted to read:



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6441 943.325 DNA database.—  
6442 (2) DEFINITIONS.—As used in this section, the term:  
6443 (g) "Qualifying offender" means any person, including  
6444 juveniles and adults, who is:  
6445 1.a. Committed to a county jail;  
6446 b. Committed to or under the supervision of the Department  
6447 of Corrections, including persons incarcerated in a private  
6448 correctional institution operated under contract pursuant to s.  
6449 944.105;  
6450 c. Committed to or under the supervision of the Department  
6451 of Juvenile Justice;  
6452 d. Transferred to this state under the Interstate Compact  
6453 on Juveniles, part XIII of chapter 985; or  
6454 e. Accepted under Article IV of the Interstate Corrections  
6455 Compact, part III of chapter 941; and who is:  
6456 2.a. Convicted of any felony offense or attempted felony  
6457 offense in this state or of a similar offense in another  
6458 jurisdiction;  
6459 b. Convicted of a misdemeanor violation of s. 784.048, s.  
6460 810.14, s. 847.011, s. 847.013, s. 847.0135, or s. 877.26, or an  
6461 offense that was found, pursuant to s. 874.04, to have been  
6462 committed for the purpose of benefiting, promoting, or  
6463 furthering the interests of a criminal gang as defined in s.  
6464 874.03; or  
6465 c. Arrested for any felony offense or attempted felony  
6466 offense in this state.  
6467 Section 132. For the purpose of incorporating the amendment  
6468 made by this act to section 849.01, Florida Statutes, in a  
6469 reference thereto, section 849.02, Florida Statutes, is



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6470 reenacted to read:

6471 849.02 Agents or employees of keeper of gambling house.—  
6472 Whoever acts as servant, clerk, agent, or employee of any person  
6473 in the violation of s. 849.01 shall be punished in the manner  
6474 and to the extent therein mentioned.

6475 Section 133. For the purpose of incorporating the amendment  
6476 made by this act to section 893.135, Florida Statutes, in a  
6477 reference thereto, paragraph (c) of subsection (3) of section  
6478 373.6055, Florida Statutes, is reenacted to read:

6479 373.6055 Criminal history checks for certain water  
6480 management district employees and others.—

6481 (3)

6482 (c) In addition to other requirements for employment or  
6483 access established by any water management district pursuant to  
6484 its water management district's security plan for buildings,  
6485 facilities, and structures, each water management district's  
6486 security plan shall provide that:

6487 1. Any person who has within the past 7 years been  
6488 convicted, regardless of whether adjudication was withheld, for  
6489 a forcible felony as defined in s. 776.08; an act of terrorism  
6490 as defined in s. 775.30; planting of a hoax bomb as provided in  
6491 s. 790.165; any violation involving the manufacture, possession,  
6492 sale, delivery, display, use, or attempted or threatened use of  
6493 a weapon of mass destruction or hoax weapon of mass destruction  
6494 as provided in s. 790.166; dealing in stolen property; any  
6495 violation of s. 893.135; any violation involving the sale,  
6496 manufacturing, delivery, or possession with intent to sell,  
6497 manufacture, or deliver a controlled substance; burglary;  
6498 robbery; any felony violation of s. 812.014; any violation of s.



6499 790.07; any crime an element of which includes use or possession  
6500 of a firearm; any conviction for any similar offenses under the  
6501 laws of another jurisdiction; or conviction for conspiracy to  
6502 commit any of the listed offenses may not be qualified for  
6503 initial employment within or authorized regular access to  
6504 buildings, facilities, or structures defined in the water  
6505 management district's security plan as restricted access areas.

6506 2. Any person who has at any time been convicted of any of  
6507 the offenses listed in subparagraph 1. may not be qualified for  
6508 initial employment within or authorized regular access to  
6509 buildings, facilities, or structures defined in the water  
6510 management district's security plan as restricted access areas  
6511 unless, after release from incarceration and any supervision  
6512 imposed as a sentence, the person remained free from a  
6513 subsequent conviction, regardless of whether adjudication was  
6514 withheld, for any of the listed offenses for a period of at  
6515 least 7 years prior to the employment or access date under  
6516 consideration.

6517 Section 134. For the purpose of incorporating the amendment  
6518 made by this act to section 893.135, Florida Statutes, in a  
6519 reference thereto, subsection (6) of section 397.4073, Florida  
6520 Statutes, is reenacted to read:

6521 397.4073 Background checks of service provider personnel.—

6522 (6) DISQUALIFICATION FROM RECEIVING STATE FUNDS.—State  
6523 funds may not be disseminated to any service provider owned or  
6524 operated by an owner, director, or chief financial officer who  
6525 has been convicted of, has entered a plea of guilty or nolo  
6526 contendere to, or has had adjudication withheld for, a violation  
6527 of s. 893.135 pertaining to trafficking in controlled



6528 substances, or a violation of the law of another state, the  
6529 District of Columbia, the United States or any possession or  
6530 territory thereof, or any foreign jurisdiction which is  
6531 substantially similar in elements and penalties to a trafficking  
6532 offense in this state, unless the owner's or director's civil  
6533 rights have been restored.

6534 Section 135. For the purpose of incorporating the amendment  
6535 made by this act to section 893.135, Florida Statutes, in a  
6536 reference thereto, subsection (1) of section 414.095, Florida  
6537 Statutes, is reenacted to read:

6538 414.095 Determining eligibility for temporary cash  
6539 assistance.—

6540 (1) ELIGIBILITY.—An applicant must meet eligibility  
6541 requirements of this section before receiving services or  
6542 temporary cash assistance under this chapter, except that an  
6543 applicant shall be required to register for work and engage in  
6544 work activities in accordance with s. 445.024, as designated by  
6545 the local workforce development board, and may receive support  
6546 services or child care assistance in conjunction with such  
6547 requirement. The department shall make a determination of  
6548 eligibility based on the criteria listed in this chapter. The  
6549 department shall monitor continued eligibility for temporary  
6550 cash assistance through periodic reviews consistent with the  
6551 food assistance eligibility process. Benefits may not be denied  
6552 to an individual solely based on a felony drug conviction,  
6553 unless the conviction is for trafficking pursuant to s. 893.135.  
6554 To be eligible under this section, an individual convicted of a  
6555 drug felony must be satisfactorily meeting the requirements of  
6556 the temporary cash assistance program, including all substance



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6557 abuse treatment requirements. Within the limits specified in  
6558 this chapter, the state opts out of the provision of Pub. L. No.  
6559 104-193, s. 115, that eliminates eligibility for temporary cash  
6560 assistance and food assistance for any individual convicted of a  
6561 controlled substance felony.

6562 Section 136. For the purpose of incorporating the amendment  
6563 made by this act to section 893.135, Florida Statutes, in a  
6564 reference thereto, subsection (2) of section 772.12, Florida  
6565 Statutes, is reenacted to read:

6566 772.12 Drug Dealer Liability Act.—

6567 (2) A person, including any governmental entity, has a  
6568 cause of action for threefold the actual damages sustained and  
6569 is entitled to minimum damages in the amount of \$1,000 and  
6570 reasonable attorney's fees and court costs in the trial and  
6571 appellate courts, if the person proves by the greater weight of  
6572 the evidence that:

6573 (a) The person was injured because of the defendant's  
6574 actions that resulted in the defendant's conviction for:

6575 1. A violation of s. 893.13, except for a violation of s.  
6576 893.13(2)(a) or (b), (3), (5), (6)(a), (b), or (c), (7); or

6577 2. A violation of s. 893.135; and

6578 (b) The person was not injured by reason of his or her  
6579 participation in the same act or transaction that resulted in  
6580 the defendant's conviction for any offense described in  
6581 subparagraph (a)1.

6582 Section 137. For the purpose of incorporating the amendment  
6583 made by this act to section 893.135, Florida Statutes, in a  
6584 reference thereto, paragraph (a) of subsection (2) and paragraph  
6585 (a) of subsection (3) of section 775.087, Florida Statutes, are



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6586 reenacted to read:

6587 775.087 Possession or use of weapon; aggravated battery;  
6588 felony reclassification; minimum sentence.—

6589 (2)(a)1. Any person who is convicted of a felony or an  
6590 attempt to commit a felony, regardless of whether the use of a  
6591 weapon is an element of the felony, and the conviction was for:

6592 a. Murder;

6593 b. Sexual battery;

6594 c. Robbery;

6595 d. Burglary;

6596 e. Arson;

6597 f. Aggravated battery;

6598 g. Kidnapping;

6599 h. Escape;

6600 i. Aircraft piracy;

6601 j. Aggravated child abuse;

6602 k. Aggravated abuse of an elderly person or disabled adult;

6603 l. Unlawful throwing, placing, or discharging of a

6604 destructive device or bomb;

6605 m. Carjacking;

6606 n. Home-invasion robbery;

6607 o. Aggravated stalking;

6608 p. Trafficking in cannabis, trafficking in cocaine, capital

6609 importation of cocaine, trafficking in illegal drugs, capital

6610 importation of illegal drugs, trafficking in phencyclidine,

6611 capital importation of phencyclidine, trafficking in

6612 methaqualone, capital importation of methaqualone, trafficking

6613 in amphetamine, capital importation of amphetamine, trafficking

6614 in flunitrazepam, trafficking in gamma-hydroxybutyric acid



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6615 (GHB), trafficking in 1,4-Butanediol, trafficking in  
6616 Phenethylamines, or other violation of s. 893.135(1); or  
6617 q. Possession of a firearm by a felon  
6618

6619 and during the commission of the offense, such person actually  
6620 possessed a "firearm" or "destructive device" as those terms are  
6621 defined in s. 790.001, shall be sentenced to a minimum term of  
6622 imprisonment of 10 years, except that a person who is convicted  
6623 for possession of a firearm by a felon or burglary of a  
6624 conveyance shall be sentenced to a minimum term of imprisonment  
6625 of 3 years if such person possessed a "firearm" or "destructive  
6626 device" during the commission of the offense. However, if an  
6627 offender who is convicted of the offense of possession of a  
6628 firearm by a felon has a previous conviction of committing or  
6629 attempting to commit a felony listed in s. 775.084(1)(b)1. and  
6630 actually possessed a firearm or destructive device during the  
6631 commission of the prior felony, the offender shall be sentenced  
6632 to a minimum term of imprisonment of 10 years.

6633 2. Any person who is convicted of a felony or an attempt to  
6634 commit a felony listed in sub-subparagraphs (a)1.a.-p.,  
6635 regardless of whether the use of a weapon is an element of the  
6636 felony, and during the course of the commission of the felony  
6637 such person discharged a "firearm" or "destructive device" as  
6638 defined in s. 790.001 shall be sentenced to a minimum term of  
6639 imprisonment of 20 years.

6640 3. Any person who is convicted of a felony or an attempt to  
6641 commit a felony listed in sub-subparagraphs (a)1.a.-p.,  
6642 regardless of whether the use of a weapon is an element of the  
6643 felony, and during the course of the commission of the felony



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6644 such person discharged a "firearm" or "destructive device" as  
6645 defined in s. 790.001 and, as the result of the discharge, death  
6646 or great bodily harm was inflicted upon any person, the  
6647 convicted person shall be sentenced to a minimum term of  
6648 imprisonment of not less than 25 years and not more than a term  
6649 of imprisonment of life in prison.

6650 (3) (a) 1. Any person who is convicted of a felony or an  
6651 attempt to commit a felony, regardless of whether the use of a  
6652 firearm is an element of the felony, and the conviction was for:

- 6653 a. Murder;
- 6654 b. Sexual battery;
- 6655 c. Robbery;
- 6656 d. Burglary;
- 6657 e. Arson;
- 6658 f. Aggravated battery;
- 6659 g. Kidnapping;
- 6660 h. Escape;
- 6661 i. Sale, manufacture, delivery, or intent to sell,  
6662 manufacture, or deliver any controlled substance;
- 6663 j. Aircraft piracy;
- 6664 k. Aggravated child abuse;
- 6665 l. Aggravated abuse of an elderly person or disabled adult;
- 6666 m. Unlawful throwing, placing, or discharging of a  
6667 destructive device or bomb;
- 6668 n. Carjacking;
- 6669 o. Home-invasion robbery;
- 6670 p. Aggravated stalking; or
- 6671 q. Trafficking in cannabis, trafficking in cocaine, capital  
6672 importation of cocaine, trafficking in illegal drugs, capital



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6673 importation of illegal drugs, trafficking in phencyclidine,  
6674 capital importation of phencyclidine, trafficking in  
6675 methaqualone, capital importation of methaqualone, trafficking  
6676 in amphetamine, capital importation of amphetamine, trafficking  
6677 in flunitrazepam, trafficking in gamma-hydroxybutyric acid  
6678 (GHB), trafficking in 1,4-Butanediol, trafficking in  
6679 Phenethylamines, or other violation of s. 893.135(1);

6680  
6681 and during the commission of the offense, such person possessed  
6682 a semiautomatic firearm and its high-capacity detachable box  
6683 magazine or a machine gun as defined in s. 790.001, shall be  
6684 sentenced to a minimum term of imprisonment of 15 years.

6685         2. Any person who is convicted of a felony or an attempt to  
6686 commit a felony listed in subparagraph (a)1., regardless of  
6687 whether the use of a weapon is an element of the felony, and  
6688 during the course of the commission of the felony such person  
6689 discharged a semiautomatic firearm and its high-capacity box  
6690 magazine or a "machine gun" as defined in s. 790.001 shall be  
6691 sentenced to a minimum term of imprisonment of 20 years.

6692         3. Any person who is convicted of a felony or an attempt to  
6693 commit a felony listed in subparagraph (a)1., regardless of  
6694 whether the use of a weapon is an element of the felony, and  
6695 during the course of the commission of the felony such person  
6696 discharged a semiautomatic firearm and its high-capacity box  
6697 magazine or a "machine gun" as defined in s. 790.001 and, as the  
6698 result of the discharge, death or great bodily harm was  
6699 inflicted upon any person, the convicted person shall be  
6700 sentenced to a minimum term of imprisonment of not less than 25  
6701 years and not more than a term of imprisonment of life in



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6702 | prison.

6703 |       Section 138. For the purpose of incorporating the amendment  
6704 | made by this act to section 893.135, Florida Statutes, in  
6705 | references thereto, paragraph (a) of subsection (1) and  
6706 | subsections (3) and (4) of section 782.04, Florida Statutes, are  
6707 | reenacted to read:

6708 |       782.04 Murder.—

6709 |       (1) (a) The unlawful killing of a human being:

6710 |       1. When perpetrated from a premeditated design to effect  
6711 | the death of the person killed or any human being;

6712 |       2. When committed by a person engaged in the perpetration  
6713 | of, or in the attempt to perpetrate, any:

6714 |       a. Trafficking offense prohibited by s. 893.135(1),

6715 |       b. Arson,

6716 |       c. Sexual battery,

6717 |       d. Robbery,

6718 |       e. Burglary,

6719 |       f. Kidnapping,

6720 |       g. Escape,

6721 |       h. Aggravated child abuse,

6722 |       i. Aggravated abuse of an elderly person or disabled adult,

6723 |       j. Aircraft piracy,

6724 |       k. Unlawful throwing, placing, or discharging of a  
6725 | destructive device or bomb,

6726 |       l. Carjacking,

6727 |       m. Home-invasion robbery,

6728 |       n. Aggravated stalking,

6729 |       o. Murder of another human being,

6730 |       p. Resisting an officer with violence to his or her person,



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6731 q. Aggravated fleeing or eluding with serious bodily injury  
6732 or death,

6733 r. Felony that is an act of terrorism or is in furtherance  
6734 of an act of terrorism, including a felony under s. 775.30, s.  
6735 775.32, s. 775.33, s. 775.34, or s. 775.35, or

6736 s. Human trafficking; or

6737 3. Which resulted from the unlawful distribution by a  
6738 person 18 years of age or older of any of the following  
6739 substances, or mixture containing any of the following  
6740 substances, when such substance or mixture is proven to be the  
6741 proximate cause of the death of the user:

6742 a. A substance controlled under s. 893.03(1);

6743 b. Cocaine, as described in s. 893.03(2)(a)4.;

6744 c. Opium or any synthetic or natural salt, compound,  
6745 derivative, or preparation of opium;

6746 d. Methadone;

6747 e. Alfentanil, as described in s. 893.03(2)(b)1.;

6748 f. Carfentanil, as described in s. 893.03(2)(b)6.;

6749 g. Fentanyl, as described in s. 893.03(2)(b)9.;

6750 h. Sufentanil, as described in s. 893.03(2)(b)30.; or

6751 i. A controlled substance analog, as described in s.  
6752 893.0356, of any substance specified in sub-subparagraphs a.-h.,

6753  
6754 is murder in the first degree and constitutes a capital felony,  
6755 punishable as provided in s. 775.082.

6756 (3) When a human being is killed during the perpetration  
6757 of, or during the attempt to perpetrate, any:

6758 (a) Trafficking offense prohibited by s. 893.135(1),

6759 (b) Arson,



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6760 (c) Sexual battery,  
6761 (d) Robbery,  
6762 (e) Burglary,  
6763 (f) Kidnapping,  
6764 (g) Escape,  
6765 (h) Aggravated child abuse,  
6766 (i) Aggravated abuse of an elderly person or disabled  
6767 adult,  
6768 (j) Aircraft piracy,  
6769 (k) Unlawful throwing, placing, or discharging of a  
6770 destructive device or bomb,  
6771 (l) Carjacking,  
6772 (m) Home-invasion robbery,  
6773 (n) Aggravated stalking,  
6774 (o) Murder of another human being,  
6775 (p) Aggravated fleeing or eluding with serious bodily  
6776 injury or death,  
6777 (q) Resisting an officer with violence to his or her  
6778 person, or  
6779 (r) Felony that is an act of terrorism or is in furtherance  
6780 of an act of terrorism, including a felony under s. 775.30, s.  
6781 775.32, s. 775.33, s. 775.34, or s. 775.35,  
6782  
6783 by a person other than the person engaged in the perpetration of  
6784 or in the attempt to perpetrate such felony, the person  
6785 perpetrating or attempting to perpetrate such felony commits  
6786 murder in the second degree, which constitutes a felony of the  
6787 first degree, punishable by imprisonment for a term of years not  
6788 exceeding life or as provided in s. 775.082, s. 775.083, or s.



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6789 775.084.  
6790 (4) The unlawful killing of a human being, when perpetrated  
6791 without any design to effect death, by a person engaged in the  
6792 perpetration of, or in the attempt to perpetrate, any felony  
6793 other than any:  
6794 (a) Trafficking offense prohibited by s. 893.135(1),  
6795 (b) Arson,  
6796 (c) Sexual battery,  
6797 (d) Robbery,  
6798 (e) Burglary,  
6799 (f) Kidnapping,  
6800 (g) Escape,  
6801 (h) Aggravated child abuse,  
6802 (i) Aggravated abuse of an elderly person or disabled  
6803 adult,  
6804 (j) Aircraft piracy,  
6805 (k) Unlawful throwing, placing, or discharging of a  
6806 destructive device or bomb,  
6807 (l) Unlawful distribution of any substance controlled under  
6808 s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or  
6809 opium or any synthetic or natural salt, compound, derivative, or  
6810 preparation of opium by a person 18 years of age or older, when  
6811 such drug is proven to be the proximate cause of the death of  
6812 the user,  
6813 (m) Carjacking,  
6814 (n) Home-invasion robbery,  
6815 (o) Aggravated stalking,  
6816 (p) Murder of another human being,  
6817 (q) Aggravated fleeing or eluding with serious bodily



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6818 injury or death,

6819 (r) Resisting an officer with violence to his or her  
6820 person, or

6821 (s) Felony that is an act of terrorism or is in furtherance  
6822 of an act of terrorism, including a felony under s. 775.30, s.  
6823 775.32, s. 775.33, s. 775.34, or s. 775.35,

6824  
6825 is murder in the third degree and constitutes a felony of the  
6826 second degree, punishable as provided in s. 775.082, s. 775.083,  
6827 or s. 775.084.

6828 Section 139. For the purpose of incorporating the amendment  
6829 made by this act to section 893.135, Florida Statutes, in a  
6830 reference thereto, subsection (3) of section 810.02, Florida  
6831 Statutes, is reenacted to read:

6832 810.02 Burglary.—

6833 (3) Burglary is a felony of the second degree, punishable  
6834 as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the  
6835 course of committing the offense, the offender does not make an  
6836 assault or battery and is not and does not become armed with a  
6837 dangerous weapon or explosive, and the offender enters or  
6838 remains in a:

6839 (a) Dwelling, and there is another person in the dwelling  
6840 at the time the offender enters or remains;

6841 (b) Dwelling, and there is not another person in the  
6842 dwelling at the time the offender enters or remains;

6843 (c) Structure, and there is another person in the structure  
6844 at the time the offender enters or remains;

6845 (d) Conveyance, and there is another person in the  
6846 conveyance at the time the offender enters or remains;



6847 (e) Authorized emergency vehicle, as defined in s. 316.003;  
6848 or

6849 (f) Structure or conveyance when the offense intended to be  
6850 committed therein is theft of a controlled substance as defined  
6851 in s. 893.02. Notwithstanding any other law, separate judgments  
6852 and sentences for burglary with the intent to commit theft of a  
6853 controlled substance under this paragraph and for any applicable  
6854 possession of controlled substance offense under s. 893.13 or  
6855 trafficking in controlled substance offense under s. 893.135 may  
6856 be imposed when all such offenses involve the same amount or  
6857 amounts of a controlled substance.

6858  
6859 However, if the burglary is committed within a county that is  
6860 subject to a state of emergency declared by the Governor under  
6861 chapter 252 after the declaration of emergency is made and the  
6862 perpetration of the burglary is facilitated by conditions  
6863 arising from the emergency, the burglary is a felony of the  
6864 first degree, punishable as provided in s. 775.082, s. 775.083,  
6865 or s. 775.084. As used in this subsection, the term "conditions  
6866 arising from the emergency" means civil unrest, power outages,  
6867 curfews, voluntary or mandatory evacuations, or a reduction in  
6868 the presence of or response time for first responders or  
6869 homeland security personnel. A person arrested for committing a  
6870 burglary within a county that is subject to such a state of  
6871 emergency may not be released until the person appears before a  
6872 committing magistrate at a first appearance hearing. For  
6873 purposes of sentencing under chapter 921, a felony offense that  
6874 is reclassified under this subsection is ranked one level above  
6875 the ranking under s. 921.0022 or s. 921.0023 of the offense



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6876 committed.

6877           Section 140. For the purpose of incorporating the amendment  
6878 made by this act to section 893.135, Florida Statutes, in a  
6879 reference thereto, paragraph (d) of subsection (8) of section  
6880 893.13, Florida Statutes, is reenacted to read:

6881           893.13 Prohibited acts; penalties.—

6882           (8)

6883           (d) Notwithstanding paragraph (c), if a prescribing  
6884 practitioner has violated paragraph (a) and received \$1,000 or  
6885 more in payment for writing one or more prescriptions or, in the  
6886 case of a prescription written for a controlled substance  
6887 described in s. 893.135, has written one or more prescriptions  
6888 for a quantity of a controlled substance which, individually or  
6889 in the aggregate, meets the threshold for the offense of  
6890 trafficking in a controlled substance under s. 893.135, the  
6891 violation is reclassified as a felony of the second degree and  
6892 ranked in level 4 of the Criminal Punishment Code.

6893           Section 141. For the purpose of incorporating the amendment  
6894 made by this act to section 893.135, Florida Statutes, in  
6895 references thereto, subsections (1) and (2) of section 893.1351,  
6896 Florida Statutes, are reenacted to read:

6897           893.1351 Ownership, lease, rental, or possession for  
6898 trafficking in or manufacturing a controlled substance.—

6899           (1) A person may not own, lease, or rent any place,  
6900 structure, or part thereof, trailer, or other conveyance with  
6901 the knowledge that the place, structure, trailer, or conveyance  
6902 will be used for the purpose of trafficking in a controlled  
6903 substance, as provided in s. 893.135; for the sale of a  
6904 controlled substance, as provided in s. 893.13; or for the



6905 manufacture of a controlled substance intended for sale or  
6906 distribution to another. A person who violates this subsection  
6907 commits a felony of the third degree, punishable as provided in  
6908 s. 775.082, s. 775.083, or s. 775.084.

6909 (2) A person may not knowingly be in actual or constructive  
6910 possession of any place, structure, or part thereof, trailer, or  
6911 other conveyance with the knowledge that the place, structure,  
6912 or part thereof, trailer, or conveyance will be used for the  
6913 purpose of trafficking in a controlled substance, as provided in  
6914 s. 893.135; for the sale of a controlled substance, as provided  
6915 in s. 893.13; or for the manufacture of a controlled substance  
6916 intended for sale or distribution to another. A person who  
6917 violates this subsection commits a felony of the second degree,  
6918 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

6919 Section 142. For the purpose of incorporating the amendment  
6920 made by this act to section 893.135, Florida Statutes, in a  
6921 reference thereto, paragraph (e) of subsection (3) of section  
6922 900.05, Florida Statutes, is reenacted to read:

6923 900.05 Criminal justice data collection.—

6924 (3) DATA COLLECTION AND REPORTING.—Beginning January 1,  
6925 2019, an entity required to collect data in accordance with this  
6926 subsection shall collect the specified data required of the  
6927 entity on a biweekly basis. Each entity shall report the data  
6928 collected in accordance with this subsection to the Department  
6929 of Law Enforcement on a monthly basis.

6930 (e) *Department of Corrections.*—The Department of  
6931 Corrections shall collect the following data:

- 6932 1. Information related to each inmate, including:  
6933 a. Identifying information, including name, date of birth,



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6934 race or ethnicity, and identification number assigned by the  
6935 department.  
6936       b. Number of children.  
6937       c. Education level, including any vocational training.  
6938       d. Date the inmate was admitted to the custody of the  
6939 department.  
6940       e. Current institution placement and the security level  
6941 assigned to the institution.  
6942       f. Custody level assignment.  
6943       g. Qualification for a flag designation as defined in this  
6944 section, including sexual offender flag, habitual offender flag,  
6945 gang affiliation flag, or concurrent or consecutive sentence  
6946 flag.  
6947       h. County that committed the prisoner to the custody of the  
6948 department.  
6949       i. Whether the reason for admission to the department is  
6950 for a new conviction or a violation of probation, community  
6951 control, or parole. For an admission for a probation, community  
6952 control, or parole violation, the department shall report  
6953 whether the violation was technical or based on a new violation  
6954 of law.  
6955       j. Specific statutory citation for which the inmate was  
6956 committed to the department, including, for an inmate convicted  
6957 of drug trafficking under s. 893.135, the statutory citation for  
6958 each specific drug trafficked.  
6959       k. Length of sentence or concurrent or consecutive  
6960 sentences served.  
6961       l. Tentative release date.  
6962       m. Gain time earned in accordance with s. 944.275.



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- 6963           n. Prior incarceration within the state.  
6964           o. Disciplinary violation and action.  
6965           p. Participation in rehabilitative or educational programs  
6966 while in the custody of the department.  
6967           2. Information about each state correctional institution or  
6968 facility, including:  
6969           a. Budget for each state correctional institution or  
6970 facility.  
6971           b. Daily prison population of all inmates incarcerated in a  
6972 state correctional institution or facility.  
6973           c. Daily number of correctional officers for each state  
6974 correctional institution or facility.  
6975           3. Information related to persons supervised by the  
6976 department on probation or community control, including:  
6977           a. Identifying information for each person supervised by  
6978 the department on probation or community control, including his  
6979 or her name, date of birth, race or ethnicity, sex, and  
6980 department-assigned case number.  
6981           b. Length of probation or community control sentence  
6982 imposed and amount of time that has been served on such  
6983 sentence.  
6984           c. Projected termination date for probation or community  
6985 control.  
6986           d. Revocation of probation or community control due to a  
6987 violation, including whether the revocation is due to a  
6988 technical violation of the conditions of supervision or from the  
6989 commission of a new law violation.  
6990           4. Per diem rates for:  
6991           a. Prison bed.



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6992 b. Probation.

6993 c. Community control.

6994

6995 This information only needs to be reported once annually at the  
6996 time the most recent per diem rate is published.

6997 Section 143. For the purpose of incorporating the amendment  
6998 made by this act to section 893.135, Florida Statutes, in a  
6999 reference thereto, Section 903.133, Florida Statutes, is  
7000 reenacted to read:

7001 903.133 Bail on appeal; prohibited for certain felony  
7002 convictions.—Notwithstanding the provisions of s. 903.132, no  
7003 person adjudged guilty of a felony of the first degree for a  
7004 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.  
7005 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a  
7006 violation of s. 794.011(2) or (3), shall be admitted to bail  
7007 pending review either by posttrial motion or appeal.

7008 Section 144. For the purpose of incorporating the amendment  
7009 made by this act to section 893.135, Florida Statutes, in a  
7010 reference thereto, paragraph (c) of subsection (4) of section  
7011 907.041, Florida Statutes, is reenacted to read:

7012 907.041 Pretrial detention and release.—

7013 (4) PRETRIAL DETENTION.—

7014 (c) The court may order pretrial detention if it finds a  
7015 substantial probability, based on a defendant's past and present  
7016 patterns of behavior, the criteria in s. 903.046, and any other  
7017 relevant facts, that any of the following circumstances exist:

7018 1. The defendant has previously violated conditions of  
7019 release and that no further conditions of release are reasonably  
7020 likely to assure the defendant's appearance at subsequent



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7021 proceedings;

7022         2. The defendant, with the intent to obstruct the judicial  
7023 process, has threatened, intimidated, or injured any victim,  
7024 potential witness, juror, or judicial officer, or has attempted  
7025 or conspired to do so, and that no condition of release will  
7026 reasonably prevent the obstruction of the judicial process;

7027         3. The defendant is charged with trafficking in controlled  
7028 substances as defined by s. 893.135, that there is a substantial  
7029 probability that the defendant has committed the offense, and  
7030 that no conditions of release will reasonably assure the  
7031 defendant's appearance at subsequent criminal proceedings;

7032         4. The defendant is charged with DUI manslaughter, as  
7033 defined by s. 316.193, and that there is a substantial  
7034 probability that the defendant committed the crime and that the  
7035 defendant poses a threat of harm to the community; conditions  
7036 that would support a finding by the court pursuant to this  
7037 subparagraph that the defendant poses a threat of harm to the  
7038 community include, but are not limited to, any of the following:

7039             a. The defendant has previously been convicted of any crime  
7040 under s. 316.193, or of any crime in any other state or  
7041 territory of the United States that is substantially similar to  
7042 any crime under s. 316.193;

7043             b. The defendant was driving with a suspended driver  
7044 license when the charged crime was committed; or

7045             c. The defendant has previously been found guilty of, or  
7046 has had adjudication of guilt withheld for, driving while the  
7047 defendant's driver license was suspended or revoked in violation  
7048 of s. 322.34;

7049         5. The defendant poses the threat of harm to the community.



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7050 The court may so conclude, if it finds that the defendant is  
7051 presently charged with a dangerous crime, that there is a  
7052 substantial probability that the defendant committed such crime,  
7053 that the factual circumstances of the crime indicate a disregard  
7054 for the safety of the community, and that there are no  
7055 conditions of release reasonably sufficient to protect the  
7056 community from the risk of physical harm to persons;

7057 6. The defendant was on probation, parole, or other release  
7058 pending completion of sentence or on pretrial release for a  
7059 dangerous crime at the time the current offense was committed;

7060 7. The defendant has violated one or more conditions of  
7061 pretrial release or bond for the offense currently before the  
7062 court and the violation, in the discretion of the court,  
7063 supports a finding that no conditions of release can reasonably  
7064 protect the community from risk of physical harm to persons or  
7065 assure the presence of the accused at trial; or

7066 8.a. The defendant has ever been sentenced pursuant to s.  
7067 775.082(9) or s. 775.084 as a prison releasee reoffender,  
7068 habitual violent felony offender, three-time violent felony  
7069 offender, or violent career criminal, or the state attorney  
7070 files a notice seeking that the defendant be sentenced pursuant  
7071 to s. 775.082(9) or s. 775.084, as a prison releasee reoffender,  
7072 habitual violent felony offender, three-time violent felony  
7073 offender, or violent career criminal;

7074 b. There is a substantial probability that the defendant  
7075 committed the offense; and

7076 c. There are no conditions of release that can reasonably  
7077 protect the community from risk of physical harm or ensure the  
7078 presence of the accused at trial.



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7079           Section 145. For the purpose of incorporating the amendment  
7080 made by this act to section 893.135, Florida Statutes, in a  
7081 reference thereto, subsection (9) of section 921.141, Florida  
7082 Statutes, is reenacted to read:

7083           921.141 Sentence of death or life imprisonment for capital  
7084 felonies; further proceedings to determine sentence.—

7085           (9) APPLICABILITY.—This section does not apply to a person  
7086 convicted or adjudicated guilty of a capital drug trafficking  
7087 felony under s. 893.135.

7088           Section 146. For the purpose of incorporating the amendment  
7089 made by this act to section 893.135, Florida Statutes, in a  
7090 reference thereto, subsection (2) of section 921.142, Florida  
7091 Statutes, is reenacted to read:

7092           921.142 Sentence of death or life imprisonment for capital  
7093 drug trafficking felonies; further proceedings to determine  
7094 sentence.—

7095           (2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—Upon  
7096 conviction or adjudication of guilt of a defendant of a capital  
7097 felony under s. 893.135, the court shall conduct a separate  
7098 sentencing proceeding to determine whether the defendant should  
7099 be sentenced to death or life imprisonment as authorized by s.  
7100 775.082. The proceeding shall be conducted by the trial judge  
7101 before the trial jury as soon as practicable. If, through  
7102 impossibility or inability, the trial jury is unable to  
7103 reconvene for a hearing on the issue of penalty, having  
7104 determined the guilt of the accused, the trial judge may summon  
7105 a special juror or jurors as provided in chapter 913 to  
7106 determine the issue of the imposition of the penalty. If the  
7107 trial jury has been waived, or if the defendant pleaded guilty,



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7108 the sentencing proceeding shall be conducted before a jury  
7109 impaneled for that purpose, unless waived by the defendant. In  
7110 the proceeding, evidence may be presented as to any matter that  
7111 the court deems relevant to the nature of the crime and the  
7112 character of the defendant and shall include matters relating to  
7113 any of the aggravating factors enumerated in subsection (7) and  
7114 for which notice has been provided pursuant to s. 782.04(1)(b)  
7115 or mitigating circumstances enumerated in subsection (8). Any  
7116 such evidence that the court deems to have probative value may  
7117 be received, regardless of its admissibility under the  
7118 exclusionary rules of evidence, provided the defendant is  
7119 accorded a fair opportunity to rebut any hearsay statements.  
7120 However, this subsection shall not be construed to authorize the  
7121 introduction of any evidence secured in violation of the  
7122 Constitution of the United States or the Constitution of the  
7123 State of Florida. The state and the defendant or the defendant's  
7124 counsel shall be permitted to present argument for or against  
7125 sentence of death.

7126 Section 147. For the purpose of incorporating the amendment  
7127 made by this act to section 944.704, Florida Statutes, in a  
7128 reference thereto, paragraph (a) of subsection (3) of section  
7129 944.026, Florida Statutes, is reenacted to read:

7130 944.026 Community-based facilities and programs.—

7131 (3)(a) The department shall develop and implement  
7132 procedures to diagnose offenders prior to sentencing, for the  
7133 purpose of recommending to the sentencing court suitable  
7134 candidates for placement in a community-based residential drug  
7135 treatment facility or probation and restitution center as  
7136 provided in this section. The department shall also develop and



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7137 implement procedures to properly identify inmates prior to  
7138 release who demonstrate the need for or interest in and  
7139 suitability for placement in a community-based substance abuse  
7140 transition housing program as provided in this section and  
7141 pursuant to ss. 944.4731 and 944.704.

7142 Section 148. For the purpose of incorporating the amendment  
7143 made by this act to section 944.705, Florida Statutes, in a  
7144 reference thereto, subsection (6) of section 944.4731, Florida  
7145 Statutes, is reenacted to read:

7146 944.4731 Addiction-Recovery Supervision Program.—

7147 (6) Six months before an offender is released, the chaplain  
7148 and transition assistance specialist at the institution where  
7149 the offender is incarcerated shall initiate the prerelease  
7150 screening process in addition to the basic release orientation  
7151 required under s. 944.705.

7152 (a) The transition assistance specialist and the chaplain  
7153 shall provide a list of contracted private providers, including  
7154 faith-based providers, to the offender and facilitate the  
7155 application process. The transition assistance specialist shall  
7156 inform the offender of program availability and assess the  
7157 offender's need and suitability for substance abuse transition  
7158 housing assistance. If an offender is approved for placement,  
7159 the specialist shall assist the offender and coordinate the  
7160 release of the offender with the selected program. If an  
7161 offender requests and is approved for placement in a contracted  
7162 faith-based substance abuse transition housing program, the  
7163 specialist must consult with the chaplain prior to such  
7164 placement. A right to substance abuse program services is not  
7165 stated, intended, or otherwise implied by this section.



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7166 (b) If an offender has participated in a faith-based  
7167 program while incarcerated or housed at a community correctional  
7168 center and the same or a similar faith-based provider offers a  
7169 contracted substance abuse transition housing program, the  
7170 department shall make every attempt to maintain this continuum  
7171 of care.

7172 Section 149. For the purpose of incorporating the amendment  
7173 made by this act to section 944.801, Florida Statutes, in a  
7174 reference thereto, subsection (2) of section 447.203, Florida  
7175 Statutes, is reenacted to read:

7176 447.203 Definitions.—As used in this part:

7177 (2) "Public employer" or "employer" means the state or any  
7178 county, municipality, or special district or any subdivision or  
7179 agency thereof which the commission determines has sufficient  
7180 legal distinctiveness properly to carry out the functions of a  
7181 public employer. With respect to all public employees determined  
7182 by the commission as properly belonging to a statewide  
7183 bargaining unit composed of State Career Service System  
7184 employees or Selected Professional Service employees, the  
7185 Governor shall be deemed to be the public employer; and the  
7186 Board of Governors of the State University System, or the  
7187 board's designee, shall be deemed to be the public employer with  
7188 respect to all public employees of each constituent state  
7189 university. The board of trustees of a community college shall  
7190 be deemed to be the public employer with respect to all  
7191 employees of the community college. The district school board  
7192 shall be deemed to be the public employer with respect to all  
7193 employees of the school district. The Board of Trustees of the  
7194 Florida School for the Deaf and the Blind shall be deemed to be



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7195 the public employer with respect to the academic and academic  
7196 administrative personnel of the Florida School for the Deaf and  
7197 the Blind. The Governor shall be deemed to be the public  
7198 employer with respect to all employees in the Correctional  
7199 Education Program of the Department of Corrections established  
7200 pursuant to s. 944.801.

7201 Section 150. For the purpose of incorporating the amendment  
7202 made by this act to section 948.013, Florida Statutes, in a  
7203 reference thereto, paragraph (n) of subsection (1) of section  
7204 921.187, Florida Statutes, is reenacted to read:

7205 921.187 Disposition and sentencing; alternatives;  
7206 restitution.—

7207 (1) The alternatives provided in this section for the  
7208 disposition of criminal cases shall be used in a manner that  
7209 will best serve the needs of society, punish criminal offenders,  
7210 and provide the opportunity for rehabilitation. If the offender  
7211 does not receive a state prison sentence, the court may:

7212 (n) Impose split probation whereby upon satisfactory  
7213 completion of half the term of probation, the Department of  
7214 Corrections may place the offender on administrative probation  
7215 pursuant to s. 948.013 for the remainder of the term of  
7216 supervision.

7217 Section 151. For the purpose of incorporating the amendment  
7218 made by this act to section 948.06, Florida Statutes, in a  
7219 reference thereto, paragraph (b) of subsection (2) of section  
7220 948.012, Florida Statutes, is reenacted to read:

7221 948.012 Split sentence of probation or community control  
7222 and imprisonment.—

7223 (2) The court may also impose a split sentence whereby the



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7224 defendant is sentenced to a term of probation which may be  
7225 followed by a period of incarceration or, with respect to a  
7226 felony, into community control, as follows:

7227 (b) If the offender does not meet the terms and conditions  
7228 of probation or community control, the court may revoke, modify,  
7229 or continue the probation or community control as provided in s.  
7230 948.06. If the probation or community control is revoked, the  
7231 court may impose any sentence that it could have imposed at the  
7232 time the offender was placed on probation or community control.  
7233 The court may not provide credit for time served for any portion  
7234 of a probation or community control term toward a subsequent  
7235 term of probation or community control. However, the court may  
7236 not impose a subsequent term of probation or community control  
7237 which, when combined with any amount of time served on preceding  
7238 terms of probation or community control for offenses pending  
7239 before the court for sentencing, would exceed the maximum  
7240 penalty allowable as provided in s. 775.082. Such term of  
7241 incarceration shall be served under applicable law or county  
7242 ordinance governing service of sentences in state or county  
7243 jurisdiction. This paragraph does not prohibit any other  
7244 sanction provided by law.

7245 Section 152. For the purpose of incorporating the amendment  
7246 made by this act to section 948.06, Florida Statutes, in a  
7247 reference thereto, subsection (3) of section 948.10, Florida  
7248 Statutes, is reenacted to read:

7249 948.10 Community control programs; home confinement.—

7250 (3) Procedures governing violations of community control  
7251 are the same as those described in s. 948.06 with respect to  
7252 probation.



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7253           Section 153. For the purpose of incorporating the amendment  
7254 made by this act to section 948.06, Florida Statutes, in a  
7255 reference thereto, subsection (3) of section 948.20, Florida  
7256 Statutes, is reenacted to read:

7257           948.20 Drug offender probation.—

7258           (3) Offenders placed on drug offender probation are subject  
7259 to revocation of probation as provided in s. 948.06.

7260           Section 154. For the purpose of incorporating the amendment  
7261 made by this act to section 948.06, Florida Statutes, in a  
7262 reference thereto, section 958.14, Florida Statutes, is  
7263 reenacted to read:

7264           958.14 Violation of probation or community control  
7265 program.—A violation or alleged violation of probation or the  
7266 terms of a community control program shall subject the youthful  
7267 offender to the provisions of s. 948.06. However, no youthful  
7268 offender shall be committed to the custody of the department for  
7269 a substantive violation for a period longer than the maximum  
7270 sentence for the offense for which he or she was found guilty,  
7271 with credit for time served while incarcerated, or for a  
7272 technical or nonsubstantive violation for a period longer than 6  
7273 years or for a period longer than the maximum sentence for the  
7274 offense for which he or she was found guilty, whichever is less,  
7275 with credit for time served while incarcerated.

7276           Section 155. For the purpose of incorporating the amendment  
7277 made by this act to section 948.08, Florida Statutes, in a  
7278 reference thereto, paragraph (b) of subsection (4) of section  
7279 796.07, Florida Statutes, is reenacted to read:

7280           796.07 Prohibiting prostitution and related acts.—

7281           (4)



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7282 (b) A person who is charged with a third or subsequent  
7283 violation of this section, other than paragraph (2)(f), shall be  
7284 offered admission to a pretrial intervention program or a  
7285 substance abuse treatment program as provided in s. 948.08.

7286 Section 156. For the purpose of incorporating the amendment  
7287 made by this act to section 948.08, Florida Statutes, in a  
7288 reference thereto, paragraph (b) of subsection (3) of section  
7289 944.026, Florida Statutes, is reenacted to read:

7290 944.026 Community-based facilities and programs.—

7291 (3)

7292 (b) Pretrial intervention programs in appropriate counties  
7293 to provide early counseling and supervision services to  
7294 specified offenders as provided in s. 948.08.

7295 Section 157. For the purpose of incorporating the amendment  
7296 made by this act to section 948.08, Florida Statutes, in a  
7297 reference thereto, subsection (1) of section 948.036, Florida  
7298 Statutes, is reenacted to read:

7299 948.036 Work programs as a condition of probation,  
7300 community control, or other court-ordered community  
7301 supervision.—

7302 (1) Whenever an offender is required by the court to  
7303 participate in any work program under the provisions of this  
7304 chapter, enters into the pretrial intervention program pursuant  
7305 to s. 948.08, or volunteers to work in a supervised work program  
7306 conducted by a specified state, county, municipal, or community  
7307 service organization or to work for the victim, either as an  
7308 alternative to monetary restitution or as a part of the  
7309 rehabilitative or community control program, the offender shall  
7310 be considered an employee of the state for the purposes of



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7311 chapter 440.

7312 Section 158. For the purpose of incorporating the  
7313 amendments made by this act to sections 948.08 and 948.16,  
7314 Florida Statutes, in references thereto, subsection (2) of  
7315 section 394.47892, Florida Statutes, is reenacted to read:

7316 394.47892 Mental health court programs.—

7317 (2) Mental health court programs may include pretrial  
7318 intervention programs as provided in ss. 948.08, 948.16, and  
7319 985.345, postadjudicatory mental health court programs as  
7320 provided in ss. 948.01 and 948.06, and review of the status of  
7321 compliance or noncompliance of sentenced defendants through a  
7322 mental health court program.

7323 Section 159. For the purpose of incorporating the  
7324 amendments made by this act to sections 948.08 and 948.16,  
7325 Florida Statutes, in references thereto, subsection (5) of  
7326 section 397.334, Florida Statutes, is reenacted to read:

7327 397.334 Treatment-based drug court programs.—

7328 (5) Treatment-based drug court programs may include  
7329 pretrial intervention programs as provided in ss. 948.08,  
7330 948.16, and 985.345, treatment-based drug court programs  
7331 authorized in chapter 39, postadjudicatory programs as provided  
7332 in ss. 948.01, 948.06, and 948.20, and review of the status of  
7333 compliance or noncompliance of sentenced offenders through a  
7334 treatment-based drug court program. While enrolled in a  
7335 treatment-based drug court program, the participant is subject  
7336 to a coordinated strategy developed by a drug court team under  
7337 subsection (4). The coordinated strategy may include a protocol  
7338 of sanctions that may be imposed upon the participant for  
7339 noncompliance with program rules. The protocol of sanctions may



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7340 include, but is not limited to, placement in a substance abuse  
7341 treatment program offered by a licensed service provider as  
7342 defined in s. 397.311 or in a jail-based treatment program or  
7343 serving a period of secure detention under chapter 985 if a  
7344 child or a period of incarceration within the time limits  
7345 established for contempt of court if an adult. The coordinated  
7346 strategy must be provided in writing to the participant before  
7347 the participant agrees to enter into a treatment-based drug  
7348 court program.

7349 Section 160. For the purpose of incorporating the  
7350 amendments made by this act to sections 948.08 and 948.16,  
7351 Florida Statutes, in references thereto, paragraph (a) of  
7352 subsection (5) of section 910.035, Florida Statutes, is  
7353 reenacted to read:

7354 910.035 Transfer from county for plea, sentence, or  
7355 participation in a problem-solving court.—

7356 (5) TRANSFER FOR PARTICIPATION IN A PROBLEM-SOLVING COURT.—

7357 (a) For purposes of this subsection, the term "problem-  
7358 solving court" means a drug court pursuant to s. 948.01, s.  
7359 948.06, s. 948.08, s. 948.16, or s. 948.20; a military veterans'  
7360 and servicemembers' court pursuant to s. 394.47891, s. 948.08,  
7361 s. 948.16, or s. 948.21; a mental health court program pursuant  
7362 to s. 394.47892, s. 948.01, s. 948.06, s. 948.08, or s. 948.16;  
7363 or a delinquency pretrial intervention court program pursuant to  
7364 s. 985.345.

7365 Section 161. For the purpose of incorporating the amendment  
7366 made by this act to section 948.21, Florida Statutes, in a  
7367 reference thereto, paragraph (a) of subsection (5) of section  
7368 910.035, Florida Statutes, is reenacted to read:



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7369           910.035 Transfer from county for plea, sentence, or  
7370 participation in a problem-solving court.—

7371           (5) TRANSFER FOR PARTICIPATION IN A PROBLEM-SOLVING COURT.—

7372           (a) For purposes of this subsection, the term “problem-  
7373 solving court” means a drug court pursuant to s. 948.01, s.  
7374 948.06, s. 948.08, s. 948.16, or s. 948.20; a military veterans’  
7375 and servicemembers’ court pursuant to s. 394.47891, s. 948.08,  
7376 s. 948.16, or s. 948.21; a mental health court program pursuant  
7377 to s. 394.47892, s. 948.01, s. 948.06, s. 948.08, or s. 948.16;  
7378 or a delinquency pretrial intervention court program pursuant to  
7379 s. 985.345.

7380           Section 162. For the purpose of incorporating the amendment  
7381 made by this act to section 958.04, Florida Statutes, in a  
7382 reference thereto, subsection (5) of section 958.03, Florida  
7383 Statutes, is reenacted to read:

7384           958.03 Definitions.—As used in this act:

7385           (5) “Youthful offender” means any person who is sentenced  
7386 as such by the court or is classified as such by the department  
7387 pursuant to s. 958.04.

7388           Section 163. For the purpose of incorporating the amendment  
7389 made by this act to section 958.04, Florida Statutes, in a  
7390 reference thereto, paragraph (a) of subsection (8) of section  
7391 958.045, Florida Statutes, is reenacted to read:

7392           958.045 Youthful offender basic training program.—

7393           (8)(a) The Assistant Secretary for Youthful Offenders shall  
7394 continuously screen all institutions, facilities, and programs  
7395 for any inmate who meets the eligibility requirements for  
7396 youthful offender designation specified in s. 958.04, whose age  
7397 does not exceed 24 years. The department may classify and assign



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7398 as a youthful offender any inmate who meets the criteria of s.  
7399 958.04.

7400 Section 164. For the purpose of incorporating the amendment  
7401 made by this act to section 958.04, Florida Statutes, in a  
7402 reference thereto, section 958.046, Florida Statutes, is  
7403 reenacted to read:

7404 958.046 Placement in county-operated boot camp programs for  
7405 youthful offenders.—In counties where there are county-operated  
7406 youthful offender boot camp programs, other than boot camps  
7407 described in s. 958.04, the court may sentence a youthful  
7408 offender to such a boot camp. In county-operated youthful  
7409 offender boot camp programs, juvenile offenders shall not be  
7410 commingled with youthful offenders.

7411 Section 165. For the purpose of incorporating the amendment  
7412 made by this act to section 958.04, Florida Statutes, in a  
7413 reference thereto, paragraph (c) of subsection (4) of section  
7414 985.565, Florida Statutes, is reenacted to read:

7415 985.565 Sentencing powers; procedures; alternatives for  
7416 juveniles prosecuted as adults.—

7417 (4) SENTENCING ALTERNATIVES.—

7418 (c) *Adult sanctions upon failure of juvenile sanctions.*—If  
7419 a child proves not to be suitable to a commitment program,  
7420 juvenile probation program, or treatment program under paragraph  
7421 (b), the department shall provide the sentencing court with a  
7422 written report outlining the basis for its objections to the  
7423 juvenile sanction and shall simultaneously provide a copy of the  
7424 report to the state attorney and the defense counsel. The  
7425 department shall schedule a hearing within 30 days. Upon  
7426 hearing, the court may revoke the previous adjudication, impose



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7427 an adjudication of guilt, and impose any sentence which it may  
7428 lawfully impose, giving credit for all time spent by the child  
7429 in the department. The court may also classify the child as a  
7430 youthful offender under s. 958.04, if appropriate. For purposes  
7431 of this paragraph, a child may be found not suitable to a  
7432 commitment program, community control program, or treatment  
7433 program under paragraph (b) if the child commits a new violation  
7434 of law while under juvenile sanctions, if the child commits any  
7435 other violation of the conditions of juvenile sanctions, or if  
7436 the child's actions are otherwise determined by the court to  
7437 demonstrate a failure of juvenile sanctions.

7438

7439 It is the intent of the Legislature that the criteria and  
7440 guidelines in this subsection are mandatory and that a  
7441 determination of disposition under this subsection is subject to  
7442 the right of the child to appellate review under s. 985.534.

7443 Section 166. For the purpose of incorporating the amendment  
7444 made by this act to section 985.557, Florida Statutes, in a  
7445 reference thereto, subsection (1) of section 985.15, Florida  
7446 Statutes, is reenacted to read:

7447 985.15 Filing decisions.—

7448 (1) The state attorney may in all cases take action  
7449 independent of the action or lack of action of the juvenile  
7450 probation officer and shall determine the action that is in the  
7451 best interest of the public and the child. If the child meets  
7452 the criteria requiring prosecution as an adult under s. 985.556,  
7453 the state attorney shall request the court to transfer and  
7454 certify the child for prosecution as an adult or shall provide  
7455 written reasons to the court for not making such a request. In



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7456 all other cases, the state attorney may:  
7457       (a) File a petition for dependency;  
7458       (b) File a petition under chapter 984;  
7459       (c) File a petition for delinquency;  
7460       (d) File a petition for delinquency with a motion to  
7461 transfer and certify the child for prosecution as an adult;  
7462       (e) File an information under s. 985.557;  
7463       (f) Refer the case to a grand jury;  
7464       (g) Refer the child to a diversionary, pretrial  
7465 intervention, arbitration, or mediation program, or to some  
7466 other treatment or care program if such program commitment is  
7467 voluntarily accepted by the child or the child's parents or  
7468 legal guardian; or  
7469       (h) Decline to file.  
7470       Section 167. For the purpose of incorporating the amendment  
7471 made by this act to section 985.557, Florida Statutes, in a  
7472 reference thereto, paragraph (c) of subsection (2) of section  
7473 985.26, Florida Statutes, is reenacted to read:  
7474       985.26 Length of detention.—  
7475       (2)  
7476       (c) A prolific juvenile offender under s. 985.255(1)(j)  
7477 shall be placed on nonsecure detention care with electronic  
7478 monitoring or in secure detention care under a special detention  
7479 order until disposition. If secure detention care is ordered by  
7480 the court, it must be authorized under this part and may not  
7481 exceed:  
7482       1. Twenty-one days unless an adjudicatory hearing for the  
7483 case has been commenced in good faith by the court or the period  
7484 is extended by the court pursuant to paragraph (b); or



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7485           2. Fifteen days after the entry of an order of  
7486 adjudication.

7487  
7488 As used in this paragraph, the term "disposition" means a  
7489 declination to file under s. 985.15(1)(h), the entry of nolle  
7490 prosequi for the charges, the filing of an indictment under s.  
7491 985.56 or an information under s. 985.557, a dismissal of the  
7492 case, or an order of final disposition by the court.

7493           Section 168. For the purpose of incorporating the amendment  
7494 made by this act to section 985.557, Florida Statutes, in a  
7495 reference thereto, subsection (5) of section 985.265, Florida  
7496 Statutes, is reenacted to read:

7497           985.265 Detention transfer and release; education; adult  
7498 jails.—

7499           (5) The court shall order the delivery of a child to a jail  
7500 or other facility intended or used for the detention of adults:

7501           (a) When the child has been transferred or indicted for  
7502 criminal prosecution as an adult under part X, except that the  
7503 court may not order or allow a child alleged to have committed a  
7504 misdemeanor who is being transferred for criminal prosecution  
7505 pursuant to either s. 985.556 or s. 985.557 to be detained or  
7506 held in a jail or other facility intended or used for the  
7507 detention of adults; however, such child may be held temporarily  
7508 in a detention facility; or

7509           (b) When a child taken into custody in this state is wanted  
7510 by another jurisdiction for prosecution as an adult.

7511  
7512 The child shall be housed separately from adult inmates to  
7513 prohibit a child from having regular contact with incarcerated



7514 adults, including trustees. "Regular contact" means sight and  
7515 sound contact. Separation of children from adults shall permit  
7516 no more than haphazard or accidental contact. The receiving jail  
7517 or other facility shall contain a separate section for children  
7518 and shall have an adequate staff to supervise and monitor the  
7519 child's activities at all times. Supervision and monitoring of  
7520 children includes physical observation and documented checks by  
7521 jail or receiving facility supervisory personnel at intervals  
7522 not to exceed 10 minutes. This subsection does not prohibit  
7523 placing two or more children in the same cell. Under no  
7524 circumstances shall a child be placed in the same cell with an  
7525 adult.

7526 Section 169. Except as otherwise expressly provided in this  
7527 act, and except for this section, which shall take effect upon  
7528 becoming a law, this act shall take effect October 1, 2019.

7529  
7530 ===== T I T L E A M E N D M E N T =====

7531 And the title is amended as follows:

7532 Delete everything before the enacting clause  
7533 and insert:

7534 A bill to be entitled  
7535 An act relating to public safety; creating s. 25.025,  
7536 F.S.; authorizing certain Supreme Court justices to  
7537 have an appropriate facility in their district of  
7538 residence designated as their official headquarters;  
7539 providing that an official headquarters may serve only  
7540 as a justice's private chambers; providing that such  
7541 justices are eligible for a certain subsistence  
7542 allowance and reimbursement for certain transportation



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7543 expenses; requiring that such allowance and  
7544 reimbursement be made to the extent appropriated funds  
7545 are available, as determined by the Chief Justice;  
7546 requiring the Chief Justice to coordinate with certain  
7547 persons in designating official headquarters;  
7548 providing that a county is not required to provide  
7549 space for a justice in a county courthouse;  
7550 authorizing counties to enter into agreements with the  
7551 Supreme Court for the use of county courthouse space;  
7552 prohibiting the Supreme Court from using state funds  
7553 to lease space in specified facilities to allow a  
7554 justice to establish an official headquarters;  
7555 amending s. 26.031, F.S.; increasing the number of  
7556 circuit judges in certain judicial circuits; creating  
7557 s. 43.51, F.S.; requiring the Office of the State  
7558 Courts Administrator to provide an annual report  
7559 containing certain information to the Legislature;  
7560 defining the term "problem-solving court"; amending s.  
7561 212.15, F.S.; increasing threshold amounts for certain  
7562 theft offenses; amending s. 322.055, F.S.; reducing  
7563 the length of driver license revocation for possession  
7564 or sale of, trafficking in, or conspiracy to possess,  
7565 sell, or traffic in a controlled substance; deleting  
7566 provisions authorizing a driver to petition the  
7567 Department of Highway Safety and Motor Vehicles for  
7568 restoration of his or her driving privilege; amending  
7569 s. 322.056, F.S.; reducing the period for revocation  
7570 or suspension of, or delay of eligibility for, driver  
7571 licenses or driving privileges for certain persons



7572 found guilty of certain drug offenses; deleting  
7573 requirements relating to the revocation or suspension  
7574 of, or delay of eligibility for, driver licenses or  
7575 driving privileges for certain persons found guilty of  
7576 certain alcohol or tobacco offenses; deleting  
7577 provisions authorizing a driver to petition the  
7578 department for restoration of his or her driving  
7579 privilege; repealing s. 322.057, F.S., relating to  
7580 discretionary revocation or suspension of a driver  
7581 license for certain persons who provide alcohol to  
7582 persons under a specified age; amending s. 322.34,  
7583 F.S; revising criminal for the third offense of  
7584 driving while license suspended, revoked, canceled, or  
7585 disqualified; creating s. 322.75, F.S.; requiring each  
7586 clerk of court to establish a Driver License  
7587 Reinstatement Days program for reinstating suspended  
7588 driver licenses in certain circumstances; providing  
7589 duties of the clerks of the circuit courts and the  
7590 department; authorizing such clerks to compromise on  
7591 or waive certain fees and costs; providing eligibility  
7592 requirements; requiring the clerks of court to collect  
7593 specified data and report such data to the Florida  
7594 Clerks of Court Operations Corporation; requiring the  
7595 Florida Clerks of Court Operations Corporation to  
7596 report specified information in the annual report  
7597 required by s. 28.35, F.S.; amending s. 394.47891,  
7598 F.S.; requiring the chief judge of each judicial  
7599 circuit to establish a Military Veterans and  
7600 Servicemembers Court Program; revising the list of



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7601 individuals who, if charged or convicted of certain  
7602 criminal offenses, may participate in a Military  
7603 Veterans and Servicemembers Court Program under  
7604 certain circumstances; amending s. 394.917, F.S.;  
7605 requiring the Department of Children and Families to  
7606 provide rehabilitation to criminal offenders  
7607 designated as sexually violent predators; amending s.  
7608 397.334, F.S.; conforming provisions to changes made  
7609 in the act; amending s. 455.213, F.S.; conforming a  
7610 cross-reference; requiring the Department of Business  
7611 and Professional Regulation or applicable board to use  
7612 a specified process for the review of an applicant's  
7613 criminal history record to determine the applicant's  
7614 eligibility for certain licenses; prohibiting the  
7615 conviction of a crime before a specified date from  
7616 being grounds for denial of certain licenses; defining  
7617 the term "conviction"; authorizing a person to apply  
7618 for a license before his or her lawful release from  
7619 confinement or supervision; prohibiting additional  
7620 fees for an applicant confined or under supervision;  
7621 prohibiting the department or applicable board from  
7622 basing a denial of a license application solely on the  
7623 applicant's current confinement or supervision;  
7624 authorizing the department or applicable board to stay  
7625 the issuance of an approved license under certain  
7626 circumstances; requiring the department or applicable  
7627 board to verify an applicant's release with the  
7628 Department of Corrections or other applicable  
7629 authority; providing requirements for the appearance



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7630 of certain applicants at certain meetings; requiring  
7631 the department or applicable board to provide an  
7632 annually updated list on its website specifying how  
7633 certain crimes affect an applicant's eligibility for  
7634 licensure; providing that certain information be  
7635 identified for each crime on the list; requiring such  
7636 list be available to the public upon request; amending  
7637 s. 474.2165, F.S.; authorizing a veterinarian to  
7638 report certain suspected criminal violations without  
7639 notice to or authorization from a client; providing an  
7640 exception; amending s. 489.126, F.S.; providing a just  
7641 cause defense for criminal offenses and disciplinary  
7642 violations; providing an inference; deleting an intent  
7643 requirement for contractor offenses; revising elements  
7644 of offenses; revising criminal penalties for  
7645 contractor offenses; amending s. 489.553, F.S.;  
7646 prohibiting the conviction of a crime from being  
7647 grounds for the denial of registration after a  
7648 specified time has passed under certain circumstances;  
7649 defining the term "conviction"; authorizing a person  
7650 to apply for registration before his or her lawful  
7651 release from confinement or supervision; prohibiting  
7652 the Department of Business and Professional Regulation  
7653 from charging an applicant who is confined or under  
7654 supervision additional fees; prohibiting the  
7655 applicable board from basing the denial of  
7656 registration solely on the applicant's current  
7657 confinement or supervision; authorizing the board to  
7658 stay the issuance of an approved registration under



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7659 certain circumstances; requiring the board to verify  
7660 an applicant's release with the Department of  
7661 Corrections or other applicable authority; providing  
7662 requirements for the appearance of certain applicants  
7663 at certain meetings; requiring the applicable board to  
7664 provide a quarterly updated list on its website  
7665 specifying how certain crimes may affect an  
7666 applicant's eligibility for registration; providing  
7667 that certain information be identified for each crime  
7668 on the list; requiring such list be available to the  
7669 public upon request; amending s. 500.451, F.S.;

7670 abolishing mandatory minimum sentence for the sale of  
7671 horse meat for human consumption; amending s. 509.151,  
7672 F.S.; increasing threshold amounts for certain theft  
7673 offenses; amending s. 562.11, F.S.; deleting  
7674 provisions relating to withholding, suspending, or  
7675 revoking the driving privilege of a person who  
7676 provides alcoholic beverages to a person under 21  
7677 years of age; amending s. 562.111, F.S.; deleting  
7678 provisions relating to withholding, suspending, or  
7679 revoking the driving privilege of a person under 21  
7680 years of age who possesses alcoholic beverages;  
7681 amending s. 562.27, F.S.; reducing the offense  
7682 severity of certain crimes related to the possession  
7683 of a still or related apparatus; amending s. 562.451,  
7684 F.S.; reducing the offense severity for possession of  
7685 one or more gallons of certain liquors; amending s.  
7686 569.11, F.S.; conforming provisions to changes made by  
7687 the act; revising penalties; amending s. 713.69, F.S.;



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7688 increasing thresholds for certain theft offenses;  
7689 amending s. 775.082, F.S.; specifying that certain  
7690 offenders released from incarceration from county  
7691 detention facilities qualify as prison releasee  
7692 reoffenders; amending s. 775.087, F.S.; providing  
7693 legislative intent regarding retroactive application;  
7694 prohibiting mandatory minimum sentencing for  
7695 aggravated assault or attempted aggravated assault  
7696 committed before July 1, 2016; amending s. 784.046,  
7697 F.S.; prohibiting attorney fees in cases seeking an  
7698 injunction for protection against repeat, dating, or  
7699 sexual violence; amending s. 784.048, F.S.; revising  
7700 the definition of the term "cyberstalk"; providing  
7701 criminal penalties; amending s. 784.0485, F.S.;  
7702 prohibiting attorney fees in cases seeking an  
7703 injunction for protection against stalking; amending  
7704 s. 790.052, F.S.; specifying that certain law  
7705 enforcement and correctional officers meet the  
7706 definition of "qualified law enforcement officer" for  
7707 the purposes of qualifying for certain rights during  
7708 off-duty hours; specifying that certain persons meet  
7709 the definition of "qualified retired law enforcement  
7710 officer" for the purposes of qualifying for certain  
7711 rights during off-duty hours; amending s. 790.22,  
7712 F.S.; authorizing, rather than requiring, a court to  
7713 withhold issuance of or suspend a person's driver  
7714 license or driving privilege for a minor who possesses  
7715 or uses a firearm in certain circumstances; amending  
7716 s. 800.09, F.S.; revising the definition of the term



7717 "employee"; prohibiting certain lewd or lascivious  
7718 acts in the presence of county correctional personnel;  
7719 providing criminal penalties; amending s. 806.13,  
7720 F.S.; authorizing, rather than requiring, a court to  
7721 withhold issuance of or suspend a person's driver  
7722 license or driving privilege for committing criminal  
7723 mischief by a minor; amending s. 812.014, F.S.;  
7724 increasing the threshold amount for certain theft  
7725 offenses; requiring the Office of Program Policy and  
7726 Analysis (OPPAGA) to perform a study about certain  
7727 threshold amounts on a specified schedule; providing  
7728 study requirements; requiring OPPAGA to consult with  
7729 the Office of Economic and Demographic Research and  
7730 other interested entities; requiring OPPAGA to submit  
7731 a report to the Governor and the Legislature by a  
7732 certain date and on a specified basis; amending s.  
7733 812.015, F.S.; revising the circumstances under which  
7734 an offense of retail theft constitutes a felony of the  
7735 second or third degree; authorizing the aggregation of  
7736 retail thefts that occur in more than one judicial  
7737 circuit within a 30-day period into one total value  
7738 and requiring prosecution of such thefts by the Office  
7739 of the Statewide Prosecutor in accordance with s.  
7740 16.56, F.S.; requiring the OPPAGA to perform a study  
7741 about certain threshold amounts on a specified  
7742 schedule; providing study requirements; requiring  
7743 OPPAGA to consult with the Office of Economic and  
7744 Demographic Research and other interested entities;  
7745 requiring OPPAGA to submit a report to the Governor



7746 and the Legislature by a certain date and on a  
7747 specified basis; amending s. 812.0155, F.S.; removing  
7748 a court's authority to suspend a driver license for a  
7749 misdemeanor theft adjudication of guilt for a person  
7750 18 years of age or older; allowing a court to suspend  
7751 a driver license for a person 18 years of age or  
7752 younger as an alternative to other possible sentences;  
7753 amending s. 815.03, F.S.; revising the definition of  
7754 the term "access" for purposes of provisions relating  
7755 to computer crimes; amending s. 815.06, F.S.; revising  
7756 conduct constituting an offense against users of  
7757 computers, computer systems, computer networks, or  
7758 electronic devices; providing criminal penalties;  
7759 amending s. 817.413, F.S.; increasing threshold  
7760 amounts for certain theft offenses; amending s.  
7761 831.28, F.S.; criminalizing possession of a  
7762 counterfeit instrument with intent to defraud;  
7763 amending s. 847.011, F.S.; prohibiting a person from  
7764 knowingly selling, lending, giving away, distributing,  
7765 transmitting, showing, or transmuting; offering to  
7766 commit such actions, having in his or her possession,  
7767 custody, or control with the intent to commit such  
7768 actions or advertising in any manner an obscene,  
7769 child-like sex doll; providing criminal penalties;  
7770 prohibiting a person from knowingly having in his or  
7771 her possession, custody, or control an obscene, child-  
7772 like sex doll; providing criminal penalties; amending  
7773 s. 849.01, F.S.; reducing the offense severity of  
7774 certain crimes relating to keeping a gambling house or



7775 possessing certain gambling apparatuses; amending s.  
7776 877.112, F.S.; removing driver license revocation or  
7777 suspension as a penalty for certain offenses involving  
7778 nicotine products; amending s. 893.135, F.S.; defining  
7779 the term "dosage unit"; providing applicability;  
7780 prohibiting the sale, purchase, delivery, bringing  
7781 into this state, or actual or constructive possession  
7782 of specified amounts of dosage units of certain  
7783 controlled substances; creating the offense of  
7784 "trafficking in pharmaceuticals"; providing criminal  
7785 penalties; requiring that the court impose, for an  
7786 offense relating to trafficking in certain substances,  
7787 a sentence pursuant to the Criminal Punishment Code  
7788 and without regard to any statutory minimum sentence  
7789 if the court makes specified findings under certain  
7790 circumstances; providing legislative intent regarding  
7791 retroactive application; providing for sentencing or  
7792 resentencing of specified drug trafficking offenses  
7793 committed before July 1, 2014; amending s. 900.05,  
7794 F.S.; revising and providing definitions; revising and  
7795 providing data required to be collected and reported  
7796 to the Department of Law Enforcement by specified  
7797 entities; requiring the department to publish data  
7798 received from reporting agencies by a specified date;  
7799 imposing penalties on reporting agencies for  
7800 noncompliance with data reporting requirements;  
7801 declaring information that is confidential and exempt  
7802 upon collection by a reporting agency remains  
7803 confidential and exempt when reported to the



7804 department; creating s. 900.06, F.S.; defining terms  
7805 and specifying covered offenses; requiring that a  
7806 custodial interrogation at a place of detention be  
7807 electronically recorded in its entirety in connection  
7808 with certain offenses; requiring law enforcement  
7809 officers who do not comply with the electronic  
7810 recording requirement or who conduct custodial  
7811 interrogations at a place other than a place of  
7812 detention to prepare a specified report; providing  
7813 exceptions to the electronic recording requirement;  
7814 requiring a court to consider a law enforcement  
7815 officer's failure to comply with the electronic  
7816 recording requirements in determining the  
7817 admissibility of a statement, unless an exception  
7818 applies; requiring a court, upon the request of a  
7819 defendant, to give cautionary instructions to a jury  
7820 under certain circumstances; providing immunity from  
7821 civil liability to law enforcement agencies that  
7822 enforce certain rules; providing that no cause of  
7823 action is created against a law enforcement officer;  
7824 amending s. 921.002, F.S.; revising a principle of the  
7825 Criminal Punishment Code relating to a prisoner's  
7826 required minimum term of imprisonment; providing  
7827 retroactivity; creating s. 943.0578, F.S.;

7828 establishing eligibility criteria for expunction of a  
7829 criminal history record by a person found to have  
7830 acted in lawful self-defense; requiring the department  
7831 to issue a certificate of eligibility for expunction  
7832 if specified criteria are fulfilled; specifying



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7833 requirements for a petition to expunge; creating a  
7834 penalty for providing false information on such  
7835 petition; requiring the department to adopt rules  
7836 relating to a certificate of expunction for lawful  
7837 self-defense; amending s. 943.0581, F.S.; clarifying  
7838 administrative expunction applies to criminal history  
7839 records resulting from an arrest made contrary to law  
7840 or by mistake; creating s. 943.0584, F.S.; providing a  
7841 definition; specifying criminal history records which  
7842 are ineligible for court-ordered expunction or court-  
7843 ordered sealing; amending s. 943.0585, F.S.; providing  
7844 eligibility criteria for court-ordered expunction of a  
7845 criminal history record; requiring the department to  
7846 issue a certificate of eligibility to petitioners  
7847 meeting eligibility criteria; specifying requirements  
7848 for a petition for court-ordered expunction;  
7849 specifying a court's authority to expunge criminal  
7850 history records; specifying the process for a petition  
7851 to expunge a criminal history record; specifying the  
7852 process following the issuance of an order to expunge  
7853 a criminal history record; specifying the effect of an  
7854 order to expunge a criminal history record; amending  
7855 s. 943.059, F.S.; providing eligibility criteria for  
7856 court-ordered sealing of a criminal history record;  
7857 requiring the department to issue a certificate of  
7858 eligibility to petitioners meeting eligibility  
7859 criteria; specifying requirements for a petition for  
7860 court-ordered sealing; specifying a court's authority  
7861 to seal criminal history records; specifying the



7862 process for a petition to seal a criminal history  
7863 record; specifying the effect of an order to seal a  
7864 criminal history record; creating s. 943.0595, F.S.;  
7865 requiring the department to adopt rules to implement  
7866 administrative sealing of specified criminal history  
7867 records; providing eligibility criteria for  
7868 administrative sealing of criminal history records;  
7869 specifying ineligible criminal history records;  
7870 providing that there is no limitation on the number of  
7871 times a person with an eligible criminal history  
7872 record may obtain an automatic administrative sealing;  
7873 requiring the clerk of court to transmit a certified  
7874 copy of an eligible criminal history record to the  
7875 department upon the resolution of a criminal case;  
7876 specifying that the effect of automatic sealing is the  
7877 same as court-ordered sealing; amending s. 943.325,  
7878 F.S.; revising legislative findings relating to the  
7879 use of the DNA database; amending s. 943.6871, F.S.;  
7880 declaring information received by the department from  
7881 a reporting agency that is confidential and exempt  
7882 upon collection remains confidential and exempt;  
7883 amending s. 944.275, F.S.; revising the incentive  
7884 gain-time that the Department of Corrections may grant  
7885 a prisoner for offenses committed on or after a  
7886 specified date; amending s. 944.47, F.S.; providing  
7887 enhanced penalties for offenses involving introduction  
7888 of contraband in correctional facilities when  
7889 committed by correctional facility employees; amending  
7890 s. 944.611, F.S.; providing legislative intent with



7891           respect to the location of an inmate's confinement;  
7892           amending s. 944.704, F.S.; requiring transition  
7893           assistance staff to provide job assignment  
7894           credentialing and industry certification information  
7895           to inmates before their release; authorizing the  
7896           department to increase the number of employees serving  
7897           as transition specialists and employment specialists;  
7898           amending s. 944.705, F.S.; requiring the department to  
7899           establish a telephone hotline for released offenders;  
7900           requiring that the department provide an inmate with a  
7901           comprehensive community reentry resource directory  
7902           organized by county before an inmate's release;  
7903           requiring the department to use certain programming  
7904           data to notify inmates about reentry resources before  
7905           release; authorizing a nonprofit faith-based or  
7906           professional business or a civic or community  
7907           organization to apply for registration with the  
7908           department to provide inmate reentry services;  
7909           requiring the department to adopt certain policies and  
7910           procedures; authorizing the department to deny  
7911           approval and registration of an organization or  
7912           representative of an organization under certain  
7913           circumstances; authorizing the department to contract  
7914           with a public or private educational institution's  
7915           Veterans Advocacy Clinic or Veterans Legal Clinic for  
7916           certain purposes; authorizing the department to  
7917           contract with public or private organizations to  
7918           establish transitional employment programs that  
7919           provide employment opportunities to recently released



7920 inmates; requiring the department to adopt certain  
7921 rules; amending s. 944.801, F.S.; authorizing the  
7922 Correctional Education Program to establish a Prison  
7923 Entrepreneurship Program and adopt procedures for  
7924 admitting student inmates; providing requirements for  
7925 the program; authorizing transitional and postrelease  
7926 continuing educational services to be offered under  
7927 certain circumstances; requiring the department to  
7928 enter into certain agreements to implement the  
7929 program; requiring that the program be funded with  
7930 existing resources; amending s. 948.001, F.S.;

7931 redefining the term "administrative probation";  
7932 amending s. 948.013, F.S.; authorizing the department  
7933 to transfer an offender to administrative probation  
7934 under certain circumstances; amending s. 948.03, F.S.;

7935 requiring the department to include in the Florida  
7936 Crime Information Center system all conditions of  
7937 probation as determined by the court for each  
7938 probationer; amending s. 948.04, F.S.; requiring a  
7939 court to early terminate a term of probation or  
7940 convert the term to administrative probation under  
7941 certain circumstances; allowing a court to continue  
7942 reporting probation upon making written findings;

7943 amending s. 948.05, F.S.; requiring the department to  
7944 implement a graduated incentives program for  
7945 probationers and offenders on community control;  
7946 authorizing the department to issue certain incentives  
7947 without leave of court; amending s. 948.06, F.S.;

7948 requiring a court to modify or continue a probationary



7949 term under certain circumstances; requiring a  
7950 probation officer to determine whether a probationer  
7951 or offender on community control who commits a  
7952 technical violation is eligible for a certain  
7953 alternative sanctioning program; authorizing the  
7954 probation officer to take certain actions if such  
7955 probationer or offender is eligible; defining the term  
7956 "technical violation"; requiring that judicial  
7957 circuits establish an alternative sanctioning program;  
7958 authorizing the chief judge of each judicial circuit  
7959 to issue specified administrative orders; requiring a  
7960 probation officer to submit to the court for approval  
7961 any recommended sanctions against a probationer or  
7962 offender determined to be eligible for the program to  
7963 the court for approval; defining the terms "low-risk  
7964 violation" and "moderate-risk violation"; specifying  
7965 circumstances under which a probationer or offender on  
7966 community control is not eligible for an alternative  
7967 sanction; authorizing a probation officer to offer an  
7968 eligible probationer one or more specified alternative  
7969 sanctions for a first or second low-risk violation;  
7970 authorizing a probation officer, under certain  
7971 circumstances, to offer an eligible probationer or  
7972 offender on community control one or more specified  
7973 alternative sanctions for a first moderate-risk  
7974 violation; providing that the participation of a  
7975 probationer or offender on community control in the  
7976 alternative sanctioning program is voluntary, subject  
7977 to certain requirements; specifying actions that a



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7978 probationer or offender on community control may take  
7979 if he or she is eligible for an alternative  
7980 sanctioning program; providing that a probation  
7981 officer, under certain circumstances, submit a  
7982 recommended sanction to the court; authorizing the  
7983 court to impose the recommended sanction or direct the  
7984 department to submit a violation report, affidavit,  
7985 and warrant to the court; authorizing a probation  
7986 officer to submit a violation report, affidavit, and  
7987 warrant to the court under certain circumstances;  
7988 prohibiting certain evidence in subsequent  
7989 proceedings; amending s. 948.08, F.S.; expanding  
7990 eligibility criteria for pretrial substance abuse  
7991 education programs to include a person with two or  
7992 fewer convictions for nonviolent felonies; revising  
7993 the list of individuals who, if charged with certain  
7994 felonies, are eligible for voluntary admission into a  
7995 pretrial veterans' treatment intervention program  
7996 under certain circumstances; creating s. 948.081,  
7997 F.S.; authorizing community court programs; amending  
7998 s. 948.16, F.S.; revising the list of individuals who,  
7999 if charged with certain misdemeanors, are eligible for  
8000 voluntary admission into a misdemeanor pretrial  
8001 veterans' treatment intervention program under certain  
8002 circumstances; amending s. 948.21, F.S.; revising the  
8003 list of individuals who, if probationers or community  
8004 controlees, may be required to participate in a  
8005 certain treatment program under certain circumstances;  
8006 providing program criteria; amending s. 951.22, F.S.;



8007 prohibiting introduction into or possession of certain  
8008 cellular telephones or other portable communication  
8009 devices on the grounds of any county detention  
8010 facility; providing criminal penalties; amending s.  
8011 958.04, F.S.; revising the criteria authorizing a  
8012 court to sentence as a youthful offender a person who  
8013 is found guilty of, or who pled nolo contendere or  
8014 guilty to, committing a felony before the person  
8015 turned 21 years of age; amending s. 960.07, F.S.;  
8016 increasing the timeframe for filing a crime victim  
8017 compensation claim; providing an extension for good  
8018 cause for a specified period; increasing the timeframe  
8019 for a victim or intervenor who was under the age of 18  
8020 at the time of the crime to file a claim; provides an  
8021 extension for good cause of 2 additional years;  
8022 increasing the timeframe for filing a claim for victim  
8023 compensation for a victim of a sexually violent  
8024 offense; amending s. 960.13, F.S.; increasing the  
8025 timeframe for prompt reporting of a crime to be  
8026 eligible for a victim compensation award; amending s.  
8027 960.195, F.S.; increasing the timeframe for reporting  
8028 a criminal or delinquent act resulting in property  
8029 loss of an elderly person or disabled adult; amending  
8030 s. 960.196, F.S.; increasing the timeframe to report  
8031 certain human trafficking offenses to be eligible for  
8032 a victim relocation assistance award; providing an  
8033 extension for good cause; amending s. 985.12, F.S.;  
8034 providing that locally authorized entities may  
8035 continue to operate an independent civil citation or



8036 similar prearrest diversion program that is in  
8037 operation as of October 1, 2018; requiring each civil  
8038 citation or similar diversion program to enter in  
8039 appropriate youth data into the Juvenile Justice  
8040 Information System Prevention Web within 7 days after  
8041 the admission of the youth into the program; amending  
8042 s. 985.126, F.S.; removing the requirement for law  
8043 enforcement officers to submit a copy of specified  
8044 documentation to the Department of Juvenile Justice;  
8045 requiring certain information be entered into the  
8046 Juvenile Justice Information System Prevention Web  
8047 within a specified timeframe; amending s. 985.145,  
8048 F.S.; deleting the requirement that the department  
8049 must enter certain information into the Juvenile  
8050 Justice Information System Prevention Web in specified  
8051 instances; amending s. 985.557, F.S.; deleting  
8052 provisions requiring the mandatory direct filing of  
8053 charges in adult court against juveniles in certain  
8054 circumstances; amending ss. 776.09, 893.03, 943.053,  
8055 and 943.0582, F.S.; conforming cross-references;  
8056 amending s. 985.565, F.S.; conforming provisions to  
8057 changes made by the act; amending s. 921.0022, F.S.;  
8058 listing on levels 3 and 4 certain felonies on the  
8059 offense severity ranking chart of the Criminal  
8060 Punishment Code; conforming provisions to changes made  
8061 by the act; reenacting s. 322.05(11), F.S., relating  
8062 to prohibiting the issuance of a driver license to  
8063 certain persons, to incorporate the amendment made to  
8064 s. 322.056, F.S., in a reference thereto; reenacting



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8065 s. 316.027(2)(c) and 907.041(4)(c), F.S., relating to  
8066 a crash involving death or personal injuries and  
8067 pretrial detention and release, respectively, to  
8068 incorporate the amendment made to s. 322.34, F.S., in  
8069 references thereto; reenacting s. 910.035(5), F.S.,  
8070 relating to transfer for participation in a problem-  
8071 solving court, to incorporate the amendment made to s.  
8072 394.47891, F.S., in a reference thereto; reenacting s.  
8073 509.161, F.S., relating to rules of evidence in  
8074 certain prosecutions, to incorporate the amendment  
8075 made to s. 509.151, F.S., in a reference thereto;  
8076 reenacting ss. 790.065(2)(c), 794.056(1), 847.0141(4),  
8077 901.41(5), 938.08, 938.085, 943.325(2)(g),  
8078 948.06(8)(c), 948.062(1), 960.001(1)(b),  
8079 985.265(3)(b), and 1006.147(3)(e), F.S., relating to  
8080 the sale and delivery of firearms, the rape crisis  
8081 program trust fund, sexting, prearrest diversion  
8082 programs, additional costs to fund programs in  
8083 domestic violence and rape crisis centers, the DNA  
8084 database, the definition of the term "qualifying  
8085 offense" as it relates to the violation of probation  
8086 or community control and failure to pay restitution or  
8087 cost of supervision, reviewing and reporting serious  
8088 offenses committed by offenders placed on probation or  
8089 community control, guidelines for fair treatment of  
8090 victims and witnesses in the criminal justice and  
8091 juvenile justice systems, detention transfer and  
8092 release, education, and adult jails, and the  
8093 prohibition of bullying and harassment, respectively,



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8094 to incorporate the amendment made to s. 784.048, F.S.,  
8095 in references thereto; reenacting s. 316.0775(1),  
8096 F.S., relating to interference with official traffic  
8097 control devices or railroad signs or signals, to  
8098 incorporate the amendment made to s. 806.13, F.S., in  
8099 a reference thereto; reenacting ss. 95.18(10),  
8100 373.6055(3)(c), 400.9935(3), 550.6305(10). 627.743(2),  
8101 634.421(2), 642.038(2), 705.102(4), 812.14(7), and  
8102 893.138(3), F.S., relating to real property actions  
8103 and adverse possession without color of title,  
8104 criminal history checks for certain water management  
8105 district employees and others, clinic  
8106 responsibilities, intertrack wagering, guest track  
8107 payments, and accounting rules, the payment of third-  
8108 party claims, reporting and accounting for funds,  
8109 reporting lost or abandoned property, trespass and  
8110 larceny with relation to utility fixtures and the  
8111 theft of utility services, and local administrative  
8112 action to abate drug-related, prostitution-related, or  
8113 stole-property-related public nuisances and criminal  
8114 gang activity, respectively, to incorporate the  
8115 amendment made to s. 812.014, F.S., in references  
8116 thereto; reenacting ss. 538.09(5) and 538.23(2), F.S.,  
8117 relating to the registration of and violations and  
8118 penalties for second-hand dealers, respectively, to  
8119 incorporate the amendment made to s. 812.015, F.S., in  
8120 references thereto; reenacting s. 1006.147(3)(e),  
8121 F.S., relating to the prohibition of bullying and  
8122 harassment, to incorporate the amendment made to s.



8123 815.03, F.S., in a reference thereto; reenacting ss.  
8124 316.80(2), 775.30(1) and (2), 775.33(2), 782.04(5),  
8125 and 934.07(3), F.S., relating to the unlawful  
8126 conveyance of fuel and obtaining fuel fraudulently,  
8127 terrorism, providing material support or resources for  
8128 terrorism or to terrorist organizations, the  
8129 definition of the term "terrorism" as it relates to  
8130 murder, and the authorization for interception of  
8131 wire, oral, or electronic communications,  
8132 respectively, to incorporate the amendment made to s.  
8133 815.06, F.S., in references thereto; reenacting ss.  
8134 772.102(1)(a), 847.02, 847.03, 847.09(2),  
8135 895.02(8)(a), 933.02(2), 933.03, and 943.325(2)(g),  
8136 F.S., relating to the definition of the term "criminal  
8137 activity," the confiscation of obscene material, the  
8138 seizure of obscene material by an officer, legislative  
8139 intent regarding obscene materials, the definition of  
8140 the term "racketeering activity," grounds for the  
8141 issuance or a search warrant, the destruction of  
8142 obscene prints and literature, and the DNA database,  
8143 respectively, to incorporate the amendment made to s.  
8144 847.011, F.S.; reenacting s. 849.02, F.S., relating to  
8145 agents or employees of keepers of gambling houses, to  
8146 incorporate the amendment made to s. 849.01, F.S., in  
8147 a reference thereto, reenacting ss. 373.6055(3)(c),  
8148 397.4073(6), 414.095(1), 772.12(2), 775.087(2)(a) and  
8149 (3)(a), 782.04(1)(a), (3), and (4), 810.02(3),  
8150 893.13(8)(d), 893.1351(1) and (2), 900.05(3)(e),  
8151 903.133, 907.041(4)(c), 921.141(9), and 921.142(2),



271420

8152 F.S., relating to criminal history checks for certain  
8153 water management district employees and others,  
8154 background checks of service provider personnel,  
8155 determining eligibility for temporary cash assistance,  
8156 the Drug Dealer Liability Act, possession or use of a  
8157 weapon, aggravated battery, felony reclassifications,  
8158 and minimum sentencing, murder, burglary, prohibited  
8159 acts and penalties relating to controlled substances,  
8160 the ownership, lease, rental, or possession for  
8161 trafficking in or manufacturing a controlled  
8162 substance, criminal justice data collection, the  
8163 prohibition of bail on appeal for certain felony  
8164 convictions, pretrial detention and release, the  
8165 sentence of death or life imprisonment for capital  
8166 felonies and further proceedings to determine  
8167 sentences, and the sentence of death or life  
8168 imprisonment for capital drug trafficking felonies and  
8169 further proceedings to determine sentences,  
8170 respectively, to incorporate the amendment made to s.  
8171 893.135, F.S., in references thereto; reenacting s.  
8172 944.026(3)(a), F.S., relating to community-based  
8173 facilities and programs, to incorporate the amendment  
8174 made to s. 944.704, F.S., in a reference thereto;  
8175 reenacting s. 944.4731(6), F.S., relating to the  
8176 Addiction-Recovery Supervision Program, to incorporate  
8177 the amendment made to s. 944.705, F.S., in a reference  
8178 thereto; reenacting s. 447.203(2), F.S., relating to  
8179 the definition of the terms "public employer" or  
8180 "employer," to incorporate the amendment made to s.



8181 944.801, F.S., in a reference thereto; reenacting s.  
8182 921.187(1)(n), F.S., relating to disposition and  
8183 sentencing alternatives, to incorporate the amendment  
8184 made to s. 948.013, F.S. in a reference thereto;  
8185 reenacting ss. 948.012(2)(b), 948.10(3), 948.20(3),  
8186 and 958.14, F.S., relating to split sentencing of  
8187 probation or community control and imprisonment,  
8188 procedures governing violations of community control,  
8189 revocation of drug offender probation, and violations  
8190 of probation or community control programs,  
8191 respectively, to incorporate the amendment made to s.  
8192 948.06, F.S., in references thereto; reenacting ss.  
8193 796.07(4)(b), 944.026(3)(b), and 948.036(1), F.S.,  
8194 relating to charges of prostitution and related acts,  
8195 certain pretrial intervention programs, and work  
8196 programs, respectively, to incorporate the amendment  
8197 made to s. 948.08, F.S., in references thereto;  
8198 reenacting ss. 394.47892(2), 397.334(5), and  
8199 910.035(5)(a), F.S., relating to mental health court  
8200 programs, treatment-based drug court programs, and  
8201 transfer for participation in a problem-solving court,  
8202 respectively, to incorporate the amendment made to ss.  
8203 948.08 and 948.16, F.S., in references thereto;  
8204 reenacting s. 910.035(5)(a), F.S., relating to  
8205 transfer for participation in a problem-solving court,  
8206 respectively, to incorporate the amendment made to s.  
8207 948.21, F.S., in a references thereto; reenacting ss.  
8208 958.03(5), 958.045(8)(a), 958.046, and 985.565(4)(c),  
8209 F.S., relating to definition of the term "youthful



271420

8210 offender," the Youthful offender basic training  
8211 program, county-operated youthful offender boot camp  
8212 programs, and adult sanctions upon failure of juvenile  
8213 sanctions, to incorporate the amendment made to s.  
8214 958.04, F.S., in references thereto; reenacting ss.  
8215 985.15(1), 985.26(2)(c), and 985.265(5), F.S.,  
8216 relating to filing decisions of state attorneys in the  
8217 prosecution of a child, length of detention for  
8218 prolific juvenile offenders, and delivery of a child  
8219 to a jail or other adult detention facility,  
8220 respectively, to incorporate the amendment made to s.  
8221 985.557, F.S., in references thereto; providing  
8222 effective dates.



892512

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2019	.	
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Appropriations Subcommittee on Criminal and Civil Justice  
(Brandes) recommended the following:

**Senate Amendment to Amendment (271420) (with title amendment)**

Delete lines 301 - 306  
and insert:

(b) A second or subsequent conviction commits ~~is guilty of~~  
a misdemeanor of the first degree, punishable as provided in s.  
775.082 or s. 775.083.

~~(c) A third or subsequent conviction is guilty of a felony  
of the third degree, punishable as provided in s. 775.082, s.~~



892512

11 ~~775.083, or s. 775.084.~~

12

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

14 And the title is amended as follows:

15 Delete line 7583

16 and insert:

17 F.S; revising criminal penalties for the third or

18 subsequent offense of



261344

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2019	.	
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Appropriations Subcommittee on Criminal and Civil Justice  
(Brandes) recommended the following:

**Senate Amendment to Amendment (271420)**

Delete lines 1083 - 1120

and insert:

vendor, a county detention facility following incarceration for  
an offense for which the sentence pronounced was a prison  
sentence, or ~~within 3 years after being released from a~~  
correctional institution of another state, the District of  
Columbia, the United States, any possession or territory of the  
United States, or any foreign jurisdiction, following



261344

11 incarceration for an offense for which the sentence is  
12 punishable by more than 1 year in this state.

13         2. "Prison releasee reoffender" also means any defendant  
14 who commits or attempts to commit any offense listed in sub-  
15 subparagraphs (a)1.a.-r. while the defendant was serving a  
16 prison sentence or on escape status from a state correctional  
17 facility operated by the Department of Corrections or a private  
18 vendor or while the defendant was on escape status from a  
19 correctional institution of another state, the District of  
20 Columbia, the United States, any possession or territory of the  
21 United States, or any foreign jurisdiction, following  
22 incarceration for an offense for which the sentence is  
23 punishable by more than 1 year in this state.

24         3. If the state attorney determines that a defendant is a  
25 prison releasee reoffender as defined in subparagraph 1., the  
26 state attorney may seek to have the court sentence the defendant  
27 as a prison releasee reoffender. Upon proof from the state  
28 attorney that establishes by a preponderance of the evidence  
29 that a defendant is a prison releasee reoffender as defined in  
30 this section, such defendant is not eligible for sentencing  
31 under the sentencing guidelines and must be sentenced as  
32 follows:

33             a. For a felony punishable by life, by a term of  
34 imprisonment for life;

35             b. For a felony of the first degree, by a term of  
36 imprisonment of 30 years;

37             c. For a felony of the second degree, by a term of  
38 imprisonment of 15 years; and

39             d. For a felony of the third degree, by a term of



261344

40 imprisonment of 5 years.

41 (d)1. It is the intent of the Legislature that offenders  
42 previously released from prison or a county detention facility  
43 following incarceration for an offense for which the sentence  
44 pronounced was a prison sentence who meet the criteria in



160412

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2019	.	
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Appropriations Subcommittee on Criminal and Civil Justice  
(Bracy) recommended the following:

1           **Senate Amendment to Amendment (271420) (with directory and**  
2 **title amendments)**

3  
4           Between lines 3326 and 3327  
5 insert:

6           (10) Commission a racial impact statement for each criminal  
7 justice bill that is heard before a committee of the Senate or  
8 the House of Representatives during a session of the  
9 Legislature. The impact statement must estimate the anticipated  
10 effects the proposed criminal justice legislation may have on



160412

11 racial inequality among the residents of this state and must  
12 indicate whether the proposed legislation would increase,  
13 decrease, or have no impact on racial inequality or whether the  
14 impact is indeterminable. To the extent feasible, the impact  
15 statement should include quantifiable data. The impact statement  
16 must specify the methodologies and assumptions used in its  
17 preparation.

18  
19 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

20 And the directory clause is amended as follows:

21       Delete lines 3318 - 3319

22 and insert:

23       Section 55. Effective upon this act becoming a law,  
24 subsections (9) and (10) are added to section 943.6871, Florida  
25 Statutes, to read:

26  
27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29       Between lines 7882 and 7883

30 insert:

31       requiring the department to commission a racial impact  
32       statement on certain proposed criminal justice  
33       legislation;



439964

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2019	.	
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Appropriations Subcommittee on Criminal and Civil Justice  
(Brandes) recommended the following:

1           **Senate Amendment to Amendment (271420) (with title**  
2 **amendment)**

3  
4           Delete lines 3422 - 3456.

5  
6 ===== T I T L E   A M E N D M E N T =====

7 And the title is amended as follows:

8           Delete lines 7889 - 7891

9 and insert:

10 committed by correctional facility employees;



736318

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/16/2019	.	
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Appropriations Subcommittee on Criminal and Civil Justice  
(Bracy) recommended the following:

**Senate Amendment to Amendment (271420) (with title amendment)**

Delete lines 3675 - 3924  
and insert:

Section 67. Paragraphs (g) and (h) of subsection (1) of  
section 948.06, Florida Statutes, are amended to read:

948.06 Violation of probation or community control;  
revocation; modification; continuance; failure to pay  
restitution or cost of supervision.—



736318

11 (1)

12 (g) The chief judge of each judicial circuit shall ~~may~~  
13 direct the department to use a notification letter of a  
14 technical violation in appropriate cases in lieu of a violation  
15 report, affidavit, and warrant or a notice to appear when the  
16 alleged violation is not a new felony or misdemeanor offense.  
17 Such direction must be in writing and must specify the types of  
18 specific technical violations which are to be reported by a  
19 notification letter of a technical violation, any exceptions to  
20 those violations, and the required process for submission. At  
21 the direction of the chief judge, the department shall send the  
22 notification letter of a technical violation to the court. For  
23 purposes of this section, the term "technical violation" means  
24 an alleged violation of supervision which is not a new felony  
25 offense, a new misdemeanor offense, or a new criminal traffic  
26 offense.

27 (h) ~~1.~~ The chief judge of each judicial circuit shall, in  
28 consultation with the state attorney and, ~~the public defender,~~  
29 ~~and the department,~~ ~~may~~ establish an alternative sanctioning  
30 program to ensure that in which the department, after receiving  
31 court approval, may enforce specified sanctions for certain  
32 technical violations of probation or community control do not  
33 result in returning an individual to jail or prison supervision.  
34 ~~For purposes of this paragraph, the term "technical violation"~~  
35 ~~means any alleged violation of supervision that is not a new~~  
36 ~~felony offense, misdemeanor offense, or criminal traffic~~  
37 ~~offense.~~

38 ~~2. To establish an alternative sanctioning program, the~~  
39 ~~chief judge must issue an administrative order specifying:~~



736318

- 40           ~~a. Eligibility criteria.~~
- 41           ~~b. The technical violations that are eligible for the~~
- 42 ~~program.~~
- 43           ~~c. The sanctions that may be recommended by a probation~~
- 44 ~~officer for each technical violation.~~
- 45           ~~d. The process for reporting technical violations through~~
- 46 ~~the alternative sanctioning program, including approved forms.~~
- 47           ~~3. If an offender is alleged to have committed a technical~~
- 48 ~~violation of supervision that is eligible for the program, the~~
- 49 ~~offender may:~~
- 50           ~~a. Waive participation in the alternative sanctioning~~
- 51 ~~program, in which case the probation officer may submit a~~
- 52 ~~violation report, affidavit, and warrant to the court in~~
- 53 ~~accordance with this section; or~~
- 54           ~~b. Elect to participate in the alternative sanctioning~~
- 55 ~~program after receiving written notice of an alleged technical~~
- 56 ~~violation and a disclosure of the evidence against the offender,~~
- 57 ~~admit to the technical violation, agree to comply with the~~
- 58 ~~probation officer's recommended sanction if subsequently ordered~~
- 59 ~~by the court, and agree to waive the right to:~~
- 60           ~~(I) Be represented by legal counsel.~~
- 61           ~~(II) Require the state to prove his or her guilt before a~~
- 62 ~~neutral and detached hearing body.~~
- 63           ~~(III) Subpoena witnesses and present to a judge evidence in~~
- 64 ~~his or her defense.~~
- 65           ~~(IV) Confront and cross-examine adverse witnesses.~~
- 66           ~~(V) Receive a written statement from a factfinder as to the~~
- 67 ~~evidence relied on and the reasons for the sanction imposed.~~
- 68           ~~4. If the offender admits to committing the technical~~



736318

69 ~~violation and agrees with the probation officer's recommended~~  
70 ~~sanction, the probation officer must, before imposing the~~  
71 ~~sanction, submit the recommended sanction to the court as well~~  
72 ~~as documentation reflecting the offender's admission to the~~  
73 ~~technical violation and agreement with the recommended sanction.~~

74 ~~5. The court may impose the recommended sanction or may~~  
75 ~~direct the department to submit a violation report, affidavit,~~  
76 ~~and warrant to the court in accordance with this section.~~

77 ~~6. An offender's participation in an alternative~~  
78 ~~sanctioning program is voluntary. The offender may elect to~~  
79 ~~waive or discontinue participation in an alternative sanctioning~~  
80 ~~program at any time before the issuance of a court order~~  
81 ~~imposing the recommended sanction.~~

82 ~~7. If an offender waives or discontinues participation in~~  
83 ~~an alternative sanctioning program, the probation officer may~~  
84 ~~submit a violation report, affidavit, and warrant to the court~~  
85 ~~in accordance with this section. The offender's prior admission~~  
86 ~~to the technical violation may not be used as evidence in~~  
87 ~~subsequent proceedings.~~

88  
89 ===== T I T L E A M E N D M E N T =====

90 And the title is amended as follows:

91 Delete lines 7948 - 7989

92 and insert:

93 requiring, rather than authorizing, the chief judge of  
94 each judicial circuit to direct the department to use  
95 a notification letter of a technical violation in  
96 certain situations; requiring, rather than  
97 authorizing, the chief judge to establish an



736318

98 alternative sanctioning program, in consultation with  
99 the state attorney and public defender; deleting  
100 provisions relating to requirements for an alternative  
101 sanctioning program; amending s. 948.08, F.S.;  
102 expanding



425892

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/16/2019	.	
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Appropriations Subcommittee on Criminal and Civil Justice  
(Bracy) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 140 - 188

and insert:

Section 3. Paragraphs (d) and (f) of subsection (4) of  
section 944.275, Florida Statutes, are amended to read:

944.275 Gain-time.—

(4)

(d) Notwithstanding the monthly maximum awards of incentive  
gain-time under subparagraphs (b)1., 2., and 3., the education



425892

11 program manager shall recommend, and the Department of  
12 Corrections may grant, a one-time award of 60 additional days of  
13 incentive gain-time for each of the following to an inmate who  
14 is otherwise eligible and who:

15 1. Successfully completes requirements for and is, or has  
16 been during the current commitment, awarded a high school  
17 equivalency diploma or vocational certificate; or

18 2. Has completed the Prison Entrepreneurship Program. ~~Under~~  
19 ~~no circumstances may an inmate receive more than 60 days for~~  
20 ~~educational attainment pursuant to this section.~~

21 (f) An inmate who is subject to subparagraph (b)3. is not  
22 eligible to earn or receive gain-time under paragraph (a),  
23 paragraph (b), paragraph (c), or paragraph (d) ~~or any other type~~  
24 ~~of gain-time~~ in an amount that would cause a sentence to expire,  
25 end, or terminate, or that would result in a prisoner's release,  
26 prior to serving a minimum of 65 ~~85~~ percent of the sentence  
27 imposed. An inmate who is currently serving a sentence for or  
28 has been previously convicted of a dangerous crime as defined in  
29 s. 907.041, or a violation specified as a predicate offense for  
30 registration as a sexual predator under s. 775.21 or for  
31 registration as a sexual offender under s. 943.0435, is not  
32 eligible to earn or receive gain-time under paragraphs (a)  
33 through (d), or any other type of gain-time in an amount that  
34 would cause a sentence to expire, end, or terminate, or that  
35 would result in a prisoner's release, before serving a minimum  
36 of 65 percent of the sentence imposed. For purposes of this  
37 paragraph, credits awarded by the court for time physically  
38 incarcerated shall be credited toward satisfaction of 65 ~~85~~  
39 percent of the sentence imposed. Except as provided by this



425892

40 section, a prisoner may not accumulate further gain-time awards  
41 at any point when the tentative release date is the same as that  
42 date at which the prisoner will have served 65 ~~85~~ percent of the  
43 sentence imposed. State prisoners sentenced to life imprisonment  
44 shall be incarcerated for the rest of their natural lives,  
45 unless granted pardon or clemency.

46 Section 4. Paragraph (e) of subsection (1) of section  
47 921.002, Florida Statutes, is amended to read:

48 921.002 The Criminal Punishment Code.—The Criminal  
49 Punishment Code shall apply to all felony offenses, except  
50 capital felonies, committed on or after October 1, 1998.

51 (1) The provision of criminal penalties and of limitations  
52 upon the application of such penalties is a matter of  
53 predominantly substantive law and, as such, is a matter properly  
54 addressed by the Legislature. The Legislature, in the exercise  
55 of its authority and responsibility to establish sentencing  
56 criteria, to provide for the imposition of criminal penalties,  
57 and to make the best use of state prisons so that violent  
58 criminal offenders are appropriately incarcerated, has  
59 determined that it is in the best interest of the state to  
60 develop, implement, and revise a sentencing policy. The Criminal  
61 Punishment Code embodies the principles that:

62 (e) The sentence imposed by the sentencing judge reflects  
63 the length of actual time to be served, shortened only by the  
64 application of incentive and meritorious gain-time as provided  
65 by law, and may not be shortened if the defendant would  
66 consequently serve less than 65 ~~85~~ percent of his or her term of  
67 imprisonment as provided in s. 944.275(4). The provisions of  
68 chapter 947, relating to parole, shall not apply to persons



425892

69 sentenced under the Criminal Punishment Code.

70

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

72 And the title is amended as follows:

73 Delete lines 14 - 18

74 and insert:

75 deleting a provision limiting the amount of additional  
76 days of incentive gain-time an inmate may receive for  
77 educational attainment; revising circumstances under  
78 which certain inmates are not eligible for certain  
79 types of gain-time in amounts that would cause a  
80 sentence to end or require a release before serving a  
81 minimum percentage of a sentence; amending s. 921.002,  
82 F.S.; conforming a provision to changes made by the  
83 act; amending s. 944.611, F.S.; providing



516056

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/16/2019	.	
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Appropriations Subcommittee on Criminal and Civil Justice  
(Bracy) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 336 - 544

and insert:

Section 11. Paragraphs (g) and (h) of subsection (1) of  
section 948.06, Florida Statutes, are amended to read:

948.06 Violation of probation or community control;  
revocation; modification; continuance; failure to pay  
restitution or cost of supervision.—

(1)



516056

11 (g) The chief judge of each judicial circuit shall ~~may~~  
12 direct the department to use a notification letter of a  
13 technical violation in appropriate cases in lieu of a violation  
14 report, affidavit, and warrant or a notice to appear when the  
15 alleged violation is not a new felony or misdemeanor offense.  
16 Such direction must be in writing and must specify the types of  
17 specific technical violations which are to be reported by a  
18 notification letter of a technical violation, any exceptions to  
19 those violations, and the required process for submission. At  
20 the direction of the chief judge, the department shall send the  
21 notification letter of a technical violation to the court. For  
22 purposes of this section, the term "technical violation" means  
23 an alleged violation of supervision which is not a new felony  
24 offense, a new misdemeanor offense, or a new criminal traffic  
25 offense.

26 (h)~~1.~~ The chief judge of each judicial circuit shall, in  
27 consultation with the state attorney and, ~~the public defender,~~  
28 ~~and the department, may~~ establish an alternative sanctioning  
29 program to ensure that in which the department, after receiving  
30 court approval, may enforce specified sanctions for certain  
31 technical violations of probation or community control do not  
32 result in returning an individual to jail or prison supervision.  
33 ~~For purposes of this paragraph, the term "technical violation"~~  
34 ~~means any alleged violation of supervision that is not a new~~  
35 ~~felony offense, misdemeanor offense, or criminal traffic~~  
36 ~~offense.~~

37 2. ~~To establish an alternative sanctioning program, the~~  
38 ~~chief judge must issue an administrative order specifying:~~

39 a. ~~Eligibility criteria.~~



516056

40           ~~b. The technical violations that are eligible for the~~  
41 ~~program.~~

42           ~~c. The sanctions that may be recommended by a probation~~  
43 ~~officer for each technical violation.~~

44           ~~d. The process for reporting technical violations through~~  
45 ~~the alternative sanctioning program, including approved forms.~~

46           ~~3. If an offender is alleged to have committed a technical~~  
47 ~~violation of supervision that is eligible for the program, the~~  
48 ~~offender may:~~

49           ~~a. Waive participation in the alternative sanctioning~~  
50 ~~program, in which case the probation officer may submit a~~  
51 ~~violation report, affidavit, and warrant to the court in~~  
52 ~~accordance with this section; or~~

53           ~~b. Elect to participate in the alternative sanctioning~~  
54 ~~program after receiving written notice of an alleged technical~~  
55 ~~violation and a disclosure of the evidence against the offender,~~  
56 ~~admit to the technical violation, agree to comply with the~~  
57 ~~probation officer's recommended sanction if subsequently ordered~~  
58 ~~by the court, and agree to waive the right to:~~

59           ~~(I) Be represented by legal counsel.~~

60           ~~(II) Require the state to prove his or her guilt before a~~  
61 ~~neutral and detached hearing body.~~

62           ~~(III) Subpoena witnesses and present to a judge evidence in~~  
63 ~~his or her defense.~~

64           ~~(IV) Confront and cross-examine adverse witnesses.~~

65           ~~(V) Receive a written statement from a factfinder as to the~~  
66 ~~evidence relied on and the reasons for the sanction imposed.~~

67           ~~4. If the offender admits to committing the technical~~  
68 ~~violation and agrees with the probation officer's recommended~~



516056

69 ~~sanction, the probation officer must, before imposing the~~  
70 ~~sanction, submit the recommended sanction to the court as well~~  
71 ~~as documentation reflecting the offender's admission to the~~  
72 ~~technical violation and agreement with the recommended sanction.~~

73 ~~5. The court may impose the recommended sanction or may~~  
74 ~~direct the department to submit a violation report, affidavit,~~  
75 ~~and warrant to the court in accordance with this section.~~

76 ~~6. An offender's participation in an alternative~~  
77 ~~sanctioning program is voluntary. The offender may elect to~~  
78 ~~waive or discontinue participation in an alternative sanctioning~~  
79 ~~program at any time before the issuance of a court order~~  
80 ~~imposing the recommended sanction.~~

81 ~~7. If an offender waives or discontinues participation in~~  
82 ~~an alternative sanctioning program, the probation officer may~~  
83 ~~submit a violation report, affidavit, and warrant to the court~~  
84 ~~in accordance with this section. The offender's prior admission~~  
85 ~~to the technical violation may not be used as evidence in~~  
86 ~~subsequent proceedings.~~

87  
88 ===== T I T L E A M E N D M E N T =====

89 And the title is amended as follows:

90 Delete lines 62 - 102

91 and insert:

92 terms of sentence; amending s. 948.06, F.S.;

93 requiring, rather than authorizing, the chief judge of

94 each judicial circuit to direct the department to use

95 a notification letter of a technical violation in

96 certain situations; defining the term "technical

97 violation"; requiring, rather than authorizing, the



516056

98 chief judge to establish an alternative sanctioning  
99 program, in consultation with the state attorney and  
100 public defender; deleting provisions relating to  
101 requirements for an alternative sanctioning program;  
102 creating s. 951.30, F.S.; requiring each



335422

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/16/2019	.	
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Appropriations Subcommittee on Criminal and Civil Justice  
(Bracy) recommended the following:

**Senate Amendment (with directory and title amendments)**

Delete lines 352 - 357  
and insert:  
the probation officer must submit recommended sanctions to the  
court for its approval in lieu of filing an affidavit of  
violation with the court. For purposes of this section, the term  
"technical violation" means an alleged violation of supervision  
that is not a new felony offense, misdemeanor offense, or  
criminal traffic offense.



335422

11            (h)~~(g)~~ The chief judge of each judicial circuit shall ~~may~~  
12 direct the department to use a notification letter of a  
13 technical violation in appropriate cases in lieu of a violation  
14 report, affidavit, and warrant or a notice to appear when the  
15 alleged violation is not a new felony or misdemeanor offense.  
16 Such direction must be in writing and must specify the types of  
17 specific technical violations which are to be reported by a  
18 notification letter of a technical violation, any exceptions to  
19 these violations, and the required process for submission. At  
20 the direction of the chief judge, the department shall send the  
21 notification letter of a technical violation to the court.

22  
23 ===== D I R E C T O R Y   C L A U S E   A M E N D M E N T =====

24 And the directory clause is amended as follows:  
25            Delete line 339  
26 and insert:  
27 present paragraphs (g) and (h) of that subsection are amended, a  
28 new

29  
30 ===== T I T L E   A M E N D M E N T =====  
31 And the title is amended as follows:

32            Delete lines 66 - 69  
33 and insert:  
34            alternative sanctioning program; requiring the  
35            probation officer to take certain actions if such  
36            probationer or offer is eligible; defining the term  
37            "technical violation"; requiring, rather than  
38            authorizing, the chief judge of each judicial circuit  
39            to direct the department to use a notification letter



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40  
41

of a technical violation in certain situations;  
requiring that judicial

**By** the Committee on Criminal Justice; and Senators Brandes, Gruters, Rouson, Perry, and Broxson

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1                   A bill to be entitled  
2           An act relating to criminal justice; providing a short  
3           title; amending s. 893.135, F.S.; requiring that the  
4           court impose, for an offense relating to trafficking  
5           in certain substances, a sentence pursuant to the  
6           Criminal Punishment Code and without regard to any  
7           statutory minimum sentence if the court makes  
8           specified findings under certain circumstances;  
9           amending s. 944.275, F.S.; requiring an education  
10          program manager to recommend, and authorizing the  
11          Department of Corrections to grant, an award of a  
12          specified amount of incentive gain-time to an inmate  
13          who has completed the Prison Entrepreneurship Program;  
14          revising circumstances under which certain inmates are  
15          not eligible for certain types of gain-time in amounts  
16          that would cause a sentence to end or require a  
17          release prior to serving a minimum percentage of a  
18          sentence; amending s. 944.611, F.S.; providing  
19          legislative intent with respect to the location of an  
20          inmate's confinement; amending s. 944.705, F.S.;  
21          requiring that the department provide an inmate with a  
22          comprehensive community reentry resource directory  
23          organized by county before an inmate's release;  
24          authorizing a nonprofit faith-based or professional  
25          business or a civic or community organization to apply  
26          for registration with the department to provide inmate  
27          reentry services; requiring the department to adopt  
28          certain policies and procedures; authorizing the  
29          department to deny approval and registration of an

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30 organization or representative of an organization  
31 under certain circumstances; authorizing the  
32 department to contract with a public or private  
33 educational institution's Veterans Advocacy Clinic or  
34 Veterans Legal Clinic for certain purposes; requiring  
35 the department to include notification of all  
36 outstanding terms of sentence in an inmate's release  
37 documents; providing an exception to the notification  
38 requirement for inmates who are released to any type  
39 of supervision monitored by the Department of  
40 Corrections; requiring the department to adopt certain  
41 rules; amending s. 944.801, F.S.; authorizing the  
42 Correctional Education Program to establish a Prison  
43 Entrepreneurship Program and adopt procedures for  
44 admitting student inmates; providing requirements for  
45 the program; authorizing transitional and postrelease  
46 continuing educational services to be offered under  
47 certain circumstances; requiring the department to  
48 enter into certain agreements to implement the  
49 program; requiring that the program be funded with  
50 existing resources; amending s. 948.001, F.S.;  
51 redefining the term "administrative probation";  
52 amending s. 948.013, F.S.; authorizing the department  
53 to transfer an offender to administrative probation  
54 under certain circumstances; amending s. 948.03, F.S.;  
55 requiring the department to include in the Florida  
56 Crime Information Center system all conditions of  
57 probation as determined by the court for each  
58 probationer; creating s. 948.041, F.S.; requiring the

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59 department to provide notification in writing to an  
60 offender, upon the termination of his or her term of  
61 probation or community control, of all outstanding  
62 terms of sentence; amending s. 948.06, F.S.; requiring  
63 a probation officer to determine whether a probationer  
64 or offender on community control who commits a  
65 technical violation is eligible for a certain  
66 alternative sanctioning program; authorizing the  
67 probation officer to take certain actions if such  
68 probationer or offender is eligible; defining the term  
69 "technical violation"; requiring that judicial  
70 circuits establish an alternative sanctioning program;  
71 authorizing the chief judge of each judicial circuit  
72 to issue specified administrative orders; requiring a  
73 probation officer to submit to the court for approval  
74 any recommended sanctions against a probationer or  
75 offender determined to be eligible for the program to  
76 the court for approval; defining the terms "low-risk  
77 violation" and "moderate-risk violation"; specifying  
78 circumstances under which a probationer or offender on  
79 community control is not eligible for an alternative  
80 sanction; authorizing a probation officer to offer an  
81 eligible probationer one or more specified alternative  
82 sanctions for a first or second low-risk violation;  
83 authorizing a probation officer, under certain  
84 circumstances, to offer an eligible probationer or  
85 offender on community control one or more specified  
86 alternative sanctions for a first moderate-risk  
87 violation; providing that the participation of a

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88 probationer or offender on community control in the  
89 alternative sanctioning program is voluntary, subject  
90 to certain requirements; specifying actions that a  
91 probationer or offender on community control may take  
92 if he or she is eligible for an alternative  
93 sanctioning program; providing that a probation  
94 officer, under certain circumstances, submit a  
95 recommended sanction to the court; authorizing the  
96 court to impose the recommended sanction or direct the  
97 department to submit a violation report, affidavit,  
98 and warrant to the court; authorizing a probation  
99 officer to submit a violation report, affidavit, and  
100 warrant to the court under certain circumstances;  
101 prohibiting certain evidence in subsequent  
102 proceedings; creating s. 951.30, F.S.; requiring each  
103 county detention facility to notify a prisoner in  
104 writing, upon such prisoner's release, of all  
105 outstanding terms of sentence; providing an exception  
106 to the notification requirement for prisoners who are  
107 released into the custody or control of the Department  
108 of Corrections; amending s. 893.03, F.S.; conforming a  
109 cross-reference; providing an effective date.

110  
111 Be It Enacted by the Legislature of the State of Florida:

112  
113 Section 1. This act may be cited as the Florida First Step  
114 Act.

115 Section 2. Present subsections (6) and (7) of section  
116 893.135, Florida Statutes, are redesignated as subsections (7)

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117 and (8), respectively, and a new subsection (6) is added to that  
118 section, to read:

119 893.135 Trafficking; mandatory sentences; suspension or  
120 reduction of sentences; conspiracy to engage in trafficking.—

121 (6) Notwithstanding any other provision of law, for an  
122 offense under this section the court shall impose a sentence  
123 pursuant to the Criminal Punishment Code under chapter 921 and  
124 without regard to any statutory minimum sentence, if the court  
125 finds at sentencing, after the state attorney has been afforded  
126 the opportunity to make a recommendation, all of the following:

127 (a) The defendant has not previously been convicted of a  
128 dangerous crime as defined in s. 907.041, or a violation  
129 specified as a predicate offense for registration as a sexual  
130 predator under s. 775.21 or for registration as a sexual  
131 offender under s. 943.0435.

132 (b) The defendant did not use violence or credible threats  
133 of violence or possess a firearm or other dangerous weapon, or  
134 induce another participant to do so, in connection with the  
135 offense.

136 (c) The offense did not result in death or serious bodily  
137 injury to any person.

138 (d) The defendant was not engaged in a continuing criminal  
139 enterprise, as defined in s. 893.20.

140 (e) By the time of the sentencing hearing, the defendant  
141 has truthfully provided to the state all information and  
142 evidence the defendant has concerning the offense or offenses  
143 that were part of the same course of conduct or of a common  
144 scheme or plan. The fact that the defendant has no other  
145 relevant or useful information to provide or that the state is

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146 already aware of the information does not preclude a  
147 determination by the court that the defendant has complied with  
148 this requirement.

149 Section 3. Paragraphs (d) and (f) of subsection (4) of  
150 section 944.275, Florida Statutes, are amended to read:

151 944.275 Gain-time.—

152 (4)

153 (d) Notwithstanding the monthly maximum awards of incentive  
154 gain-time under subparagraphs (b)1., 2., and 3., the education  
155 program manager shall recommend, and the Department of  
156 Corrections may grant, a one-time award of 60 additional days of  
157 incentive gain-time to an inmate who is otherwise eligible and  
158 who successfully completes requirements for and is, or has been  
159 during the current commitment, awarded a high school equivalency  
160 diploma or vocational certificate, or has completed the Prison  
161 Entrepreneurship Program. Under no circumstances may an inmate  
162 receive more than 60 days for educational attainment pursuant to  
163 this section.

164 (f) An inmate who is subject to subparagraph (b)3. is not  
165 eligible to earn or receive gain-time under paragraph (a),  
166 paragraph (b), or paragraph (c), ~~or paragraph (d)~~ or any other  
167 type of gain-time other than under paragraph (d) in an amount  
168 that would cause a sentence to expire, end, or terminate, or  
169 that would result in a prisoner's release, prior to serving a  
170 minimum of 85 percent of the sentence imposed. An inmate who is  
171 currently serving a sentence for or has been previously  
172 convicted of a dangerous crime as defined in s. 907.041, or a  
173 violation specified as a predicate offense for registration as a  
174 sexual predator under s. 775.21 or for registration as a sexual

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175 offender under s. 943.0435, is not eligible to earn or receive  
176 gain-time under paragraphs (a) through (d), or any other type of  
177 gain-time in an amount that would cause a sentence to expire,  
178 end, or terminate, or that would result in a prisoner's release,  
179 prior to serving a minimum of 85 percent of the sentence  
180 imposed. For purposes of this paragraph, credits awarded by the  
181 court for time physically incarcerated shall be credited toward  
182 satisfaction of 85 percent of the sentence imposed. Except as  
183 provided by this section, a prisoner may not accumulate further  
184 gain-time awards at any point when the tentative release date is  
185 the same as that date at which the prisoner will have served 85  
186 percent of the sentence imposed. State prisoners sentenced to  
187 life imprisonment shall be incarcerated for the rest of their  
188 natural lives, unless granted pardon or clemency.

189 Section 4. Subsection (2) of section 944.611, Florida  
190 Statutes, is amended to read:

191 944.611 Legislative intent.—The Legislature finds and  
192 declares that:

193 (2) It is the intent of the Legislature that:

194 (a) The secretary shall designate the place of each  
195 inmate's confinement and shall, subject to bed availability and  
196 the inmate's security designation, programmatic needs, and  
197 mental and medical health needs, place each inmate in an  
198 institution or facility as close as practicable to within 300  
199 driving miles of the inmate's primary residence, unless the  
200 safety of department employees or inmates requires other  
201 placement. Subject to bed availability and the inmate's security  
202 designation, the department shall transfer an inmate to an  
203 institution or facility that is as close as practicable to

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204 within 300 driving miles of the inmate's primary residence,  
205 unless the inmate chooses to remain at his or her current  
206 institution or facility.

207 (b)~~(a)~~ To the extent possible, an inmate be returned, upon  
208 release, to the same area from which the inmate was committed.

209 (c)~~(b)~~ An inmate being released from a community work-  
210 release program is not eligible for the provision of  
211 transportation.

212 (d)~~(e)~~ Transportation provided for an eligible inmate upon  
213 release shall be to one of the following points:

214 1. The county where parole placement has been approved and  
215 supervision is to commence.

216 2. Another state.

217 3. The county of employment within the state.

218 4. The county of legal residence within the state.

219 5. The county of original commitment within the state.

220 (e)~~(d)~~ Each releasee who is eligible for the provision of  
221 transportation shall be escorted to the site of embarkation by  
222 an officer of the correctional facility, who shall remain until  
223 the releasee has departed.

224 Section 5. Present subsections (3), (4), and (5) of section  
225 944.705, Florida Statutes, are redesignated as subsections (4),  
226 (5), and (6), respectively, present subsection (6) of that  
227 section is amended, and new subsection (3) and subsections (7),  
228 (8), (9), and (11) are added to that section, to read:

229 944.705 Release orientation program.—

230 (3) Before an inmate's release, the department shall  
231 provide the inmate with a comprehensive community reentry  
232 resource directory organized by county which includes the name,

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233 address, and telephone number of each provider and a description  
234 of the services offered by each provider. The directory must  
235 also include the name, address, and telephone number of existing  
236 starting points for using such resources.

237 (7) A nonprofit faith-based or professional business, or a  
238 civic or community organization, may apply for registration with  
239 the department to provide inmate reentry services. Reentry  
240 services include, but are not limited to, counseling; providing  
241 information on housing and job placement; money management  
242 assistance; and programs that address substance abuse, mental  
243 health, or co-occurring conditions.

244 (8) The department shall adopt policies and procedures for  
245 screening, approving, and registering an organization that  
246 applies under subsection (7). The department may deny approval  
247 and registration of the organization or a representative of the  
248 organization if it determines that the organization or  
249 representative does not meet the department's policies or  
250 procedures.

251 (9) The department may contract with a public or private  
252 educational institution's Veterans Advocacy Clinic or Veterans  
253 Legal Clinic to assist qualified veteran inmates in applying for  
254 veteran's benefits upon release.

255 ~~(10)(6)(a)~~ The department shall notify every inmate, ~~in no~~  
256 ~~less than 18-point type~~ in the inmate's release documents:7

257 (a) Of all outstanding terms of the inmate's sentence at  
258 the time of release, including, but not limited to, a term of  
259 supervision and any conditions required upon release from  
260 imprisonment or unpaid restitution, court costs, fees, or fines.  
261 This paragraph does not apply to inmates who are being released

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262 from the custody of the department to any type of supervision  
263 monitored by the department.

264 (b)1. In no less than 18-point type, that the inmate may be  
265 sentenced pursuant to s. 775.082(9) if the inmate commits any  
266 felony offense described in s. 775.082(9) within 3 years after  
267 the inmate's release. This notice must be prefaced by the word  
268 "WARNING" in boldfaced type.

269 2.(b) Nothing in This section does not preclude ~~precludes~~  
270 the sentencing of a person pursuant to s. 775.082(9), and ~~nor~~  
271 ~~shall~~ evidence that the department failed to provide this notice  
272 does not prohibit a person from being sentenced pursuant to s.  
273 775.082(9). The state is ~~shall~~ not ~~be~~ required to demonstrate  
274 that a person received any notice from the department in order  
275 for the court to impose a sentence pursuant to s. 775.082(9).

276 (11) The department shall adopt rules to implement this  
277 section.

278 Section 6. Present subsections (4), (5), and (6) of section  
279 944.801, Florida Statutes, are redesignated as subsections (5),  
280 (6), and (7), respectively, and a new subsection (4) is added to  
281 that section, to read:

282 944.801 Education for state prisoners.-

283 (4) The Correctional Education Program may establish a  
284 Prison Entrepreneurship Program and adopt procedures for  
285 admitting student inmates. If the department elects to develop  
286 the program, it must include at least 180 days of in-prison  
287 education. The program curriculum must include a component on  
288 developing a business plan, procedures for graduation and  
289 certification of successful student inmates, and at least 90  
290 days of transitional and postrelease continuing educational

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291 services. Transitional and postrelease continuing educational  
292 services may be offered to graduate student inmates on a  
293 voluntary basis and are not a requirement for completion of the  
294 program. The department shall enter into agreements with public  
295 or private colleges or universities or other nonprofit entities  
296 to implement the program. The program must be funded with  
297 existing resources.

298 Section 7. Subsection (1) of section 948.001, Florida  
299 Statutes, is amended to read:

300 948.001 Definitions.—As used in this chapter, the term:

301 (1) "Administrative probation" means a form of no contact,  
302 nonreporting supervision that may be imposed by order of the  
303 court or transfer by the Department of Corrections as provided  
304 in s. 948.013 in which an offender who presents a low risk of  
305 harm to the community may, upon satisfactory completion of half  
306 the term of probation, be transferred by the Department of  
307 Corrections to this type of reduced level of supervision, as  
308 provided in s. 948.013.

309 Section 8. Subsection (1) of section 948.013, Florida  
310 Statutes, is amended to read:

311 948.013 Administrative probation.—

312 (1) The Department of Corrections may transfer an offender  
313 to administrative probation if he or she presents a low risk of  
314 harm to the community and has satisfactorily completed at least  
315 half of his or her probation term. The department ~~of~~ Corrections  
316 may establish procedures for transferring an offender to  
317 administrative probation. The department may collect an initial  
318 processing fee of up to \$50 for each probationer transferred to  
319 administrative probation. The offender is exempt from further

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320 payment for the cost of supervision as required in s. 948.09.

321 Section 9. Subsection (3) is added to section 948.03,  
322 Florida Statutes, to read:

323 948.03 Terms and conditions of probation.—

324 (3) The Department of Corrections shall include in the  
325 Florida Crime Information Center system all conditions of  
326 probation as determined by the court for each probationer.

327 Section 10. Section 948.041, Florida Statutes, is created  
328 to read:

329 948.041 Notification of outstanding terms of sentence upon  
330 termination of probation or community control.—Upon the  
331 termination of an offender's term of probation or community  
332 control, the department shall notify the offender in writing of  
333 all outstanding terms of the offender's sentence at the time of  
334 termination, including, but not limited to, uncompleted  
335 conditions, unpaid restitution, court costs, fees, or fines.

336 Section 11. Present paragraphs (c) through (g) of  
337 subsection (1) of section 948.06, Florida Statutes, are  
338 redesignated as paragraphs (d) through (h), respectively,  
339 present paragraph (h) of that subsection is amended, a new  
340 paragraph (c) is added to that subsection, and subsection (9) is  
341 added to that section, to read:

342 948.06 Violation of probation or community control;  
343 revocation; modification; continuance; failure to pay  
344 restitution or cost of supervision.—

345 (1)

346 (c) If a probationer or offender on community control  
347 commits a technical violation, the probation officer shall  
348 determine whether the probationer or offender on community

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349 control is eligible for the alternative sanctioning program  
350 under subsection (9). If the probation officer determines that  
351 the probationer or offender on community control is eligible,  
352 the probation officer may submit recommended sanctions to the  
353 court for its approval in lieu of filing an affidavit of  
354 violation with the court. For purposes of this section, the term  
355 "technical violation" means an alleged violation of supervision  
356 that is not a new felony offense, misdemeanor offense, or  
357 criminal traffic offense.

358 ~~(h)1. The chief judge of each judicial circuit, in~~  
359 ~~consultation with the state attorney, the public defender, and~~  
360 ~~the department, may establish an alternative sanctioning program~~  
361 ~~in which the department, after receiving court approval, may~~  
362 ~~enforce specified sanctions for certain technical violations of~~  
363 ~~supervision. For purposes of this paragraph, the term "technical~~  
364 ~~violation" means any alleged violation of supervision that is~~  
365 ~~not a new felony offense, misdemeanor offense, or criminal~~  
366 ~~traffic offense.~~

367 ~~2. To establish an alternative sanctioning program, the~~  
368 ~~chief judge must issue an administrative order specifying:~~

369 ~~a. Eligibility criteria.~~

370 ~~b. The technical violations that are eligible for the~~  
371 ~~program.~~

372 ~~c. The sanctions that may be recommended by a probation~~  
373 ~~officer for each technical violation.~~

374 ~~d. The process for reporting technical violations through~~  
375 ~~the alternative sanctioning program, including approved forms.~~

376 ~~3. If an offender is alleged to have committed a technical~~  
377 ~~violation of supervision that is eligible for the program, the~~

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378 ~~offender may:~~

379 ~~a. Waive participation in the alternative sanctioning~~  
380 ~~program, in which case the probation officer may submit a~~  
381 ~~violation report, affidavit, and warrant to the court in~~  
382 ~~accordance with this section; or~~

383 ~~b. Elect to participate in the alternative sanctioning~~  
384 ~~program after receiving written notice of an alleged technical~~  
385 ~~violation and a disclosure of the evidence against the offender,~~  
386 ~~admit to the technical violation, agree to comply with the~~  
387 ~~probation officer's recommended sanction if subsequently ordered~~  
388 ~~by the court, and agree to waive the right to:~~

389 ~~(I) Be represented by legal counsel.~~

390 ~~(II) Require the state to prove his or her guilt before a~~  
391 ~~neutral and detached hearing body.~~

392 ~~(III) Subpoena witnesses and present to a judge evidence in~~  
393 ~~his or her defense.~~

394 ~~(IV) Confront and cross-examine adverse witnesses.~~

395 ~~(V) Receive a written statement from a factfinder as to the~~  
396 ~~evidence relied on and the reasons for the sanction imposed.~~

397 ~~4. If the offender admits to committing the technical~~  
398 ~~violation and agrees with the probation officer's recommended~~  
399 ~~sanction, the probation officer must, before imposing the~~  
400 ~~sanction, submit the recommended sanction to the court as well~~  
401 ~~as documentation reflecting the offender's admission to the~~  
402 ~~technical violation and agreement with the recommended sanction.~~

403 ~~5. The court may impose the recommended sanction or may~~  
404 ~~direct the department to submit a violation report, affidavit,~~  
405 ~~and warrant to the court in accordance with this section.~~

406 ~~6. An offender's participation in an alternative~~

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407 ~~sanctioning program is voluntary. The offender may elect to~~  
408 ~~waive or discontinue participation in an alternative sanctioning~~  
409 ~~program at any time before the issuance of a court order~~  
410 ~~imposing the recommended sanction.~~

411 ~~7. If an offender waives or discontinues participation in~~  
412 ~~an alternative sanctioning program, the probation officer may~~  
413 ~~submit a violation report, affidavit, and warrant to the court~~  
414 ~~in accordance with this section. The offender's prior admission~~  
415 ~~to the technical violation may not be used as evidence in~~  
416 ~~subsequent proceedings.~~

417 (9) (a) Each judicial circuit shall establish an alternative  
418 sanctioning program as provided in this subsection. The chief  
419 judge of each judicial circuit may, by administrative order,  
420 define additional sanctions or eligibility criteria and specify  
421 the process for reporting technical violations through the  
422 alternative sanctioning program. Any sanctions recommended for  
423 imposition through an alternative sanctions program must be  
424 submitted to the court by the probation officer for approval  
425 prior to imposing the sanction.

426 (b) When committed by a probationer, a "low-risk violation"  
427 as used in this subsection means any of the following:

- 428 1. A positive drug or alcohol test result.
- 429 2. Failure to report to the probation office.
- 430 3. Failure to report a change in address or other required  
431 information.
- 432 4. Failure to attend a required class, treatment or  
433 counseling session, or meeting.
- 434 5. Failure to submit to a drug or alcohol test.
- 435 6. A violation of curfew.

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436 7. Failure to meet a monthly quota on any required  
437 probation condition, including, but not limited to, making  
438 restitution payments, paying court costs, or completing  
439 community service hours.

440 8. Leaving the county without permission.

441 9. Failure to report a change of employment.

442 10. Associating with a person engaged in criminal activity.

443 11. Any other violation as determined by administrative  
444 order of the chief judge of the circuit.

445 (c) A "moderate-risk violation" as used in this subsection  
446 means any of the following:

447 1. A violation listed in paragraph (b) when committed by an  
448 offender on community control.

449 2. Failure to remain at an approved residence by an  
450 offender on community control.

451 3. A third violation listed in paragraph (b) by a  
452 probationer within the current term of supervision.

453 4. Any other violation as determined by administrative  
454 order of the chief judge of the circuit.

455 (d) A probationer or offender on community control is not  
456 eligible for an alternative sanction if:

457 1. He or she is a violent felony offender of special  
458 concern as defined in paragraph (8) (b);

459 2. The violation is a felony, misdemeanor, or criminal  
460 traffic offense;

461 3. The violation is absconding;

462 4. The violation is of a stay-away order or no-contact  
463 order;

464 5. The violation is not identified as low-risk or moderate-

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465 risk under this subsection or by administrative order;

466 6. He or she has a prior moderate-risk level violation  
467 during the current term of supervision;

468 7. He or she has three prior low-risk level violations  
469 during the same term of supervision;

470 8. The term of supervision is scheduled to terminate in  
471 less than 90 days; or

472 9. The terms of the sentence prohibit alternative  
473 sanctioning.

474 (e) For a first or second low-risk violation, as defined in  
475 paragraph (b), within the current term of supervision, a  
476 probation officer may offer an eligible probationer one or more  
477 of the following as an alternative sanction:

478 1. Up to 5 days in the county jail.

479 2. Up to 50 additional community service hours.

480 3. Counseling or treatment.

481 4. Support group attendance.

482 5. Drug testing.

483 6. Loss of travel or other privileges.

484 7. Curfew for up to 30 days.

485 8. House arrest for up to 30 days.

486 9. Any other sanction as determined by administrative order  
487 of the chief judge of the circuit.

488 (f) For a first moderate-risk violation, as defined in  
489 paragraph (c), within the current term of supervision, a  
490 probation officer, with a supervisor's approval, may offer an  
491 eligible probationer or offender on community control one or  
492 more of the following as an alternative sanction:

493 1. Up to 21 days in the county jail.

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494 2. Curfew for up to 90 days.

495 3. House arrest for up to 90 days.

496 4. Electronic monitoring for up to 90 days.

497 5. Residential treatment for up to 90 days.

498 6. Any other sanction available for a low-risk violation.

499 7. Any other sanction as determined by administrative order  
500 of the chief judge of the circuit.

501 (g) The participation of a probationer or an offender on  
502 community control in the program is voluntary. The probationer  
503 or offender on community control may waive or discontinue  
504 participation in the program at any time before the court  
505 imposes a recommended sanction.

506 (h)1. If a probationer or offender on community control is  
507 eligible for the alternative sanctioning program under this  
508 subsection, he or she may:

509 a. Waive participation in the program, in which case the  
510 probation officer may submit a violation report, affidavit, and  
511 warrant to the court; or

512 b. Elect to participate in the program after receiving  
513 written notice of an alleged technical violation and disclosure  
514 of the evidence against him or her, admitting to the technical  
515 violation, agreeing to comply with the probation officer's  
516 recommended sanction if subsequently ordered by the court, and  
517 agreeing to waive the right to:

518 (I) Be represented by legal counsel.

519 (II) Require the state to prove his or her guilt before a  
520 neutral and detached hearing body.

521 (III) Subpoena witnesses and present to a judge evidence in  
522 his or her defense.

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523 (IV) Confront and cross-examine adverse witnesses.

524 (V) Receive a written statement from a judge as to the  
525 evidence relied on and the reasons for the sanction imposed.

526 2. If the probationer or offender on community control  
527 admits to committing the technical violation and agrees with the  
528 probation officer's recommended sanction, the probation officer  
529 must, before imposing the sanction, submit the recommended  
530 sanction to the court with documentation reflecting the  
531 probationer's admission to the technical violation and agreement  
532 with the recommended sanction.

533 (i) The court may impose the recommended sanction or direct  
534 the department to submit a violation report, affidavit, and  
535 warrant to the court.

536 (j) If a probationer or offender on community control  
537 waives or discontinues participation in the program or fails to  
538 successfully complete all alternative sanctions within 90 days  
539 after imposition or within the timeframe specified in the agreed  
540 upon sanction, the probation officer may submit a violation  
541 report, affidavit, and warrant to the court. A prior admission  
542 by the probationer or offender on community control to a  
543 technical violation may not be used as evidence in subsequent  
544 proceedings.

545 Section 12. Section 951.30, Florida Statutes, is created to  
546 read:

547 951.30 Notification of outstanding terms of sentence upon  
548 release.—

549 (1) A county detention facility shall notify a prisoner in  
550 writing upon the discharge of such prisoner of all outstanding  
551 terms of the prisoner's sentence at the time of release,

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552 including, but not limited to, a term of supervision and any  
553 conditions required upon release from imprisonment or unpaid  
554 restitution, court costs, fees, or fines. Such notification  
555 shall be included in the documentation provided to the prisoner  
556 at release.

557 (2) This section does not apply to prisoners who are  
558 discharged from a county detention facility to the custody or  
559 control of the Department of Corrections.

560 Section 13. Paragraph (c) of subsection (3) of section  
561 893.03, Florida Statutes, is amended to read:

562 893.03 Standards and schedules.—The substances enumerated  
563 in this section are controlled by this chapter. The controlled  
564 substances listed or to be listed in Schedules I, II, III, IV,  
565 and V are included by whatever official, common, usual,  
566 chemical, trade name, or class designated. The provisions of  
567 this section shall not be construed to include within any of the  
568 schedules contained in this section any excluded drugs listed  
569 within the purview of 21 C.F.R. s. 1308.22, styled "Excluded  
570 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical  
571 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted  
572 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt  
573 Anabolic Steroid Products."

574 (3) SCHEDULE III.—A substance in Schedule III has a  
575 potential for abuse less than the substances contained in  
576 Schedules I and II and has a currently accepted medical use in  
577 treatment in the United States, and abuse of the substance may  
578 lead to moderate or low physical dependence or high  
579 psychological dependence or, in the case of anabolic steroids,  
580 may lead to physical damage. The following substances are

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581 controlled in Schedule III:

582 (c) Unless specifically excepted or unless listed in  
583 another schedule, any material, compound, mixture, or  
584 preparation containing limited quantities of any of the  
585 following controlled substances or any salts thereof:

586 1. Not more than 1.8 grams of codeine per 100 milliliters  
587 or not more than 90 milligrams per dosage unit, with an equal or  
588 greater quantity of an isoquinoline alkaloid of opium.

589 2. Not more than 1.8 grams of codeine per 100 milliliters  
590 or not more than 90 milligrams per dosage unit, with recognized  
591 therapeutic amounts of one or more active ingredients which are  
592 not controlled substances.

593 3. Not more than 300 milligrams of hydrocodone per 100  
594 milliliters or not more than 15 milligrams per dosage unit, with  
595 a fourfold or greater quantity of an isoquinoline alkaloid of  
596 opium.

597 4. Not more than 300 milligrams of hydrocodone per 100  
598 milliliters or not more than 15 milligrams per dosage unit, with  
599 recognized therapeutic amounts of one or more active ingredients  
600 that are not controlled substances.

601 5. Not more than 1.8 grams of dihydrocodeine per 100  
602 milliliters or not more than 90 milligrams per dosage unit, with  
603 recognized therapeutic amounts of one or more active ingredients  
604 which are not controlled substances.

605 6. Not more than 300 milligrams of ethylmorphine per 100  
606 milliliters or not more than 15 milligrams per dosage unit, with  
607 one or more active, nonnarcotic ingredients in recognized  
608 therapeutic amounts.

609 7. Not more than 50 milligrams of morphine per 100

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610 milliliters or per 100 grams, with recognized therapeutic  
611 amounts of one or more active ingredients which are not  
612 controlled substances.

613  
614 For purposes of charging a person with a violation of s. 893.135  
615 involving any controlled substance described in subparagraph 3.  
616 or subparagraph 4., the controlled substance is a Schedule III  
617 controlled substance pursuant to this paragraph but the weight  
618 of the controlled substance per milliliters or per dosage unit  
619 is not relevant to the charging of a violation of s. 893.135.  
620 The weight of the controlled substance shall be determined  
621 pursuant to s. 893.135(7) ~~s. 893.135(6)~~.

622 Section 14. This act shall take effect July 1, 2019.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

642

Bill Number (if applicable)

~~425882~~

Amendment Barcode (if applicable)

Topic Criminal Justice

Name Scott McCoy

Job Title \_\_\_\_\_

Address \_\_\_\_\_

Phone 950-521-3042

Street

Tully

City

FL

State

32302

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FL Campaign for Criminal Justice Reform

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/2019

*Meeting Date*

SB 642

*Bill Number (if applicable)*

425892

*Amendment Barcode (if applicable)*

Topic Criminal Justice

Name Scott D. McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

*Street*

Tallahassee

*City*

FL

*State*

32302

*Zip*

Phone 850-521-3042

Email scott.mccoy@splcenter.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Southern Poverty Law Center Action Fund

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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S-001 (10/14/14)

# THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/2019

SB 642

*Meeting Date*

*Bill Number (if applicable)*

425892

Topic Criminal Justice

*Amendment Barcode (if applicable)*

Name Scott D. McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

Phone 850-521-3042

*Street*

Tallahassee

FL

32302

Email scott.mccoy@splcenter.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Southern Poverty Law Center Action Fund

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/2019

*Meeting Date*

SB 642

*Bill Number (if applicable)*

160412

*Amendment Barcode (if applicable)*

Topic Criminal Justice

Name Scott D. McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

Phone 850-521-3042

*Street*

Tallahassee

FL

32302

Email scott.mccoy@splcenter.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Southern Poverty Law Center Action Fund

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

642

Bill Number (if applicable)

160412

Amendment Barcode (if applicable)

Topic Criminal Justice

Name Scott McCoy

Job Title \_\_\_\_\_

Address \_\_\_\_\_

Phone 850-521-3042

Street

Tally

FL

32302

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Campaign for Criminal Justice Reform

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

# THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/2019

*Meeting Date*

SB 642

*Bill Number (if applicable)*

160412

*Amendment Barcode (if applicable)*

Topic Criminal Justice

Name Scott D. McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

*Street*

Tallahassee

*City*

FL

*State*

32302

*Zip*

Phone 850-521-3042

Email scott.mccoy@splcenter.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Southern Poverty Law Center Action Fund

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/2019

*Meeting Date*

SB 642

*Bill Number (if applicable)*

736318

*Amendment Barcode (if applicable)*

Topic Criminal Justice

Name Scott D. McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

Phone 850-521-3042

*Street*

Tallahassee

FL

32302

Email scott.mccoy@splcenter.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Southern Poverty Law Center Action Fund

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

642

Bill Number (if applicable)

736318

Amendment Barcode (if applicable)

Topic Criminal Justice

Name Scott McCoy

Job Title \_\_\_\_\_

Address \_\_\_\_\_

Phone 850-521-3042

Street

Tally

FL

32302

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FL Campaign for Criminal Justice Reform

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

# THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/2019

SB 642

Meeting Date

Bill Number (if applicable)

736318

Amendment Barcode (if applicable)

Topic Criminal Justice

Name Scott D. McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

Phone 850-521-3042

Street

Tallahassee

FL

32302

Email scott.mccoy@splcenter.org

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Southern Poverty Law Center Action Fund

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19  
Meeting Date

642  
Bill Number (if applicable)

271420  
Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Diana Ferguson

Job Title Attorney

Address 119 S Monroe St Ste 202

Phone 681-6788

Street

Tampa

City

FL

State

32301

Zip

Email dferguson@retiree-ecenia.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FL Animal Control Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-16-19

Meeting Date

SB 0642

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Erin Cusick

Job Title Consultant

Address 1931 Bellwood Drive

Phone \_\_\_\_\_

Street

Tallahassee

FL

32303

Email erin@erincusick.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing National Association of Social Workers - Florida Chapter

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

642

Bill Number (if applicable)

2071420

Amendment Barcode (if applicable)

Topic Criminal Justice Reform

Name Neil Volz

Job Title Political Director

Address 4081 LB McLeod

Street

Orlando

City

FL

State

Zip

Phone 239-848-5502

Email neil@floridacc.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Rights Restoration Coalition

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/2019

*Meeting Date*

SB 642

*Bill Number (if applicable)*

271420

*Amendment Barcode (if applicable)*

Topic Criminal Justice

Name Scott D. McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

*Street*

Tallahassee

*City*

FL

*State*

32302

*Zip*

Phone 850-521-3042

Email scott.mccoy@splcenter.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Southern Poverty Law Center Action Fund

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-16-19

Meeting Date

642

Bill Number (if applicable)

271420

Amendment Barcode (if applicable)

Topic Criminal Justice

Name Matt Dunagan

Job Title Deputy Director

Address 2617 Mahan Drive

Street

Phone 850-877-2165

Tallahassee

City

FL

State

32308

Zip

Email mdunagan@flsheriffs.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Sheriffs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

April 16, 2019

Meeting Date

642

Bill Number (if applicable)

271420

Amendment Barcode (if applicable)

Topic Criminal Justice

Name Gary Hester

Job Title Chief - Government Affairs

Address P.O. Box 14038

Street

Tallahassee

City

FL

State

32317

Zip

Phone 850-219-3631

Email ghester@fpca.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Police Chiefs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

SB 642

Bill Number (if applicable)

271420

Amendment Barcode (if applicable)

Topic Florida First Step Act - Criminal Justice Reforms

Name Kara Gross

Job Title Legislative Director

Address 4343 W. Flagler St., 400

Street

Miami

City

FL

State

32312

Zip

Phone 766-363-4436

Email kgross@aclufl.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing ACLU of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

SB642

Bill Number (if applicable)

271420 D

Amendment Barcode (if applicable)

Topic SB642 strike all

Name JENNIFER HOBGOOD, PHD

Job Title SENIOR DIRECTOR OF LEGISLATION

Address PO BOX 2105

Street

Phone 4455245

TALL.

City

FL

State

32314

Zip

Email jenhobgood@aspc.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing ASPCA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04/16/2019  
Meeting Date

642  
Bill Number (if applicable)  
271420  
Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Lauren Jackson

Job Title Lobbyist

Address 205 S. Adams St  
Street  
Tallahassee FL 32301  
City State Zip

Phone 931-265-8999

Email lauren@erickseconsultants.co

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing National Federation of Public Employees

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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# THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/016/2019

Meeting Date

642  
SB-1642

Bill Number (if applicable)

\* 271420

Amendment Barcode (if applicable)

Topic Criminal Justice

Name Marion P. Hammer

Job Title

Requested to go last

Address PO Box 1387

Street

Phone 850-222-9518

Tallahassee

FL

32302

Email

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing National Rifle Association & Unified Sportsmen of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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**THE FLORIDA SENATE**

**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

18624 642

Bill Number (if applicable)

Strike all

Amendment Barcode (if applicable)

Topic First Step Act → amendment

Name Ida V. Eskamani

Job Title Public Policy

Address 126 N. Mills Ave

Street

Orlando

City

FL

State

32801

Zip

Phone \_\_\_\_\_

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing New Florida Majority

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/2019  
Meeting Date

SB642  
Bill Number (if applicable)

Topic CAP OF 45% GAIN TIME FOR EVERYONE

Amendment Barcode (if applicable)

Name TRACY JOHNSON

Job Title Retired Fed. Agent

Address 608 1/2 W W Kelley Rd

Phone (305) 710-9457

Street  
Tallahassee FL 32311  
City State Zip

Email tjohnson123@yahoo.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLORIDA CARBS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-16-19

Meeting Date

SB 642

Bill Number (if applicable)

Topic Crim Justice

Amendment Barcode (if applicable)

Name J.J. DAIAK ("Dai'-ak")

Job Title \_\_\_\_\_

Address 1330 Steenbolk Dr  
Street

Phone 727-645-1835

Hollywood FL 34690  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11 April 2019  
Meeting Date

642  
Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Jill Gran

Job Title Sr Policy Adviser

Address 316 E Park Ave

Phone 8508782196

Street  
Tallahassee FL 32301  
City State Zip

Email jill@fadaa.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Council for Behavioral Health

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-16-19

Meeting Date

642

Bill Number (if applicable)

Topic Occupational License

Amendment Barcode (if applicable)

Name Deanna R. Smith

Job Title Clergy

Address 246 SW Valtari Ter

Phone \_\_\_\_\_

Street

Port St Lucie Fla 34984

Email Pastor.deanna49@gmail.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Rights Restoration

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/10/19  
Meeting Date

642  
Bill Number (if applicable)

Topic Occupational License

Amendment Barcode (if applicable)

Name Tracey Williams

Job Title Truck Driver

Address 408 Georgia Ave  
Street

Phone 772-940-8087

Ft Pierce, FL 34950  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FRRC

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/2019  
Meeting Date

642  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Rosemary McCoy

Job Title Job Coordinator

Address 2038 Betsy Dr  
Street

Phone (904) 713-1570

JAX FL 32210  
City State Zip

Email mccoy4real03w1@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/14/2019

Meeting Date

642

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Sharon Madison

Job Title Reentry Coord Florida Right Restoration Coalition

Address 2704 Grassmoor Loop

Phone 904-535-4340

Street

Apopka, FL 32714

City

State

Zip

Email Sharon@FloridaRRC.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-16-19

Meeting Date

642

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Beenie McHarg

Job Title Prep Cook

Address 208 W Columbia Ave

Phone 407.837.2805

Street

Kissimmee FL 34741

Email ferran1971@icloud.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-16-19

Meeting Date

642

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Matt Dunagan

Job Title Deputy Director

Address 2617 Mahan Drive

Phone 850-877-2165

Street

Tallahassee FL 32308

City

State

Zip

Email mdunagan@flsheriffs.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Sheriffs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

April 16, 2019

Meeting Date

642

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Gary Hester

Job Title Chief - Government Affairs

Address P.O. Box 14038

Phone 850-219-3631

Street

Tallahassee

FL

32317

Email ghester@fpca.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Police Chiefs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

642  
Bill Number (if applicable)

Meeting Date \_\_\_\_\_

Topic Criminal Justice

Amendment Barcode (if applicable) \_\_\_\_\_

Name Lisa Henning

Job Title Legislative Director

Address 242 Office Plaza Dr

Phone 850-766-8808

Tallahassee FL 32301  
City State Zip

Email lhenning@legis.state.fl.us

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Fraternal Order of Police

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

SB642

Bill Number (if applicable)

Topic Criminal Justice Reform

Amendment Barcode (if applicable)

Name Paula Hill

Job Title \_\_\_\_\_

Address 503 Palm Beach Street

Phone 470-591-6896

Street

Tallahassee Florida 32310

Email hillpaula55@gmail.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Rights Restoration Coalition

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-11-14

Meeting Date

~~513642~~ 513642

Bill Number (if applicable)

Topic Occupational License (Criminal) Justice

4  
Amendment Barcode (if applicable)

Name Gale Williams

Job Title Chef

Address 2514 Green Oak Dr

Phone 904 584-3496

Street

Jacksonville Florida 32211

Email StephanieKirby@gmail.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FRRC

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

SB 642

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Demetrius Minor

Job Title Director of Coalitions

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Americans For Prosperity

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

# THE FLORIDA SENATE APPEARANCE RECORD

4-16-19  
Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB-642  
Bill Number (if applicable)

Topic CRIMINAL JUSTICE

Amendment Barcode (if applicable)

Name BARRY HABER

Job Title DISTRICT DIRECTOR USOUL RETIRED

Address 3217 CONKLIN DR.

Phone 850 284-5615

Street

DALLANTON FL 32311

City

State

Zip

Email BARRYJHABER@HOTMAIL.COM

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FAMILY MEMBER

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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# THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4.16.19

642

*Meeting Date*

*Bill Number (if applicable)*

Topic Criminal Justice

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

*Street*

Tallahassee

FL

32308

Email barney@barneybishop.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Smart Justice Alliance

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

642

Bill Number (if applicable)

Topic

Mandatory Minimum / COR

Amendment Barcode (if applicable)

Name

Jay Springsteen

Job Title

Address

1451 26<sup>th</sup> Street

Phone

407-668-346

Street

Orlando

FL

32805

Email

jayspringsteen

City

State

Zip

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

FRR Florida Rights

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4/16/19  
Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 642  
Bill Number (if applicable)

Topic Minimum Mandatory

Amendment Barcode (if applicable)

Name Coral Nichols

Job Title Vice President

Address 1190 Seminole Blvd  
Street

Phone 727-475-8476

Seminole FL 33773  
City State Zip

Email Cnichols@empowered-to-change.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Empowered to Change, Inc / FLCC

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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# THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4.16.19

Meeting Date

SB642

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Jill Trask

Job Title \_\_\_\_\_

Address 87 Clear Brook Trl

Phone 772 521 2770

Street

Douglasville GA 30134

City

State

Zip

Email jtrask115@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Joel Trask & others serving 20 years for aggravated assault

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

April 16, 2019

*Meeting Date*

SB 0642

*Bill Number (if applicable)*

Topic Criminal Justice

*Amendment Barcode (if applicable)*

Name Hon. Carlos Martinez

Job Title Elected Public Defender 11th Circuit

Address 1320 NW 14th Street

Phone 305-545-1600

*Street*

Miami

FL

33125

Email cmartinez@pdmiami.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Public Defender Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04/16/19  
Meeting Date

642  
Bill Number (if applicable)

Topic ~~Real~~ Occupation Licenses

Amendment Barcode (if applicable)

Name Gleniel B. Luster

Job Title \_\_\_\_\_

Address 2721 MYRA STREET

Phone 904-444-4227

Street

JACKSONVILLE FL 32204

City

State

Zip

Email slenniellust@smail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FRRC

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

CS/SB 642

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Buddy JACOBS

Job Title General Counsel

Address 961687 Gateway Blvd.  
Street

Phone 904 261-3693

Fernandina Bch FL 32034  
City State Zip

Email ajacobs@comcast.net

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLA. Prosecuting Attorneys Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/2019

Meeting Date

642

Bill Number (if applicable)

Topic FLORIDA FIRST STEP ACT

Amendment Barcode (if applicable)

Name DAVID SAFAVIAN

Job Title GENERAL COUNSEL, AMERICAN CONSERVATIVE UNION

Address 201 N. UNION ST., #370

Phone 202-347-9388

Street

ALEXANDRIA

VA

22314

Email DSAFAVIAN@CONSERVATIVE.ORG

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing AMERICAN CONSERVATIVE UNION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-16-19

Meeting Date

642

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Greg Newburn

Job Title State Policy Director

Address PO Box 142933

Phone 352.682.2542

Gainesville FL 32614  
City State Zip

Email gnewburn@famm.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FAMM

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

642

Bill Number (if applicable)

Topic Florida First Step Act

Amendment Barcode (if applicable)

Name Chelsea Murphy

Job Title State Director

Address 405 Middlebrooks Cr.

Phone \_\_\_\_\_

Street

PAH

City

FL

State

32312

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Right on Crime

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/2019

*Meeting Date*

SB 642

*Bill Number (if applicable)*

Topic Criminal Justice

*Amendment Barcode (if applicable)*

Name Scott D. McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

Phone 850-521-3042

*Street*

Tallahassee

FL

32302

Email scott.mccoy@splcenter.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Southern Poverty Law Center Action Fund

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/2019  
Meeting Date

SB 642  
Bill Number (if applicable)

Topic CRIMINAL JUSTICE

Amendment Barcode (if applicable)

Name PAUL HEROUX

Job Title \_\_\_\_\_

Address 4765 ARROW RD  
Street

Phone 407-443-1459

ORLANDO FL 32812  
City State Zip

Email XLORENT@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLORIDA CARES

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB642  
Bill Number (if applicable)

Meeting Date \_\_\_\_\_

Topic \_\_\_\_\_

Amendment Barcode (if applicable) \_\_\_\_\_

Name Erica Medina

Job Title \_\_\_\_\_

Address 2295 Underwood Ave

Phone 407 212-0904

Saint Cloud FL 34771  
Street City State Zip

Email Erica1007Medina@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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# THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/2019

Meeting Date

642

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Sal Nuzzo

Job Title Vice President of Policy

Address 100 N Duval Street

Phone 850-322-9941

Street

Tallahassee

FL

32301

Email snuzzo@jamesmadison.org

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing The James Madison Institute

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

# THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-16-19

Meeting Date

SB642

Bill Number (if applicable)

Topic Gain time

Amendment Barcode (if applicable)

Name Rita Mattson

Job Title \_\_\_\_\_

Address 8462 Tippin

Phone 850 712 6882

Peratola FL 32514

City State Zip

Email rs Mattson 1@yahoo

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Chad Mattson # Q24105

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

4-16-19

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB642

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Laurette Philipson

Job Title 2

727-~~374~~84-0237

Address 7240 West Wind Dr

Phone

PR FL 34664

City State Zip

Email disneygrandma060@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Al. Cares & my self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB642  
Bill Number (if applicable)

Meeting Date \_\_\_\_\_

Topic SB642

Amendment Barcode (if applicable) \_\_\_\_\_

Name Natacha Toro

Job Title \_\_\_\_\_

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email NatachaToro5@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

**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 Subcommittee on Criminal and Civil Justice

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BILL: CS/SB 762

INTRODUCER: Judiciary Committee and Senator Gruters

SUBJECT: Duties and Obligations of Sheriffs

DATE: April 15, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Tulloch</u>	<u>Cibula</u>	<u>JU</u>	<b>Fav/CS</b>
2.	<u>Price</u>	<u>Miller</u>	<u>IS</u>	<b>Favorable</b>
3.	<u>Dale</u>	<u>Jameson</u>	<u>ACJ</u>	<b>Recommend: Favorable</b>
4.	_____	_____	<u>AP</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 762 addresses the decision-making authority and responsibilities of two constitutional officers, the chief judge of a circuit court and the county sheriff, in providing courthouse security. The bill clarifies the decision-making authority for courthouse security, providing that:

- The sheriff, county commissioners, and chief judge of the circuit must develop a comprehensive plan for courthouse security.
- The sheriff retains operational control in accord with the comprehensive security plan.
- The chief judge retains decision-making authority to carry out his or her administrative functions concerning the protection of due process rights and the scheduling and conduct of trials and other judicial proceedings in accord with the comprehensive plan.

Because the sheriffs and their deputies, employees, and contractors are officers of the court when providing security for trial court facilities, the chief judge has authority to direct these officers to ensure the proper conduct of trials and judicial proceedings. However, the sheriff retains operational control as to how security is provided. For example, the chief judge may request two bailiffs in a courtroom for high profile cases, but the sheriff will designate the two deputies who will serve as bailiffs.

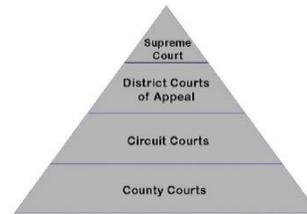
The bill is effective July 1, 2019.

## II. Present Situation:

### Florida's Court System

The Florida Constitution vests all judicial power in:

- The supreme court;
- The district courts of appeal;
- The circuit courts; and
- The county courts.<sup>1</sup>



The Constitution provides that “[n]o other courts may be established by the state, any political subdivision or any municipality.”<sup>2</sup>

### Court System Administration

The Constitution vests the Florida Supreme Court with broad authority to administer the state courts system and establish court rules of procedure.<sup>3</sup> The chief justice of the Florida Supreme Court is constitutionally designated as the “chief administrative officer of the judicial system.”<sup>4</sup> The Constitution also directs that a chief judge be chosen for each district court of appeal and each circuit court.<sup>5</sup>

### Chief Judge of the Circuit Court

The chief judge of the circuit court has administrative supervision responsibility for, not only the circuit court, but also the county courts within his or her circuit.<sup>6</sup> Currently, there are 20 judicial circuits and 67 county courts, one in each of Florida’s 67 counties<sup>7</sup> as constitutionally required.<sup>8</sup>

The following maps illustrate the territorial jurisdictions of the circuit and county courts. Note, some circuits contain multiple counties, particularly in North Florida; whereas, some circuits contain only one county, particularly in the larger metropolitan areas in Central and South Florida.<sup>9</sup>

<sup>1</sup> FLA. CONST. art. V., s. 1.

<sup>2</sup> *Id.* (The Constitution does permit the Legislature to establish quasi-judicial, administrative courts and a civil traffic infraction hearing officer system).

<sup>3</sup> FLA. CONST. art. V, s. 2(a).

<sup>4</sup> FLA. CONST. art. V, s. 2(b).

<sup>5</sup> FLA. CONST. art. V, s. 2(c), (d).

<sup>6</sup> FLA. CONST. art. V, s. 2(d). Additionally, the chief judge is constitutionally chosen “as provided by supreme court rule.” *Id.*

<sup>7</sup> Florida Courts, *Court System Organization & Structure*, <http://www.flcourts.org/florida-courts/> (last visited April 10, 2019).

<sup>8</sup> FLA. CONST. art. V, s. 6(a) (“There shall be a county court in each county.”).

<sup>9</sup> Ron DeSantis, 46<sup>th</sup> Governor of Florida, Judicial and Judicial Nominating Commission Information, *The Florida Court System*, <https://www.flgov.com/judicial-and-judicial-nominating-commission-information/> (last visited April 10, 2019).



The constitutional responsibility for counties to fund court-related functions is implemented in s. 29.008, F.S., which also defines many of the key terms from the constitutional provision above. Among these terms, s. 29.008(1)(a), F.S. defines “facility” as follows:

“Facility” means reasonable and necessary buildings and office space and appurtenant equipment and furnishings, structures, real estate, easements, and related interests in real estate, including, but not limited to, those for the purpose of housing legal materials for use by the general public and personnel, equipment, or functions of the circuit or county courts, public defenders’ offices, state attorneys’ offices, and court-related functions of the office of the clerks of the circuit and county courts and all storage. The term “facility” includes all wiring necessary for court reporting services. The term also includes access to parking for such facilities in connection with such court-related functions that may be available free or from a private provider or a local government for a fee. . . .

1. As of July 1, 2005, equipment and furnishings shall be limited to that appropriate and customary for courtrooms, hearing rooms, jury facilities, and other public areas in courthouses and any other facility occupied by the courts, state attorneys, public defenders, guardians ad litem, and criminal conflict and civil regional counsel. Court reporting equipment in these areas or facilities is not a responsibility of the county.

2. Equipment and furnishings under this paragraph in existence and owned by counties on July 1, 2005, except for that in the possession of the clerks, for areas other than courtrooms, hearing rooms, jury facilities, and other public areas in courthouses and any other facility occupied by the courts, state attorneys, and public defenders, shall be transferred to the state at no charge. This provision does not apply to any communications services as defined in paragraph (f).

Additionally, s. 29.008(1)(e), F.S. defines “security” as follows:

“Security” includes but is not limited to, all reasonable and necessary costs of services of *law enforcement officers or licensed security guards* and all electronic, cellular, or digital monitoring and screening devices necessary to ensure the safety and security of all persons visiting or working in a facility; to provide for security of the facility, including protection of property owned by the county or the state; and for security of prisoners brought to any facility. This includes bailiffs while providing courtroom and other security for each judge and other quasi-judicial officers.<sup>13</sup>

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<sup>13</sup> Emphasis added.

## **Sheriffs**

Sheriffs are constitutional county officers.<sup>14</sup> As a constitutional officer, a sheriff exercises independent authority and discretion in carrying out his or her various duties and in appointing and disciplining deputies.<sup>15</sup> The sheriff's duties include, among other things, conserving the county peace by suppressing riots and making arrests as necessary; and executing process on behalf of the Florida Supreme Court, circuit courts, county courts, and board of county commissioners in the sheriff's county.<sup>16</sup>

### ***Sheriffs' Courtroom Duties***

The sheriff is “the executive officer of the circuit court of the county.”<sup>17</sup> As such, the sheriff or his or her deputies execute all service of court process in both civil and criminal matters and attend all sessions of court.<sup>18</sup> In attending all sessions of court, the sheriff or his or her deputies serve as bailiffs and take charge of the jury, carry out service of process, keep order, and so forth. It is the sheriff, not the chief judge, who appoints any deputy to serve as a bailiff in a courtroom.<sup>19</sup>

### ***Beyond the Courtroom: Security in other Court Facilities***

Although sheriffs and their deputies are required to serve as bailiffs in the courtrooms around the state, unless contracted to do so with the county government, the sheriffs are not constitutionally or statutorily required to take responsibility for the security of all court facilities. Rather, county governments are responsible to provide for and fund security for court facilities and, as set out in s. 29.008(1)(e), F.S., *supra*, security may be provided by “law enforcement officers” such as municipal police officers,<sup>20</sup> or “licensed security guards.”

### ***Tensions Between Sheriffs and Chief Circuit Court Judges***

Tensions between sheriffs and chief circuit court judges often arise when determining the scope of each constitutional officers' authority in how courtroom and other court facility security is provided.<sup>21</sup> A recent appellate court opinion relied on the definitions of “facility” and “security” in s. 29.008, F.S., *supra*, as the basis for permitting an administrative order of the chief judge to stand which ordered the sheriff to secure a building used by the court.<sup>22</sup> The particular building

<sup>14</sup> FLA. CONST. art. VIII, s. (d).

<sup>15</sup> See generally *Demings v. Orange County Citizens Review Bd.*, 15 So. 3d 604, 610–11 (Fla. 5th DCA 2009).

<sup>16</sup> See generally s. 30.15, F.S.

<sup>17</sup> Section 26.49, F.S. See also s. 34.07, F.S. (sheriff is executive officer of county courts).

<sup>18</sup> Section. 30.15(1)(a)-(c), F.S.

<sup>19</sup> *State ex rel. Wainwright v. Booth*, 291 So. 2d 74, 76–77 (Fla. 2d DCA 1974), writ discharged sub nom. *Booth v. Wainwright*, 300 So. 2d 257 (Fla. 1974).

<sup>20</sup> Section 943.10(1), F.S. (“Law enforcement officer means 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”).

<sup>21</sup> See, e.g., *State ex rel. Wainwright v. Booth*, 291 So. 2d 74, 76–77 (Fla. 2d DCA 1974), writ discharged sub nom. *Booth v. Wainwright*, 300 So. 2d 257 (Fla. 1974) (challenging the validity of a chief judge's order requiring Department of Corrections to provide supplemental security to sheriff during a murder trial).

<sup>22</sup> *Knight v. Chief Judge of Florida's Twelfth Judicial Circuit*, 235 So. 3d 996, 999 (Fla. 2d DCA 2017) (denying the sheriff's writ for petition of certiorari for failure to meet the burden of showing the chief judge had exceeded his authority by issuing

at issue did not include courtrooms. The sheriff objected to the amount of control the chief judge exerted over the sheriff because the order required the sheriff to *exclusively* provide security to the facility in question. Additionally, the sheriff objected to the potential funding issues caused by the security requirements in the chief judge's order.<sup>23</sup>

### III. Effect of Proposed Changes:

CS/SB 762 addresses the decision-making authority and responsibilities of the chief judge and the county sheriff in providing courthouse security. The bill clarifies the decision-making authority for courthouse security, providing that:

- The sheriff, county commissioners, and chief judge of the circuit must develop a comprehensive plan for courthouse security.
- The sheriff retains operational control in accord with the comprehensive security plan.
- The chief judge retains decision-making authority to carry out his or her administrative functions concerning the protection of due process rights and the scheduling and conduct of trials and other judicial proceedings in accord with the comprehensive plan.

Because the sheriffs and their deputies, employees, and contractors are officers of the court when providing security for trial court facilities, the chief judge has authority to direct these officers to ensure the proper conduct of trials and judicial proceedings. However, the sheriff retains operational control as to how security is provided. For example, the chief judge may request two bailiffs in a courtroom for high profile cases, but the sheriff will designate the two deputies who will serve as bailiffs.

The bill is effective July 1, 2019.

### 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.

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an administrative order directing the sheriff to provide security in portions of the court facilities where no court proceedings are held).

<sup>23</sup> *Id.* at 997-1000.

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's "Government Sector" fiscal impact is indeterminate. As the primary funding source for the sheriffs, the county commissioners are required to assist in the development of the comprehensive security plan.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 30.15 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 Judiciary on March 25, 2019:**

The Committee Substitute:

- Replaces the requirement that sheriffs and chief judges coordinate on trial court security with the requirement that sheriffs coordinate with both the county commissioners and the chief judges to develop a comprehensive plan for trial court security.
- Clarifies that sheriffs retain operational authority under the comprehensive plan.
- Clarifies that chief judges retain decision-making authority under the comprehensive plan.
- Removes statutory construction provision.
- Amends the title, changing it to duties and obligations of sheriffs.

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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By the Committee on Judiciary; and Senator Gruters

590-03468-19

2019762c1

1                   A bill to be entitled  
2           An act relating to duties and obligations of sheriffs;  
3           amending s. 30.15, F.S.; requiring each sheriff to  
4           coordinate with certain boards of county commissioners  
5           and chief judges to develop a comprehensive plan for  
6           security of trial court facilities; specifying that  
7           sheriffs and chief judges retain certain authorities;  
8           specifying that sheriffs and their deputies,  
9           employees, and contractors are officers of the court  
10          under specified circumstances; providing an effective  
11          date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15           Section 1. Subsection (4) is added to section 30.15,  
16 Florida Statutes, to read:

17           30.15 Powers, duties, and obligations.—

18           (4) (a) In accordance with each county's obligation under s.  
19 14, Art. V of the State Constitution and s. 29.008 to fund  
20 security for trial court facilities, the sheriff of each county  
21 shall coordinate with the board of county commissioners of that  
22 county and the chief judge of the circuit in which that county  
23 is located on the development of a comprehensive plan for the  
24 provision of security for trial court facilities. Each sheriff  
25 shall retain authority over the implementation and provision of  
26 law enforcement services associated with the plan. The chief  
27 judge of the circuit shall retain decision-making authority to  
28 ensure the protection of due process rights, including, but not  
29 limited to, the scheduling and conduct of trial and other

590-03468-19

2019762c1

30 judicial proceedings as part of his or her responsibility for  
31 the administrative supervision of trial courts under s. 43.26.

32 (b) Sheriffs and their deputies, employees, and contractors  
33 are officers of the court when providing security for trial  
34 court facilities under this subsection.

35 Section 2. This act shall take effect July 1, 2019.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date \_\_\_\_\_

CS/SB 762  
Bill Number (if applicable)

Topic Attorneys Fees

Amendment Barcode (if applicable)

Name Buddy Jacobs

Job Title General Counsel

Address 961607 Gateway Blvd.

Phone 904 261-3693

Street

Fernandina Beach FL

Email bjacobs@comcast.net

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLa. Prosecuting Attorneys Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

# THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4.16.19

*Meeting Date*

762

*Bill Number (if applicable)*

Topic Duties & Obligations of Sheriffs

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

*Street*

Tallahassee

FL

32308

Email barney@barneybishop.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Smart Justice Alliance

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

## THE FLORIDA SENATE

**APPEARANCE RECORD**

4/16/2019

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

762

*Meeting Date**Bill Number (if applicable)*Topic Duties and Obligations of Sheriffs*Amendment Barcode (if applicable)*Name Matt DunaganJob Title Deputy DirectorAddress 2617 Mahan DrivePhone 850-877-2165*Street*TallahasseeFL32308Email mdunagan@flsheriffs.org*City**State**Zip*Speaking:  For  Against  InformationWaive Speaking:  In Support  Against  
(The Chair will read this information into the record.)Representing Florida Sheriffs AssociationAppearing at request of Chair:  Yes  NoLobbyist registered with Legislature:  Yes  No*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.****This form is part of the public record for this meeting.***

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

16 APR 19  
Meeting Date

768  
Bill Number (if applicable)

Topic Attorney Fees

Amendment Barcode (if applicable)

Name Scott Howell

Job Title VP for External Affairs

Address 425 Office Plaza Dr.  
Street

Phone (850) 325-3721

Tall. FL  
City State

32301 Email scott-howell@leadv.org  
Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Coalition Against Domestic Violence

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

**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 Subcommittee on Criminal and Civil Justice

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BILL: CS/SB 768

INTRODUCER: Judiciary Committee and Senator Perry

SUBJECT: Attorney Fees

DATE: April 15, 2019                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stallard	Cibula	JU	<b>Fav/CS</b>
2.	Dale	Jameson	ACJ	<b>Recommend: Favorable</b>
3.			AP	

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

**I. Summary:**

CS/SB 768 prohibits a court from awarding a person attorney fees in an action for an injunction for protection against stalking or sexual, repeat, or dating violence, unless the court finds by clear and convincing evidence that the petitioner knowingly made a false statement or allegation in the petition.

However, to form the basis of an award of attorney fees, the false statement or allegation must have been in regard to a “material matter,” which is “any subject, regardless of its admissibility under the rules of evidence, which could affect the course or outcome of the proceeding.”

The bill does not have an impact on state revenues or expenditures.

The bill is effective July 1, 2019.

**II. Present Situation:**

**Context – A Recent Decision by the Florida Supreme Court**

In 2018, the Florida Supreme Court held that a court may require a party who raises a claim unsupported by fact or law to pay the attorney fees of the prevailing party in an action for a protective injunction against repeat or dating violence.<sup>1</sup>

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<sup>1</sup> See *Hall v. Lopez*, 233 So. 3d 451 (Fla. 2018).

The Court determined that an action of this type is in fact a “civil proceeding or action,” and is therefore within the scope of s. 57.105(1), F.S., which authorizes an award of attorney fees against a party who makes an unsupported claim in a civil action or proceeding.<sup>2</sup>

However, the dissenting justices argued that these injunction actions are not civil in nature, that the Legislature did not intend s. 57.105, F.S., to apply to these actions, and that the majority’s opinion will have a “chilling effect” on persons who are considering filing an action for a protective injunction.<sup>3</sup> In support of its argument regarding legislative intent, the dissent pointed out the “incompatibility” of timeframes in the attorney fee statute and the injunction statute: a person seeking attorney fees must give 21 days’ notice that he or she is seeking attorney fees, but an action for an injunction will often conclude in less than 21 days.<sup>4</sup> Therefore, the person who filed the action might have less than 21 days to withdraw his or her unsupported claim.

Although the majority opinion did not address the possibility of an award of attorney fees in an action for a protective injunction against *stalking*, it nonetheless appears by inference to authorize a court to award attorney fees in these cases.

### **Motion for Attorney Fees in a Civil Action under Section 57.105, Florida Statutes**

Under the American Rule on the awarding of attorney fees, a “court may award attorney fees only when authorized by statute or by agreement of the parties.”<sup>5</sup> Section 57.105(1), F.S., is one instance of this authorization. It provides for an award of attorney fees to the prevailing party in a civil action or proceeding if another party makes a claim or defense that is unsupported by the facts or the law:

- (1) Upon the court’s initiative or motion of any party, the court shall award a reasonable attorney’s fee, including prejudgment interest, to be paid to the prevailing party in equal amounts by the losing party and the losing party’s attorney on any claim or defense at any time during a civil proceeding or action in which the court finds that the losing party or the losing party’s attorney knew or should have known that a claim or defense when initially presented to the court or at any time before trial:
  - (a) Was not supported by the material facts necessary to establish the claim or defense; or
  - (b) Would not be supported by the application of then-existing law to those material facts.<sup>6</sup>

---

<sup>2</sup> *See id.* at 453-54.

<sup>3</sup> *See id.* at 454-55.

<sup>4</sup> *See id.* at 456.

<sup>5</sup> *Florida Patient’s Compensation Fund v. Rowe*, 472 So. 2d 1145, 1148 (Fla. 1985) (citing *Hampton’s Estate v. Fairchild-Florida Construction Co.*, 341 So. 2d 759 (Fla. 1976); *Webb v. Scott*, 176 So. 442 (1936); *State v. Barrs*, 99 So. 668 (1924); *Zinn v. Dzialynski*, 14 Fla. 187 (1872)).

<sup>6</sup> Emphasis added.

A person seeking attorney fees under s. 57.105, F.S. must first serve its motion on the party that it believes has made an unsupported claim.<sup>7</sup> The person must then wait 21 days before filing the motion for sanctions with the court, during which time the other party may withdraw the allegedly unsupported claim, thus avoiding a possible sanction.<sup>8</sup> But as the Supreme Court recently acknowledged, an action for an injunction against repeat or dating violence may conclude sooner than 21 days after it or the motion for fees is filed, thus giving the person who filed the action less than 21 days to withdraw an unsupported claim.

### **Action for Protective Injunction by Victim of Repeat, Sexual, or Dating Violence, or Stalking**

A person who is a victim of repeat violence, dating violence, sexual violence, or stalking, may file a petition for an injunction for protection from any of these.<sup>9</sup> The purpose of the injunction is to stop the perpetrator from committing further acts of violence or stalking upon the victim.<sup>10</sup> Accordingly, if a judge grants a petition for an injunction, he or she may grant “such relief as the court deems proper,” including directing the perpetrator to not commit violence against the victim, to have no contact with the victim, and to not go within a certain distance (e.g., 500 feet) of the victim’s home or office.<sup>11</sup>

A victim seeks an injunction by filing a petition with the circuit court.<sup>12</sup> The court then holds a hearing, which may be ex parte, and may enter a temporary injunction at the hearing.<sup>13</sup> If the court does so, a full hearing, with notice to the alleged perpetrator, must occur within 15 days.<sup>14</sup> Following this hearing, the court may enter a permanent injunction.<sup>15</sup> The injunction must be provided to the local sheriff, who must serve it on the perpetrator.<sup>16</sup>

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

The bill prohibits a court from awarding a person attorney fees in an action for an injunction for protection against stalking or sexual, repeat, or dating violence, unless the court finds by clear and convincing evidence that the petitioner knowingly made a false statement or allegation in the petition.

However, to form the basis of an award of attorney fees, the false statement or allegation must have been about a “material matter,” which is “any subject, regardless of its admissibility under the rules of evidence, which could affect the course or outcome of the proceeding.”<sup>17</sup>

The bill is effective July 1, 2019.

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<sup>7</sup> Section 57.105(4), F.S.

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

<sup>9</sup> *See* ss. 784.046 and 784.0485, F.S.

<sup>10</sup> *See Id.*

<sup>11</sup> *See* ss. 784.046(6)-(7), and 784.0485(5)-(6), F.S.

<sup>12</sup> Sections 784.046(2) and 784.0485(1), F.S.

<sup>13</sup> *See* ss. 784.046(5) and 784.0485(5), F.S.

<sup>14</sup> *See* ss. 784.046(6)(c) and 784.0485(5)(c), F.S.

<sup>15</sup> Sections 784.046(7) and 784.0485(6), F.S.

<sup>16</sup> Sections 784.046(8)(c) and 784.0485(8)(b), F.S.

<sup>17</sup> Section 837.011(3), F.S.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

**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:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 784.046 and 784.0485.

**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 Judiciary on April 2, 2019:**

The committee substitute provides an exception to the ban on attorney fees in the underlying bill. The bill permits an award of attorney fees if a petitioner knowingly makes a false statement or allegation in regard to a “material matter.”

- B. **Amendments:**

None.

By the Committee on Judiciary; and Senator Perry

590-03697-19

2019768c1

1                   A bill to be entitled  
2           An act relating to attorney fees; amending s. 57.105,  
3           F.S.; prohibiting the awarding of attorney fees for a  
4           violation of specified provisions; providing an  
5           exception; providing an effective date.  
6

7 Be It Enacted by the Legislature of the State of Florida:  
8

9           Section 1. Subsection (8) is added to section 57.105,  
10 Florida Statutes, to read:

11           57.105 Attorney's fee; sanctions for raising unsupported  
12 claims or defenses; exceptions; service of motions; damages for  
13 delay of litigation.—

14           (8) Attorney fees may not be awarded under this section in  
15 proceedings for an injunction for protection pursuant to s.  
16 784.046 or s. 784.0485, unless the court finds by clear and  
17 convincing evidence that the petitioner knowingly made a false  
18 statement or allegation in the petition in regard to a material  
19 matter as defined in s. 837.011(3).

20           Section 2. Section 1. This act shall take effect July 1,  
21 2019.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jeff Brandes, Chair  
Appropriations Subcommittee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** April 2, 2019

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I respectfully request that **Senate Bill #768**, relating to Attorney Fees, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry".

---

Senator Keith Perry  
Florida Senate, District 8

**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 Subcommittee on Criminal and Civil Justice

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BILL: CS/SB 876

INTRODUCER: Criminal Justice Committee and Senator Powell

SUBJECT: Direct Filing of an Information

DATE: April 15, 2019                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Storch	Jones	CJ	<b>Fav/CS</b>
2.	Forbes	Jameson	ACJ	<b>Recommend: Favorable</b>
3.			AP	

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

**I. Summary:**

CS/SB 876 requires the court to hold an evidentiary hearing to determine whether a child transferred to adult court pursuant to discretionary direct file should remain in adult court or be transferred back to juvenile court.

The bill provides that the purpose of the hearing is to determine whether it is necessary for the community’s protection that the child is prosecuted in adult court. The bill requires the judge to conduct the hearing within 30 days of the filing of the information and consider a number of factors in making its determination regarding which court should have jurisdiction over the case.

The bill also provides that a child who has been transferred for prosecution as an adult pursuant to discretionary direct file cannot be held in a jail or other facility intended or used for the detention of adults prior to an evidentiary hearing required by the bill and a subsequent finding that the child should be prosecuted as an adult.

The bill also repeals all provisions relating to mandatory direct file, the process in which a state attorney is required to file an information charging a child in adult court.

The fiscal impact of the bill is indeterminate at this time. However, the bill requires the judge to consider a number of factors at the hearing, including evaluations and assessments completed by the Department of Juvenile Justice (DJJ). As a result, the DJJ may incur costs associated with

such documents. Additionally, the bill eliminates mandatory direct file, which may result in more children being held in the custody of the DJJ. See Section V.

The bill is effective July 1, 2019.

## II. Present Situation:

### Transfer of a Child to Adult Court

There are three methods of transferring a child to adult court for prosecution: judicial waiver,<sup>1</sup> indictment,<sup>2</sup> or direct filing an information.

#### *Direct File*

Direct file describes the process whereby a state attorney files an information charging a child in adult court. Pursuant to s. 985.557, F.S., direct file can be either discretionary or mandatory and is accomplished exclusively by the state attorney without requiring the court's approval. Direct file is the predominant transfer method to adult court, accounting for 96.2 percent (870 children) of the transfers in FY 2017-18.<sup>3</sup>

#### Discretionary Direct File

Section 985.557(1), F.S., provides the state attorney with discretion to file a case in adult court for certain cases when he or she believes the offense requires that adult sanctions be considered or imposed. Specifically, the state attorney may direct file a child when he or she is:

- 14 or 15 years of age at the time of the alleged offense and is charged with the commission of, attempt to commit, or conspiracy to commit, one of the following felony offenses:
  - Arson;
  - Sexual battery;
  - Robbery;
  - Kidnapping;
  - Aggravated child abuse;
  - Aggravated assault;
  - Aggravated stalking;
  - Murder;
  - Manslaughter;
  - Unlawful throwing, placing, or discharging of a destructive device or bomb;
  - Armed burglary in violation of s. 810.02(2)(b), F.S.;
  - Burglary of a dwelling or structure in violation of s. 810.02(2)(c), F.S.;
  - Burglary with an assault or battery in violation of s. 810.02(2)(a), F.S.;
  - Aggravated battery;

---

<sup>1</sup> Judicial waiver is the process in which a child or a state attorney may, or in some cases must, waive the jurisdiction of the juvenile courts and have the case transferred to adult court for prosecution. The three types of judicial waiver are voluntary, involuntary discretionary, and involuntary mandatory. See s. 985.556, F.S.

<sup>2</sup> A grand jury can indict a child of any age who is charged with an offense punishable by death or life imprisonment. Upon indictment, the child's case must be transferred to adult court for prosecution. See s. 985.56, F.S.

<sup>3</sup> Department of Juvenile Justice, *2019 Legislative Bill Analysis for SB 876*, (April 11, 2019), p. 2. (on file with the Senate Criminal and Civil Justice Appropriations Subcommittee).

- Any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age;
- Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony;
- Grand theft in violation of s. 812.014(2)(a), F.S.;
- Possessing or discharging any weapon or firearm on school property in violation of s. 790.115, F.S.;
- Home invasion robbery;
- Carjacking;
- Grand theft of a motor vehicle in violation of s. 812.014(2)(c)6., F.S.; or
- Grand theft of a motor vehicle valued at \$20,000 or more in violation of s. 812.014(2)(b), F.S., if the child has a previous adjudication for grand theft of a motor vehicle in violation of s. 812.014(2)(c)6. or (2)(b), F.S.<sup>4</sup>
- 16 or 17 years of age and is charged with any felony offense;<sup>5</sup> or
- 16 or 17 years of age and is charged with a misdemeanor, provided the child has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which was a felony.<sup>6</sup>

If a child who has been transferred to adult court pursuant to discretionary direct file is found to have committed a violation of state law or a lesser included offense for which he or she was charged as part of the criminal episode, the court may sentence the child as an adult, pursuant to ch. 958, F.S., or as a juvenile.<sup>7</sup>

#### Mandatory Direct File

Section 985.557(2), F.S., requires the state attorney to file a case in adult court when the child is:

- 16 or 17 years of age at the time of the alleged offense and:
  - Is charged with a second or subsequent violent crime against a person and has been previously adjudicated delinquent for an enumerated felony;<sup>8</sup>
  - Is charged with a forcible felony<sup>9</sup> and has been previously adjudicated delinquent or had adjudication withheld for three felonies that each occurred at least 45 days apart from each other;<sup>10</sup> or

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<sup>4</sup> Section 985.557(1)(a)1.-19., F.S.

<sup>5</sup> Section 985.557(1)(b), F.S.

<sup>6</sup> *Id.*

<sup>7</sup> Section 985.565(4)(a)2., F.S.

<sup>8</sup> The enumerated felonies include: murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, or aggravated assault. *See* s. 985.557(2)(a), F.S.

<sup>9</sup> Section 776.08, F.S., defines “forcible felony” as treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the threat of physical force or violence against any individual.

<sup>10</sup> Section 985.557(2)(b), F.S., provides that this provision does not apply when the state attorney has good cause to believe that exceptional circumstances exist which preclude the just prosecution of the child in adult court.

- Is charged with committing or attempting to commit an offense listed in s. 775.087(2)(a)1.a.-p., F.S.,<sup>11</sup> and during the commission of the offense the child actually possessed or discharged a firearm or destructive device;<sup>12</sup> or
- Any age and is alleged to have committed an act that involves stealing a vehicle in which the child, while possessing the vehicle, caused serious bodily injury or death to a person who was not involved in the underlying offense.

If the state attorney is required to direct file a child, the court must impose adult sanctions. Any sentence imposing adult sanctions is presumed appropriate and the court is not required to specify findings or criteria as the basis for its decision to impose such sanctions.<sup>13</sup>

Following the transfer of a child to adult court pursuant to direct file, the court must order the child to be delivered to a jail or other facility intended or used for the detention of adults.<sup>14</sup>

### III. Effect of Proposed Changes:

Current law does not permit the court to review a decision made by a state attorney to direct file a child. The bill requires the court to hold an evidentiary hearing to determine whether a child transferred to adult court pursuant to discretionary direct file should remain in adult court or be transferred back to juvenile court.

The purpose of the hearing is to determine whether it is necessary for the community's protection that the child is prosecuted in adult court. The bill requires the judge to conduct the hearing within 30 days of the filing of the information, excluding weekends and legal holidays, unless good cause is shown for a delay. The judge must consider all of the following:

- Evaluations and assessments completed by the DJJ;
- The sophistication and maturity of the child, including:
  - The effect, if any, of immaturity, impetuosity, or failure to appreciate risks and consequences on the child's participation in the alleged offense;
  - The child's age, maturity, intellectual capacity, and mental and emotional health at the time of the alleged offense; and
  - The effect, if any, of characteristics attributable to the child's youth on the child's judgment.

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<sup>11</sup> The offenses include murder; sexual battery; robbery; burglary; arson; aggravated battery; kidnapping; escape; aircraft piracy; aggravated child abuse; aggravated abuse of an elderly person or disabled adult; unlawful throwing, placing, or discharging of a destructive device or bomb; carjacking; home-invasion robbery; aggravated stalking; trafficking in cannabis; trafficking in cocaine; capital importation of cocaine; trafficking in illegal drugs; capital importation of illegal drugs; trafficking in phencyclidine; capital importation of phencyclidine; trafficking in methaqualone; capital importation of methaqualone; trafficking in amphetamine; capital importation of amphetamine; trafficking in flunitrazepam; trafficking in gamma-hydroxybutyric acid (GHB); trafficking in 1,4-Butaneidol; trafficking in Phenethylamines; or any other violation of s. 893.135(1), F.S.

<sup>12</sup> The terms "firearm" and "destructive device" are defined in s. 790.001, F.S.

<sup>13</sup> Section 985.565(4)(a)3. and 4., F.S.

<sup>14</sup> However, the court may not order or allow a child alleged to have committed a misdemeanor who is being transferred for criminal prosecution pursuant to direct file to be detained or held in a jail or other facility intended or used for the detention of adults. *See* s. 985.265(5), F.S.

- The record and history of the child, including:
  - Prior contacts with the DJJ, the Department of Corrections (DOC), the Department of Children and Families, other law enforcement agencies, or the courts;
  - Prior periods of probation;
  - Prior adjudications that the child committed a delinquent act or violation of law, with greater weight being given if the child has previously been found by a court to have committed a delinquent act or violation of law involving violence to persons;
  - Prior commitments to institutions of the DJJ, the DOC, or agencies under contract with either department;
  - History of trauma, abuse or neglect, foster care placements, failed adoption, fetal alcohol syndrome, exposure to controlled substances at birth, or below-average intellectual functioning; and
  - Identification of the child as a student requiring exceptional student education or having previously received psychological services.
- The nature of the alleged offense and the child's participation, including:
  - Whether the alleged offense is punishable by death or life imprisonment;
  - Whether the alleged offense was against persons or property;
  - Whether the alleged offense is alleged to have been committed in an aggressive, violent, or premeditated manner;
  - The extent of the child's alleged participation in the alleged offense; and
  - The effect, if any, of familial pressure or peer pressure on the child's actions.
- The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child, if the child is found to have committed the alleged offense:
  - By the use of procedures, services, and facilities currently available to the juvenile court; and
  - By the use or procedures, services, and facilities currently available to the adult court, including whether the lowest permissible sentence under the Criminal Punishment Code is a nonstate prison sanction.
- Whether the child could obtain habilitative or rehabilitative services available in the juvenile justice system;
- Whether the child could receive a sentence in juvenile court that would provide adequate safety and protection for the community; and
- Whether the child's best interests would be served by prosecuting the child in juvenile court.

The bill permits the judge to consider any reports, including prior pre-disposition reports, psycho-social assessments, individualized educational programs, developmental assessments, school records, abuse or neglect reports, home studies, protective investigations, or psychological or psychiatric evaluations, to assist him or her in reaching a decision of whether to keep the child in adult court. The bill provides the child, the child's parents or legal guardians, the child's defense counsel, and the state attorney with the right to examine such records and question the parties responsible for creating them at the hearing.

Unless the court finds by a preponderance of the evidence that consideration of the factors listed above support returning the child to juvenile court, the adult court will retain jurisdiction. The adult court must render an order including specific findings of fact and reasons for its decision. The prosecution and defense may seek immediate review of the order through interlocutory

appeal and the order is reviewable on appeal pursuant to the Florida Rules of Appellate Procedure.

Current law requires the court to order a child to be delivered to a jail or other facility intended or used for the detention of adults when he or she has been transferred to adult court pursuant to direct file. In contrast, the bill provides that a child who has been transferred for prosecution as an adult pursuant to discretionary direct file cannot be held in a jail or other facility intended or used for the detention of adults prior to an evidentiary hearing required by the bill and a subsequent finding that the child should be prosecuted as an adult.

The bill also repeals all provisions related to transferring a child to adult court pursuant to mandatory direct file. Further, the bill provides that a child who has been transferred for criminal prosecution as an adult pursuant to s. 985.557, cannot be held in a jail or other facility intended or used for the detention of adults prior to a court finding in a hearing that the child should be prosecuted as an adult. Further, conspiring to commit one of the enumerated offenses in s. 985.557(1) (a), F.S.,<sup>15</sup> would no longer render a child eligible for transfer to adult court pursuant to discretionary direct file.

Additionally, the bill requires that, in order to be eligible for discretionary direct file, a 16 or 17 year old who committed a misdemeanor must have two previous adjudications for delinquent acts, one of which was a felony. Therefore, such a child with adjudications withheld would no longer meet the criteria for transfer to adult court pursuant to discretionary direct file.

The bill is effective July 1, 2019.

#### **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.

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<sup>15</sup> *Supra*, n 4.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The fiscal impact of the bill is indeterminate. The bill requires the court to hold an evidentiary hearing within 30 days of the filing of an information in adult court to determine whether the case should remain in adult court or be transferred back to juvenile court. As a result, such hearings required by the bill will likely result in additional costs incurred by the courts.

In making a determination as to whether to keep the child's case in adult court or transfer the case back to juvenile court, the bill requires the judge to consider evaluations and assessments completed by the DJJ. Currently, the DJJ does not provide evaluations and assessments, but rather provides recommendations to the court at the sentencing hearing upon request by the judge for such a recommendation.<sup>16</sup> At that point, the recommendations are limited to whether the court should impose adult or juvenile sanctions. In FY 2017-18, 870 children were transferred to adult court pursuant to direct file and thus, would have been eligible for a hearing required by the bill.<sup>17</sup> Therefore, the DJJ could incur additional costs associated with the production of such evaluations and assessments, if required to do so for each hearing required by the bill.

Additionally, the bill eliminates mandatory direct file as a method of transferring a child to adult court for prosecution. However, it is likely that a child who would have been eligible for mandatory direct file would meet the criteria for discretionary direct file or judicial waiver. The repeal of mandatory direct file may result in fewer children being transferred to adult court, which would leave them in the custody of the DJJ. The DJJ may incur costs associated with an increase in the number of the children in its custody and the DOC would likely see a reduction in juvenile inmates.<sup>18</sup>

**VI. Technical Deficiencies:**

None.

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<sup>16</sup> Section 985.565(3)(a), F.S.

<sup>17</sup> *Supra*, n 3.

<sup>18</sup> Estimate from Office of Economic and Demographic Research, April 8, 2019 Criminal Justice Impact Conference on similar HB 575.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 985.265, 985.557, and 985.565.

The bill reenacts the following sections of the Florida Statutes: 985.15, 985.26, and 985.556.

**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 April 8, 2019:**

The Committee Substitute:

- Provides that conspiring to commit one of the enumerated offenses in s. 985.557(1)(a), F.S., would no longer render a child eligible for transfer to adult court pursuant to discretionary direct file;
- Requires the court to hold an evidentiary hearing within 30 days of the filing of an information in adult court to determine whether the child should remain in adult court or rather, be transferred back to juvenile court;
- Requires the judge to consider a number of factors in making a decision as to where the child should be tried;
- Repeals all provisions related to transferring a child to adult court pursuant to mandatory direct file; and
- Provides that a child who has been transferred to adult court for prosecution cannot be held in a jail or other facility intended or used for the detention of adults prior to the evidentiary hearing required by the bill.

**B. Amendments:**

None.

By the Committee on Criminal Justice; and Senator Powell

591-04015A-19

2019876c1

1                   A bill to be entitled  
2           An act relating to direct filing of an information;  
3           amending s. 985.265, F.S.; revising provisions  
4           concerning the housing of children held in detention;  
5           prohibiting a child who has been transferred to adult  
6           court for criminal prosecution pursuant to direct file  
7           from being held in a jail or other facility used for  
8           the detention of adults prior to a hearing to  
9           determine if the child should remain in adult court;  
10          amending s. 985.557, F.S.; deleting references to the  
11          state attorney's discretion to direct file a juvenile;  
12          revising discretionary direct file criteria; deleting  
13          provisions for mandatory direct file; providing for an  
14          opportunity for a hearing to reverse a direct file;  
15          amending s. 985.565, F.S.; conforming provisions to  
16          changes made by the act; reenacting ss. 985.15(1),  
17          985.26(2)(c), and 985.556(3), F.S., relating to filing  
18          decisions, length of detention, and involuntary  
19          mandatory waiver, respectively, to incorporate the  
20          amendment made to s. 985.557, F.S., in references  
21          thereto; providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25           Section 1. Subsection (5) of section 985.265, Florida  
26 Statutes, is amended to read

27           985.265 Detention transfer and release; education; adult  
28 jails.-

29           (5) The court shall order the delivery of a child to a jail

591-04015A-19

2019876c1

30 or other facility intended or used for the detention of adults:

31 (a) When the child has been transferred or indicted for  
32 criminal prosecution as an adult under part X, except that:

33 1. The court may not order or allow a child alleged to have  
34 committed a misdemeanor who is being transferred for criminal  
35 prosecution pursuant to either s. 985.556 or s. 985.557 to be  
36 detained or held in a jail or other facility intended or used  
37 for the detention of adults; however, such child may be held  
38 temporarily in a detention facility; or

39 2. A child who has been transferred for criminal  
40 prosecution as an adult pursuant to s. 985.557 shall not be held  
41 in a jail or other facility intended or used for the detention  
42 of adults prior to a court finding as a result of a hearing  
43 provided for in s. 985.557(2) that the child should be  
44 prosecuted as an adult; or

45 (b) When a child taken into custody in this state is wanted  
46 by another jurisdiction for prosecution as an adult.

47  
48 The child shall be housed separately from adult inmates to  
49 prohibit a child from having regular contact with incarcerated  
50 adults, including trustees. "Regular contact" means sight and  
51 sound contact. Separation of children from adults shall permit  
52 no more than haphazard or accidental contact. The receiving jail  
53 or other facility shall contain a separate section for children  
54 and shall have an adequate staff to supervise and monitor the  
55 child's activities at all times. Supervision and monitoring of  
56 children includes physical observation and documented checks by  
57 jail or receiving facility supervisory personnel at intervals  
58 not to exceed 10 minutes. This subsection does not prohibit

591-04015A-19

2019876c1

59 placing two or more children in the same cell. Under no  
60 circumstances shall a child be placed in the same cell with an  
61 adult.

62 Section 2. Subsection (1) and present subsection (2) of  
63 section 985.557, Florida Statutes, are amended, and a new  
64 subsection (2) is added to that section, to read:

65 985.557 Direct filing of an information; discretionary ~~and~~  
66 ~~mandatory~~ criteria.—

67 (1) DISCRETIONARY DIRECT FILE.—

68 (a) With respect to any child who was 14 or 15 years of age  
69 at the time the alleged offense was committed, the state  
70 attorney may file an information when ~~in the state attorney's~~  
71 ~~judgment and discretion~~ the public interest requires that adult  
72 sanctions be considered or imposed and when the offense charged  
73 is for the commission of, or attempt to commit any of the  
74 following ~~, or conspiracy to commit:~~

- 75 1. Arson.†
- 76 2. Sexual battery.†
- 77 3. Robbery.†
- 78 4. Kidnapping.†
- 79 5. Aggravated child abuse.†
- 80 6. Aggravated assault.†
- 81 7. Aggravated stalking.†
- 82 8. Murder.†
- 83 9. Manslaughter.†
- 84 10. Unlawful throwing, placing, or discharging of a  
85 destructive device or bomb.†
- 86 11. Armed burglary in violation of s. 810.02(2)(b) or  
87 specified burglary of a dwelling or structure in violation of s.

591-04015A-19

2019876c1

88 810.02(2)(c), or burglary with an assault or battery in  
89 violation of s. 810.02(2)(a).†

90 12. Aggravated battery.†

91 13. Any lewd or lascivious offense committed upon or in the  
92 presence of a person less than 16 years of age~~†~~

93 14. Carrying, displaying, using, threatening, or attempting  
94 to use a weapon or firearm during the commission of a felony.†

95 15. Grand theft in violation of s. 812.014(2)(a).†

96 16. Possessing or discharging any weapon or firearm on  
97 school property in violation of s. 790.115.†

98 17. Home invasion robbery.†

99 18. Carjacking.~~† or~~

100 19. Grand theft of a motor vehicle in violation of s.  
101 812.014(2)(c)6. or grand theft of a motor vehicle valued at  
102 \$20,000 or more in violation of s. 812.014(2)(b) if the child  
103 has a previous adjudication for grand theft of a motor vehicle  
104 in violation of s. 812.014(2)(c)6. or s. 812.014(2)(b).

105 (b) With respect to any child who was 16 or 17 years of age  
106 at the time the alleged offense was committed, the state  
107 attorney may file an information when ~~in the state attorney's~~  
108 ~~judgment and discretion~~ the public interest requires that adult  
109 sanctions be considered or imposed. However, the state attorney  
110 may not file an information on a child charged with a  
111 misdemeanor, unless the child has had at least two previous  
112 adjudications ~~or adjudications withheld~~ for delinquent acts, one  
113 of which involved an offense classified as a felony under state  
114 law.

115 (2) DUE PROCESS HEARING BEFORE A JUDGE.—Notwithstanding any  
116 other law, and in all cases, any child charged with a crime

591-04015A-19

2019876c1

117 shall have an evidentiary hearing, after the state attorney's  
118 filing of an information in adult court under this section.

119 (a) The judge shall conduct the hearing within 30 days,  
120 excluding Saturdays, Sundays, and legal holidays, unless good  
121 cause is shown for a delay by the child or the child's attorney.  
122 The purpose of the hearing is for the court to determine whether  
123 it is necessary for protection of the community that the child  
124 is prosecuted in adult court. The judge shall consider all of  
125 the following:

126 1. Evaluations and assessments completed by the department.

127 2. The sophistication and maturity of the child, including:

128 a. The effect, if any, of immaturity, impetuosity, or  
129 failure to appreciate risks and consequences on the child's  
130 participation in the alleged offense.

131 b. The child's age, maturity, intellectual capacity, and  
132 mental and emotional health at the time of the alleged offense.

133 c. The effect, if any, of characteristics attributable to  
134 the child's youth on the child's judgment.

135 3. The record and previous history of the child, including:

136 a. Previous contacts with the department, the Department of  
137 Corrections, the Department of Children and Families, other law  
138 enforcement agencies, and the courts.

139 b. Prior periods of probation.

140 c. Prior adjudications that the child committed a  
141 delinquent act or violation of law, with greater weight being  
142 given if the child has previously been found by a court to have  
143 committed a delinquent act or violation of law involving  
144 violence to persons.

145 d. Prior commitments to institutions of the department, the

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146 Department of Corrections, or agencies under contract with  
147 either department.

148 e. History of trauma, abuse or neglect, foster care  
149 placements, failed adoption, fetal alcohol syndrome, exposure to  
150 controlled substances at birth, and below-average intellectual  
151 functioning.

152 f. Identification of the child as a student requiring  
153 exceptional student education or having previously received  
154 psychological services.

155 4. The nature of the alleged offense and the child's  
156 participation, including:

157 a. Whether the alleged offense is punishable by death or  
158 life imprisonment.

159 b. Whether the alleged offense was against persons or  
160 property.

161 c. Whether the alleged offense is alleged to have been  
162 committed in an aggressive, violent, or premeditated manner.

163 d. The extent of the child's participation in the alleged  
164 offense.

165 e. The effect, if any, of familial pressure or peer  
166 pressure on the child's actions.

167 5. The prospects for adequate protection of the public and  
168 the likelihood of reasonable rehabilitation of the child, if the  
169 child is found to have committed the alleged offense:

170 a. By the use of procedures, services, and facilities  
171 currently available to the juvenile court.

172 b. By the use of procedures, services, and facilities  
173 currently available to the adult court, including whether the  
174 lowest permissible sentence under the Criminal Punishment Code

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175 is a nonstate prison sanction.

176 6. Whether the child could obtain habilitative or  
177 rehabilitative services available in the juvenile justice  
178 system.

179 7. Whether the child could receive a sentence in juvenile  
180 court that would provide adequate safety and protection for the  
181 community.

182 8. Whether the child's best interests would be served by  
183 prosecuting the child in juvenile court.

184 (b) The judge may consider any reports that may assist the  
185 court, including prior pre-disposition reports, psycho-social  
186 assessments, individualized educational programs (IEPs),  
187 developmental assessments, school records, abuse or neglect  
188 reports, home studies, protective investigations, and  
189 psychological and psychiatric evaluations. The child, the  
190 child's parents or legal guardians, defense counsel, and the  
191 state attorney may examine these reports and question the  
192 parties responsible for creating them at the hearing.

193 (c) The adult court shall retain jurisdiction unless the  
194 court finds by a preponderance of the evidence that the factors  
195 listed in paragraph (a) support returning the child to juvenile  
196 court.

197 (d) The adult court shall render an order including  
198 specific findings of fact and the reasons for its decision. The  
199 prosecution and defense may seek immediate review of the order  
200 through interlocutory appeal. The order shall be reviewable on  
201 appeal under the Florida Rules of Appellate Procedure.

202 ~~(2) MANDATORY DIRECT FILE.~~

203 ~~(a) With respect to any child who was 16 or 17 years of age~~

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204 ~~at the time the alleged offense was committed, the state~~  
205 ~~attorney shall file an information if the child has been~~  
206 ~~previously adjudicated delinquent for an act classified as a~~  
207 ~~felony, which adjudication was for the commission of, attempt to~~  
208 ~~commit, or conspiracy to commit murder, sexual battery, armed or~~  
209 ~~strong-armed robbery, carjacking, home invasion robbery,~~  
210 ~~aggravated battery, or aggravated assault, and the child is~~  
211 ~~currently charged with a second or subsequent violent crime~~  
212 ~~against a person.~~

213 ~~(b) With respect to any child 16 or 17 years of age at the~~  
214 ~~time an offense classified as a forcible felony, as defined in~~  
215 ~~s. 776.08, was committed, the state attorney shall file an~~  
216 ~~information if the child has previously been adjudicated~~  
217 ~~delinquent or had adjudication withheld for three acts~~  
218 ~~classified as felonies each of which occurred at least 45 days~~  
219 ~~apart from each other. This paragraph does not apply when the~~  
220 ~~state attorney has good cause to believe that exceptional~~  
221 ~~circumstances exist which preclude the just prosecution of the~~  
222 ~~juvenile in adult court.~~

223 ~~(c) The state attorney must file an information if a child,~~  
224 ~~regardless of the child's age at the time the alleged offense~~  
225 ~~was committed, is alleged to have committed an act that would be~~  
226 ~~a violation of law if the child were an adult, that involves~~  
227 ~~stealing a motor vehicle, including, but not limited to, a~~  
228 ~~violation of s. 812.133, relating to carjacking, or s.~~  
229 ~~812.014(2)(c)6., relating to grand theft of a motor vehicle, and~~  
230 ~~while the child was in possession of the stolen motor vehicle~~  
231 ~~the child caused serious bodily injury to or the death of a~~  
232 ~~person who was not involved in the underlying offense. For~~

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233 ~~purposes of this section, the driver and all willing passengers~~  
234 ~~in the stolen motor vehicle at the time such serious bodily~~  
235 ~~injury or death is inflicted shall also be subject to mandatory~~  
236 ~~transfer to adult court. "Stolen motor vehicle," for the~~  
237 ~~purposes of this section, means a motor vehicle that has been~~  
238 ~~the subject of any criminal wrongful taking. For purposes of~~  
239 ~~this section, "willing passengers" means all willing passengers~~  
240 ~~who have participated in the underlying offense.~~

241 ~~(d)1. With respect to any child who was 16 or 17 years of~~  
242 ~~age at the time the alleged offense was committed, the state~~  
243 ~~attorney shall file an information if the child has been charged~~  
244 ~~with committing or attempting to commit an offense listed in s.~~  
245 ~~775.087(2)(a)1.a.-p., and, during the commission of or attempt~~  
246 ~~to commit the offense, the child:~~

247 ~~a. Actually possessed a firearm or destructive device, as~~  
248 ~~those terms are defined in s. 790.001.~~

249 ~~b. Discharged a firearm or destructive device, as described~~  
250 ~~in s. 775.087(2)(a)2.~~

251 ~~c. Discharged a firearm or destructive device, as described~~  
252 ~~in s. 775.087(2)(a)3., and, as a result of the discharge, death~~  
253 ~~or great bodily harm was inflicted upon any person.~~

254 ~~2. Upon transfer, any child who is:~~

255 ~~a. Charged under sub-subparagraph 1.a. and who has been~~  
256 ~~previously adjudicated or had adjudication withheld for a~~  
257 ~~forcible felony offense or any offense involving a firearm, or~~  
258 ~~who has been previously placed in a residential commitment~~  
259 ~~program, shall be subject to sentencing under s. 775.087(2)(a),~~  
260 ~~notwithstanding s. 985.565.~~

261 ~~b. Charged under sub-subparagraph 1.b. or sub-subparagraph~~

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262 ~~1.c., shall be subject to sentencing under s. 775.087(2) (a),~~  
263 ~~notwithstanding s. 985.565.~~

264 ~~3. Upon transfer, any child who is charged under this~~  
265 ~~paragraph, but who does not meet the requirements specified in~~  
266 ~~subparagraph 2., shall be sentenced under s. 985.565; however,~~  
267 ~~if the court imposes a juvenile sanction, the court must commit~~  
268 ~~the child to a high-risk or maximum-risk juvenile facility.~~

269 ~~4. This paragraph shall not apply if the state attorney has~~  
270 ~~good cause to believe that exceptional circumstances exist that~~  
271 ~~preclude the just prosecution of the child in adult court.~~

272 ~~5. The Department of Corrections shall make every~~  
273 ~~reasonable effort to ensure that any child 16 or 17 years of age~~  
274 ~~who is convicted and sentenced under this paragraph be~~  
275 ~~completely separated such that there is no physical contact with~~  
276 ~~adult offenders in the facility, to the extent that it is~~  
277 ~~consistent with chapter 958.~~

278 Section 3. Paragraphs (a) and (b) of subsection (4) of  
279 section 985.565, Florida Statutes, are amended to read

280 985.565 Sentencing powers; procedures; alternatives for  
281 juveniles prosecuted as adults.—

282 (4) SENTENCING ALTERNATIVES.—

283 (a) *Adult sanctions*.—

284 1. Cases prosecuted on indictment.—If the child is found to  
285 have committed the offense punishable by death or life  
286 imprisonment, the child shall be sentenced as an adult. If the  
287 juvenile is not found to have committed the indictable offense  
288 but is found to have committed a lesser included offense or any  
289 other offense for which he or she was indicted as a part of the  
290 criminal episode, the court may sentence as follows:

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- 291 a. As an adult;
- 292 b. Under chapter 958; or
- 293 c. As a juvenile under this section.
- 294 2. Other cases.—If a child who has been transferred for
- 295 criminal prosecution pursuant to information or waiver of
- 296 juvenile court jurisdiction is found to have committed a
- 297 violation of state law or a lesser included offense for which he
- 298 or she was charged as a part of the criminal episode, the court
- 299 may sentence as follows:
- 300 a. As an adult;
- 301 b. Under chapter 958; or
- 302 c. As a juvenile under this section.
- 303 3. Notwithstanding any other provision to the contrary, if
- 304 the state attorney is required to file a motion to transfer and
- 305 certify the juvenile for prosecution as an adult under s.
- 306 985.556(3) and that motion is granted, ~~or if the state attorney~~
- 307 ~~is required to file an information under s. 985.557(2)(a) or~~
- 308 ~~(b)~~, the court must impose adult sanctions.
- 309 4. Any sentence imposing adult sanctions is presumed
- 310 appropriate, and the court is not required to set forth specific
- 311 findings or enumerate the criteria in this subsection as any
- 312 basis for its decision to impose adult sanctions.
- 313 5. When a child has been transferred for criminal
- 314 prosecution as an adult and has been found to have committed a
- 315 violation of state law, the disposition of the case may include
- 316 the enforcement of any restitution ordered in any juvenile
- 317 proceeding.
- 318 (b) *Juvenile sanctions*.—For juveniles transferred to adult
- 319 court but who do not qualify for such transfer under s.

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320 985.556(3) ~~or s. 985.557(2)(a) or (b)~~, the court may impose  
321 juvenile sanctions under this paragraph. If juvenile sentences  
322 are imposed, the court shall, under this paragraph, adjudge the  
323 child to have committed a delinquent act. Adjudication of  
324 delinquency shall not be deemed a conviction, nor shall it  
325 operate to impose any of the civil disabilities ordinarily  
326 resulting from a conviction. The court shall impose an adult  
327 sanction or a juvenile sanction and may not sentence the child  
328 to a combination of adult and juvenile punishments. An adult  
329 sanction or a juvenile sanction may include enforcement of an  
330 order of restitution or probation previously ordered in any  
331 juvenile proceeding. However, if the court imposes a juvenile  
332 sanction and the department determines that the sanction is  
333 unsuitable for the child, the department shall return custody of  
334 the child to the sentencing court for further proceedings,  
335 including the imposition of adult sanctions. Upon adjudicating a  
336 child delinquent under subsection (1), the court may:

337 1. Place the child in a probation program under the  
338 supervision of the department for an indeterminate period of  
339 time until the child reaches the age of 19 years or sooner if  
340 discharged by order of the court.

341 2. Commit the child to the department for treatment in an  
342 appropriate program for children for an indeterminate period of  
343 time until the child is 21 or sooner if discharged by the  
344 department. The department shall notify the court of its intent  
345 to discharge no later than 14 days prior to discharge. Failure  
346 of the court to timely respond to the department's notice shall  
347 be considered approval for discharge.

348 3. Order disposition under ss. 985.435, 985.437, 985.439,

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349 985.441, 985.45, and 985.455 as an alternative to youthful  
350 offender or adult sentencing if the court determines not to  
351 impose youthful offender or adult sanctions.

352

353 It is the intent of the Legislature that the criteria and  
354 guidelines in this subsection are mandatory and that a  
355 determination of disposition under this subsection is subject to  
356 the right of the child to appellate review under s. 985.534.

357 Section 4. For the purpose of incorporating the amendment  
358 made by this act to section 985.557, Florida Statutes, in a  
359 reference thereto, subsection (1) of section 985.15, Florida  
360 Statutes, is reenacted to read:

361 985.15 Filing decisions.—

362 (1) The state attorney may in all cases take action  
363 independent of the action or lack of action of the juvenile  
364 probation officer and shall determine the action that is in the  
365 best interest of the public and the child. If the child meets  
366 the criteria requiring prosecution as an adult under s. 985.556,  
367 the state attorney shall request the court to transfer and  
368 certify the child for prosecution as an adult or shall provide  
369 written reasons to the court for not making such a request. In  
370 all other cases, the state attorney may:

371 (a) File a petition for dependency;

372 (b) File a petition under chapter 984;

373 (c) File a petition for delinquency;

374 (d) File a petition for delinquency with a motion to  
375 transfer and certify the child for prosecution as an adult;

376 (e) File an information under s. 985.557;

377 (f) Refer the case to a grand jury;

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378 (g) Refer the child to a diversionary, pretrial  
379 intervention, arbitration, or mediation program, or to some  
380 other treatment or care program if such program commitment is  
381 voluntarily accepted by the child or the child's parents or  
382 legal guardian; or

383 (h) Decline to file.

384 Section 5. For the purpose of incorporating the amendment  
385 made by this act to section 985.557, Florida Statutes, in a  
386 reference thereto, paragraph (c) of subsection (2) of section  
387 985.26, Florida Statutes, is reenacted to read:

388 985.26 Length of detention.—

389 (2)

390 (c) A prolific juvenile offender under s. 985.255(1)(j)  
391 shall be placed on nonsecure detention care with electronic  
392 monitoring or in secure detention care under a special detention  
393 order until disposition. If secure detention care is ordered by  
394 the court, it must be authorized under this part and may not  
395 exceed:

396 1. Twenty-one days unless an adjudicatory hearing for the  
397 case has been commenced in good faith by the court or the period  
398 is extended by the court pursuant to paragraph (b); or

399 2. Fifteen days after the entry of an order of  
400 adjudication.

401

402 As used in this paragraph, the term "disposition" means a  
403 declination to file under s. 985.15(1)(h), the entry of nolle  
404 prosequi for the charges, the filing of an indictment under s.  
405 985.56 or an information under s. 985.557, a dismissal of the  
406 case, or an order of final disposition by the court.

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407 Section 6. For the purpose of incorporating the amendment  
408 made by this act to section 985.557, Florida Statutes, in a  
409 reference thereto, subsection (3) of section 985.556, Florida  
410 Statutes, is reenacted to read:

411 985.556 Waiver of juvenile court jurisdiction; hearing.—

412 (3) INVOLUNTARY MANDATORY WAIVER.—

413 (a) If the child was 14 years of age or older, and if the  
414 child has been previously adjudicated delinquent for an act  
415 classified as a felony, which adjudication was for the  
416 commission of, attempt to commit, or conspiracy to commit  
417 murder, sexual battery, armed or strong-armed robbery,  
418 carjacking, home-invasion robbery, aggravated battery,  
419 aggravated assault, or burglary with an assault or battery, and  
420 the child is currently charged with a second or subsequent  
421 violent crime against a person; or

422 (b) If the child was 14 years of age or older at the time  
423 of commission of a fourth or subsequent alleged felony offense  
424 and the child was previously adjudicated delinquent or had  
425 adjudication withheld for or was found to have committed, or to  
426 have attempted or conspired to commit, three offenses that are  
427 felony offenses if committed by an adult, and one or more of  
428 such felony offenses involved the use or possession of a firearm  
429 or violence against a person;

430

431 the state attorney shall request the court to transfer and  
432 certify the child for prosecution as an adult or shall provide  
433 written reasons to the court for not making such request, or  
434 proceed under s. 985.557(1). Upon the state attorney's request,  
435 the court shall either enter an order transferring the case and

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436 certifying the case for trial as if the child were an adult or  
437 provide written reasons for not issuing such an order.

438 Section 7. This act shall take effect July 1, 2019.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jeff Brandes, Chair  
Appropriations Subcommittee on Criminal and Civil Justice

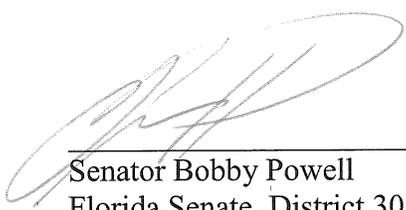
**Subject:** Committee Agenda Request

**Date:** April 8, 2019

---

I respectfully request that **Senate Bill #876**, relating to Juvenile Justice, be placed on the:

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



---

Senator Bobby Powell  
Florida Senate, District 30

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04/16/19

Meeting Date

876

Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Karen Mazzada

Job Title Treasurer

Address 1747 Orlando Central Pkwy

Phone 407-855-7604

Street Orlando FL 32809  
City State Zip

Email Treasurer@floridapta.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida PTA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19  
Meeting Date

876  
Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Candice Brower

Job Title Steering Committee Member

Address \_\_\_\_\_  
Street

Phone 352-681-8293

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Steering Committee on Children + Families in the Court

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04/16/2019

SB 876

*Meeting Date*

*Bill Number (if applicable)*

Topic Juvenile Justice/Mandatory Direct File

*Amendment Barcode (if applicable)*

Name Candice K. Brower

Job Title Executive Council Member

Address 235 South Main Street, Suite 205

Phone (352)377-0567

*Street*

Gainesville

Florida

32601

Email \_\_\_\_\_

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Public Interest Law Section of the Florida Bar

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/2019

*Meeting Date*

SB 876

*Bill Number (if applicable)*

Topic Direct Filing of an Information

*Amendment Barcode (if applicable)*

Name Scott D. McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

Phone 850-521-3042

*Street*

Tallahassee

FL

32302

Email scott.mccoy@splcenter.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Southern Poverty Law Center Action Fund

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

876

Bill Number (if applicable)

Topic Juvenile Transfers

Amendment Barcode (if applicable)

Name Caitlyn Kio

Job Title

Address 425 W. Jefferson St.

Phone

Street

City TLH State FL Zip 32306

Email

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing FSU Public Interest Law Center

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4.16.19

*Meeting Date*

876

*Bill Number (if applicable)*

Topic Juvenile Justice

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

*Street*

Tallahassee

FL

32308

Email barney@barneybishop.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Smart Justice Alliance

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

## THE FLORIDA SENATE

**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

April 16, 2019

*Meeting Date*

SB 0876

*Bill Number (if applicable)*Topic Juvenile Justice*Amendment Barcode (if applicable)*Name Hon. Carlos MartinezJob Title Elected Public Defender 11th CircuitAddress 1320 NW 14th StreetPhone 305-545-1600*Street*MiamiFL33125Email cmartinez@pdmiami.com*City**State**Zip*Speaking:  For  Against  InformationWaive Speaking:  In Support  Against  
(The Chair will read this information into the record.)Representing Hon. Carlos MartinezAppearing at request of Chair:  Yes  NoLobbyist registered with Legislature:  Yes  No*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.****This form is part of the public record for this meeting.***

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

SB 876

Bill Number (if applicable)

Topic Direct file - Juvenile Justice

Amendment Barcode (if applicable)

Name Kara Gross

Job Title Legislative Director

Address 4343 W. Flagler St., 400

Phone 786-363-4436

Street

Miami

City

FL

State

32312

Zip

Email kgross@aclufl.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing ACLU of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-16-19

Meeting Date

SB 0876

Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Erin Cusick

Job Title Consultant

Address 1931 Dellwood Drive

Phone \_\_\_\_\_

Street

Tallahassee

FL

32303

Email erin@erincusick.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing National Association of Social Workers - Florida Chapter

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

4/16/19

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

876

Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Ida V. Eskaman

Job Title Public Policy

Address 126 N. Mills Ave

Phone 4073764801

Orlando FL 32801  
City State Zip

Email ida.eskaman@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing New Florida Majority

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

**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 Subcommittee on Criminal and Civil Justice

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BILL: CS/SB 916

INTRODUCER: Criminal Justice Committee and Senator Pizzo

SUBJECT: Technology Crimes

DATE: April 15, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	<b>Fav/CS</b>
2.	<u>Forbes</u>	<u>Jameson</u>	<u>ACJ</u>	<b>Recommend: Favorable</b>
3.	_____	_____	<u>AP</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 916 amends section 784.048, Florida Statutes, which punishes cyberstalking, to expand the definition of “cyberstalk” to include accessing or attempting to access the online accounts or Internet-connected home electronic systems of another person without that person’s permission, causing substantial emotional distress to that person and serving no legitimate purpose.

The bill also amends section 815.06, Florida Statutes, which punishes various acts which are willfully, knowingly, and without authorization, committed against users of computers, computer systems, computer networks, or electronic devices. The bill provides for punishment of these acts when they are committed willfully, knowingly, without authorization, or *exceeding authorization*.

The Criminal Justice Impact Conference estimates that the bill will have a “positive indeterminate” prison bed impact (an unquantifiable increase in prison beds). See Section V.

The bill is effective October 1, 2019.

## II. Present Situation:

### Cyberstalking (s. 784.048, F.S.)

Section 784.048, F.S., punishes cyberstalking. “Cyberstalking is a type of online harassment that involves using electronic means to stalk a victim, and generally refers to a pattern of threatening or malicious behaviors.”<sup>1</sup> Examples of cyberstalking include, but are not limited to, harassing or threatening e-mails, hacking the victim’s online accounts, creating false online accounts, posting victim’s sensitive personal information online, and using the victim’s personal information to sign up for mailing lists and services.<sup>2</sup>

“Cyberstalk” means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.<sup>3</sup>

Section 784.048, F.S., in part, provides that a person commits stalking, a first degree misdemeanor, if the person willfully, maliciously, and repeatedly cyberstalks another person.<sup>4</sup>

Section 784.048, F.S., in part, also provides that a person commits aggravated stalking, a third degree felony, if the person:

- Willfully, maliciously, and repeatedly cyberstalks another person and makes a credible threat to that person;
- After an injunction for protection against repeat violence, sexual violence, or dating violence pursuant to s. 784.046, F.S., or an injunction for protection against domestic violence pursuant to s. 741.30, F.S., or after any other court-imposed prohibition of conduct toward the subject person or that person’s property, knowingly, willfully, maliciously, and repeatedly cyberstalks another person;
- Willfully, maliciously, and repeatedly cyberstalks a child under 16 years of age; or
- After having been sentenced for a violation of s. 794.011, F.S. (sexual battery), s. 800.04, F.S. (lewd offenses against certain children), s. 847.0135(5), F.S. (lewd computer transmissions against certain children), and prohibited from contacting the victim of the offense under s. 921.244, F.S. (no-contact order), willfully, maliciously, and repeatedly cyberstalks the victim.<sup>5</sup>

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<sup>1</sup> *Online Harassment & Cyberstalking* (Revised Oct. 25, 2018), Privacy Rights Clearinghouse, available at <https://www.privacyrights.org/consumer-guides/online-harassment-cyberstalking> (last visited on March 5, 2019).

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

<sup>3</sup> Section 784.048(1)(d), F.S.

<sup>4</sup> Section 784.048(2), F.S.

<sup>5</sup> Section 784.048(3)-(5) and (7), F.S. The punishment imposed under s. 784.048, F.S., runs consecutive to any former sentence imposed for a conviction for any offense under s. 794.011, F.S., s. 800.04, F.S., or s. 847.135(5), F.S. Section 784.048(8), F.S.

### **Offenses Against Users of Computers, Computer Systems, Computer Networks, and Electronic Devices (s. 815.06, F.S.)**

Section 815.06, F.S., punishes cybercrime. Cybercrime is defined as “any fraud or crime committed through or with the aid of computer programming or internet-related communications such as Web sites, e-mail, and chat rooms[.]”<sup>6</sup>

Section 815.06(2), F.S., provides that a person commits an offense against users<sup>7</sup> of computers, computer systems, computer networks, or electronic devices if he or she willfully, knowingly, and without authorization:

- Accesses or causes to be accessed any computer, computer system, computer network, or electronic device with knowledge that such access is unauthorized;
- Disrupts or denies or causes the denial of the ability to transmit data to or from an authorized user of a computer, computer system, computer network, or electronic device, which, in whole or in part, is owned by, under contract to, or operated for, on behalf of, or in conjunction with another;
- Destroys, takes, injures, or damages equipment or supplies used or intended to be used in a computer, computer system, computer network, or electronic device;
- Destroys, injures, or damages any computer, computer system, computer network, or electronic device;
- Introduces any computer contaminant into any computer, computer system, computer network, or electronic device; or
- Engages in audio or video surveillance of an individual by accessing any inherent feature or component of a computer, computer system, computer network, or electronic device, including accessing the data or information of a computer, computer system, computer network, or electronic device that is stored by a third party.<sup>8</sup>

Generally, commission of any of these acts is a third degree felony.<sup>9</sup> However, it is a second degree felony, if the person commits any of the acts described in s. 815.06(2), F.S., and:

- Damages a computer, computer equipment or supplies, a computer system, or a computer network and the damage or loss is at least \$5,000;
- Commits the offense for the purpose of devising or executing any scheme or artifice to defraud or obtain property;
- Interrupts or impairs a governmental operation or public communication, transportation, or supply of water, gas, or public service; or
- Intentionally interrupts the transmittal of data to or from, or gains unauthorized access to, a computer, computer system, computer network, or electronic device belonging to any mode of public or private transit.<sup>10</sup>

<sup>6</sup> Damien Odunze, “Cyber Victimization by Hackers: A Criminological Analysis, v. 1, n. 1 (2018), p. 9, *Public Policy and Administration Research*, available at <https://pdfs.semanticscholar.org/fd89/f6fa17c03a639b7d7b9f5b3ddc492b6b49a8.pdf> (last visited on March 5, 2019).

<sup>7</sup> “User” means a person with the authority to operate or maintain a computer, computer system, computer network, or electronic device. Section 815.06(1), F.S.

<sup>8</sup> Section 815.06(2)(a)-(f), F.S.

<sup>9</sup> Section 815.06(3)(a), F.S.

<sup>10</sup> Section 815.06(3)(b)1.-4., F.S.

Further, it is a first degree felony if the person commits any of the acts described in s. 815.06(2), F.S., and the violation:

- Endangers human life; or
- Disrupts a computer, computer system, computer network, or electronic device that affects medical equipment used in the direct administration of medical care or treatment to a person.<sup>11</sup>

### III. Effect of Proposed Changes:

The bill amends s. 784.048, F.S., which punishes cyberstalking, to expand the definition of the term “cyberstalk” to include accessing or attempting to access the online accounts or Internet-connected home electronic systems of another person without that person’s permission, causing substantial emotional distress to that person and serving no legitimate purpose.

A cyberstalking violation is punishable as stalking (first degree misdemeanor)<sup>12</sup> or aggravated stalking (a third degree felony),<sup>13</sup> depending upon the circumstances of the cyberstalking.<sup>14</sup>

The bill also amends s. 815.06, F.S., which punishes various acts which are willfully, knowingly, and without authorization, committed against users of computers, computer systems, computer networks, or electronic devices. The bill provides for punishment of these acts when they are committed willfully, knowingly, without authorization, or *exceeding authorization*.

Generally, a violation of s. 815.06, F.S., is a third degree felony, but a violation may be a second degree felony<sup>15</sup> or first degree felony,<sup>16</sup> depending upon the circumstances of the violation.<sup>17</sup>

### 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>11</sup> Section 815.06(3)(c)1.-2., F.S.

<sup>12</sup> A first degree misdemeanor is punishable by up to one year in county jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

<sup>13</sup> A third degree felony is punishable by up to five years in state prison and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

<sup>14</sup> See “Present Situation” section of this analysis for a detailed description of prohibited acts and penalties.

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

<sup>16</sup> A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

<sup>17</sup> See “Present Situation” section of this analysis for a detailed description of prohibited acts and penalties.

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 prison bed impact, if any, of legislation, estimates that the bill will have a “positive indeterminate” prison bed impact (an unquantifiable increase in prison beds). In addition, the number of offenders sentenced for cyberstalking cannot be determined from the available data.<sup>18</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 784.048 and 815.06.

This bill reenacts the following sections of the Florida Statutes: 790.065, 794.056, 847.0141, 901.41, 938.08, 938.085, 943.325, 960.001, 985.265, 1006.147, 775.30, 775.33, 782.04, and 934.07.

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<sup>18</sup> The CJIC estimate is available at <http://edr.state.fl.us/content/conferences/criminaljusticeimpact/HB669.pdf> (last visited on April 11, 2019).

**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 March 11, 2019:**

The committee substitute changes the subject of the bill from “cyberstalking” to “technology crimes.”

- B. **Amendments:**

None.

By the Committee on Criminal Justice; and Senator Pizzo

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1                   A bill to be entitled  
2           An act relating to technology crimes; amending s.  
3           784.048, F.S.; redefining the term "cyberstalk" as the  
4           term relates to prohibited acts; reenacting and  
5           amending s. 815.06, F.S.; providing that a person  
6           commits an offense against users of certain electronic  
7           devices if he or she willfully, knowingly, and  
8           exceeding authorization performs specified acts;  
9           providing criminal penalties; reenacting ss.  
10          790.065(2)(c), 794.056(1), 847.0141(4), 901.41(5),  
11          938.08, 938.085, 943.325(2)(g), 960.001(1)(b),  
12          985.265(3)(b), and 1006.147(3)(e), all relating to the  
13          crime of stalking, to incorporate the amendment made  
14          to s. 784.048, F.S., in references thereto; reenacting  
15          ss. 775.30(1) and (2), 775.33(2), 782.04(5), and  
16          934.07(3), F.S., all relating to a violation of s.  
17          815.06, F.S., to incorporate the amendment made to s.  
18          815.06, F.S., in references thereto; providing an  
19          effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23           Section 1. Paragraph (d) of subsection (1) of section  
24           784.048, Florida Statutes, is amended, and subsections (2)  
25           through (5), and (7) of that section are republished, to read:

26           784.048 Stalking; definitions; penalties.—

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

28           (d) "Cyberstalk" means:

29           1. To engage in a course of conduct to communicate, or to

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30 cause to be communicated, words, images, or language by or  
31 through the use of electronic mail or electronic communication,  
32 directed at a specific person; or

33 2. To access or attempt to access the online accounts or  
34 Internet-connected home electronic systems of another person  
35 without that person's permission,

36  
37 causing substantial emotional distress to that person and  
38 serving no legitimate purpose.

39 (2) A person who willfully, maliciously, and repeatedly  
40 follows, harasses, or cyberstalks another person commits the  
41 offense of stalking, a misdemeanor of the first degree,  
42 punishable as provided in s. 775.082 or s. 775.083.

43 (3) A person who willfully, maliciously, and repeatedly  
44 follows, harasses, or cyberstalks another person and makes a  
45 credible threat to that person commits the offense of aggravated  
46 stalking, a felony of the third degree, punishable as provided  
47 in s. 775.082, s. 775.083, or s. 775.084.

48 (4) A person who, after an injunction for protection  
49 against repeat violence, sexual violence, or dating violence  
50 pursuant to s. 784.046, or an injunction for protection against  
51 domestic violence pursuant to s. 741.30, or after any other  
52 court-imposed prohibition of conduct toward the subject person  
53 or that person's property, knowingly, willfully, maliciously,  
54 and repeatedly follows, harasses, or cyberstalks another person  
55 commits the offense of aggravated stalking, a felony of the  
56 third degree, punishable as provided in s. 775.082, s. 775.083,  
57 or s. 775.084.

58 (5) A person who willfully, maliciously, and repeatedly

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59 follows, harasses, or cyberstalks a child under 16 years of age  
60 commits the offense of aggravated stalking, a felony of the  
61 third degree, punishable as provided in s. 775.082, s. 775.083,  
62 or s. 775.084.

63 (7) A person who, after having been sentenced for a  
64 violation of s. 794.011, s. 800.04, or s. 847.0135(5) and  
65 prohibited from contacting the victim of the offense under s.  
66 921.244, willfully, maliciously, and repeatedly follows,  
67 harasses, or cyberstalks the victim commits the offense of  
68 aggravated stalking, a felony of the third degree, punishable as  
69 provided in s. 775.082, s. 775.083, or s. 775.084.

70 Section 2. Subsection (2) of section 815.06, Florida  
71 Statutes, is amended, subsection (3) of that section is  
72 reenacted, and subsection (1) of that section is republished, to  
73 read:

74 815.06 Offenses against users of computers, computer  
75 systems, computer networks, and electronic devices.—

76 (1) As used in this section, the term "user" means a person  
77 with the authority to operate or maintain a computer, computer  
78 system, computer network, or electronic device.

79 (2) A person commits an offense against users of computers,  
80 computer systems, computer networks, or electronic devices if he  
81 or she willfully, knowingly, and without authorization or  
82 exceeding authorization:

83 (a) Accesses or causes to be accessed any computer,  
84 computer system, computer network, or electronic device with  
85 knowledge that such access is unauthorized;

86 (b) Disrupts or denies or causes the denial of the ability  
87 to transmit data to or from an authorized user of a computer,

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88 computer system, computer network, or electronic device, which,  
89 in whole or in part, is owned by, under contract to, or operated  
90 for, on behalf of, or in conjunction with another;

91 (c) Destroys, takes, injures, or damages equipment or  
92 supplies used or intended to be used in a computer, computer  
93 system, computer network, or electronic device;

94 (d) Destroys, injures, or damages any computer, computer  
95 system, computer network, or electronic device;

96 (e) Introduces any computer contaminant into any computer,  
97 computer system, computer network, or electronic device; or

98 (f) Engages in audio or video surveillance of an individual  
99 by accessing any inherent feature or component of a computer,  
100 computer system, computer network, or electronic device,  
101 including accessing the data or information of a computer,  
102 computer system, computer network, or electronic device that is  
103 stored by a third party.

104 (3) (a) Except as provided in paragraphs (b) and (c), a  
105 person who violates subsection (2) commits a felony of the third  
106 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
107 775.084.

108 (b) A person commits a felony of the second degree,  
109 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
110 if he or she violates subsection (2) and:

111 1. Damages a computer, computer equipment or supplies, a  
112 computer system, or a computer network and the damage or loss is  
113 at least \$5,000;

114 2. Commits the offense for the purpose of devising or  
115 executing any scheme or artifice to defraud or obtain property;

116 3. Interrupts or impairs a governmental operation or public

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117 communication, transportation, or supply of water, gas, or other  
118 public service; or

119 4. Intentionally interrupts the transmittal of data to or  
120 from, or gains unauthorized access to, a computer, computer  
121 system, computer network, or electronic device belonging to any  
122 mode of public or private transit, as defined in s. 341.031.

123 (c) A person who violates subsection (2) commits a felony  
124 of the first degree, punishable as provided in s. 775.082, s.  
125 775.083, or s. 775.084, if the violation:

126 1. Endangers human life; or  
127 2. Disrupts a computer, computer system, computer network,  
128 or electronic device that affects medical equipment used in the  
129 direct administration of medical care or treatment to a person.

130 Section 3. For the purpose of incorporating the amendment  
131 made by this act to section 784.048, Florida Statutes, in a  
132 reference thereto, paragraph (c) of subsection (2) of section  
133 790.065, Florida Statutes, is reenacted to read:

134 790.065 Sale and delivery of firearms.—

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

138 (c)1. Review any records available to it to determine  
139 whether the potential buyer or transferee has been indicted or  
140 has had an information filed against her or him for an offense  
141 that is a felony under either state or federal law, or, as  
142 mandated by federal law, has had an injunction for protection  
143 against domestic violence entered against the potential buyer or  
144 transferee under s. 741.30, has had an injunction for protection  
145 against repeat violence entered against the potential buyer or

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146 transferee under s. 784.046, or has been arrested for a  
147 dangerous crime as specified in s. 907.041(4) (a) or for any of  
148 the following enumerated offenses:

- 149 a. Criminal anarchy under ss. 876.01 and 876.02.
- 150 b. Extortion under s. 836.05.
- 151 c. Explosives violations under s. 552.22(1) and (2).
- 152 d. Controlled substances violations under chapter 893.
- 153 e. Resisting an officer with violence under s. 843.01.
- 154 f. Weapons and firearms violations under this chapter.
- 155 g. Treason under s. 876.32.
- 156 h. Assisting self-murder under s. 782.08.
- 157 i. Sabotage under s. 876.38.
- 158 j. Stalking or aggravated stalking under s. 784.048.

159  
160 If the review indicates any such indictment, information, or  
161 arrest, the department shall provide to the licensee a  
162 conditional nonapproval number.

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

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

173 4. The department shall determine as quickly as possible  
174 within the allotted time period whether the potential buyer is

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175 prohibited from receiving or possessing a firearm.

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

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

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

187 a. That the potential buyer is not prohibited from owning a  
188 firearm, it shall treat the record of the transaction in  
189 accordance with this section; or

190 b. That the potential buyer is prohibited from owning a  
191 firearm, it shall immediately revoke the conditional approval  
192 number and notify local law enforcement.

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

198 Section 4. For the purpose of incorporating the amendment  
199 made by this act to section 784.048, Florida Statutes, in a  
200 reference thereto, subsection (1) of section 794.056, Florida  
201 Statutes, is reenacted to read:

202 794.056 Rape Crisis Program Trust Fund.—

203 (1) The Rape Crisis Program Trust Fund is created within

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204 the Department of Health for the purpose of providing funds for  
205 rape crisis centers in this state. Trust fund moneys shall be  
206 used exclusively for the purpose of providing services for  
207 victims of sexual assault. Funds credited to the trust fund  
208 consist of those funds collected as an additional court  
209 assessment in each case in which a defendant pleads guilty or  
210 nolo contendere to, or is found guilty of, regardless of  
211 adjudication, an offense provided in s. 775.21(6) and (10)(a),  
212 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.  
213 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.  
214 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.  
215 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;  
216 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.  
217 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.  
218 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.  
219 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.  
220 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a),  
221 (13), and (14)(c); or s. 985.701(1). Funds credited to the trust  
222 fund also shall include revenues provided by law, moneys  
223 appropriated by the Legislature, and grants from public or  
224 private entities.

225 Section 5. For the purpose of incorporating the amendment  
226 made by this act to section 784.048, Florida Statutes, in a  
227 reference thereto, subsection (4) of section 847.0141, Florida  
228 Statutes, is reenacted to read:

229 847.0141 Sexting; prohibited acts; penalties.—

230 (4) This section does not prohibit the prosecution of a  
231 minor for a violation of any law of this state if the photograph  
232 or video that depicts nudity also includes the depiction of

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233 sexual conduct or sexual excitement, and does not prohibit the  
234 prosecution of a minor for stalking under s. 784.048.

235 Section 6. For the purpose of incorporating the amendment  
236 made by this act to section 784.048, Florida Statutes, in a  
237 reference thereto, subsection (5) of section 901.41, Florida  
238 Statutes, is reenacted to read:

239 901.41 Prearrest diversion programs.—

240 (5) ELIGIBILITY.—A violent misdemeanor, a misdemeanor crime  
241 of domestic violence, as defined in s. 741.28, or a misdemeanor  
242 under s. 741.29, s. 741.31, s. 784.046, s. 784.047, s. 784.048,  
243 s. 784.0487, or s. 784.049 does not qualify for a civil citation  
244 or prearrest diversion program.

245 Section 7. For the purpose of incorporating the amendment  
246 made by this act to section 784.048, Florida Statutes, in a  
247 reference thereto, section 938.08, Florida Statutes, is  
248 reenacted to read:

249 938.08 Additional cost to fund programs in domestic  
250 violence.—In addition to any sanction imposed for a violation of  
251 s. 784.011, s. 784.021, s. 784.03, s. 784.041, s. 784.045, s.  
252 784.048, s. 784.07, s. 784.08, s. 784.081, s. 784.082, s.  
253 784.083, s. 784.085, s. 794.011, or for any offense of domestic  
254 violence described in s. 741.28, the court shall impose a  
255 surcharge of \$201. Payment of the surcharge shall be a condition  
256 of probation, community control, or any other court-ordered  
257 supervision. The sum of \$85 of the surcharge shall be deposited  
258 into the Domestic Violence Trust Fund established in s. 741.01.  
259 The clerk of the court shall retain \$1 of each surcharge that  
260 the clerk of the court collects as a service charge of the  
261 clerk's office. The remainder of the surcharge shall be provided

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262 to the governing board of the county and must be used only to  
263 defray the costs of incarcerating persons sentenced under s.  
264 741.283 and provide additional training to law enforcement  
265 personnel in combating domestic violence.

266 Section 8. For the purpose of incorporating the amendment  
267 made by this act to section 784.048, Florida Statutes, in a  
268 reference thereto, section 938.085, Florida Statutes, is  
269 reenacted to read:

270 938.085 Additional cost to fund rape crisis centers.—In  
271 addition to any sanction imposed when a person pleads guilty or  
272 nolo contendere to, or is found guilty of, regardless of  
273 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and  
274 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;  
275 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.  
276 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.  
277 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.  
278 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s.  
279 796.07(2)(a)–(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.  
280 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.  
281 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.  
282 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and  
283 (14)(c); or s. 985.701(1), the court shall impose a surcharge of  
284 \$151. Payment of the surcharge shall be a condition of  
285 probation, community control, or any other court-ordered  
286 supervision. The sum of \$150 of the surcharge shall be deposited  
287 into the Rape Crisis Program Trust Fund established within the  
288 Department of Health by chapter 2003-140, Laws of Florida. The  
289 clerk of the court shall retain \$1 of each surcharge that the  
290 clerk of the court collects as a service charge of the clerk's

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291 office.

292 Section 9. For the purpose of incorporating the amendment  
293 made by this act to section 784.048, Florida Statutes, in a  
294 reference thereto, paragraph (g) of subsection (2) of section  
295 943.325, Florida Statutes, is reenacted to read:

296 943.325 DNA database.—

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

298 (g) "Qualifying offender" means any person, including  
299 juveniles and adults, who is:

300 1.a. Committed to a county jail;

301 b. Committed to or under the supervision of the Department  
302 of Corrections, including persons incarcerated in a private  
303 correctional institution operated under contract pursuant to s.  
304 944.105;

305 c. Committed to or under the supervision of the Department  
306 of Juvenile Justice;

307 d. Transferred to this state under the Interstate Compact  
308 on Juveniles, part XIII of chapter 985; or

309 e. Accepted under Article IV of the Interstate Corrections  
310 Compact, part III of chapter 941; and who is:

311 2.a. Convicted of any felony offense or attempted felony  
312 offense in this state or of a similar offense in another  
313 jurisdiction;

314 b. Convicted of a misdemeanor violation of s. 784.048, s.  
315 810.14, s. 847.011, s. 847.013, s. 847.0135, or s. 877.26, or an  
316 offense that was found, pursuant to s. 874.04, to have been  
317 committed for the purpose of benefiting, promoting, or  
318 furthering the interests of a criminal gang as defined in s.  
319 874.03; or

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320 c. Arrested for any felony offense or attempted felony  
321 offense in this state.

322 Section 10. For the purpose of incorporating the amendment  
323 made by this act to section 784.048, Florida Statutes, in a  
324 reference thereto, paragraph (b) of subsection (1) of section  
325 960.001, Florida Statutes, is reenacted to read:

326 960.001 Guidelines for fair treatment of victims and  
327 witnesses in the criminal justice and juvenile justice systems.—

328 (1) The Department of Legal Affairs, the state attorneys,  
329 the Department of Corrections, the Department of Juvenile  
330 Justice, the Florida Commission on Offender Review, the State  
331 Courts Administrator and circuit court administrators, the  
332 Department of Law Enforcement, and every sheriff's department,  
333 police department, or other law enforcement agency as defined in  
334 s. 943.10(4) shall develop and implement guidelines for the use  
335 of their respective agencies, which guidelines are consistent  
336 with the purposes of this act and s. 16(b), Art. I of the State  
337 Constitution and are designed to implement s. 16(b), Art. I of  
338 the State Constitution and to achieve the following objectives:

339 (b) *Information for purposes of notifying victim or*  
340 *appropriate next of kin of victim or other designated contact of*  
341 *victim.—In the case of a homicide, pursuant to chapter 782; or a*  
342 *sexual offense, pursuant to chapter 794; or an attempted murder*  
343 *or sexual offense, pursuant to chapter 777; or stalking,*  
344 *pursuant to s. 784.048; or domestic violence, pursuant to s.*  
345 *25.385:*

346 1. The arresting law enforcement officer or personnel of an  
347 organization that provides assistance to a victim or to the  
348 appropriate next of kin of the victim or other designated

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349 contact must request that the victim or appropriate next of kin  
350 of the victim or other designated contact complete a victim  
351 notification card. However, the victim or appropriate next of  
352 kin of the victim or other designated contact may choose not to  
353 complete the victim notification card.

354 2. Unless the victim or the appropriate next of kin of the  
355 victim or other designated contact waives the option to complete  
356 the victim notification card, a copy of the victim notification  
357 card must be filed with the incident report or warrant in the  
358 sheriff's office of the jurisdiction in which the incident  
359 report or warrant originated. The notification card shall, at a  
360 minimum, consist of:

- 361 a. The name, address, and phone number of the victim; or  
362 b. The name, address, and phone number of the appropriate  
363 next of kin of the victim; or  
364 c. The name, address, and telephone number of a designated  
365 contact other than the victim or appropriate next of kin of the  
366 victim; and  
367 d. Any relevant identification or case numbers assigned to  
368 the case.

369 3. The chief administrator, or a person designated by the  
370 chief administrator, of a county jail, municipal jail, juvenile  
371 detention facility, or residential commitment facility shall  
372 make a reasonable attempt to notify the alleged victim or  
373 appropriate next of kin of the alleged victim or other  
374 designated contact within 4 hours following the release of the  
375 defendant on bail or, in the case of a juvenile offender, upon  
376 the release from residential detention or commitment. If the  
377 chief administrator, or designee, is unable to contact the

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378 alleged victim or appropriate next of kin of the alleged victim  
379 or other designated contact by telephone, the chief  
380 administrator, or designee, must send to the alleged victim or  
381 appropriate next of kin of the alleged victim or other  
382 designated contact a written notification of the defendant's  
383 release.

384 4. Unless otherwise requested by the victim or the  
385 appropriate next of kin of the victim or other designated  
386 contact, the information contained on the victim notification  
387 card must be sent by the chief administrator, or designee, of  
388 the appropriate facility to the subsequent correctional or  
389 residential commitment facility following the sentencing and  
390 incarceration of the defendant, and unless otherwise requested  
391 by the victim or the appropriate next of kin of the victim or  
392 other designated contact, he or she must be notified of the  
393 release of the defendant from incarceration as provided by law.

394 5. If the defendant was arrested pursuant to a warrant  
395 issued or taken into custody pursuant to s. 985.101 in a  
396 jurisdiction other than the jurisdiction in which the defendant  
397 is being released, and the alleged victim or appropriate next of  
398 kin of the alleged victim or other designated contact does not  
399 waive the option for notification of release, the chief  
400 correctional officer or chief administrator of the facility  
401 releasing the defendant shall make a reasonable attempt to  
402 immediately notify the chief correctional officer of the  
403 jurisdiction in which the warrant was issued or the juvenile was  
404 taken into custody pursuant to s. 985.101, and the chief  
405 correctional officer of that jurisdiction shall make a  
406 reasonable attempt to notify the alleged victim or appropriate

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407 next of kin of the alleged victim or other designated contact,  
408 as provided in this paragraph, that the defendant has been or  
409 will be released.

410 Section 11. Upon the amendments made to section 985.265,  
411 Florida Statutes, pursuant to section 12 of chapter 2018-86,  
412 Laws of Florida, becoming effective and for the purpose of  
413 incorporating the amendments made by this act to section  
414 784.048, Florida Statutes, in a reference thereto, paragraph (b)  
415 of subsection (3) of section 985.265, Florida Statutes, is  
416 reenacted to read:

417 985.265 Detention transfer and release; education; adult  
418 jails.—

419 (3)

420 (b) When a juvenile is released from secure detention or  
421 transferred to supervised release detention, detention staff  
422 shall immediately notify the appropriate law enforcement agency,  
423 school personnel, and victim if the juvenile is charged with  
424 committing any of the following offenses or attempting to commit  
425 any of the following offenses:

- 426 1. Murder, under s. 782.04;
- 427 2. Sexual battery, under chapter 794;
- 428 3. Stalking, under s. 784.048; or
- 429 4. Domestic violence, as defined in s. 741.28.

430 Section 12. For the purpose of incorporating the amendment  
431 made by this act to section 784.048, Florida Statutes, in a  
432 reference thereto, paragraph (e) of subsection (3) of section  
433 1006.147, Florida Statutes, is reenacted to read:

434 1006.147 Bullying and harassment prohibited.—

435 (3) For purposes of this section:

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436 (e) Definitions in s. 815.03 and the definition in s.  
437 784.048(1)(d) relating to stalking are applicable to this  
438 section.

439 Section 13. For the purpose of incorporating the amendment  
440 made by this act to section 815.06, Florida Statutes, in  
441 references thereto, subsections (1) and (2) of section 775.30,  
442 Florida Statutes, are reenacted to read:

443 775.30 Terrorism; defined; penalties.—

444 (1) As used in this chapter and the Florida Criminal Code,  
445 the terms "terrorism" or "terrorist activity" mean an activity  
446 that:

447 (a) Involves:

448 1. A violent act or an act dangerous to human life which is  
449 a violation of the criminal laws of this state or of the United  
450 States; or

451 2. A violation of s. 815.06; and

452 (b) Is intended to:

453 1. Intimidate, injure, or coerce a civilian population;

454 2. Influence the policy of a government by intimidation or  
455 coercion; or

456 3. Affect the conduct of government through destruction of  
457 property, assassination, murder, kidnapping, or aircraft piracy.

458 (2) A person who violates s. 782.04(1)(a)1. or (2), s.  
459 782.065, s. 782.07(1), s. 782.09, s. 784.045, s. 784.07, s.  
460 787.01, s. 787.02, s. 787.07, s. 790.115, s. 790.15, s. 790.16,  
461 s. 790.161, s. 790.1615, s. 790.162, s. 790.166, s. 790.19, s.  
462 806.01, s. 806.031, s. 806.111, s. 815.06, s. 815.061, s.  
463 859.01, or s. 876.34, in furtherance of intimidating or coercing  
464 the policy of a government, or in furtherance of affecting the

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465 conduct of a government by mass destruction, assassination, or  
466 kidnapping, commits the crime of terrorism, a felony of the  
467 first degree, punishable as provided in s. 775.082, s. 775.083,  
468 or s. 775.084.

469 Section 14. For the purpose of incorporating the amendment  
470 made by this act to section 815.06, Florida Statutes, in a  
471 reference thereto, subsection (2) of section 775.33, Florida  
472 Statutes, is reenacted to read:

473 775.33 Providing material support or resources for  
474 terrorism or to terrorist organizations.—

475 (2) A person commits a felony of the first degree,  
476 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
477 if the person:

478 (a) Provides material support or resources or conceals or  
479 disguises the nature, location, source, or ownership of the  
480 material support or resources, knowing or intending that the  
481 support or resources are to be used in preparation for or in  
482 carrying out a violation of s. 775.30, s. 775.32, s. 775.34, s.  
483 775.35, s. 790.16, s. 790.161(2), (3), or (4), s. 790.166, s.  
484 790.19, s. 815.06, s. 859.01, s. 860.121, s. 860.16, s. 876.32,  
485 s. 876.34, or s. 876.36;

486 (b) Conceals an escape from the commission of a violation  
487 of paragraph (a); or

488 (c) Attempts or conspires to commit a violation of  
489 paragraph (a).

490 Section 15. For the purpose of incorporating the amendment  
491 made by this act to section 815.06, Florida Statutes, in a  
492 reference thereto, subsection (5) of section 782.04, Florida  
493 Statutes, is reenacted to read:

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494 782.04 Murder.—

495 (5) As used in this section, the term "terrorism" means an  
496 activity that:

497 (a)1. Involves a violent act or an act dangerous to human  
498 life which is a violation of the criminal laws of this state or  
499 of the United States; or

500 2. Involves a violation of s. 815.06; and

501 (b) Is intended to:

502 1. Intimidate, injure, or coerce a civilian population;

503 2. Influence the policy of a government by intimidation or  
504 coercion; or

505 3. Affect the conduct of government through destruction of  
506 property, assassination, murder, kidnapping, or aircraft piracy.

507 Section 16. For the purpose of incorporating the amendment  
508 made by this act to section 815.06, Florida Statutes, in a  
509 reference thereto, subsection (3) of section 934.07, Florida  
510 Statutes, is reenacted to read:

511 934.07 Authorization for interception of wire, oral, or  
512 electronic communications.—

513 (3) As used in this section, the term "terrorism" means an  
514 activity that:

515 (a)1. Involves a violent act or an act dangerous to human  
516 life which is a violation of the criminal laws of this state or  
517 of the United States; or

518 2. Involves a violation of s. 815.06; and

519 (b) Is intended to:

520 1. Intimidate, injure, or coerce a civilian population;

521 2. Influence the policy of a government by intimidation or  
522 coercion; or

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523           3. Affect the conduct of government through destruction of  
524 property, assassination, murder, kidnapping, or aircraft piracy.

525           Section 17. This act shall take effect October 1, 2019.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jeff Brandes, Chair  
Appropriations Subcommittee on Criminal and Civil Justice

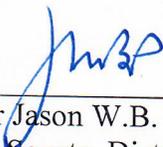
**Subject:** Committee Agenda Request

**Date:** March 12, 2019

---

I respectfully request that **Senate Bill #CS/SB 916**, relating to Technology Crimes, be placed on the:

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

  
\_\_\_\_\_  
Senator Jason W.B. Pizzo  
Florida Senate, District 38

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/11/19

Meeting Date

916

Bill Number (if applicable)

Topic TECHNOLOGY CRIMES

Amendment Barcode (if applicable)

Name TED MANNELLI

Job Title LEG. AFFAIRS DR

Address 1350 N.W. 12 AVE

Phone 850-212-5372

Street

MIAMI FL

33136

City

State

Zip

Email tedmannelli@miamisad.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against *com*  
(The Chair will read this information into the record.)

Representing STATE ATTORNEY, 11<sup>th</sup> CIRCUIT

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4.16.19

*Meeting Date*

916

*Bill Number (if applicable)*

Topic Technology Crimes

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

*Street*

Tallahassee

FL

32308

Email barney@barneybishop.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Smart Justice Alliance

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

916

Bill Number (if applicable)

Topic Technology Crimes

Amendment Barcode (if applicable)

Name Rebecca DeLaRosa

Job Title Legislative Affairs Director

Address 301 N Olive Ave., 1101.3

Phone 860-284-7235

Street

West Palm Beach, FL 33401

Email rdelarosa@pbcgov.org

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [X] In Support [ ] Against (The Chair will read this information into the record.)

Representing Palm Beach County

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

**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 Subcommittee on Criminal and Civil Justice

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BILL: CS/SB 1074

INTRODUCER: Criminal Justice Committee and Senator Brandes

SUBJECT: Sentencing

DATE: April 8, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cox	Jones	CJ	<b>Fav/CS</b>
2.	Forbes	Jameson	ACJ	<b>Recommend: Favorable</b>
3.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1074 creates a conditional sentence for substance use and mental health offenders. An offender must be a nonviolent offender that is in need of substance use or mental health treatment and does not pose a danger to the community. The bill enumerates specified offenses that deem an offender ineligible for a conditional sentence for substance use and mental health.

The bill requires the following conditions to be part of a conditional sentence for substance use or mental health offenders:

- A term of imprisonment, which must include an in-prison treatment program for substance use, mental health or co-occurring disorders that is a minimum of 90-days of in-custody treatment and is administered by the Department of Corrections (DOC) at a DOC facility;
- A 24 month term of special offender probation that consists of:
  - Either drug offender or mental health probation, as determined by the court at sentencing;
  - Any special conditions of probation ordered by the sentencing court; and
  - Any recommendations made by the DOC in the postrelease treatment plan for substance use or mental health aftercare services.

The bill authorizes the DOC to refuse to place an offender in the in-prison treatment program for specified reasons. Following completion of the in-prison treatment program, the bill provides that an offender must be immediately transitioned into the community on drug offender or mental health probation for the last 24 months of his or her sentence.

A conditional sentence imposed by a court under the bill does not confer any right to an inmate for release from incarceration and placement on drug offender or mental health offender probation, unless such offender complies with all sentence requirements.

The DOC must develop a computerized system to track data on the recidivism and recommitment of offenders who have received such a sentence and report the findings to the Governor, President of the Senate, and Speaker of the House of Representatives.

According to the DOC, the bill will have a negative fiscal impact of \$9,749,100 on the department. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2019.

## II. Present Situation:

The Criminal Punishment Code<sup>1</sup> (Code) applies to sentencing for felony offenses committed on or after October 1, 1998.<sup>2</sup> The permissible sentence (absent a downward departure) for an offense ranges from the calculated lowest permissible sentence as determined by the Code to the statutory maximum for the primary offense. The statutory maximum sentence for a first-degree felony is 30 years not to exceed life, for a second-degree felony is 15 years, and for a third degree felony is five years.<sup>3</sup>

The sentence imposed by the sentencing judge reflects the length of actual time to be served, lessened only by the application of gain-time,<sup>4</sup> and may not be reduced in an amount that results in the defendant serving less than 85 percent of his or her term of imprisonment.<sup>5</sup>

### Sentencing Options

The Florida Supreme Court has identified six statutory sentencing options in Florida, including a:

- Term of imprisonment, which may be served in jail or prison;
- True split sentence, which consists of a total period of confinement with a portion of the confinement period suspended and the defendant placed on probation for that suspended portion;
- Probationary split sentence, which consists of a period of confinement, none of which is suspended, followed by a period of probation;<sup>6</sup>
- *Villery* sentence, which consists of a period of probation preceded by a period of confinement imposed as a special condition;<sup>7</sup>
- Sentence of supervision, which consists of probation or community control; and

---

<sup>1</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>2</sup> Section 921.0022, F.S.

<sup>3</sup> Section 775.082, F.S.

<sup>4</sup> Section 944.275, F.S., provides for various types of incentive and meritorious gain-time.

<sup>5</sup> Section 921.002(1)(e), F.S.

<sup>6</sup> Section 948.012, F.S., provides the authority for this type of split sentence.

<sup>7</sup> *Villery v. Florida Parole & Probation Com'n*, 396 So.2d 1107 (Fla. 1980).

- Reverse split sentence, which consists of a period of probation followed by a period of incarceration.<sup>8</sup>

There are also existing statutes that allow a court to modify a sentence to probation terms for a youthful offender<sup>9</sup> upon completion of specified in-prison programming.<sup>10</sup>

### **Substance Abuse Services for Inmates**

Chapter 397, F.S., provides comprehensive laws for the provision of substance abuse services to citizens throughout Florida, including licensure of substance abuse service providers and inmate substance abuse programs.

Substance use programming within the DOC institutions seeks to treat participants with histories of dependency by focusing on changing the behaviors that led to the addiction.<sup>11</sup> The DOC has developed Correctional Substance Abuse Programs at its institutions and community-based sites throughout the state. The programs' principle objectives are to identify substance users, assess the severity of their drug problems, and provide the appropriate services.<sup>12</sup> The Department of Children and Families licenses all in-prison substance abuse programs.<sup>13</sup> The Bureau of Readiness and Community Transitions within the DOC is responsible for the coordination and delivery of substance abuse program services for individuals incarcerated in a state correction facility.<sup>14</sup>

### ***Determining the Appropriate Services for Inmates***

All inmates are screened at reception and assessed and placed into programs using the Correctional Integrated Needs Assessment System (CINAS).<sup>15</sup> The CINAS is based on the Risk-Needs-Responsivity Principle (RNR). The RNR principle refers to predicting which inmates have a higher probability of recidivating, and treating the criminogenic needs of those higher risk inmates with appropriate programming and services based on their level of need.<sup>16</sup>

---

<sup>8</sup> Section 948.012(2), F.S., *Gibson v. Florida Department of Corrections*, 885 So.2d 376, 381 (Fla. 2004).

<sup>9</sup> Section 958.04(1), F.S., describes who qualifies to be sentenced as a youthful offender. A youthful is a person who is younger than 21 at the time of sentencing, who has not been found guilty or plead to a capital or life felony and has not previously been sentenced as a youthful offender. The court can sentence a person as a youthful offender or the DOC can classify a person as a youthful offender.

<sup>10</sup> See ss. 958.04(2)(d) and 958.045(6), F.S.

<sup>11</sup> The DOC, *Bureau of Readiness and Community Transition*, available at <http://www.dc.state.fl.us/development/readiness.html> (last visited April 2, 2019).

<sup>12</sup> DOC, Bureau of Readiness and Community Transition, Inmate Programs, *Substance Use Treatment, Annual Report, Fiscal Year 2016-2017*, p. 1 (hereinafter cited as "Substance Abuse Annual Report")(on file with the Senate Criminal Justice Committee).

<sup>13</sup> Licensure is conducted in accordance with ch. 397, F.S., and Fla. Admin. Code R. 65D-30.003.

<sup>14</sup> Substance Abuse Annual Report at p. 6.

<sup>15</sup> DOC, *Agency Analysis for SB 1074 (2019)*, p. 2, April 2, 2019 (on file with the Senate Criminal and Civil Justice Approps. Subcommittee) (hereinafter cited as "DOC SB 1074 Analysis").

<sup>16</sup> DOC reports that criminogenic needs are those factors that are associated with recidivism that can be changed (e.g. lack of education, substance abuse, criminal thinking, lack of marketable job skills, etc.). Offenders are not higher risk because they have a particular risk factor, but, rather, because they have multiple risk factors. Accordingly, a range of services and interventions are provided that target the specific crime producing needs of offenders who are higher risk. *Id.*

The CINAS is administered to inmates again at 42 months from release. Additionally, the DOC conducts updates every six months thereafter to evaluate the inmate's progress and ensure enrollment in needed programs. The DOC's use of the CINAS allows for development and implementation of programs that increase the likelihood of successful transition. The DOC matches factors that influence an inmate's responsiveness to different types of services with programs that are proven to be effective within an inmate population. This involves selecting services that are matched to the offender's learning characteristics and then to the offender's stage of change readiness.<sup>17</sup>

Additionally, the CINAS allows for a flow of information between the DOC's Office of Community Corrections and Office of Institutions. For instance, when an inmate is received at a Reception Center, the staff has access to detailed information about prior supervision history. Likewise, if an inmate is released to community supervision, probation officers will have access to an offender's incarceration history and relevant release information. The DOC reports that this information is to be used to better serve the offender and prepare them for successful transition back into the community.<sup>18</sup>

### **Drug Offender and Mental Health Probation**

Probation is a form of community supervision requiring specified contacts with probation officers and other conditions a court may impose.<sup>19</sup> Specifically, drug offender probation is a form of intensive supervision that emphasizes treatment of drug offenders in accordance with individualized treatment plans administered by probation officers with reduced caseloads.<sup>20</sup> Mental health probation means a form of specialized supervision that emphasizes mental health treatment and working with treatment providers to focus on underlying mental health disorders and compliance with a prescribed psychotropic medication regimen in accordance with individualized treatment plans. Mental health probation is supervised by officers with reduced caseloads who are sensitive to the unique needs of individuals with mental health disorders, and who will work in tandem with community mental health case managers assigned to the defendant.<sup>21</sup>

### **Gain-time**

Gain-time awards, which result in deductions to the court-ordered sentences of specified eligible inmates, are used to encourage satisfactory prisoner behavior or to provide incentives for prisoners to participate in productive activities while incarcerated.<sup>22</sup> An inmate is not eligible to

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<sup>17</sup> DOC SB 1074 Analysis, p. 2.

<sup>18</sup> *Id.*

<sup>19</sup> Section 948.001(8), F.S.

<sup>20</sup> Section 948.001(4), F.S.

<sup>21</sup> Section 948.001(5), F.S.

<sup>22</sup> Section 944.275(1), F.S. Section 944.275(4)(f), F.S., further provides that an inmate serving a life sentence is not able to earn gain-time. Additionally, an inmate serving the portion of his or her sentence that is included in an imposed mandatory minimum sentence or whose tentative release date is the same date as he or she achieves service of 85 percent of the sentence are not eligible to earn gain-time. Section 944.275(4)(e), F.S., also prohibits inmates committed to the DOC for specified sexual offenses committed on or after October 1, 2014, from earning incentive gain-time.

earn or receive gain-time in an amount that results in his or her release prior to serving a minimum of 85 percent of the sentence imposed.<sup>23</sup>

### III. Effect of Proposed Changes:

The bill creates a conditional sentence for substance use or mental health offenders.

#### Eligibility

An offender must be a nonviolent offender that is in need of substance use or mental health treatment and does not pose a danger to the community. The bill defines a “nonviolent offender” to mean an offender that has never been convicted of, or plead guilty or no contest to, the commission of, an attempt to commit, or a conspiracy to commit any of the following:

- Any capital, life, or first degree felony;
- Any second degree or third degree felony offense listed in s. 775.084(1)(c)1., F.S.;<sup>24</sup>
- Aggravated assault as described in s. 784.021, F.S.;
- Assault or battery of a law enforcement officer and other specified persons as described in s. 784.07, F.S.;
- Abuse, aggravated abuse, and neglect of a child as described in s. 827.03, F.S.;
- Resisting an officer with violence as described in s. 843.01, F.S.;
- Any offense that requires a person to register as a sex offender under s. 943.0435, F.S.;<sup>25</sup>
  - Any offense for which the sentence was enhanced under s. 775.087, F.S.;<sup>26</sup> or
  - Any offense committed in another jurisdiction which would be an offense described above or would have been enhanced as described above, if committed in this state.

<sup>23</sup> Section 944.275(4)(f), F.S.

<sup>24</sup> The offenses enumerated in s. 775.084(1)(c)1., F.S., include: arson; sexual battery; robbery; kidnapping; aggravated child abuse; aggravated abuse of an elderly person or disabled adult; aggravated assault with a deadly weapon; murder; manslaughter; aggravated manslaughter of an elderly person or disabled adult; aggravated manslaughter of a child; unlawful throwing, placing, or discharging of a destructive device or bomb; armed burglary; aggravated battery; aggravated stalking; home invasion/robbery; carjacking; or an offense which is in violation of a law of any other jurisdiction if the elements of the offense are substantially similar to the elements of any felony offense enumerated in s. 775.084(1)(c)1., F.S., or an attempt to commit any such felony offense.

<sup>25</sup> Section 943.0435, F.S., includes the following offenses: sexual misconduct by a covered person (s. 393.135(2), F.S.); sexual misconduct by an employee; kidnapping, false imprisonment, or luring or enticing a child, where the victim is a minor; human trafficking; sexual battery, excluding s. 794.011(10), F.S.; unlawful sexual activity with certain minors; former procuring person under age of 18 for prostitution; former selling or buying of minors into prostitution; lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age; video voyeurism; lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person; sexual performance by a child; prohibition of certain acts in connection with obscenity; computer pornography, excluding s. 847.0135(6), F.S.; transmission of pornography by electronic device or equipment prohibited; transmission of material harmful to minors to a minor by electronic device or equipment prohibited; selling or buying of minors; prohibited activities/RICO, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in s. 943.0435(1)(h)1.a.(I), F.S., or at least one offense listed in s. 943.0435(1)(h)1.a.(I), F.S., with sexual intent or motive); sexual misconduct prohibited; or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in s. 943.0435(1)(h)1.a.(I), F.S.

<sup>26</sup> Section 775.087, F.S., provides for the reclassification of an offense based on the possession or use of a weapon when such use or possession is not an element of the underlying offense.

## **Sentencing Requirements**

The bill requires the following conditions to be part of a conditional sentence for substance use or mental health offenders:

- A term of imprisonment, which must include an in-prison treatment program for substance use, mental health or co-occurring disorders that is a minimum of 90-days of in-custody treatment and is administered by the DOC at a DOC facility;
- A 24 month term of special offender probation that consists of:
  - Either drug offender or mental health probation, as determined by the court at sentencing;
  - Any special conditions of probation ordered by the sentencing court; and
  - Any recommendations made by the DOC in the postrelease treatment plan for substance use or mental health aftercare services.

The court must also specify that if the DOC finds that the offender is ineligible or not appropriate for placement in an in-prison treatment program for one of the enumerated reasons, or any other reason the DOC deems as good cause, the offender must serve the remainder of his or her imprisonment at a DOC facility. At sentencing, the court must determine the appropriate type of special offender probation based upon the departments' recommendation contained in the presentence investigation report.

The court may order a presentencing investigation report for any offender that the court believes may be sentenced to a conditional sentence for substance use or mental health. The presentencing report will provide the court with the appropriate information to make a determination at sentencing of whether the offender is better suited for drug offender or mental health probation.

The bill provides that a conditional sentence imposed by a court does not confer any right to an inmate for release from incarceration and placement on drug offender or mental health offender probation, unless such offender complies with all sentence requirements. However, the bill also provides some flexibility to the DOC with regard to determining placement of inmates based on availability and appropriateness of the inmate for the program, which are discussed below.

## **Department of Corrections Duties**

The DOC is required to administer the in-prison treatment program and provide a special training program for staff members selected to implement the in-prison treatment program. The DOC is authorized to enter into performance-based contracts with qualified individuals, agencies, or corporations to supply any or all services provided through the in-prison treatment program. The bill prohibits the DOC from entering into a contract or renewing a contract for the purpose of providing services required under the act unless the contract offers a substantial savings to the DOC. Additionally, the DOC may establish a system of incentives within the in-prison treatment program to promote participation in rehabilitative programs and the orderly operation of institutions and facilities.

The DOC must give written notification of the offender's admission into the in-prison treatment program to the sentencing court, the state attorney, defense counsel, and any victim of the crime committed by the offender. Before an offender completes the in-prison treatment program, the

DOC must evaluate the offender's needs and develop a postrelease treatment plan that includes substance or mental health aftercare services.

The bill provides rulemaking authority to the DOC to implement the in-prison treatment program. The DOC can refuse to place an offender in the in-prison treatment program if, after evaluating the offender for custody and classification status, the DOC determines that the offender does not meet the criteria for the in-prison treatment program as proscribed by rule. The DOC must notify the sentencing court, the state attorney, and the defense counsel of the inability to place the offender in the program and that the rest of the offender's sentence will be served in a DOC facility.

If, after placement in the in-prison treatment program, the offender appears to be unable to participate due to medical or other reasons, he or she must be examined by qualified medical personnel or qualified nonmedical personnel appropriate for the offender's situation. After consultation with the qualified personnel that evaluated the offender, the director of the in-prison treatment program must determine if the offender will continue with treatment or if the offender will be discharged from the program. If the offender is discharged from the in-prison treatment program the remaining portion of his or her sentence will be served in a DOC facility and the DOC must immediately notify the court, the state attorney, and the defense counsel that this portion of the sentence is unsuccessfully served.

If an offender, after placement in the in-prison treatment program, appears to be unable to participate due to disruptive behavior or violations of any of the rules promulgated by the DOC, the director must determine if the offender will continue in treatment or be discharged from the program. If the offender is discharged from the in-prison treatment program, the remaining portion of his or her sentence will be served in a DOC facility and the DOC must immediately notify the court, the state attorney, and the defense counsel that this portion of the sentence is unsuccessfully served.

If an offender violates any rules, the DOC may impose sanctions including the loss of privileges, imposition of restrictions or disciplinary confinement, forfeiture of gain-time or the right to earn gain-time in the future, alteration of release plans, termination from the in-prison treatment program, or other program modifications dependent upon the severity of the violation. Additionally, the bill authorizes the DOC to place a participating offender in administrative or protective confinement, as it deems necessary.

### **Drug Offender or Mental Health Probation Portion of Sentence**

Upon completion of the in-prison treatment program, an offender must be transitioned into the community on drug offender or mental health probation for the last 24 months of his or her sentence. An offender on probation is subject to:

- All standard terms of drug offender or mental health probation; and
- Any special condition of supervision ordered by the sentencing court, which may include:
  - Participation in an aftercare substance abuse or mental health program;
  - Residence in a postrelease transitional residential halfway house; or
  - Any other appropriate form of supervision or treatment.

Additionally, an offender placed on drug offender probation who resides in a county that has established a drug court or a postadjudicatory drug court, the offender is required to be monitored by such court as a condition of drug offender probation. Similarly, an offender placed on mental health offender probation who resides in a county that has established a mental health court must be monitored by the court as a condition of mental health offender probation.

The bill requires the DOC to collect the cost of supervision, as appropriate, from the offender. An offender who is determined to be financially able must also pay all costs of substance abuse or mental health treatment. The court may impose on the offender additional conditions such as requiring payment of restitution, court costs, and fines; community service; or compliance with other special conditions.

If an offender violates any condition of probation or order, the court may revoke the offender's probation and impose any sentence authorized by law.

The DOC must develop a computerized system to track data on the recidivism and recommitment of offenders who have been sentenced to a conditional sentence for substance use or mental health.

The bill also requires the department to, on October 1 of every year, beginning on October 1, 2020, submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives of the results of the recidivism and recommitment data collected by the DOC pursuant to the act.

The bill is effective on October 1, 2019.

#### **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.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill authorizes the DOC to contract with qualified individuals, agencies, or corporations to supply any or all services provided for the in-prison treatment program. To the extent that this increases revenues of for-profit companies that offer these services, the bill will likely have a positive fiscal impact on such entities.

C. Government Sector Impact:

According to the DOC, the estimated fiscal impact is based on 2,760 inmates who would meet the eligibility criteria in the bill for in-prison treatment program and the technological impacts for creating/adjusting the codes for the new split sentence are as follows<sup>27</sup>:

Staffing for the mental health and substance abuse, to include co-occurring disorders portion of the treatment is based on the following contracted personnel<sup>28</sup>:

- One (1) Licensed Psychiatrist for every 500 individuals.
- One (1) Licensed Psychologist for every four (4) Master’s Levels Practitioners.
- One (1) Master’s Level Practitioner for every 15-50 individuals (depending on level of service).
- One (1) Clinical Support for every two (2) Master’s Level Practitioners.

**Staffing for Co-occurring Disorders Treatment**

<b>Class Title</b>	<b>Contractor Compensation</b>	<b>FTE</b>	<b>Total</b>
Licensed Psychiatrist	\$358,500	6	\$2,151,000
Licensed Psychologist	\$142,600	14	\$1,996,400
Master’s level Practitioner	\$81,250	55	\$4,468,750
Clinical Support	\$38,200	28	\$1,069,600
<b>Sub-total Co-occurring Disorders</b>		<b>103</b>	<b>\$9,685,750</b>

<sup>27</sup> DOC SB 1074 Analysis, p. 6-8.

<sup>28</sup> *Id.*

**Division of Bureau of Admission and Release Increased Workload**

<b>Class Title</b>	<b>Salaries and Benefits</b>	<b>FTE</b>	<b>Total</b>
Correctional Program Administrator	\$63,832	1	\$63,832
Correctional Services Consultant	\$57,930	2	\$115,860
<b>Sub-total Salaries &amp; Benefits</b>		<b>3</b>	<b>\$179,692</b>

Expenses – Recurring	\$3,378	\$10,134
Expenses – Nonrecurring	\$4,429	\$13,287
Human Resource Services	\$329	\$987
Technology		\$21,750
<b>Grand Total</b>		<b>\$9,911,600</b>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 948.0121 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 March 18, 2019:**

The Committee Substitute:

- Changes the type of sentence from a “split probationary sentence” to a “conditional sentence”;
- Creates a conditional sentencing option for substance use or mental health offenders which includes a period of incarceration, an in-prison treatment program, and either drug offender or mental health probation;

- Specifies eligibility criteria for an offender to be sentenced under this conditional sentencing option;
- Requires an offender sentenced under this provision to be supervised by drug court if he or she is released on drug offender probation in a county that has an established drug court, or by mental health court if he or she is released on mental health offender probation in a county that has an established mental health court;
- Requires the DOC to develop a computerized system to track recidivism data for these offenders and provide an annual report to the Governor and the Legislature; and
- Corrects the reporting requirement from October 1, 2019 to October 1, 2020.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senator Brandes

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1                   A bill to be entitled  
2       An act relating to sentencing; creating s. 948.0121,  
3       F.S.; defining terms; creating a conditional sentence  
4       for substance use and mental health offenders in  
5       accordance with s. 948.012, F.S.; authorizing a court  
6       to sentence an offender to a conditional sentence;  
7       specifying requirements an offender must meet to be  
8       eligible to receive a conditional sentence; requiring  
9       that an eligible offender be a nonviolent offender;  
10      defining the term "nonviolent offender"; providing  
11      minimum sentencing requirements for a conditional  
12      sentence; providing an exception to the court's order  
13      of a conditional sentence; authorizing the sentencing  
14      court to have the Department of Corrections provide a  
15      presentence investigation report in accordance with s.  
16      921.231, F.S., to provide the court with certain  
17      information to determine the type of probation most  
18      appropriate for the offender; requiring the department  
19      to perform specified duties; authorizing the  
20      department to enter into certain contracts; requiring  
21      the department to provide written notification to  
22      specified parties upon the offender's admission into  
23      an in-prison treatment program; providing that the  
24      department may find that an offender is not eligible  
25      to participate in an in-prison treatment program under  
26      certain circumstances; requiring written notification  
27      from the department to certain parties if an offender  
28      is terminated from or prevented from entering an in-  
29      prison treatment program; requiring that an offender

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30 be transitioned to probation upon the completion of  
31 his or her in-prison treatment program; requiring an  
32 offender to comply with specified terms of drug  
33 offender or mental health probation; requiring the  
34 offender to pay specified costs associated with his or  
35 her probation; providing that certain violations may  
36 result in revocation of probation by the court and  
37 imposition of any sentence authorized by law;  
38 requiring the department to develop a computerized  
39 system to track certain data; requiring the  
40 department, on a certain date and annually thereafter,  
41 to submit an annual report to the Governor and the  
42 Legislature; requiring the department to adopt certain  
43 rules; providing an effective date.

44  
45 Be It Enacted by the Legislature of the State of Florida:

46  
47 Section 1. Section 948.0121, Florida Statutes, is created  
48 to read:

49 948.0121 Conditional sentences for substance use or mental  
50 health offenders.-

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

52 (a) "Department" means the Department of Corrections.

53 (b) "Offender" means a person found guilty of a felony  
54 offense and who receives a conditional sentence for substance  
55 use or mental health offenders as prescribed in this section.

56 (2) CREATION.-A conditional sentence for substance use or  
57 mental health offenders is established in accordance with s.  
58 948.012. A court may sentence an offender to a conditional

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59 sentence in accordance with this section. A conditional sentence  
60 imposed by a court pursuant to this section does not confer to  
61 the offender any right to release from incarceration and  
62 placement on drug offender or mental health offender probation  
63 unless such offender complies with all sentence requirements in  
64 accordance with this section.

65 (3) ELIGIBILITY.—For an offender to receive a conditional  
66 sentence under this section, he or she must be a nonviolent  
67 offender who is in need of substance use or mental health  
68 treatment and who does not pose a danger to the community. As  
69 used in this subsection, the term “nonviolent offender” means an  
70 offender who has never been convicted of, or pled guilty or no  
71 contest to, the commission of, an attempt to commit, or a  
72 conspiracy to commit, any of the following:

73 (a) A capital, life, or first degree felony.

74 (b) A second degree felony or third degree felony listed in  
75 s. 775.084(1)(c)1.

76 (c) A violation of s. 784.021, s. 784.07, s. 827.03, or s.  
77 843.01, or any offense that requires a person to register as a  
78 sex offender in accordance with s. 943.0435.

79 (d) An offense for which the sentence was enhanced under s.  
80 775.087.

81 (e) An offense in another jurisdiction which would be an  
82 offense described in this subsection, or which would have been  
83 enhanced under s. 775.087, if that offense had been committed in  
84 this state.

85 (4) SENTENCING REQUIREMENTS.—

86 (a) A court must order the offender as a part of a  
87 conditional sentence for substance use or mental health

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88 offenders, at a minimum, to:

89 1. Serve a term of imprisonment which must include an in-  
90 prison treatment program for substance use, mental health, or  
91 co-occurring disorders which is a minimum of 90 days in-custody  
92 treatment and is administered by the department at a department  
93 facility; and

94 2. Upon successful completion of such in-custody treatment  
95 program, comply with a term of special offender probation for 24  
96 months, which shall serve as a modification of the remainder of  
97 his or her term of imprisonment, and must consist of:

98 a. Either drug offender or mental health probation, to be  
99 determined by the court at the time of sentencing;

100 b. Any special conditions of probation ordered by the  
101 sentencing court; and

102 c. Any recommendations made by the department in a  
103 postrelease treatment plan for substance use or mental health  
104 aftercare services.

105 (b) If the department finds that the offender is ineligible  
106 or not appropriate for placement in an in-custody treatment  
107 program for the reasons prescribed in subsection (7), or for any  
108 other reason the department deems as good cause then the  
109 offender shall serve the remainder of his or her term of  
110 imprisonment in the custody of the department.

111 (c) The appropriate type of special offender probation  
112 shall be determined by the court at the time of sentencing based  
113 upon the recommendation by the department in a presentence  
114 investigation report.

115 (5) PRESENTENCE INVESTIGATION REPORT.—The court may order  
116 the department to conduct a presentence investigation report in

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117 accordance with s. 921.231 for any offender who the court  
118 believes may be sentenced under this section to provide the  
119 court with appropriate information to make a determination at  
120 the time of sentencing of whether drug offender or mental health  
121 probation is most appropriate for the offender.

122 (6) DEPARTMENT DUTIES.—The department:

123 (a) Shall administer treatment programs that comply with  
124 the type of treatment required in this section.

125 (b) May develop and enter into performance-based contracts  
126 with qualified individuals, agencies, or corporations to provide  
127 any or all services necessary for the in-custody treatment  
128 program. Such contracts may not be entered into or renewed  
129 unless they offer a substantial savings to the department. The  
130 department may establish a system of incentives in an in-custody  
131 treatment program to promote offender participation in  
132 rehabilitative programs and the orderly operation of  
133 institutions and facilities.

134 (c) Shall provide a special training program for staff  
135 members selected to administer or implement an in-custody  
136 treatment program.

137 (d) Shall evaluate the offender's needs and develop a  
138 postrelease treatment plan that includes substance use or mental  
139 health aftercare services.

140 (7) IN-PRISON TREATMENT.—

141 (a) The department shall give written notification of the  
142 offender's admission into an in-prison treatment program portion  
143 of the conditional sentence to the sentencing court, the state  
144 attorney, the defense counsel for the offender, and any victim  
145 of the offense committed by the offender.

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146 (b) If, after evaluating an offender for custody and  
147 classification status, the department determines at any point  
148 during the term of imprisonment that an offender sentenced under  
149 this section does not meet the criteria for placement in an in-  
150 prison treatment program portion of the conditional sentence, as  
151 determined in rule by the department, or that space is not  
152 available for the offender's placement in an in-prison treatment  
153 program, the department must immediately notify the court, the  
154 state attorney, and the defense counsel that this portion of the  
155 sentence is unsuccessfully served in accordance with paragraph  
156 (4) (b) .

157 (c) If, after placement in an in-prison treatment program,  
158 an offender is unable to participate due to medical concerns or  
159 other reasons, he or she must be examined by qualified medical  
160 personnel or qualified nonmedical personnel appropriate for the  
161 offender's situation, as determined by the department. The  
162 qualified personnel shall consult with the director of the in-  
163 prison treatment program, and the director shall determine  
164 whether the offender will continue with treatment or be  
165 discharged from the program. If the director discharges the  
166 offender from the treatment program, the department must  
167 immediately notify the court, the state attorney, and the  
168 defense counsel that this portion of the sentence is  
169 unsuccessfully served in accordance with paragraph (4) (b) .

170 (d) If, after placement in an in-prison treatment program,  
171 an offender is unable to participate due to disruptive behavior  
172 or violations of any of the rules the department adopts to  
173 implement this section, the director shall determine whether the  
174 offender will continue with treatment or be discharged from the

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175 program. If the director discharges the offender from the  
176 treatment program, the department must immediately notify the  
177 court, the state attorney, and the defense counsel that this  
178 portion of the sentence is unsuccessfully served in accordance  
179 with paragraph (4) (b).

180 (e) An offender participating in an in-prison treatment  
181 program portion of his or her imprisonment must comply with any  
182 additional requirements placed on the participants by the  
183 department in rule. If an offender violates any of the rules, he  
184 or she may have sanctions imposed, including loss of privileges,  
185 restrictions, disciplinary confinement, forfeiture of gain-time  
186 or the right to earn gain-time in the future, alteration of  
187 release plans, termination from the in-prison treatment program,  
188 or other program modifications in keeping with the nature and  
189 gravity of the program violation. The department may place an  
190 inmate participating in an in-prison treatment program in  
191 administrative or protective confinement, as necessary.

192 (8) DRUG OFFENDER OR MENTAL HEALTH PROBATION.—

193 (a) Upon completion of the in-prison treatment program  
194 ordered by the court, the offender shall be transitioned into  
195 the community to begin his or her drug offender or mental health  
196 probation for a term of 24 months, as ordered by the court at  
197 the time of sentencing in accordance with subsection (4).

198 (b) An offender on drug offender or mental health probation  
199 following a conditional sentence imposed pursuant to this  
200 section must comply with all standard conditions of drug  
201 offender or mental health probation and any special condition of  
202 probation ordered by the sentencing court, including  
203 participation in an aftercare substance abuse or mental health

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204 program, residence in a postrelease transitional residential  
205 halfway house, or any other appropriate form of supervision or  
206 treatment.

207 (c)1. If an offender placed on drug offender probation  
208 resides in a county that has established a drug court or a  
209 postadjudicatory drug court, the offender shall be monitored by  
210 the court as a condition of drug offender probation.

211 2. If an offender placed on mental health offender  
212 probation resides in a county that has established a mental  
213 health court, the offender shall be monitored by the court as a  
214 condition of mental health offender probation.

215 (d) While on probation pursuant to this subsection, the  
216 offender shall pay all appropriate costs of probation to the  
217 department. An offender who is determined to be financially able  
218 shall also pay all costs of substance abuse or mental health  
219 treatment. The court may impose on the offender additional  
220 conditions requiring payment of restitution, court costs, fines,  
221 community service, or compliance with other special conditions.

222 (e) An offender's violation of any condition or order may  
223 result in revocation of probation by the court and imposition of  
224 any sentence authorized under the law, with credit given for the  
225 time already served in prison.

226 (9) REPORTING.—The department shall develop a computerized  
227 system to track data on the recidivism and recommitment of  
228 offenders who have been sentenced to a conditional sentence for  
229 substance use or mental health offenders. On October 1, 2020,  
230 and on each October 1 thereafter, the department shall submit an  
231 annual report of the results of the collected data to the  
232 Governor, the President of the Senate, and the Speaker of the

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233 House of Representatives.

234 (10) RULEMAKING.—The department shall adopt rules pursuant  
235 to ss. 120.536(1) and 120.54 to administer this section.

236 Section 2. This act shall take effect October 1, 2019.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19  
Meeting Date

1074  
Bill Number (if applicable)

Topic Sentencing

Amendment Barcode (if applicable)

Name Sarah Naf Biehl

Job Title Chief of Legislative Affairs

Address 500 S. Duval St.  
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Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Steering Committee on Problem-Solving Courts

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4.16.19

1074

*Meeting Date**Bill Number (if applicable)*Topic Sentencing*Amendment Barcode (if applicable)*Name Barney Bishop IIIJob Title President & CEOAddress 2215 Thomasville RoadPhone 850.510.9922*Street*TallahasseeFL32308Email barney@barneybishop.com*City**State**Zip*Speaking:  For  Against  InformationWaive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*Representing Florida Smart Justice AllianceAppearing at request of Chair:  Yes  NoLobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

16 April 2009  
Meeting Date

1074  
Bill Number (if applicable)

Topic Sentencing

Amendment Barcode (if applicable)

Name Jill Grant

Job Title Sr Policy Adviser

Address 316 E Park Ave

Phone 850 878 2196

Street  
Tallahassee FL 32301

City State Zip

Email jill@fadaa.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Council for Behavioral Health

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-16-19  
Meeting Date

SB 1074  
Bill Number (if applicable)

Topic Sentencing

Amendment Barcode (if applicable)

Name Erin Cusick

Job Title Consultant

Address 1931 Dellwood Drive  
Street

Phone \_\_\_\_\_

Tallahassee FL 32303  
City State Zip

Email erin@erincusick.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing National Association of Social Workers - Florida Chapter

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

**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 Subcommittee on Criminal and Civil Justice

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BILL: PCS/SB 1764 (910758)

INTRODUCER: Appropriations Subcommittee on Criminal and Civil Justice and Senator Baxley

SUBJECT: Fees/Foreign Language Court Interpreter/Fingerprint Processing

DATE: April 19, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cibula</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
2.	<u>Dale</u>	<u>Jameson</u>	<u>ACJ</u>	<b>Recommend: Fav/CS</b>
3.	_____	_____	<u>AP</u>	_____

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## I. Summary:

PCS/SB 1764 requires applicants for certification as a foreign language court interpreter or certification as a mediator to pay the fees associated with fingerprint processing for the security background investigation required as part of the certification process in SB 656, a linked bill.

The Florida Constitution requires that legislation imposing or authorizing new state taxes or fees<sup>1</sup> and legislation that raises existing state taxes or fees<sup>2</sup> be passed by a two-thirds vote of the membership of each house of the Legislature, and the tax or fee provisions must be passed in a separate bill.<sup>3</sup> This bill requires applicants seeking certification as a foreign language court interpreter or certification as a mediator to pay the fingerprint processing fees for state and national security background investigations.

The bill takes effect on the same date that SB 656, or other similar legislation, takes effect if the legislation is passed during the 2019 Legislative Session or an extension of the session.

## II. Present Situation:

### Mediators and Foreign Language Court Interpreters

In 1988, the Florida Supreme Court was tasked with the responsibility of establishing minimum standards for qualifications, professional conduct, and training for court mediators<sup>4,5</sup> and

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<sup>1</sup> FLA. CONST. art. VII, s. 19(a).

<sup>2</sup> FLA. CONST. art. VII, s. 19(b).

<sup>3</sup> FLA. CONST. art. VII, s. 19(e).

<sup>4</sup> A mediator is a neutral and impartial person who tries to help opposing parties reach a solution to their conflict. BLACK'S LAW DICTIONARY (10th ed. 2014).

<sup>5</sup> Generally, in order to become a certified mediator someone must be at least 21 years old, of good moral character, and earn a designated number of points for training, education, and mentorship. Training and education requirements vary depending

arbitrators. Before a mediator could be appointed to serve in a circuit, he or she was required to be certified by the chief judge in accordance with the Supreme Court standards.<sup>6</sup>

Similarly, in 2006, the Florida Supreme Court was given the responsibility of establishing minimum standards and procedures to qualify, certify, discipline, and train foreign language interpreters who are appointed by a court.<sup>7,8</sup>

### **The Authority of the Court Interpreter Certification and Regulation Program/Board and the Florida Dispute Resolution Center**

The Supreme Court, with the assistance of the Office of the State Courts Administrator (OSCA), established two boards to oversee the responsibilities required of them by statute. The Florida Dispute Resolution Center (DRC) was established to assess the qualifications of mediators and the Court Interpreter Certification and Regulation Program/Board was established to determine the qualifications of foreign language interpreters. As part of its responsibilities, the OSCA conducted background checks to determine the suitability of applicants. According to the OSCA, as early as 2007, both groups conducted nationwide criminal history background checks, which required the submission of fingerprints through the Florida Department of Law Enforcement (FDLE) to the Federal Bureau of Investigation (FBI).<sup>9</sup>

In 2017, the FDLE conducted records compliance and technical audits to determine whether state entities possessed the appropriate authority to access national criminal justice information.<sup>10</sup> Pursuant to s. 943.053(2), F.S., the FDLE is prohibited from disseminating criminal justice information that is not in compliance with federal and state laws, regulations, and rules. The FDLE determined that the OSCA did not have sufficient statutory authority to request national criminal history checks for a regulatory purpose.<sup>11</sup> The FDLE determined that the OSCA had the authority to perform background checks as a criminal justice agency on its employees, but it did not have the authority to perform criminal history background checks on people who were not employees, such as mediators and court interpreters. Because the OSCA lacked the authority to have the FDLE access the national criminal history background information in the FBI databases, it was determined that the OSCA was limited to accessing the results of Florida background information.

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on whether someone seeks to become a county court, family, circuit court, dependency, or appellate mediator.

Fla. R. Cert. & Ct.-Apptd. Mediators 10.100(a).

<sup>6</sup> Ch. 87-133, s. 6, Laws of Florida.

<sup>7</sup> Ch. 2006-253, s. 1, Laws of Florida.

<sup>8</sup> To become certified, a court interpreter must be of good moral character, pass a background check, complete courtroom observation requirements, and pass a written and oral exam demonstrating language proficiency. Florida Courts, *Court Interpreter Certification and Regulation Program, Application for Court Interpreter Registration Renewal* (Effective July, 18, 2018), <https://www.flcourts.org/content/download/402733/3454022/application-for-court-interpreter-registration-renewal.pdf>; Florida Courts, *Court Interpreter Certification and Regulation Program, Steps to Court Interpreter Certification* <https://www.flcourts.org/content/download/217092/1968498/FINAL-Certification-Process-Flow-Chart.pdf>.

<sup>9</sup> Office of the State Courts Administrator, *Judicial Branch 2019 Legislative Agenda*, 19-20, (April 8, 2019) (on file with the Senate Committee on Judiciary).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* OSCA's position, as stated in the *Judicial Branch 2019 Legislative Agenda*, is that the Department of Justice changed its policy on what constituted the proper authority to conduct national background checks, and this change has necessitated this bill.

## **FBI Requirements for Conducting a Criminal Record Check for a Noncriminal Justice Licensing or Employment Purpose**

The FBI derives its authority to conduct a *criminal* record check for a *noncriminal* justice licensing or employment purpose from Public Law 92-544. Under that law, the FBI is authorized to exchange identification records with state and local government officials for licensing and employment purposes when authorized by a state statute. The statute must be approved by the U.S. Attorney General.<sup>12</sup> The standards that the FBI relies upon in approving state authorizations have been developed through a number of memoranda issued by the Office of Legal Counsel in the Department of Justice.<sup>13</sup>

An authorization consistent with the standards must:

- Be the result of a legislative enactment or its functional equivalent;
- Require fingerprinting of applicants for a license or employment;
- Expressly or by implication authorize the use of the FBI records for screening applicants;
- Not be against public policy; and
- Identify the specific category of applicants or licenses to prevent the authorization from being overly broad in scope.<sup>14</sup>

Additionally, the state must designate a government agency that is authorized and responsible for receiving the results of the record check and screening those results to determine whether the applicant is suitable for employing or licensing.<sup>15</sup>

If the OSCA receives the requisite statutory authority to conduct criminal history checks for a regulatory purpose, it will be in compliance with federal law.

## **Level 1 and Level 2 Screening Standards**

Chapter 435, F.S., establishes two levels of background screenings that employees must undergo as a condition of employment. Level 1 is the more basic screening and involves an in-state name-based background check, employment history check, statewide criminal correspondence check through the FDLE, a sex offender registry check, local criminal records check, and a domestic violence check.<sup>16</sup> Level 2 screenings are more thorough because they apply to persons in positions of responsibility or trust, often involving more vulnerable people, such as children, the elderly, or the disabled. Level 2 screenings require a security background investigation that includes fingerprint-based searches for statewide criminal history records through the FDLE and a national criminal history records check through the Federal Bureau of Investigation. It may also include local criminal records checks. A level 2 screening disqualifies a person from

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<sup>12</sup> The Department of Justice has determined that Attorney General's authority to approve the state "statute is delegated to the FBI by Title 28, Code of Federal Regulations, Section 0.85(j)." U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, Identification Services, *Appendix B: Criminal Justice Information (CJIS) Information Letter 95-3, 5* (July 17, 1995), <https://www.ojjdp.gov/pubs/guidelines/appen-b2.html> (Last visited April 8, 2019.)

<sup>13</sup> *Id.*

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

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

<sup>16</sup> Section 435.03, F.S.

employment if the person has a conviction or unresolved arrest for any one of more than 50 criminal offenses.<sup>17</sup>

### III. Effect of Proposed Changes:

This bill requires applicants for certification as a foreign language court interpreter or certification as a mediator to pay the existing fees associated with fingerprint processing for the security background investigations required as part of the certification process in SB 656, a linked bill.

The bill takes effect on the same date that SB 656, or other similar legislation, takes effect if the legislation is passed during the 2019 Legislative Session or an extension of the session.

### 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:

Article VII, s. 19, of the State Constitution requires that a new state tax or fee, as well as an increased state tax or fee, must be approved by two-thirds of the membership of each house of the Legislature and must be contained in a separate bill that contains no other subject. Article VII, s. 19(d)(1) of the State Constitution defines “fee” to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”

Section 25.386, F.S. requires the Supreme Court to set fees to be charged to applicants for certification and renewal of certification as a court interpreter, and s. 44.106 authorizes the Supreme Court to set fees to be charged to mediator applicants for certification and renewal of certification.

Individuals who apply to become a certified interpreter or a certified mediator are required to go to a live scan provider to be fingerprinted at their own expense. The results of the live scan are transmitted to FDLE and to the OSCA. Until 2017, the background screen for interpreters included both the state and national background checks. In 2017, the FDLE advised that the OSCA could no longer require the national checks, until such

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<sup>17</sup> Section 435.04, F.S.

time as the legislature granted them statutory authority to do so. For mediators, the cessation of national background screens by FDLE was in 2015.

The bill requires the national background checks be done for new applicants to be court-appointed mediators and foreign language interpreters. The fee for a state and national criminal history background check is not being increased and no new fee is authorized.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The total cost of the Level 1 “state” background check is approximately \$50-\$75 per person, which includes the FDLE fee of \$24.00 and the cost charged by the Livescan provider to perform the fingerprinting.<sup>18</sup> According to the fiscal analysis by the FDLE, the additional cost for a national criminal history record check is \$13.25.<sup>19</sup> Those seeking certification as a foreign language court interpreter or as a mediator will bear the costs associated with security background investigations.

**C. Government Sector Impact:**

The Office of the State Courts Administrator does not anticipate a meaningful increase in judicial workload because court staff are already performing some background screening of applicants for certification as court interpreters and mediators.<sup>20</sup>

Currently, applicants are paying the \$24 state portion of the fee for the state (Level 1) background screening. These fees are deposited into the FDLE’s Operating Trust Fund.<sup>21</sup> The additional \$13.25 for the national (Level 2) background screening is paid to the federal government and therefore there would not be a state fiscal impact from the bill.

The cost to retain the information for the first year is included in the criminal history record check. Although not required, an agency can pay FDLE to retain a set of fingerprints for \$6 annually, which also is deposited in the FDLE’s Operating Trust Fund.

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<sup>18</sup> Court Interpreter Certification and Regulation Program (CICRP) Background Check Screening Process for Court Interpreters, <https://www.flcourts.org/content/download/402727/3453986/CICRP-background-check-announcement.pdf> (Last visited April 9, 2019.)

<sup>19</sup> Florida Department of Law Enforcement, *Judicial Impact Statement for SB 656* (March 8, 2019).

<sup>20</sup> Office of the State Courts Administrator, *Judicial Impact Statement for SB 656* (Feb. 28, 2019).

<sup>21</sup> *Supra* note 20

The FDLE states that when it begins to participate in the federal retention program, the FBI will not require a fee for federal fingerprint retention.<sup>22</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 25.386 and 44.106.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

**Recommended CS by Appropriations Subcommittee on Criminal and Civil Justice on April 16, 2019:**

The committee substitute corrects the title on line 4 to properly denote that the bill requires foreign language court “interpreters” not foreign language court “reporters” to pay fees related to fingerprint processing.

**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>22</sup> *Supra* note 20



846562

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2019	.	
	.	
	.	
	.	

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Appropriations Subcommittee on Criminal and Civil Justice  
(Baxley) recommended the following:

**Senate Amendment**

In title, delete line 4  
and insert:  
as a foreign language court interpreter or a mediator,

By Senator Baxley

12-00990B-19

20191764\_\_

1                   A bill to be entitled  
2       An act relating to fees; amending ss. 25.386 and  
3       44.106, F.S.; requiring applicants for certification  
4       as a foreign language court reporter or a mediator,  
5       respectively, to pay fees relating to fingerprint  
6       processing; specifying the cost for fingerprint  
7       processing; providing a contingent effective date.  
8

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

11       Section 1. Subsection (2) of section 25.386, Florida  
12 Statutes, as amended by SB 656, 2019 Regular Session, is amended  
13 to read:

14       25.386 Foreign language court interpreters.—

15       (2) An applicant for certification as a foreign language  
16 court interpreter shall undergo security background  
17 investigations, which include, but need not be limited to, the  
18 submission of a full set of fingerprints to the Department of  
19 Law Enforcement or to a vendor, entity, or agency authorized  
20 under s. 943.053(13). The vendor, entity, or agency shall  
21 forward the fingerprints to the Department of Law Enforcement  
22 for state processing and the Department of Law Enforcement shall  
23 forward the fingerprints to the Federal Bureau of Investigation  
24 for national processing. Fees for vendor, state, and federal  
25 fingerprint processing must be borne by the applicant. The cost  
26 for fingerprint processing is as provided in s. 943.053(3)(e)  
27 for records provided to persons or entities other than those  
28 specified as exceptions therein.

29       Section 2. Subsection (2) of section 44.106, Florida

12-00990B-19

20191764\_\_

30 Statutes, as amended by SB 656, 2019 Regular Session, is amended  
31 to read:

32 44.106 Standards and procedures for mediators and  
33 arbitrators; fees.—

34 (2) An applicant for certification as a mediator shall  
35 undergo security background investigations, which include, but  
36 need not be limited to, the submission of a full set of  
37 fingerprints to the Department of Law Enforcement or to a  
38 vendor, entity, or agency authorized under s. 943.053(13). The  
39 vendor, entity, or agency shall forward the fingerprints to the  
40 Department of Law Enforcement for state processing and the  
41 Department of Law Enforcement shall forward the fingerprints to  
42 the Federal Bureau of Investigation for national processing.  
43 Fees for vendor, state, and federal fingerprint processing must  
44 be borne by the applicant. The cost for fingerprint processing  
45 is as provided in s. 943.053(3)(e) for records provided to  
46 persons or entities other than those specified as exceptions  
47 therein.

48 Section 3. This act shall take effect on the same date that  
49 SB 656 or similar legislation takes effect, if such legislation  
50 is adopted in the same legislative session or an extension  
51 thereof and becomes a law.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

1764

Bill Number (if applicable)

Topic Fees/Foreign Language Interpreter

Amendment Barcode (if applicable)

Name Sarah Naf Bienl

Job Title Chief of Legislative Affairs

Address 500 S. Duval St.

Phone 850-922-5692

Street

Tallahassee FL 32399

Email nafs@fcourts.org

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [X] In Support [ ] Against (The Chair will read this information into the record.)

Representing State Courts System

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

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# THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4.16.19

1764

*Meeting Date*

*Bill Number (if applicable)*

Topic Fees/Foreing Language Court Reporters

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

*Street*

Tallahassee

FL

32308

Email barney@barneybishop.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Smart Justice Alliance

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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

# CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Appropriations Subcommittee on Civil and Criminal Justice

Judge:

Started: 4/16/2019 9:05:35 AM

Ends: 4/16/2019 11:42:06 AM

Length: 02:36:32

9:05:37 AM Sen. Brandes - Call to Order  
9:05:40 AM Roll call  
9:05:59 AM Quorum present  
9:06:23 AM Tab 9 -1764  
9:06:32 AM Sen. Baxley  
9:07:01 AM AM. 846562  
9:07:09 AM Sen. Baxley  
9:07:41 AM AM. 846562 adopted  
9:07:44 AM SB 1764 cont.  
9:07:49 AM Sarah Naf Biehl, Chief of Legislative Affairs, State Courts System (waive in support)  
9:07:56 AM Barney Bishop, President, Florida Smart Justice Alliance (waive in support)  
9:08:09 AM Roll Call SB 1764  
9:08:34 AM SB 1764 - voted favorable  
9:08:38 AM Tab 6 - SB 876  
9:08:46 AM Sen. Powell  
9:09:38 AM Karen Mazzela, Treasurer, Florida PTA (waive in support)  
9:09:46 AM Candice Brower, Steering Committee Member, Steering Committee on Children and Families in Court/  
Public Interest Law Section of Florida Bar (waive in support)  
9:09:54 AM Scott McCoy, Senior Policy Counsel, Southern Poverty Law Center (waive in support)  
9:10:00 AM Caitlyn Kio, FSU Public Interest Law Center (waive in support)  
9:10:06 AM Barney Bishop, President, Florida Smart Justice Alliance (waive in opposition)  
9:10:15 AM Hon. Carlos Martinez, Elected Public Defender 11th Circuit (waive in support)  
9:10:20 AM Kara Gross, Legislative Director, ACLU of Florida (waive in support)  
9:10:23 AM Ida Eskamani, Public Policy, New Florida Majority (waive in support)  
9:10:45 AM Roll Call SB 876  
9:11:11 AM SB 876 - voted favorable  
9:11:15 AM Tab 4 - SB 762  
9:11:20 AM Sen. Gruters  
9:11:55 AM Roll Call SB 762  
9:12:20 AM SB 762 - voted favorable  
9:12:23 AM Tab 5 - CS/SB 768  
9:12:30 AM Sen. Perry  
9:13:07 AM Roll Call SB 768  
9:13:31 AM SB 768 - voted favorable  
9:13:51 AM Sen. Bracy (Chair)  
9:13:58 AM Tab 1 - CS/CS/SB 328  
9:14:12 AM Sen. Brandes  
9:14:58 AM AM. 867520  
9:15:05 AM Sen. Brandes  
9:16:04 AM AM. 867520 adopted  
9:16:19 AM CS/CS/SB 328 cont.  
9:16:21 AM Sen. Rouson  
9:16:46 AM Sen. Brandes  
9:17:32 AM Sen. Rouson  
9:17:50 AM Sen. Brandes  
9:18:47 AM William Large, President, Florida Justice Reform Institute  
9:22:50 AM Sen. Brandes  
9:23:14 AM W. Large  
9:23:53 AM Sen. Brandes  
9:23:57 AM W. Large  
9:24:16 AM Sen. Brandes  
9:24:35 AM W. Large

9:24:37 AM Sen. Harrell  
9:25:09 AM W. Large  
9:25:51 AM Sen. Harrell  
9:26:06 AM W. Large  
9:26:54 AM Sen. Rouson  
9:27:01 AM W. Large  
9:27:15 AM Sen. Bracy  
9:27:21 AM William Cotterall, Attorney, Florida Justice Association  
9:30:47 AM Sen. Brandes  
9:30:59 AM Barney Bishop, President, Florida Smart Justice Alliance (waive in opposition)  
9:31:12 AM Sen. Rouson  
9:32:27 AM Sen. Harrell  
9:33:56 AM Sen. Taddeo  
9:34:26 AM Sen. Brandes  
9:36:35 AM Roll Call CS/CS/SB 328  
9:36:57 AM CS/CS/SB 328 - voted Favorable  
9:37:13 AM Tab 7 - SB 916  
9:37:14 AM Sen. Pizzo  
9:38:20 AM Ted Mannelli, State Attorney 11th Circuit (waive in support)  
9:38:27 AM Barney Bishop, President, Florida Smart Justice Alliance (waive in support)  
9:38:40 AM Sen. Pizzo  
9:38:46 AM Roll Call SB 916  
9:39:05 AM SB 916 - voted favorable  
9:39:18 AM Tab 8 - SB 1074  
9:39:22 AM Sen. Brandes  
9:40:32 AM Sen. Harrell  
9:41:13 AM Sen. Brandes  
9:42:21 AM Sen. Harrell  
9:42:50 AM Sen. Brandes  
9:43:28 AM Sen. Harrell  
9:43:54 AM Sen. Brandes  
9:44:12 AM Sen. Harrell  
9:44:23 AM Sen. Brandes  
9:45:17 AM Sen. Harrell  
9:45:40 AM Sen. Brandes  
9:45:51 AM Sarah Naf Biehl, Chief of Legislative Affairs, Steering Committee on Problem-Solving Courts (waive in support)  
9:45:56 AM Barney Bishop, President, Florida Smart Justice Alliance (waive in support)  
9:46:01 AM Jill Gran, Sr, Policy Advisor, Florida Council for Behavioral Health (waive in support)  
9:46:11 AM Sen. Harrell  
9:47:16 AM Sen. Rouson  
9:48:26 AM Erin Cusack, Consultant, National Association of Social Workers (waive in support)  
9:48:36 AM Sen. Brandes  
9:49:29 AM Roll Call CS/SB 1074  
9:49:49 AM CS/SB 1074 - voted favorable  
9:49:59 AM Tab 3 - SB 642  
9:50:10 AM Sen Brandes  
9:50:28 AM Temporarily postpone SB 624  
9:50:39 AM SB 642 cont.  
9:50:48 AM Sen. Brandes  
9:52:46 AM AM. 271420  
9:53:05 AM Sen. Brandes  
9:56:35 AM Sen. Harrell  
9:56:59 AM Sen. Brandes  
9:57:41 AM Diane Ferguson, Attorney, Florida Animal Control Association (waive in support)  
9:57:48 AM Erin Cusick, Consultant, National Association of Social Workers (waive in support)  
9:58:28 AM Neil Volz, Political Director, Florida Rights Restoration Coalition  
9:59:36 AM Scott McCoy, Senior Policy Council, Southern Poverty Law Action Fund  
10:04:10 AM Matt Dunigan, Deputy Director, Florida Sheriffs Association (waive in opposition)  
10:04:17 AM Gary Hester, Chief, Florida Police Chiefs Association (waive in opposition)  
10:04:24 AM Kara Gross, Legislative Director, ACLU of Florida (waive in support)  
10:04:33 AM Jennifer Hobgood, PhD, Senior Director of Legislation, ASPCA (waive in support)

10:04:37 AM Lauren Jackson, Lobbyist, National Federation of Public Employees (waive in support)  
10:04:41 AM Marion Hammer, NRA  
10:08:14 AM AM. 892512  
10:08:16 AM Sen. Brandes  
10:09:20 AM AM. 892512 adopted  
10:09:25 AM AM. 261344  
10:09:28 AM Sen. Brandes  
10:10:11 AM AM. 261344 adopted  
10:10:14 AM Sen. Perry (chair)  
10:10:20 AM AM. 425892, 516056 , 335422 withdrawn  
10:10:38 AM AM 160412  
10:10:51 AM Sen. Bracy  
10:11:46 AM Scott McCoy  
10:13:26 AM Sen. Brandes  
10:14:26 AM Sen. Bracy  
10:15:25 AM AM. 160412 adopted  
10:15:30 AM AM. 439964  
10:15:35 AM Sen. Brandes  
10:16:51 AM AM. 439964 adopted  
10:16:56 AM AM. 736318  
10:17:03 AM Sen. Bracy  
10:17:49 AM Scott McCoy (waive in support)  
10:17:59 AM Sen. Brandes  
10:19:03 AM Sen. Bracy  
10:19:06 AM AM. 736318 (withdrawn)  
10:19:44 AM AM. 271420 continued  
10:19:50 AM Sen. Bracy (chair)  
10:20:19 AM AM. 271420 adopted  
10:20:38 AM SB 642 cont.  
10:20:46 AM Ida Eskaman, Public Policy, New Florida Majority (waive in support)  
10:20:57 AM Tracy Johnson, Retired Federal Agent, Florida Cares  
10:25:52 AM Sen. Bracy  
10:26:14 AM J.J. Daiak, Citizen  
10:29:56 AM Jill Gran, Senior Policy Advisor, Florida Council for Behavioral Health (waive in support)  
10:30:55 AM Deanna Smith, Clergy, Florida Rights Restoration (waive in support)  
10:31:01 AM Tracy Williams, Truck Driver, FRRRC  
10:32:18 AM Rosemary McCoy, Job Coordinator (waive in support)  
10:32:25 AM Sharon Madison, Reentry Coordinator, Florida Rights Restoration Coalition (waive in support)  
10:32:30 AM Reenie McHarg, Prep Cook (waive in support)  
10:32:37 AM Matt Dunagan, Deputy Director, Florida Sheriffs Association  
10:33:21 AM Sen. Rouson  
10:33:42 AM M. Dunagan  
10:34:37 AM Sen. Rouson  
10:34:57 AM M. Dunagan  
10:35:28 AM Gary Hester, Chief-Government Affairs, Florida Police Chiefs Association (waive in opposition)  
10:35:34 AM Lisa Henning, Legislative Director, Fraternal Order of Police (waive in support)  
10:35:41 AM Paula Hill, Florida Rights Restoration Coalition  
10:39:26 AM Gale Williams, Chef, FRRRC (waive in support)  
10:39:34 AM Demetrius Minor, Director of Coalitions, Americans For Prosperity (waive in support)  
10:39:38 AM Barry Harbor, Citizen (waive in support)  
10:39:50 AM Barney Bishop, President, Florida Smart Justice Alliance (waive in opposition)  
10:39:58 AM Jay Springsteen, FRRRC and Florida Rights (waive in support)  
10:40:02 AM Coral Nichols, Vice President, Empowered to Change, Inc. and FRRRC  
10:42:41 AM Jill Trask, Citizen  
10:46:29 AM Hon. Carlos Martinez, Public Defender 11th Circuit (waive in support)  
10:46:37 AM Gleniel Lester, FRRRC (waive in support)  
10:46:44 AM Buddy Jacobs, General Counsel, Florida Prosecuting Attorneys Association  
10:48:55 AM Sen. Harrell  
10:50:05 AM Sen. Harrell  
10:50:47 AM B. Jacobs  
10:51:14 AM Sen. Harrell  
10:51:40 AM Sen. Rouson

10:52:22 AM B. Jacobs  
10:52:48 AM David Safavian, General Counsel, American Conservative Union  
10:57:50 AM Greg Newburn, State Policy Director, FAMM (waive in support)  
10:57:59 AM Chelsea Murphy, State Director, Right on Crime (waive in support)  
10:58:08 AM Scott D. McCoy, Senior Policy Counsel, Southern Poverty Law Center Action Fund  
10:58:14 AM Paul Heroux, Florida Cares  
11:01:35 AM Sen. Gainer  
11:02:48 AM Erica Medina, Citizen  
11:10:35 AM Sal Nuzzo, Vice President of Policy, The James Madison Institute (waive in support)  
11:10:50 AM Rita Mattson  
11:18:39 AM Laurette Philipson, Floirda Cares  
11:23:33 AM Sen. Perry  
11:25:14 AM Sen. Gainer  
11:26:30 AM Sen. Gruters  
11:27:11 AM Sen. Harrell  
11:28:41 AM Sen. Rouson  
11:30:15 AM Sen. Taddeo  
11:31:59 AM Sen. Bracy  
11:32:50 AM Sen. Brandes  
11:36:51 AM Sen Brandes moves to allow staff to make technical changes  
11:36:59 AM Roll Call SB 642  
11:37:15 AM SB 642 - voted favorable  
11:37:25 AM Sen. Brandes (chair)  
11:37:33 AM Tab 2 - SB 624  
11:37:35 AM Sen. Montford  
11:38:25 AM AM. 514928  
11:38:31 AM AM. 626484  
11:38:39 AM Sen. Montford  
11:39:04 AM AM. 626484 adopted  
11:39:11 AM SB 624 cont.  
11:40:14 AM Terry Coonun, ED, FSU Human Rights Center (waive in support)  
11:40:15 AM Hon. Carlos Martinez, Florida Public Defender Association (waive in support)  
11:40:16 AM Caitlyn Kio, FSU Public Interest Law Center (waive in support)  
11:40:17 AM Karen Mazzola, Treasurer, Florida PTA (waive in support)  
11:40:18 AM Deni Kolev, FSU Public Interest Law Center (waive in support)  
11:40:19 AM Barney Bishop, President, Floirda Smart Justice Alliance (waive in support)  
11:40:20 AM Kara Gross, Legislative Director, ACLU of Florida (waive in support)  
11:40:21 AM Pamela Burch Fort, Florida State Conference of NAACP (waive in support)  
11:40:22 AM Scott McCoy, Sr. Policy Counsel, Southern Poverty Law Center (waive in support)  
11:40:23 AM Ingrid Delgado, Associate for Social Concerns and Respect Life (waive in support)  
11:40:24 AM Ida Eskamani, Public Policy, New Florida Majority (waive in support)  
11:40:25 AM Erin Cusick, Consultant, National Association of Social Workers - Florida Chapter (waive in support)  
11:40:29 AM Roll Call CS/SB 624  
11:41:00 AM CS/CS/SB 624 - voted favorable  
11:41:02 AM Sen. Bracy moves to allow for staff to make technical changes  
11:41:13 AM SB 1764/SB 876/SB 762/SB 768 Sen. Harrel - vote after in affirmative  
11:41:53 AM Sen. Rouson moves to adjourn