Tab 1	**SB 118** by **Gruters**; (Similar to H 00131) Security in Trial Court Facilities

Tab 2	**CS/SB 556** by **CJ, Brandes (CO-INTRODUCERS) Perry, Bracy**; (Compare to H 00837) Inmate Conditional Medical Release

Tab 3	**SB 560** by **Brandes (CO-INTRODUCERS) Perry**; Sentencing

Tab 4	**CS/SB 574** by **CJ, Brandes (CO-INTRODUCERS) Perry**; (Compare to H 00837) Conditional Aging Inmate Release

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS SUBCOMMITTEE ON CRIMINAL AND CIVIL JUSTICE
Senator Brandes, Chair
Senator Bracy, Vice Chair

MEETING DATE: Wednesday, January 22, 2020
TIME: 1:30—3:30 p.m.
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	**SB 118** Gruters (Similar H 131)	Security in Trial Court Facilities; Requiring sheriffs 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 09/17/2019 Favorable ACJ 01/22/2020 AP	
2	**CS/SB 556** Criminal Justice / Brandes (Compare H 837, Linked S 1728)	Inmate Conditional Medical Release; Establishing the conditional medical release program within the Department of Corrections; requiring any inmate who meets certain criteria to be considered for conditional medical release; providing for victim notification in certain circumstances; providing that an inmate who is approved for conditional medical release must be released from the department in a reasonable amount of time; providing that a medical releasee remains in the care, custody, supervision, and control of the department and is eligible to earn or lose gain-time, etc. CJ 11/12/2019 Fav/CS ACJ 01/22/2020 AP	
3	**SB 560** Brandes	Sentencing; Renaming the Criminal Punishment Code as the Public Safety Code; revising the primary purpose of sentencing under the Public Safety Code from punishing an offender to public safety, etc. CJ 11/12/2019 Favorable ACJ 01/22/2020 AP	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**CS/SB 574** Criminal Justice / Brandes (Compare H 837, Linked S 1718)	Conditional Aging Inmate Release; Establishing the conditional aging inmate release program within the Department of Corrections; requiring that an inmate who meets certain criteria be considered for conditional aging inmate release; providing victim notification requirements under certain circumstances; providing that an inmate who is approved for conditional aging inmate release must be released from the department's custody within a reasonable amount of time; prohibiting an aging releasee or his or her community-based housing from being counted in the prison system population and the prison capacity figures, respectively, etc. CJ 12/10/2019 Fav/CS ACJ 01/22/2020 AP	

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.)

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

BILL: SB 118

INTRODUCER: Senator Gruters

SUBJECT: Security in Trial Court Facilities

DATE: January 21, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cibula	Cibula	JU	**Favorable**
2.	Jameson	Jameson	ACJ	**Pre-meeting**
3.			AP	

I. Summary:

SB 118 addresses the decision-making authority and responsibilities of two constitutional officers, the chief judge of a circuit court and the county sheriff, in providing court security. In a recent case before the Second District Court of Appeal, the court resolved the competing claims of authority and responsibility at issue in the case by holding that a chief circuit judge may require a sheriff in the circuit, because the sheriff is an officer of the court, to comply with the judge's order requiring the sheriff to provide security at court facilities.

The bill reiterates that sheriffs are officers of the court, and requires each sheriff to coordinate with his or her local chief judge and county commissioners in developing a court security plan. However, the bill provides that sheriffs retain authority to implement and provide law enforcement services associated with the plan. Finally, the bill provides that 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.

The bill has an indeterminate fiscal impact. See Section V.

The bill has an effective date of July 1, 2020.

II. Present Situation:

Context: A 2017 District Court of Appeal Opinion

In 2017, a controversy arose regarding the authority of the Chief Judge of the Twelfth Circuit to require the Sarasota County Sheriff to provide security at certain court facilities.[1] This

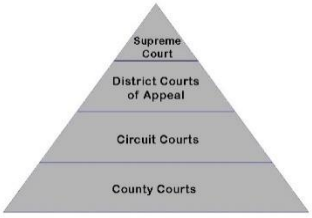
[1] *See generally Knight v. Chief Judge of Florida's Twelfth Judicial Circuit*, 235 So. 3d 996 (Fla. 2d DCA 2017).

culminated in a District Court of Appeal Opinion in which the Court held that a chief circuit judge may compel the sheriffs of his or her circuit to provide security at all court facilities, including those at which no sessions of court (such as trials or hearings) are held.[2]

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.[3]



The Constitution provides that "[n]o other courts may be established by the state, any political subdivision or any municipality."[4]

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.[5] The chief justice of the Florida Supreme Court is constitutionally designated as the "chief administrative officer of the judicial system."[6] The Constitution also directs that a chief judge be chosen for each district court of appeal and each circuit court.[7]

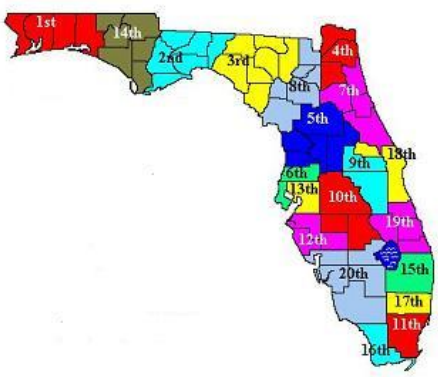
Chief Judge of the Circuit Court

The chief judge of the circuit court has administrative supervision responsibility for the circuit court, as well as the county courts within his or her circuit.[8] Currently, there are 20 judicial circuits and 67 county courts, one in each of Florida's 67 counties,[9] as constitutionally required.[10]

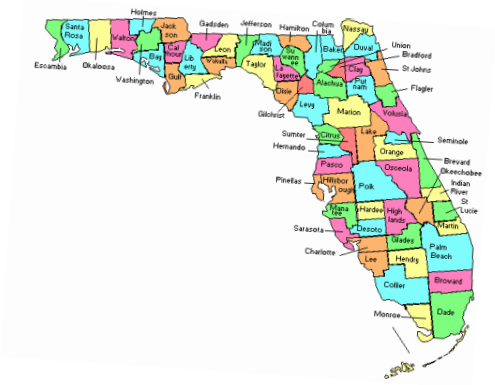
The following maps illustrate the territorial jurisdictions of the circuit and county courts. Note, some circuits contain multiple counties, particularly in North Florida; whereas, some circuits contain only one county, particularly in the larger metropolitan areas in Central and South Florida:[11]

---

[2] *Id.*
[3] FLA. CONST. art. V., s. 1.
[4] *Id.* (although the Constitution permits the Legislature to establish quasi-judicial, administrative courts and a civil traffic infraction hearing officer system).
[5] FLA. CONST. art. V, s. 2(a).
[6] FLA. CONST. art. V, s. 2(b).
[7] FLA. CONST. art. V, s. 2(c), (d).
[8] FLA. CONST. art. V, s. 2(d). Additionally, the chief judge is constitutionally chosen "as provided by supreme court rule." *Id.*
[9] Florida Courts, *Court System Organization & Structure*, http://www.flcourts.org/florida-courts/ (last visited Sept. 10, 2019).
[10] FLA. CONST. art. V, s. 6(a) ("There shall be a county court in each county.").
[11] Ron DeSantis, 46th 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 Sept. 10, 2019).



Twenty Judicial Circuits



Sixty-Seven Counties

The chief judge exercises "administrative supervision over all the trial courts within the judicial circuit and over the judges and other officers of such courts."[12] In exercising his or her responsibility, the chief judge has the power to:

- Assign judges to court divisions and determine the length of the assignment.
- Regulate the use of courtrooms.
- Supervise dockets and calendars.
- Require attendance of all other officers of the court.
- Do everything necessary to promote the prompt and efficient administration of justice in the courts.
- Delegate to the trial court administrator, by administrative order, the authority to bind the circuit in contract.
- Manage, operate, and oversee the jury system.
- Report data to the Chief Justice of the Supreme Court concerning the circuit's caseload, status of dockets, disposition of cases, and other relevant information.
- Consult with the clerk of court to determine the priority of services provided by the clerk to the trial courts.[13]

County Responsibilities for Funding Court-Related Functions

Under Article V, s. 14 of the Florida Constitution, the state is responsible for most of the costs of the state courts system. However, the Constitution requires counties to:

> [F]und the cost of communications services, existing radio systems, existing multi-agency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and *security of facilities for the trial courts, public defenders' offices, state attorneys' offices, and the offices of the clerks of the circuit and county courts performing court-related functions.*[14]

[12] Section 43.26, F.S.
[13] *Id.*
[14] Emphasis added.

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.[15]

Sheriffs

Sheriffs are constitutional county officers.[16] As a constitutional officer, a sheriff exercises independent authority and discretion in carrying out his or her various duties and in appointing

[15] Emphasis added.
[16] FLA. CONST. art. VIII, s. (d).

and disciplining deputies.[17] 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.[18]

Sheriffs' Courtroom Duties

The sheriff is "the executive officer of the circuit court of the county."[19] Accordingly, the sheriff or his or her deputies must execute all service of court process in both civil and criminal matters and attend all sessions of court.[20] 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. And it is the sheriff, not the chief judge, who appoints any deputy to serve as a bailiff in a courtroom.[21]

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., security may be provided by "law enforcement officers" such as municipal police officers,[22] or "licensed security guards."

III. Effect of Proposed Changes:

This bill addresses the decision-making authority and responsibilities of two constitutional officers, the chief judge of a circuit court and the county sheriff, in providing court security. In a recent case before the Second District Court of Appeal, the court resolved the competing claims of authority and responsibility at issue in the case by holding that a chief circuit judge may require a sheriff in the circuit, because the sheriff is an officer of the court, to comply with the judge's order requiring the sheriff to provide security at court facilities.

The bill reiterates that sheriffs are officers of the court, and requires each sheriff to coordinate with his or her local chief judge and county commissioners in developing a court security plan. However, the bill provides that sheriffs retain authority to implement and provide law enforcement services associated with the plan. Finally, the bill provides that 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.

---

[17] *See generally Demings v. Orange County Citizens Review Bd*., 15 So. 3d 604, 610–11 (Fla. 5th DCA 2009).
[18] *See generally* s. 30.15, F.S.
[19] Section 26.49, F.S. *See also* s. 34.07, F.S. (sheriff is executive officer of county courts).
[20] Section 30.15(1)(a)-(c), F.S.
[21] *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).
[22] 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").

The bill is effective July 1, 2020.

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 Art. 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:

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

None.

B. Amendments:

None.

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

By Senator Gruters

23-00190-20 2020118__

A bill to be entitled

An act relating to security in trial court facilities; amending s. 30.15, F.S.; requiring sheriffs 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 chief judges retain certain authorities; specifying that sheriffs and their deputies, employees, and contractors are officers of the court under specified circumstances; providing an effective date.

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

Section 1. Subsection (4) is added to section 30.15, Florida Statutes, to read:

30.15 Powers, duties, and obligations.—

(4)(a) In accordance with each county's obligation under s. 14, Art. V of the State Constitution and s. 29.008 to fund security for trial court facilities, the sheriff of each county shall coordinate with the board of county commissioners of that county and the chief judge of the circuit in which that county is located on the development of a comprehensive plan for the provision of security for trial court facilities. Each sheriff shall retain authority over the implementation and provision of law enforcement services associated with the plan. The chief judge of the circuit shall retain decision-making authority to ensure the protection of due process rights, including, but not limited to, the scheduling and conduct of trials and other

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

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, 2020.

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

S00118
GENERAL BILL by Gruters; (Similar H 00131)
Security in Trial Court Facilities. EFFECTIVE DATE: 07/01/2020.
09/18/19 S Now in Appropriations Subcommittee on Criminal and Civil Justice
01/14/20 S Introduced -SJ 13
01/17/20 S On Committee agenda-- Appropriations Subcommittee on Criminal and Civil Justice, 01/22/20, 1:30 pm, 37 Senate Building

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.)

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

BILL: CS/SB 556

INTRODUCER: Criminal Justice Committee; and Senators Brandes, Perry, and Bracy

SUBJECT: Inmate Conditional Medical Release

DATE: January 21, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cox	Jones	CJ	**Fav/CS**
2.	Forbes	Jameson	ACJ	**Pre-meeting**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 556 repeals section 947.149, Florida Statutes, which establishes the conditional medical release (CMR) program within the Florida Commission on Offender Review (FCOR) and creates section 945.0911, Florida Statutes, to establish a CMR program within the Department of Corrections (DOC) with the purpose of determining whether release is appropriate for eligible inmates, supervising the released inmates, and conducting revocation hearings.

The bill provides that an inmate is eligible for consideration for release under the CMR program when the inmate, because of an existing medical or physical condition, is determined by the DOC to be an:

- "Inmate with a debilitating illness," which is defined to mean an inmate who is determined to be suffering from a significant terminal or nonterminal condition, disease, or syndrome that has rendered the inmate so physically or cognitively impaired, debilitated, or incapacitated as to create a reasonable probability that the inmate does not constitute a danger to herself or himself or to others.
- "Permanently incapacitated inmate," which is defined to mean an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that the inmate does not constitute a danger to herself or himself or to others.
- "Terminally ill inmate," which is defined to mean an inmate who has a condition caused by injury, disease, or illness that, to a reasonable degree of medical certainty, renders the inmate

terminally ill to the extent that there can be no recovery, death is expected within 12 months, and the inmate does not constitute a danger to herself or himself or to others.

As with current law, the bill requires the DOC to identify inmates who may be eligible for CMR based upon available medical information. However, rather than referring the case to the FCOR upon identification, the bill requires the DOC to conduct the entire determination process by referring the inmate to a three-member panel established in the new program for review and determination of release.

As is required in current law, the bill requires notice to be provided to certain victims immediately upon identification of the inmate as potentially eligible for release on CMR and the inmate's referral to the panel.

The bill requires the director of inmate health services to review specified evidence and provide a recommendation to the three-member panel, who must conduct a hearing within 45 days of the referral to determine whether CMR is appropriate for the inmate. A majority of the panel members must agree that release on CMR is appropriate for the inmate. An inmate who is approved for release on CMR must be released by the DOC to the community within a reasonable amount of time and is considered to be a medical releasee upon release to the community.

The bill creates a process for an inmate who is denied CMR by the three-member panel to have the decision reviewed. The secretary has the final decision about the appropriateness of the release on CMR. Additionally, an inmate who is denied CMR may be subsequently reconsidered for such release in a manner prescribed by rule.

The bill requires that an inmate granted release on CMR be released for a period equal to the length of time remaining on his or her term of imprisonment on the date the release is granted and the medical releasee is required to comply with all reasonable conditions of release the DOC imposes.

The bill provides that a medical releasee is considered to be in the care, custody, supervision, and control of the DOC and remains eligible to earn or lose gain-time in accordance with section 944.275, Florida Statutes, and department rule. However, the bill clarifies that the medical releasee may not be counted in the prison system population and the medical releasee's approved community-based housing location may not be counted in the capacity figures for the prison system.

The bill establishes a specific process for the revocation of CMR which closely parallels the current process provided for in section 947.141, Florida Statutes, and provides that revocation may be based on certain circumstances. The bill authorizes a medical releasee whose release is revoked to have the revocation decision reviewed and sets forth a specified process for such review.

The bill also requires the DOC to notify the family of an inmate who is diagnosed with a terminal condition within 72 hours and allow the family to visit the inmate within 7 days of such diagnosis.

The bill authorizes the DOC to adopt rules as necessary to implement the act.

The Criminal Justice Impact Conference (CJIC) has not reviewed the bill at this time. However, in part, the bill expands CMR by creating a new CMR designation and modifying a current designation. To the extent that the bill increases the number of inmates released on CMR, the bill will likely result in a negative indeterminate prison bed impact (i.e., an unquantifiable decrease in prison beds) and a reduction in the associated inmate healthcare costs.

The bill removes certain functions related to CMR from the FCOR and reestablishes the comparable duties within the DOC. As a result, the bill will likely result in a workload and cost shift from the FCOR to the DOC. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2020.

II. Present Situation:

Conditional Medical Release

Conditional Medical Release (CMR), outlined in s. 947.149, F.S., was created by the Florida Legislature in 1992,[1] as a discretionary release of inmates who are "terminally ill" or "permanently incapacitated" and who are not a danger to themselves or others.[2] The Florida Commission on Offender Review (FCOR), which consists of three members, reviews eligible inmates for release under the CMR program pursuant to the powers established in s. 947.13, F.S.[3] In part, s. 947.149, F.S., authorizes the FCOR to determine what persons will be released on CMR, establish the conditions of CMR, and determine whether a person has violated the conditions of CMR and take actions with respect to such a violation.

Eligibility Criteria

Eligible inmates include inmates designated by the DOC as a:

- "Permanently incapacitated inmate," which is an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that the inmate does not constitute a danger to herself or himself or others; or
- "Terminally ill inmate," which is an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate terminally ill to the extent that there can be no recovery and death is imminent, so that the inmate does not constitute a danger to herself or himself or others.[4]

Inmates sentenced to death are ineligible for CMR.[5]

---

[1] Chapter 92-310, L.O.F.
[2] The FCOR, *Release Types, Post Release*, available at https://www.fcor.state.fl.us/postrelease.shtml#conditionalMedicalRelease (last visited November 6, 2019).
[3] Section 947.149(3), F.S. Section 947.01, F.S., provides that the membership of the FCOR is three-members.
[4] Section 947.149(1), F.S.
[5] Section 947.149(2), F.S.

Referral Process for Eligible Inmates

The DOC is required to identify inmates who may be eligible for CMR in accordance with the above-mentioned designations. The DOC uses available medical information as a basis for identifying eligible inmates and refers such inmates to the FCOR for consideration. In considering an inmate, the FCOR may require that additional medical evidence be produced or that additional medical examinations be conducted and may require other investigations to be made as it deems necessary.[6]

An inmate does not have a right to CMR or to a medical evaluation to determine eligibility for such release.[7] Additionally, the authority and whether or not to grant CMR and establish additional conditions of release rests solely within the discretion of the FCOR, together with the authority to approve the release plan to include necessary medical care and attention.[8]

Certain information must be provided to the FCOR from the DOC to be considered a referral, including:

- Clinical Report, including complete medical information justifying classification of the inmate as "permanently incapacitated" or "terminally ill;" and
- Verifiable release plan, to include necessary medical care and attention.[9]

The referral must be directed to the Office of the Commission Clerk who may docket the case before the FCOR. A decision will be made by a majority of the quorum present and voting.[10] The FCOR is required to approve or disapprove CMR based upon information submitted in support of the recommendation and review of the DOC file. If additional information is needed, the FCOR must continue the case for verification of the release plan, additional medical examinations, and other investigations as directed. The FCOR is required to instruct staff to conduct the appropriate investigation, which must include a written statement setting forth the specific information being requested.[11]

Victim Input

If a victim or his or her personal representative requests to be notified, the FCOR must provide victim notification of any hearing where the release of the inmate on CMR is considered prior to the inmate's release.[12] Section 16 of the Florida Constitution provides specific rights to victims upon request:

- The right to be heard in any public proceeding involving pretrial or other release from any form of legal constraint, plea, sentencing, adjudication, or parole, and any proceeding during which a right of the victim is implicated.
- The right to be informed of all post-conviction processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be

[6] Section 947.149(3), F.S.
[7] Section 947.149(2), F.S.
[8] Section 947.149(3), F.S.
[9] Rule 23-24.020(1), F.A.C.
[10] Rule 23-24.020(2), F.A.C.
[11] Rule 23-24.020(3), F.A.C.
[12] Rule 23-24.020(4), F.A.C., further qualifies that this notification occurs when the name and address of such victim or representative of the victim is known by the FCOR.

considered before any release decision is made, and to be notified of any release decision regarding the offender. The parole or early release authority shall extend the right to be heard to any person harmed by the offender[13]. Additionally, Rule 23-24.025 of the Florida Administrative Code provides that a victim, relative of a minor who is a victim, relative of a homicide victim, or victim representative or victim advocate must receive advance notification any time a CMR case is placed on the docket for determination by the FCOR. Notification must be made to the address found in the police report or other criminal report or at a more current address if such has been provided to the FCOR.[14]

A victim of the crime committed by the inmate, or a victim's representative, must be permitted a reasonable time to make an oral statement or submit a written statement regarding whether the victim supports the granting, denying, or revoking of CMR.[15] Additionally, other interested parties may also speak on behalf of victims since the FCOR meetings are public meetings.[16] A victim can also request that the FCOR provide notification of the action taken if he or she does not choose to appear at meetings or make a written statement.[17]

In 2018, the Florida voters approved Amendment 6 on the ballot, which provided certain rights to victims in the Florida Constitution. In part, Art. 1, s. 16, of the Florida Constitution, provides that a victim must have the following rights upon request:

- Reasonable, accurate, and timely notice of, and to be present at, all public proceedings involving the criminal conduct, including, but not limited to, trial, plea, sentencing, or adjudication, even if the victim will be a witness at the proceeding, notwithstanding any rule to the contrary.
- To be heard in any public proceeding involving pretrial or other release from any form of legal constraint, plea, sentencing, adjudication, or parole, and any proceeding during which a right of the victim is implicated.
- To be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of the convicted offender, any scheduled release date of the offender, and the release of or the escape of the offender from custody.
- To be informed of all postconviction processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender.[18]

Release Conditions

The release of an inmate on CMR is for the remainder of the inmate's sentence and requires periodic medical evaluations at intervals determined by the FCOR at the time of release.[19] An

[13] The FCOR, CS/SB Agency Analysis, at p. 2 (January 17, 2020).
[14] Rule 23-24.025(1), F.A.C.
[15] Rule 23-24.025(2) and (3), F.A.C. *See* Rule 23-24.025(4), F.A.C., regarding specifics about what is allowed to be submitted or utilized during oral testimony. Rule 23-24.025(7), F.A.C., provides that victims who appear and speak must be advised that any information submitted at FCOR meetings becomes public record.
[16] Rule 23-24.025(3), F.A.C.
[17] Rule 23-24.025(5), F.A.C.
[18] Art. 1, s. 16(b6)a., b., f., and g., FLA. CONST.
[19] Section 947.149(4), F.S.

inmate who has been approved for release on CMR is considered a medical releasee when released.

Each medical releasee must be placed on CMR supervision and is subject to the standard conditions of CMR, which include:

- Promptly proceeding to the residence upon being released and immediately reporting by mail, telephone, or personal visit as instructed by the CMR officer or within 72 hours of release if no specific report date and time are given.
- Securing the permission of the CMR officer before:
  - Changing residences;
  - Leaving the county or the state; and
  - Posting bail or accepting pretrial release if arrested for a felony.
- Submitting a full and truthful report to the CMR officer each month in writing and as directed by the CMR supervisor.
- Refraining from:
  - Owning, carrying, possessing, or having in his or her constructive possession a firearm or ammunition;
  - Using or possessing alcohol or intoxicants of any kind;
  - Using or possessing narcotics, drugs, or marijuana unless prescribed by a physician;
  - Entering any business establishment whose primary purpose is the sale or consumption of alcoholic beverages; and
  - Knowingly associating with any person engaging in criminal activity, a criminal gang member, or person associated with criminal gang members.
- Securing the permission of the CMR officer before owning, carrying, or having in his or her constructive possession a knife or any other weapon.
- Obeying all laws, ordinances, and statutory conditions of CMR.
- Submitting to a reasonable search of the medical releasee's person, residence, or automobile by a CMR officer.
- Waiving extradition back to Florida if the medical releasee is alleged to have violated CMR.
- Permitting the CMR officer to visit the medical releasee's residence, employment, or elsewhere.
- Promptly and truthfully answering all questions and following all instructions asked or given by the CMR officer or the FCOR.
- Remaining on CMR for the remainder of the sentence without diminution of such sentence for good behavior.
- Agreeing to submit to random drug or alcohol testing, to be paid for and submitted by the medical releasee, as directed by the CMR officer or the professional staff of any treatment center where treatment is being received.
- Executing and providing authorizations to release records to the CMR supervisor and the FCOR for the purpose of monitoring and documenting the medical releasee's progress.
- Agreeing that, in the event there is an improvement in the medical releasee's medical condition to the extent that he or she is no longer "permanently incapacitated," or "terminally ill," that he or she will, if directed to do so, report for a CMR revocation hearing.[20]

[20] Rule 23-24.030(1), F.A.C.

Additionally, the FCOR can impose special conditions of conditional medical release.[21]

Revocation and Recommitment

In part, s. 947.141, F.S., provides for the revocation and recommitment of a medical releasee who appears to be subject to CMR revocation proceedings, including establishing a hearing process and determining whether a medical releasee must be recommitted to the DOC. CMR supervision can be revoked and the offender returned to prison if the FCOR determines:

- That a violation of any condition of the release has occurred; or
- His or her medical or physical condition improves to the point that the offender no longer meets the CMR criteria.[22]

Revocation Due to Improved Medical or Physical Condition

If it is discovered during the CMR release that the medical or physical condition of the medical releasee has improved to the extent that she or he would no longer be eligible for such release, the FCOR may order that the medical releasee be returned to the custody of the DOC for a revocation hearing, in accordance with s. 947.141, F.S. A medical releasee who has his or her CMR revoked due to improvement in medical or physical condition must serve the balance of the sentence with credit for the time served on CMR, but does not forfeit any gain-time accrued prior to release on CMR.[23]

Revocation Due to Violation of CMR Conditions

When there are reasonable grounds to believe that a medical releasee who is on CMR has violated the conditions of the release in a material respect the FCOR is authorized to have a warrant issued for the arrest of the medical releasee. A warrant must be issued if the medical releasee was found to be a sexual predator.[24] Further, if a law enforcement officer has probable cause to believe that a medical release who is on CMR supervision has violated the terms and conditions of his or her release by committing a felony offense then the officer must arrest the medical releasee without a warrant and a warrant need not be issued in the case.[25]

A medical releasee who is arrested for a felony must be detained without bond until the initial appearance of the medical releasee at which a judicial determination of probable cause is made. The medical releasee may be released if the trial court judge does not find probable cause existed for the arrest. However, if the court makes a finding of probable cause, such determination also constitutes reasonable grounds to believe that the medical releasee violated the conditions of the CMR release and the chief county correctional officer must notify the FCOR and the DOC of the finding within 24 hours.[26] The medical releasee must continue to be detained without bond for a

[21] Rule 23-24.030(2), F.A.C.
[22] Section 947.149(5), F.S.
[23] Section 947.149(5)(a), F.S. Additionally, if the person whose CMR is revoked due to an improvement in medical or physical condition would otherwise be eligible for parole or any other release program, the person may be considered for such release program pursuant to law.
[24] Section 947.141(1), F.S.
[25] Section 947.141(7), F.S.
[26] Section 947.141(2), F.S., further states that the chief county detention officer must transmit to the FCOR and the DOC a facsimile copy of the probable cause affidavit or the sworn offense report upon which the trial court judge's probable cause determination is based.

period not more than 72 hours excluding weekends and holidays after the date of the probable cause determination, pending a decision by the FCOR whether to issue a warrant charging the medical releasee with violation of the conditions of CMR. If the FCOR issues such warrant, the medical releasee must continue to be held in custody pending a revocation hearing.[27]

Revocation Hearing

The medical releasee must be afforded a hearing which is conducted by a commissioner or a duly authorized representative within 45 days after notice to the FCOR of the arrest of a medical releasee charged with a violation of the terms and conditions of CMR. If the medical releasee elects to proceed with a hearing, the medical releasee must be informed orally and in writing of certain rights, including the medical releasee's:

- Alleged violation; and
- Right to:
  - Be represented by counsel.
  - Be heard in person.
  - Secure, present, and compel the attendance of witnesses relevant to the proceeding.
  - Produce documents on his or her own behalf.
  - Access all evidence used against the releasee and confront and cross-examine adverse witnesses.
  - Waive the hearing.[28]

The commissioner who conducts the hearing is required to make findings of fact in regard to the alleged violation within a reasonable time following the hearing and at least two commissioners must enter an order determining whether the charge of violation of CMR has been sustained based upon the findings of fact presented by the hearing commissioner or authorized representative. The panel may revoke CMR, thereby returning the medical releasee to prison to serve the sentence imposed; reinstate the original order granting the release; or enter such other order as it considers proper.[29]

If CMR is revoked and the medical releasee is ordered to be returned to prison, the medical releasee is deemed to have forfeited all gain-time or commutation of time for good conduct earned up to the date of release. However, if CMR is revoked due to the improved medical or physical condition of the medical releasee, the medical releasee does not forfeit gain-time accrued before the date of CMR.[30] Gain-time or commutation of time for good conduct may be earned from the date of return to prison.

Statistics

The FCOR has approved and released 73 inmates for CMR in the last three fiscal years, including:

- 38 in FY 2018-19;
- 21 in FY 2017-2018; and

[27] *Id*.
[28] Section 947.141(3), F.S.
[29] Section 947.141(4), F.S.
[30] Section 947.141(6), F.S.

- 14 in FY 2016-2017.[31]

The DOC has recommended 149 inmates for release in the past three fiscal years, including:
- 76 in FY 2018-19;
- 39 in FY 2017-2018; and
- 34 in FY 2016-2017.[32]

Currently, the DOC's only role in the CMR process is to make the initial designation of medical eligibility and to refer the inmate's case to the FCOR for an investigation and final decision.

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.[33] An inmate is not eligible to 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.[34]

Basic gain-time, which automatically reduced an inmate's sentence by a designated amount each month, was eliminated for offenses committed on or after January 1, 1994.[35] The only forms of gain-time that can currently be earned are:
- Incentive gain-time;[36]
- Meritorious gain-time;[37] and
- Educational achievement gain-time.[38]

---

[31] Emails from Alexander Yarger, Legislative Affairs Director, Florida Commission on Offender Review, RE: Conditional Medical Release Data and RE: Updated Conditional Medical Release Numbers (attachments on file with the Senate Committee on Criminal Justice) (December 15, 2017 and November 1, 2019, respectively). *See also* FCOR Annual Report FY 2017-18, p. 8, available at https://www.fcor.state.fl.us/docs/reports/Annual%20Report%202018%20WEB.pdf (last visited November 6, 2019).
[32] *Id*.
[33] 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.
[34] Section 944.275(4)(f), F.S.
[35] Chapter 93-406, L.O.F.
[36] Section 944.275(4)(b), F.S, provides that incentive gain-time is a total of up to ten days per month that may be awarded to inmates for institutional adjustment, performing work in a diligent manner, and actively participating in training and programs. The amount an inmate can earn is stable throughout the term of imprisonment and is based upon the date an offense was committed.
[37] Section 944.275(4)(c), F.S., provides that meritorious gain-time is awarded to an inmate who commits an outstanding deed or whose performance warrants additional credit, such as saving a life or assisting in recapturing an escaped inmate. The award may range from one day to 60 days and the statute does not prohibit an inmate from earning meritorious gain-time on multiple occasions if warranted.
[38] Section 944.275(4)(d), F.S., provides that educational gain-time is a one-time award of 60 days that is granted to an inmate who receives a General Education Development (GED) diploma or a certificate for completion of a vocational program.

The procedure for applying gain-time awards to an inmate's sentence is dependent upon the calculation of a "maximum sentence expiration date" and a "tentative release date." The tentative release date may not be later than the maximum sentence expiration date.[39] The maximum sentence expiration date represents the date when the sentence or combined sentences imposed on a prisoner will expire. To calculate the maximum sentence expiration date, the DOC reduces the total time to be served by any time lawfully credited.[40]

The tentative release is the date projected for the prisoner's release from custody after gain-time is granted or forfeited in accordance with s. 944.275, F.S.[41] Gain-time is applied when granted or restored to make the tentative release date proportionately earlier; and forfeitures of gain-time, when ordered, are applied to make the tentative release date proportionately later.[42]

The DOC is authorized in certain circumstances, including when a medical releasee has his or her CMR release revoked, to declare all gain-time earned by an inmate forfeited.[43]

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).[44] 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, modifying provisions related to compassionate release to:

- Require inmates be informed of reduction in sentence availability and process;
- Modify the definition of "terminally ill;"
- Require notice and assistance for terminally ill offenders;
- Require requests from terminally ill offenders to be processed within 14 days.[45]

Specifically, in the case of a diagnosis of a terminal illness, the BOP is required to, subject to confidentiality requirements:

- Notify the defendant's attorney, partner, and family members, not later than 72 hours after the diagnosis, of the defendant's diagnosis of a terminal condition and inform the defendant's attorney, partner, and family members that they may prepare and submit on the defendant's behalf a request for a sentence reduction;
- Provide the defendant's partner and family members, including extended family, with an opportunity to visit the defendant in person not later than 7 days after the date of the diagnosis;

[39] Section 944.275(3)(c), F.S.
[40] Section 944.275(2)(a), F.S.
[41] Section 944.275(3)(a), F.S.
[42] *Id*. *See also* s. 944.275(4)(b), F.S.
[43] Section 944.28(1), F.S.
[44] The First Step Act of 2018, Pub. L. No. 115-391 (2018).
[45] Section 603(b) of the First Step Act, codified at 18 USC § 3582. *See also* U.S. Department of Justice, Federal Bureau of Prisons, *Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. Section 3582 and 4205(g)*, January 17, 2019, p. 3-4, available at https://www.bop.gov/policy/progstat/5050_050_EN.pdf (last visited November 12, 2019).

- Upon request from the defendant or his attorney, partner, or a family member, ensure that BOP employees assist the defendant in the preparation, drafting, and submission of a request for a sentence reduction; and
- Process a request for sentence reduction submitted on the defendant's behalf by the defendant or the defendant's attorney, partner, or family member not later than 14 days from receipt of a request.[46]

The statutory time frames mentioned above begin once the Clinical Director of an institution makes a terminal diagnosis. Once the diagnosis is made, the Clinical Director will inform the Warden and the appropriate Unit Manager as soon as possible so as to ensure requirements are met.[47]

III. Effect of Proposed Changes:

The bill repeals s. 947.149, F.S., which establishes the CMR program within the FCOR and creates s. 945.0911, F.S., to establish a CMR program within the DOC with the purpose of:
- Determining whether release is appropriate for eligible inmates;
- Supervising the released inmates; and
- Conducting revocation hearings.

The CMR program established within the DOC retains similarities to the program currently in existence within the FCOR, including that the CMR program must include a panel of at least three people. The members of the panel are appointed by the secretary or his or her designee for the purpose of determining the appropriateness of CMR and conducting revocation hearings on the inmate releases.

Eligibility Criteria

The bill provides that an inmate is eligible for consideration for release under the CMR program when the inmate, because of an existing medical or physical condition, is determined by the DOC to be an inmate with a debilitating illness, a permanently incapacitated inmate, or a terminally ill inmate. The bill provides definitions for such terms, including:
- "Inmate with a debilitating illness," which means an inmate who is determined to be suffering from a significant terminal or nonterminal condition, disease, or syndrome that has rendered the inmate so physically or cognitively impaired, debilitated, or incapacitated as to create a reasonable probability that the inmate does not constitute a danger to herself or himself or to others.
- "Permanently incapacitated inmate," which means an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that the inmate does not constitute a danger to herself or himself or to others.
- "Terminally ill inmate," which means an inmate who has a condition caused by injury, disease, or illness that, to a reasonable degree of medical certainty, renders the inmate

[46] *Id*.
[47] *Id*.

terminally ill to the extent that there can be no recovery, death is expected within 12 months, and the inmate does not constitute a danger to herself or himself or to others.

Referral Process

The bill requires that any inmate in the custody of the DOC who meets one or more of the eligibility requirements must be considered for CMR. However, the authority to grant CMR rests solely with the DOC, as it currently does with the FCOR. Additionally, the bill provides that an inmate does not have a right to release or to a medical evaluation to determine eligibility for release on CMR pursuant to s. 945.0911, F.S.

The bill requires the DOC to identify inmates who may be eligible for CMR based upon available medical information and authorizes the DOC to require additional medical evidence, including examinations of the inmate, or any other additional investigations it deems necessary for determining the appropriateness of the eligible inmate's release.

Upon an inmate's identification as potentially eligible for release on CMR, the DOC must refer such inmate to the three-member panel described above for review and determination of release.

The bill requires the DOC to provide notice to a victim of the inmate's referral to the panel immediately upon identification of the inmate as potentially eligible for release on CMR if the case that resulted in the inmate's commitment to the DOC involved a victim and such victim specifically requested notification pursuant to Art. 1, s. 16, of the Florida Constitution. Additionally, the victim must be afforded the right to be heard regarding the release of the inmate.

Determination of Release

The bill requires the three-member panel established in s. 945.0911(1), F.S., to conduct a hearing within 45 days after receiving the referral to determine whether CMR is appropriate for the inmate. Before the hearing, the director of inmate health services or his or her designee must review any relevant information, including, but not limited to, medical evidence, and provide the panel with a recommendation regarding the appropriateness of releasing the inmate on CMR. A majority of the panel members must agree that release on CMR is appropriate for the inmate. If CMR is approved, the inmate must be released by the DOC to the community within a reasonable amount of time with necessary release conditions imposed.

The bill provides that an inmate who is granted CMR is considered a medical releasee upon release to the community.

An inmate who is denied CMR by the three-member panel is able to have the decision reviewed. The bill provides that the DOC's general counsel and chief medical officer must review the decision of the three-member panel and make a recommendation to the secretary. The secretary must review all relevant information and make a final decision about the appropriateness of the release on CMR. The bill provides that the appeal decision of the secretary is a final administrative decision not subject to appeal.

Additionally, an inmate who is denied CMR may be subsequently reconsidered for such release in a manner prescribed by department rule.

Release Conditions

The bill requires that an inmate granted release on CMR be released for a period equal to the length of time remaining on his or her term of imprisonment on the date the release is granted. The medical releasee is required to comply with all reasonable conditions of release the DOC imposes, which must include, at a minimum:

- Periodic medical evaluations at intervals determined by the DOC at the time of release.
- Supervision by an officer trained to handle special offender caseloads.
- Active electronic monitoring, if such monitoring is determined to be necessary to ensure the safety of the public and the releasee's compliance with release conditions.
- Any conditions of community control provided for in s. 948.101, F.S.[48]
- Any other conditions the DOC deems appropriate to ensure the safety of the community and compliance by the medical releasee.

The bill provides that a medical releasee is considered to be in the care, custody, supervision, and control of the DOC and remains eligible to earn or lose gain-time in accordance with s. 944.275, F.S., and department rule. However, the bill clarifies that the medical releasee may not be counted in the prison system population, and the medical releasee's approved community-based housing location may not be counted in the capacity figures for the prison system.

Revocation of CMR Release and Recommitment to the DOC

The bill establishes a process for the revocation of CMR that very closely parallels current law and for which may be based on two circumstances, including the:

- Discovery that the medical or physical condition of the medical releasee has improved to the extent that she or he would no longer be eligible for release on CMR; or
- Violation of any release conditions the DOC establishes, including, but not limited to, a new violation of law.

Revocation Based on Medical or Physical Improvement

When the basis of the revocation proceedings are based on an improved medical or physical condition of the medical releasee, the bill authorizes the DOC to:

- Order that the medical releasee be returned to the custody of the DOC for a CMR revocation hearing, as prescribed by rule; or
- Allow the medical releasee to remain in the community pending the revocation hearing.

The revocation hearing must be conducted by the three-member panel discussed above and a majority of the panel members must agree that revocation is appropriate for the medical releasee's conditional medical release to be revoked. The bill requires the director of inmate

[48] Some examples on community control conditions required under s. 948.101, F.S., include to maintain specified contact with the parole and probation officer; confinement to an agreed-upon residence during hours away from employment and public service activities; mandatory public service; and supervision by the DOC by means of an electronic monitoring device or system.

health services or his or her designee to review any medical evidence pertaining to the medical releasee and provide the panel with a recommendation regarding the medical releasee's improvement and current medical or physical condition.

A medical releasee whose CMR was revoked due to improvement in his or her medical or physical condition must be recommitted to the DOC to serve the balance of his or her sentence with credit for the time served on CMR and without forfeiture of any gain-time accrued before recommitment. If the medical releasee whose CMR is revoked due to an improvement in her or his medical or physical condition would otherwise be eligible for parole or any other release program, the medical releasee may be considered for such release program pursuant to law.

Revocation Based on Violation of Conditions

The bill provides that CMR may also be revoked for violation of any release conditions the DOC establishes, including, but not limited to, a new violation of law. In contrast to when a revocation is based on improved medical or physical condition, if the basis of the violation of release conditions is related to a new violation of law, the medical releasee must be detained without bond until his or her initial appearance at which a judicial determination of probable cause is made.

If the judge determines that there was no probable cause for the arrest, the medical releasee may be released. If the judge determines that there was probable cause for the arrest, the judge's probable cause determination also constitutes reasonable grounds to believe that the medical releasee violated the conditions of the CMR release.

The bill requires the DOC to order that the medical releasee subject to revocation for a violation of conditions be returned to the custody of the DOC for a CMR revocation hearing as prescribed by rule. A majority of the panel members must agree that revocation is appropriate for the medical releasee's CMR to be revoked.

The bill provides that a medical releasee who has his or her CMR revoked due to a violation of conditions must serve the balance of his or her sentence with credit for the actual time served on CMR. Additionally, the medical releasee's gain-time accrued before recommitment may be forfeited pursuant to s. 944.28(1), F.S. If the medical releasee whose CMR is revoked would otherwise be eligible for parole or any other release program, he or she may be considered for such release program pursuant to law.

Revocation Hearing Process

If the medical releasee subject to revocation for either basis elects to proceed with a hearing, the medical releasee must be informed orally and in writing of certain rights, including the releasee's:

- Alleged basis for the pending revocation proceeding against the releasee.
- Right to:
  - Be represented by counsel.[49]
  - Be heard in person.

[49] However, this bill explicitly provides that this does not create a right to publicly funded legal counsel.

- Secure, present, and compel the attendance of witnesses relevant to the proceeding.
- Produce documents on his or her own behalf.
- Access all evidence used to support the revocation proceeding against the releasee and confront and cross-examine adverse witnesses.
- Waive the hearing.

Review Process of Revocation Determination

The bill authorizes a medical releasee whose release is revoked based on either basis to have the revocation decision reviewed. The bill requires the DOC's general counsel to review the revocation decision and make a recommendation to the secretary. The secretary must review all relevant information and make a final decision about the appropriateness of the revocation of CMR. In addition to the review by the general counsel, the chief medical officer must also review the revocation decision and make a recommendation to the secretary when the basis is due to an improved medical or physical condition.

The bill provides that any decision of the secretary related to a revocation decision is a final administrative decision not subject to appeal.

Special Requirements of the DOC Related to Terminal Inmate's

The bill also implements provisions similar to those provided for in federal law related to compassionate release of inmate's that have been diagnosed with a terminal illness. The bill requires the DOC to, subject to confidentiality requirements, follow the following procedures related to an inmate who is diagnosed with a terminal medical condition that makes him or her eligible for consideration for release under the "terminally ill" definition discussed above while in the custody of the DOC:

- Notify the inmate's family or next of kin, and attorney, if applicable, of such diagnosis within 72 hours of the diagnosis.
- Provide the inmate's family, including extended family, with an opportunity to visit the inmate in person within seven days upon such diagnosis.
- Initiate a review for CMR immediately upon such diagnosis.

Additionally, the bill provides that an inmate who has mental and physical capacity must consent to release of confidential information for the DOC to comply with these notification requirements.

The bill authorizes the DOC to adopt rules as necessary to implement the act.

The bill amends ss. 316.1935, 775.084, 775.087, 784.07, 790.235, 794.0115, 893.135, 921.0024, 944.605, 944.70, 947.13, and 947.141, F.S., conforming these provisions to changes made by the act.

The bill is effective October 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:

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 (CJIC) has not reviewed the bill at this time. However, the CJIC heard SB 1334 (2019), which expanded the definitions of CMR eligibility in a manner similar to the bill and the CJIC found that this expansion would result in a negative significant prison bed impact (i.e. a decrease of more than 25 prison beds).[50] Additionally, the bill will likely result in a reduction in the associated inmate healthcare costs.[51]

The bill removes any role of determining the appropriateness of an inmate's release on CMR from the FCOR and places such comparable duties within the DOC. In Fiscal Year

[50] The CJIC, *Impact Conference Results for CS/SB 1334 (2019)*, available at http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/CSSB1334.pdf (last visited November 6, 2019).
[51] According to the DOC via telephone call on January 16, 2020, when an inmate is released from prison, the department no longer has any liability for their health care. However, they did note in their bill analysis that, "If by considering an inmate to be in the "care" of the Department their healthcare is fiscally provided by FDC, contractual arrangements and funding would be required." The DOC CS/SB 556 Analysis, p.3 (January 17, 2020).

2018-2019, FCOR conducted 84 CMR determinations. They report that they spent 804 hours on the investigation/determination, 64 hours on victim assistance, and 433 hours on revocations for CMR. The FCOR reports that this equates to less than 1 FTE.[52] The DOC anticipates there will be a fiscal impact associated with the establishment of positions for the hearing panel and administrative staff, but was unable to specify the amount.[53]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates section 945.0911 of the Florida Statutes.

The bill repeals section 947.149 of the Florida Statutes.

The bill amends the following sections of the Florida Statutes: 316.1935, 775.084, 775.087, 784.07, 790.235, 794.0115, 893.135, 921.0024, 944.605, 944.70, 947.13, and 947.141.

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 November 12, 2019:
The committee substitute:

- Requires the DOC to:
  - Notify the family of an inmate who has been diagnosed with a terminal condition of such diagnosis within 72 hours;
  - Allow the family of an inmate who has been diagnosed with a terminal condition to have a visit with the inmate within 7 days of such diagnosis; and
  - Immediately begin the referral process for the conditional medical release review upon an inmate's diagnosis of a terminal condition.
- Ensures that the rights provided to medical releasee's during revocation hearing proceedings are afforded to a medical releasee regardless of the basis for the revocation hearing.
- Makes technical changes, including, in part, ensuring consistency with the terms used to describe an inmate who has been approved for conditional medical release and released into the community.

[52] The FCOR, CS/SB 556 Agency Bill Analysis, p. 5 (October 24, 2019).
[53] The DOC, CS/SB 556 Agency Bill Analysis, p. 5 (January 17, 2020).

B. Amendments:

None.

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

By the Committee on Criminal Justice; and Senators Brandes, Perry, and Bracy

591-01355A-20 2020556c1

A bill to be entitled

An act relating to inmate conditional medical release; creating s. 945.0911, F.S.; establishing the conditional medical release program within the Department of Corrections; establishing a panel to consider specified matters; defining terms; providing for program eligibility; requiring any inmate who meets certain criteria to be considered for conditional medical release; providing that the inmate does not have a right to release or to a certain medical evaluation; requiring the department to identify eligible inmates; requiring the department to refer an inmate to the panel for consideration; providing for victim notification in certain circumstances; requiring the panel to conduct a hearing within a specified timeframe; specifying requirements for the hearing; providing a review process for an inmate who is denied release; providing conditions for release; providing that an inmate who is approved for conditional medical release must be released from the department in a reasonable amount of time; providing that an inmate is considered a medical releasee upon release from the department into the community; providing that a medical releasee remains in the care, custody, supervision, and control of the department and is eligible to earn or lose gain-time; prohibiting a medical releasee or his or her community-based housing from being counted in the prison system population and the prison capacity

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

30 figures, respectively; providing for the revocation of
31 a medical releasee's conditional medical release;
32 authorizing the medical releasee to be returned to the
33 department's custody if his or her medical or physical
34 condition improves; requiring a majority of the panel
35 members to agree on the appropriateness of revocation;
36 providing that gain-time is not forfeited for
37 revocation based on improvement in the medical
38 releasee's condition; providing a review process for a
39 medical releasee who has his or her release revoked;
40 authorizing the medical releasee to be recommitted if
41 he or she violates any conditions of the release;
42 requiring that the medical releasee be detained if a
43 violation is based on certain circumstances; requiring
44 that a majority of the panel members agree on the
45 appropriateness of revocation; requiring specified
46 medical releasees to be recommitted to the department
47 upon the revocation of the conditional medical
48 release; authorizing the forfeiture of gain-time if
49 the revocation is based on certain violations;
50 providing a review process for a medical releasee who
51 has his or her release revoked; requiring that the
52 medical releasee be given specified information in
53 certain instances; requiring the department to notify
54 certain persons within a specified time frame of an
55 inmate's diagnosis of a terminal medical condition;
56 requiring the department to allow a visit between an
57 inmate and certain persons within 7 days of a
58 diagnosis of a terminal medical condition; requiring

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

59 the department to initiate the conditional medical
60 release review process immediately upon an inmate's
61 diagnosis of a terminal medical condition; requiring
62 the inmate to consent to release of information in
63 certain circumstances; providing rulemaking authority;
64 repealing s. 947.149, F.S., relating to conditional
65 medical release; amending ss. 316.1935, 775.084,
66 775.087, 784.07, 790.235, 794.0115, 893.135, 921.0024,
67 944.605, 944.70, 947.13, and 947.141, F.S.; conforming
68 cross-references to changes made by the act; providing
69 an effective date.
70
71 Be It Enacted by the Legislature of the State of Florida:
72
73 Section 1. Section 945.0911, Florida Statutes, is created
74 to read:
75 945.0911 Conditional medical release.—
76 (1) CREATION.—There is established a conditional medical
77 release program within the department for the purpose of
78 determining whether release is appropriate for eligible inmates,
79 supervising the released inmates, and conducting revocation
80 hearings as provided for in this section. The establishment of
81 the conditional medical release program must include a panel of
82 at least three people appointed by the secretary or his or her
83 designee for the purpose of determining the appropriateness of
84 conditional medical release and conducting revocation hearings
85 on the inmate releases.
86 (2) DEFINITIONS.—As used in this section, the term:
87 (a) "Inmate with a debilitating illness" means an inmate

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

88 who is determined to be suffering from a significant terminal or
89 nonterminal condition, disease, or syndrome that has rendered
90 the inmate so physically or cognitively impaired, debilitated,
91 or incapacitated as to create a reasonable probability that the
92 inmate does not constitute a danger to himself or herself to
93 others.
94 (b) "Permanently incapacitated inmate" means an inmate who
95 has a condition caused by injury, disease, or illness which, to
96 a reasonable degree of medical certainty, renders the inmate
97 permanently and irreversibly physically incapacitated to the
98 extent that the inmate does not constitute a danger to himself
99 or herself or to others.
100 (c) "Terminally ill inmate" means an inmate who has a
101 condition caused by injury, disease, or illness that, to a
102 reasonable degree of medical certainty, renders the inmate
103 terminally ill to the extent that there can be no recovery,
104 death is expected within 12 months, and the inmate does not
105 constitute a danger to himself or herself or to others.
106 (3) ELIGIBILITY.—An inmate is eligible for consideration
107 for release under the conditional medical release program when
108 the inmate, because of an existing medical or physical
109 condition, is determined by the department to be an inmate with
110 a debilitating illness, a permanently incapacitated inmate, or a
111 terminally ill inmate.
112 (4) REFERRAL FOR CONSIDERATION.—
113 (a)1. Notwithstanding any provision to the contrary, any
114 inmate in the custody of the department who meets one or more of
115 the eligibility requirements under subsection (3) must be
116 considered for conditional medical release.

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

117 2. The authority to grant conditional medical release rests
118 solely with the department. An inmate does not have a right to
119 release or to a medical evaluation to determine eligibility for
120 release pursuant to this section.
121 (b) The department must identify inmates who may be
122 eligible for conditional medical release based upon available
123 medical information. In considering an inmate for conditional
124 medical release, the department may require additional medical
125 evidence, including examinations of the inmate, or any other
126 additional investigations the department deems necessary for
127 determining the appropriateness of the eligible inmate's
128 release.
129 (c) The department must refer an inmate to the panel
130 established under subsection (1) for review and determination of
131 conditional medical release upon his or her identification as
132 potentially eligible for release pursuant to this section.
133 (d) If the case that resulted in the inmate's commitment to
134 the department involved a victim, and the victim specifically
135 requested notification pursuant to s. 16, Art. I of the State
136 Constitution, the department must notify the victim of the
137 inmate's referral to the panel immediately upon identification
138 of the inmate as potentially eligible for release under this
139 section. Additionally, the victim must be afforded the right to
140 be heard regarding the release of the inmate.
141 (5) DETERMINATION OF RELEASE.—
142 (a) Within 45 days after receiving the referral, the panel
143 established in subsection (1) must conduct a hearing to
144 determine whether conditional medical release is appropriate for
145 the inmate. Before the hearing, the director of inmate health

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

146 services or his or her designee must review any relevant
147 information, including, but not limited to, medical evidence,
148 and provide the panel with a recommendation regarding the
149 appropriateness of releasing the inmate pursuant to this
150 section.
151 (b) A majority of the panel members must agree that release
152 pursuant to this section is appropriate for the inmate. If
153 conditional medical release is approved, the inmate must be
154 released by the department to the community within a reasonable
155 amount of time with necessary release conditions imposed
156 pursuant to subsection (6). An inmate who is granted conditional
157 medical release is considered a medical releasee upon release to
158 the community.
159 (c) An inmate who is denied conditional medical release by
160 the panel may have the decision reviewed by the department's
161 general counsel and chief medical officer, who must make a
162 recommendation to the secretary. The secretary must review all
163 relevant information and make a final decision about the
164 appropriateness of conditional medical release pursuant to this
165 section. The decision of the secretary is a final administrative
166 decision not subject to appeal. An inmate who is denied
167 conditional medical release may be subsequently reconsidered for
168 such release in a manner prescribed by department rule.
169 (6) RELEASE CONDITIONS.—
170 (a) An inmate granted release pursuant to this section is
171 released for a period equal to the length of time remaining on
172 his or her term of imprisonment on the date the release is
173 granted. Such inmate is considered a medical releasee upon
174 release from the department into the community. The medical

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

175 releasee must comply with all reasonable conditions of release
176 the department imposes, which must include, at a minimum:
177 1. Periodic medical evaluations at intervals determined by
178 the department at the time of release.
179 2. Supervision by an officer trained to handle special
180 offender caseloads.
181 3. Active electronic monitoring, if such monitoring is
182 determined to be necessary to ensure the safety of the public
183 and the medical releasee's compliance with release conditions.
184 4. Any conditions of community control provided for in s.
185 948.101.
186 5. Any other conditions the department deems appropriate to
187 ensure the safety of the community and compliance by the medical
188 releasee.
189 (b) A medical releasee is considered to be in the care,
190 custody, supervision, and control of the department and remains
191 eligible to earn or lose gain-time in accordance with s. 944.275
192 and department rule. The medical releasee may not be counted in
193 the prison system population, and the medical releasee's
194 approved community-based housing location may not be counted in
195 the capacity figures for the prison system.
196 (7) REVOCATION HEARING AND RECOMMITMENT.—
197 (a)1. If the medical releasee's supervision officer
198 discovers that the medical or physical condition of the medical
199 releasee has improved to the extent that she or he would no
200 longer be eligible for release under this section, then the
201 conditional medical release may be revoked. The department may
202 order, as prescribed by department rule, that the medical
203 releasee be returned to the custody of the department for a

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

204 conditional medical release revocation hearing or may allow the
205 medical releasee to remain in the community pending the
206 revocation hearing.
207 2. The revocation hearing must be conducted by the panel
208 established in subsection (1). Before a revocation hearing
209 pursuant to this paragraph, the director of inmate health
210 services or his or her designee must review any medical evidence
211 pertaining to the medical releasee and provide the panel with a
212 recommendation regarding the medical releasee's improvement and
213 current medical or physical condition.
214 3. A majority of the panel members must agree that
215 revocation is appropriate for the medical releasee's conditional
216 medical release to be revoked. If conditional medical release is
217 revoked due to improvement in his or her medical or physical
218 condition, the medical releasee must be recommitted to the
219 department to serve the balance of his or her sentence with
220 credit for the time served on conditional medical release and
221 without forfeiture of any gain-time accrued before recommitment.
222 If the medical releasee whose conditional medical release is
223 revoked due to an improvement in her or his medical or physical
224 condition would otherwise be eligible for parole or any other
225 release program, he or she may be considered for such release
226 program pursuant to law.
227 4. A medical releasee whose conditional medical release is
228 revoked pursuant to this paragraph may have the decision
229 reviewed by the department's general counsel and chief medical
230 officer, who must make a recommendation to the secretary. The
231 secretary must review all relevant information and make a final
232 decision about the appropriateness of the revocation of

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

233 conditional medical release pursuant to this paragraph. The
234 decision of the secretary is a final administrative decision not
235 subject to appeal.
236 (b)1. The medical releasee's conditional medical release
237 may also be revoked for violation of any release conditions the
238 department establishes, including, but not limited to, a new
239 violation of law.
240 2. If the basis of the violation of release conditions is
241 related to a new violation of law, the medical releasee must be
242 detained without bond until his or her initial appearance at
243 which a judicial determination of probable cause is made. If the
244 judge determines that there was no probable cause for the
245 arrest, the medical releasee may be released. If the judge
246 determines that there was probable cause for the arrest, the
247 judge's determination also constitutes reasonable grounds to
248 believe that the medical releasee violated the conditions of the
249 conditional medical release.
250 3. The department must order that the medical releasee
251 subject to revocation under this paragraph be returned to
252 department custody for a conditional medical release revocation
253 hearing.
254 4. A majority of the panel members must agree that
255 revocation is appropriate for the medical releasee's conditional
256 medical release to be revoked. If conditional medical release is
257 revoked pursuant to this paragraph, the medical releasee must
258 serve the balance of his or her sentence with credit for the
259 actual time served on conditional medical release. The
260 releasee's gain-time accrued before recommitment may be
261 forfeited pursuant to s. 944.28(1). If the medical releasee

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

262 whose conditional medical release is revoked subject to this
263 paragraph would otherwise be eligible for parole or any other
264 release program, he or she may be considered for such release
265 program pursuant to law.
266 5. A medical releasee whose conditional medical release has
267 been revoked pursuant to this paragraph may have the revocation
268 reviewed by the department's general counsel, who must make a
269 recommendation to the secretary. The secretary must review all
270 relevant information and make a final decision about the
271 appropriateness of the revocation of conditional medical release
272 pursuant to this paragraph. The decision of the secretary is a
273 final administrative decision not subject to appeal.
274 (c) If the medical releasee subject to revocation under
275 paragraph (a) or paragraph (b) elects to proceed with a hearing,
276 the medical releasee must be informed orally and in writing of
277 the following:
278 1. The alleged basis for the pending revocation proceeding
279 against the releasee.
280 2. The releasee's right to be represented by counsel.
281 However, this subparagraph does not create a right to publicly
282 funded legal counsel.
283 3. The releasee's right to be heard in person.
284 4. The releasee's right to secure, present, and compel the
285 attendance of witnesses relevant to the proceeding.
286 5. The releasee's right to produce documents on his or her
287 own behalf.
288 6. The releasee's right of access to all evidence used to
289 support the revocation proceeding against the releasee and to
290 confront and cross-examine adverse witnesses.

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

291 7. The releasee's right to waive the hearing.
292 (8) SPECIAL REQUIREMENTS UPON AN INMATE'S DIAGNOSIS OF A
293 TERMINAL CONDITION.—
294 (a) If an inmate is diagnosed with a terminal medical
295 condition that makes him or her eligible for consideration for
296 release under paragraph (2)(c) while in the custody of the
297 department, subject to confidentiality requirements, the
298 department must:
299 1. Notify the inmate's family or next of kin, and attorney,
300 if applicable, of such diagnosis within 72 hours of the
301 diagnosis.
302 2. Provide the inmate's family, including extended family,
303 with an opportunity to visit the inmate in person within 7 days
304 upon such diagnosis.
305 3. Initiate a review for conditional medical release as
306 provided for in this section immediately upon such diagnosis.
307 (b) If the inmate has mental and physical capacity, he or
308 she must consent to release of confidential information for the
309 department to comply with the notification requirements required
310 in this subsection.
311 (9) RULEMAKING AUTHORITY.—The department may adopt rules as
312 necessary to implement this section.
313 Section 2. Section 947.149, Florida Statutes, is repealed.
314 Section 3. Subsection (6) of section 316.1935, Florida
315 Statutes, is amended to read:
316 316.1935 Fleeing or attempting to elude a law enforcement
317 officer; aggravated fleeing or eluding.—
318 (6) Notwithstanding s. 948.01, no court may suspend, defer,
319 or withhold adjudication of guilt or imposition of sentence for

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

320 any violation of this section. A person convicted and sentenced
321 to a mandatory minimum term of incarceration under paragraph
322 (3)(b) or paragraph (4)(b) is not eligible for statutory gain-
323 time under s. 944.275 or any form of discretionary early
324 release, other than pardon or executive clemency or conditional
325 medical release under s. 945.0911 ~~s. 947.149~~, prior to serving
326 the mandatory minimum sentence.
327 Section 4. Paragraph (k) of subsection (4) of section
328 775.084, Florida Statutes, is amended to read:
329 775.084 Violent career criminals; habitual felony offenders
330 and habitual violent felony offenders; three-time violent felony
331 offenders; definitions; procedure; enhanced penalties or
332 mandatory minimum prison terms.—
333 (4)
334 (k)1. A defendant sentenced under this section as a
335 habitual felony offender, a habitual violent felony offender, or
336 a violent career criminal is eligible for gain-time granted by
337 the Department of Corrections as provided in s. 944.275(4)(b).
338 2. For an offense committed on or after October 1, 1995, a
339 defendant sentenced under this section as a violent career
340 criminal is not eligible for any form of discretionary early
341 release, other than pardon or executive clemency, or conditional
342 medical release granted pursuant to s. 945.0911 ~~s. 947.149~~.
343 3. For an offense committed on or after July 1, 1999, a
344 defendant sentenced under this section as a three-time violent
345 felony offender shall be released only by expiration of sentence
346 and shall not be eligible for parole, control release, or any
347 form of early release.
348 Section 5. Paragraph (b) of subsection (2) and paragraph

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

349 (b) of subsection (3) of section 775.087, Florida Statutes, are
350 amended to read:
351 775.087 Possession or use of weapon; aggravated battery;
352 felony reclassification; minimum sentence.—
353 (2)
354 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
355 (a)3. does not prevent a court from imposing a longer sentence
356 of incarceration as authorized by law in addition to the minimum
357 mandatory sentence, or from imposing a sentence of death
358 pursuant to other applicable law. Subparagraph (a)1.,
359 subparagraph (a)2., or subparagraph (a)3. does not authorize a
360 court to impose a lesser sentence than otherwise required by
361 law.
362
363 Notwithstanding s. 948.01, adjudication of guilt or imposition
364 of sentence shall not be suspended, deferred, or withheld, and
365 the defendant is not eligible for statutory gain-time under s.
366 944.275 or any form of discretionary early release, other than
367 pardon or executive clemency, or conditional medical release
368 under s. 945.0911 ~~s. 947.149~~, prior to serving the minimum
369 sentence.
370 (3)
371 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
372 (a)3. does not prevent a court from imposing a longer sentence
373 of incarceration as authorized by law in addition to the minimum
374 mandatory sentence, or from imposing a sentence of death
375 pursuant to other applicable law. Subparagraph (a)1.,
376 subparagraph (a)2., or subparagraph (a)3. does not authorize a
377 court to impose a lesser sentence than otherwise required by

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

378 law.
379
380 Notwithstanding s. 948.01, adjudication of guilt or imposition
381 of sentence shall not be suspended, deferred, or withheld, and
382 the defendant is not eligible for statutory gain-time under s.
383 944.275 or any form of discretionary early release, other than
384 pardon or executive clemency, or conditional medical release
385 under s. 945.0911 ~~s. 947.149~~, prior to serving the minimum
386 sentence.
387 Section 6. Subsection (3) of section 784.07, Florida
388 Statutes, is amended to read:
389 784.07 Assault or battery of law enforcement officers,
390 firefighters, emergency medical care providers, public transit
391 employees or agents, or other specified officers;
392 reclassification of offenses; minimum sentences.—
393 (3) Any person who is convicted of a battery under
394 paragraph (2)(b) and, during the commission of the offense, such
395 person possessed:
396 (a) A “firearm” or “destructive device” as those terms are
397 defined in s. 790.001, shall be sentenced to a minimum term of
398 imprisonment of 3 years.
399 (b) A semiautomatic firearm and its high-capacity
400 detachable box magazine, as defined in s. 775.087(3), or a
401 machine gun as defined in s. 790.001, shall be sentenced to a
402 minimum term of imprisonment of 8 years.
403
404 Notwithstanding s. 948.01, adjudication of guilt or imposition
405 of sentence shall not be suspended, deferred, or withheld, and
406 the defendant is not eligible for statutory gain-time under s.

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

407 944.275 or any form of discretionary early release, other than
408 pardon or executive clemency, or conditional medical release
409 under s. 945.0911 ~~s. 947.149~~, prior to serving the minimum
410 sentence.
411 Section 7. Subsection (1) of section 790.235, Florida
412 Statutes, is amended to read:
413 790.235 Possession of firearm or ammunition by violent
414 career criminal unlawful; penalty.—
415 (1) Any person who meets the violent career criminal
416 criteria under s. 775.084(1)(d), regardless of whether such
417 person is or has previously been sentenced as a violent career
418 criminal, who owns or has in his or her care, custody,
419 possession, or control any firearm, ammunition, or electric
420 weapon or device, or carries a concealed weapon, including a
421 tear gas gun or chemical weapon or device, commits a felony of
422 the first degree, punishable as provided in s. 775.082, s.
423 775.083, or s. 775.084. A person convicted of a violation of
424 this section shall be sentenced to a mandatory minimum of 15
425 years' imprisonment; however, if the person would be sentenced
426 to a longer term of imprisonment under s. 775.084(4)(d), the
427 person must be sentenced under that provision. A person
428 convicted of a violation of this section is not eligible for any
429 form of discretionary early release, other than pardon,
430 executive clemency, or conditional medical release under s.
431 945.0911 ~~s. 947.149~~.
432 Section 8. Subsection (7) of section 794.0115, Florida
433 Statutes, is amended to read:
434 794.0115 Dangerous sexual felony offender; mandatory
435 sentencing.—

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

436 (7) A defendant sentenced to a mandatory minimum term of
437 imprisonment under this section is not eligible for statutory
438 gain-time under s. 944.275 or any form of discretionary early
439 release, other than pardon or executive clemency, or conditional
440 medical release under s. 945.0911 ~~s. 947.149~~, before serving the
441 minimum sentence.
442 Section 9. Paragraphs (b), (c), and (g) of subsection (1)
443 and subsection (3) of section 893.135, Florida Statutes, are
444 amended to read:
445 893.135 Trafficking; mandatory sentences; suspension or
446 reduction of sentences; conspiracy to engage in trafficking.—
447 (1) Except as authorized in this chapter or in chapter 499
448 and notwithstanding the provisions of s. 893.13:
449 (b)1. Any person who knowingly sells, purchases,
450 manufactures, delivers, or brings into this state, or who is
451 knowingly in actual or constructive possession of, 28 grams or
452 more of cocaine, as described in s. 893.03(2)(a)4., or of any
453 mixture containing cocaine, but less than 150 kilograms of
454 cocaine or any such mixture, commits a felony of the first
455 degree, which felony shall be known as “trafficking in cocaine,”
456 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
457 If the quantity involved:
458 a. Is 28 grams or more, but less than 200 grams, such
459 person shall be sentenced to a mandatory minimum term of
460 imprisonment of 3 years, and the defendant shall be ordered to
461 pay a fine of $50,000.
462 b. Is 200 grams or more, but less than 400 grams, such
463 person shall be sentenced to a mandatory minimum term of
464 imprisonment of 7 years, and the defendant shall be ordered to

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

465 pay a fine of $100,000.
466 c. Is 400 grams or more, but less than 150 kilograms, such
467 person shall be sentenced to a mandatory minimum term of
468 imprisonment of 15 calendar years and pay a fine of $250,000.
469 2. Any person who knowingly sells, purchases, manufactures,
470 delivers, or brings into this state, or who is knowingly in
471 actual or constructive possession of, 150 kilograms or more of
472 cocaine, as described in s. 893.03(2)(a)4., commits the first
473 degree felony of trafficking in cocaine. A person who has been
474 convicted of the first degree felony of trafficking in cocaine
475 under this subparagraph shall be punished by life imprisonment
476 and is ineligible for any form of discretionary early release
477 except pardon or executive clemency or conditional medical
478 release under s. 945.0911 ~~s. 947.149~~. However, if the court
479 determines that, in addition to committing any act specified in
480 this paragraph:
481 a. The person intentionally killed an individual or
482 counseled, commanded, induced, procured, or caused the
483 intentional killing of an individual and such killing was the
484 result; or
485 b. The person’s conduct in committing that act led to a
486 natural, though not inevitable, lethal result,
487
488 such person commits the capital felony of trafficking in
489 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
490 person sentenced for a capital felony under this paragraph shall
491 also be sentenced to pay the maximum fine provided under
492 subparagraph 1.
493 3. Any person who knowingly brings into this state 300

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

494 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
495 and who knows that the probable result of such importation would
496 be the death of any person, commits capital importation of
497 cocaine, a capital felony punishable as provided in ss. 775.082
498 and 921.142. Any person sentenced for a capital felony under
499 this paragraph shall also be sentenced to pay the maximum fine
500 provided under subparagraph 1.
501 (c)1. A person who knowingly sells, purchases,
502 manufactures, delivers, or brings into this state, or who is
503 knowingly in actual or constructive possession of, 4 grams or
504 more of any morphine, opium, hydromorphone, or any salt,
505 derivative, isomer, or salt of an isomer thereof, including
506 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
507 (3)(c)4., or 4 grams or more of any mixture containing any such
508 substance, but less than 30 kilograms of such substance or
509 mixture, commits a felony of the first degree, which felony
510 shall be known as "trafficking in illegal drugs," punishable as
511 provided in s. 775.082, s. 775.083, or s. 775.084. If the
512 quantity involved:
513 a. Is 4 grams or more, but less than 14 grams, such person
514 shall be sentenced to a mandatory minimum term of imprisonment
515 of 3 years and shall be ordered to pay a fine of $50,000.
516 b. Is 14 grams or more, but less than 28 grams, such person
517 shall be sentenced to a mandatory minimum term of imprisonment
518 of 15 years and shall be ordered to pay a fine of $100,000.
519 c. Is 28 grams or more, but less than 30 kilograms, such
520 person shall be sentenced to a mandatory minimum term of
521 imprisonment of 25 years and shall be ordered to pay a fine of
522 $500,000.

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

523 2. A person who knowingly sells, purchases, manufactures,
524 delivers, or brings into this state, or who is knowingly in
525 actual or constructive possession of, 28 grams or more of
526 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as
527 described in s. 893.03(2)(a)1.g., or any salt thereof, or 28
528 grams or more of any mixture containing any such substance,
529 commits a felony of the first degree, which felony shall be
530 known as “trafficking in hydrocodone,” punishable as provided in
531 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:
532 a. Is 28 grams or more, but less than 50 grams, such person
533 shall be sentenced to a mandatory minimum term of imprisonment
534 of 3 years and shall be ordered to pay a fine of $50,000.
535 b. Is 50 grams or more, but less than 100 grams, such
536 person shall be sentenced to a mandatory minimum term of
537 imprisonment of 7 years and shall be ordered to pay a fine of
538 $100,000.
539 c. Is 100 grams or more, but less than 300 grams, such
540 person shall be sentenced to a mandatory minimum term of
541 imprisonment of 15 years and shall be ordered to pay a fine of
542 $500,000.
543 d. Is 300 grams or more, but less than 30 kilograms, such
544 person shall be sentenced to a mandatory minimum term of
545 imprisonment of 25 years and shall be ordered to pay a fine of
546 $750,000.
547 3. A person who knowingly sells, purchases, manufactures,
548 delivers, or brings into this state, or who is knowingly in
549 actual or constructive possession of, 7 grams or more of
550 oxycodone, as described in s. 893.03(2)(a)1.q., or any salt
551 thereof, or 7 grams or more of any mixture containing any such

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

552 substance, commits a felony of the first degree, which felony
553 shall be known as “trafficking in oxycodone,” punishable as
554 provided in s. 775.082, s. 775.083, or s. 775.084. If the
555 quantity involved:
556 a. Is 7 grams or more, but less than 14 grams, such person
557 shall be sentenced to a mandatory minimum term of imprisonment
558 of 3 years and shall be ordered to pay a fine of $50,000.
559 b. Is 14 grams or more, but less than 25 grams, such person
560 shall be sentenced to a mandatory minimum term of imprisonment
561 of 7 years and shall be ordered to pay a fine of $100,000.
562 c. Is 25 grams or more, but less than 100 grams, such
563 person shall be sentenced to a mandatory minimum term of
564 imprisonment of 15 years and shall be ordered to pay a fine of
565 $500,000.
566 d. Is 100 grams or more, but less than 30 kilograms, such
567 person shall be sentenced to a mandatory minimum term of
568 imprisonment of 25 years and shall be ordered to pay a fine of
569 $750,000.
570 4.a. A person who knowingly sells, purchases, manufactures,
571 delivers, or brings into this state, or who is knowingly in
572 actual or constructive possession of, 4 grams or more of:
573 (I) Alfentanil, as described in s. 893.03(2)(b)1.;
574 (II) Carfentanil, as described in s. 893.03(2)(b)6.;
575 (III) Fentanyl, as described in s. 893.03(2)(b)9.;
576 (IV) Sufentanil, as described in s. 893.03(2)(b)30.;
577 (V) A fentanyl derivative, as described in s.
578 893.03(1)(a)62.;
579 (VI) A controlled substance analog, as described in s.
580 893.0356, of any substance described in sub-sub-subparagraphs

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

581 (I)-(V); or
582 (VII) A mixture containing any substance described in sub-
583 sub-subparagraphs (I)-(VI),
584
585 commits a felony of the first degree, which felony shall be
586 known as “trafficking in fentanyl,” punishable as provided in s.
587 775.082, s. 775.083, or s. 775.084.
588 b. If the quantity involved under sub-subparagraph a.:
589 (I) Is 4 grams or more, but less than 14 grams, such person
590 shall be sentenced to a mandatory minimum term of imprisonment
591 of 3 years, and shall be ordered to pay a fine of $50,000.
592 (II) Is 14 grams or more, but less than 28 grams, such
593 person shall be sentenced to a mandatory minimum term of
594 imprisonment of 15 years, and shall be ordered to pay a fine of
595 $100,000.
596 (III) Is 28 grams or more, such person shall be sentenced
597 to a mandatory minimum term of imprisonment of 25 years, and
598 shall be ordered to pay a fine of $500,000.
599 5. A person who knowingly sells, purchases, manufactures,
600 delivers, or brings into this state, or who is knowingly in
601 actual or constructive possession of, 30 kilograms or more of
602 any morphine, opium, oxycodone, hydrocodone, codeine,
603 hydromorphone, or any salt, derivative, isomer, or salt of an
604 isomer thereof, including heroin, as described in s.
605 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
606 more of any mixture containing any such substance, commits the
607 first degree felony of trafficking in illegal drugs. A person
608 who has been convicted of the first degree felony of trafficking
609 in illegal drugs under this subparagraph shall be punished by

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

610 life imprisonment and is ineligible for any form of
611 discretionary early release except pardon or executive clemency
612 or conditional medical release under s. 945.0911 ~~s. 947.149~~.
613 However, if the court determines that, in addition to committing
614 any act specified in this paragraph:
615 a. The person intentionally killed an individual or
616 counseled, commanded, induced, procured, or caused the
617 intentional killing of an individual and such killing was the
618 result; or
619 b. The person's conduct in committing that act led to a
620 natural, though not inevitable, lethal result,
621
622 such person commits the capital felony of trafficking in illegal
623 drugs, punishable as provided in ss. 775.082 and 921.142. A
624 person sentenced for a capital felony under this paragraph shall
625 also be sentenced to pay the maximum fine provided under
626 subparagraph 1.
627 6. A person who knowingly brings into this state 60
628 kilograms or more of any morphine, opium, oxycodone,
629 hydrocodone, codeine, hydromorphone, or any salt, derivative,
630 isomer, or salt of an isomer thereof, including heroin, as
631 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
632 60 kilograms or more of any mixture containing any such
633 substance, and who knows that the probable result of such
634 importation would be the death of a person, commits capital
635 importation of illegal drugs, a capital felony punishable as
636 provided in ss. 775.082 and 921.142. A person sentenced for a
637 capital felony under this paragraph shall also be sentenced to
638 pay the maximum fine provided under subparagraph 1.

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

639 (g)1. Any person who knowingly sells, purchases,
640 manufactures, delivers, or brings into this state, or who is
641 knowingly in actual or constructive possession of, 4 grams or
642 more of flunitrazepam or any mixture containing flunitrazepam as
643 described in s. 893.03(1)(a) commits a felony of the first
644 degree, which felony shall be known as "trafficking in
645 flunitrazepam," punishable as provided in s. 775.082, s.
646 775.083, or s. 775.084. If the quantity involved:
647 a. Is 4 grams or more but less than 14 grams, such person
648 shall be sentenced to a mandatory minimum term of imprisonment
649 of 3 years, and the defendant shall be ordered to pay a fine of
650 $50,000.
651 b. Is 14 grams or more but less than 28 grams, such person
652 shall be sentenced to a mandatory minimum term of imprisonment
653 of 7 years, and the defendant shall be ordered to pay a fine of
654 $100,000.
655 c. Is 28 grams or more but less than 30 kilograms, such
656 person shall be sentenced to a mandatory minimum term of
657 imprisonment of 25 calendar years and pay a fine of $500,000.
658 2. Any person who knowingly sells, purchases, manufactures,
659 delivers, or brings into this state or who is knowingly in
660 actual or constructive possession of 30 kilograms or more of
661 flunitrazepam or any mixture containing flunitrazepam as
662 described in s. 893.03(1)(a) commits the first degree felony of
663 trafficking in flunitrazepam. A person who has been convicted of
664 the first degree felony of trafficking in flunitrazepam under
665 this subparagraph shall be punished by life imprisonment and is
666 ineligible for any form of discretionary early release except
667 pardon or executive clemency or conditional medical release

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

668 under s. 945.0911 ~~s. 947.149~~. However, if the court determines
669 that, in addition to committing any act specified in this
670 paragraph:
671 a. The person intentionally killed an individual or
672 counseled, commanded, induced, procured, or caused the
673 intentional killing of an individual and such killing was the
674 result; or
675 b. The person's conduct in committing that act led to a
676 natural, though not inevitable, lethal result,
677
678 such person commits the capital felony of trafficking in
679 flunitrazepam, punishable as provided in ss. 775.082 and
680 921.142. Any person sentenced for a capital felony under this
681 paragraph shall also be sentenced to pay the maximum fine
682 provided under subparagraph 1.
683 (3) Notwithstanding the provisions of s. 948.01, with
684 respect to any person who is found to have violated this
685 section, adjudication of guilt or imposition of sentence shall
686 not be suspended, deferred, or withheld, nor shall such person
687 be eligible for parole prior to serving the mandatory minimum
688 term of imprisonment prescribed by this section. A person
689 sentenced to a mandatory minimum term of imprisonment under this
690 section is not eligible for any form of discretionary early
691 release, except pardon or executive clemency or conditional
692 medical release under s. 945.0911 ~~s. 947.149~~, prior to serving
693 the mandatory minimum term of imprisonment.
694 Section 10. Subsection (2) of section 921.0024, Florida
695 Statutes, is amended to read:
696 921.0024 Criminal Punishment Code; worksheet computations;

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

697 scoresheets.—
698 (2) The lowest permissible sentence is the minimum sentence
699 that may be imposed by the trial court, absent a valid reason
700 for departure. The lowest permissible sentence is any nonstate
701 prison sanction in which the total sentence points equals or is
702 less than 44 points, unless the court determines within its
703 discretion that a prison sentence, which may be up to the
704 statutory maximums for the offenses committed, is appropriate.
705 When the total sentence points exceeds 44 points, the lowest
706 permissible sentence in prison months shall be calculated by
707 subtracting 28 points from the total sentence points and
708 decreasing the remaining total by 25 percent. The total sentence
709 points shall be calculated only as a means of determining the
710 lowest permissible sentence. The permissible range for
711 sentencing shall be the lowest permissible sentence up to and
712 including the statutory maximum, as defined in s. 775.082, for
713 the primary offense and any additional offenses before the court
714 for sentencing. The sentencing court may impose such sentences
715 concurrently or consecutively. However, any sentence to state
716 prison must exceed 1 year. If the lowest permissible sentence
717 under the code exceeds the statutory maximum sentence as
718 provided in s. 775.082, the sentence required by the code must
719 be imposed. If the total sentence points are greater than or
720 equal to 363, the court may sentence the offender to life
721 imprisonment. An offender sentenced to life imprisonment under
722 this section is not eligible for any form of discretionary early
723 release, except executive clemency or conditional medical
724 release under s. 945.0911 ~~s. 947.149~~.
725 Section 11. Paragraph (b) of subsection (7) of section

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

726 944.605, Florida Statutes, is amended to read:
727 944.605 Inmate release; notification; identification card.—
728 (7)
729 (b) Paragraph (a) does not apply to inmates who:
730 1. The department determines have a valid driver license or
731 state identification card, except that the department shall
732 provide these inmates with a replacement state identification
733 card or replacement driver license, if necessary.
734 2. Have an active detainer, unless the department
735 determines that cancellation of the detainer is likely or that
736 the incarceration for which the detainer was issued will be less
737 than 12 months in duration.
738 3. Are released due to an emergency release or a
739 conditional medical release under s. 945.0911 ~~s. 947.149~~.
740 4. Are not in the physical custody of the department at or
741 within 180 days before release.
742 5. Are subject to sex offender residency restrictions, and
743 who, upon release under such restrictions, do not have a
744 qualifying address.
745 Section 12. Subsection (1) of section 944.70, Florida
746 Statutes, is amended to read:
747 944.70 Conditions for release from incarceration.—
748 (1)(a) A person who is convicted of a crime committed on or
749 after October 1, 1983, but before January 1, 1994, may be
750 released from incarceration only:
751 1. Upon expiration of the person’s sentence;
752 2. Upon expiration of the person’s sentence as reduced by
753 accumulated gain-time;
754 3. As directed by an executive order granting clemency;

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

755 4. Upon attaining the provisional release date;
756 5. Upon placement in a conditional release program pursuant
757 to s. 947.1405; or
758 6. Upon the granting of control release pursuant to s.
759 947.146.
760 (b) A person who is convicted of a crime committed on or
761 after January 1, 1994, may be released from incarceration only:
762 1. Upon expiration of the person’s sentence;
763 2. Upon expiration of the person’s sentence as reduced by
764 accumulated meritorious or incentive gain-time;
765 3. As directed by an executive order granting clemency;
766 4. Upon placement in a conditional release program pursuant
767 to s. 947.1405 or a conditional medical release program pursuant
768 to s. 945.0911 ~~s. 947.149~~; or
769 5. Upon the granting of control release, including
770 emergency control release, pursuant to s. 947.146.
771 Section 13. Paragraph (h) of subsection (1) of section
772 947.13, Florida Statutes, is amended to read:
773 947.13 Powers and duties of commission.—
774 (1) The commission shall have the powers and perform the
775 duties of:
776 ~~(h) Determining what persons will be released on~~
777 ~~conditional medical release under s. 947.149, establishing the~~
778 ~~conditions of conditional medical release, and determining~~
779 ~~whether a person has violated the conditions of conditional~~
780 ~~medical release and taking action with respect to such a~~
781 ~~violation.~~
782 Section 14. Section 947.141, Florida Statutes, is amended
783 to read:

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

784 947.141 Violations of conditional release, control release,
785 ~~or conditional medical release~~ or addiction-recovery
786 supervision.—
787 (1) If a member of the commission or a duly authorized
788 representative of the commission has reasonable grounds to
789 believe that an offender who is on release supervision under s.
790 947.1405, s. 947.146, ~~s. 947.149,~~ or s. 944.4731 has violated
791 the terms and conditions of the release in a material respect,
792 such member or representative may cause a warrant to be issued
793 for the arrest of the releasee; if the offender was found to be
794 a sexual predator, the warrant must be issued.
795 (2) Upon the arrest on a felony charge of an offender who
796 is on release supervision under s. 947.1405, s. 947.146, ~~s.~~
797 ~~947.149,~~ or s. 944.4731, the offender must be detained without
798 bond until the initial appearance of the offender at which a
799 judicial determination of probable cause is made. If the trial
800 court judge determines that there was no probable cause for the
801 arrest, the offender may be released. If the trial court judge
802 determines that there was probable cause for the arrest, such
803 determination also constitutes reasonable grounds to believe
804 that the offender violated the conditions of the release. Within
805 24 hours after the trial court judge’s finding of probable
806 cause, the detention facility administrator or designee shall
807 notify the commission and the department of the finding and
808 transmit to each a facsimile copy of the probable cause
809 affidavit or the sworn offense report upon which the trial court
810 judge’s probable cause determination is based. The offender must
811 continue to be detained without bond for a period not exceeding
812 72 hours excluding weekends and holidays after the date of the

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

813 probable cause determination, pending a decision by the
814 commission whether to issue a warrant charging the offender with
815 violation of the conditions of release. Upon the issuance of the
816 commission’s warrant, the offender must continue to be held in
817 custody pending a revocation hearing held in accordance with
818 this section.
819 (3) Within 45 days after notice to the Florida Commission
820 on Offender Review of the arrest of a releasee charged with a
821 violation of the terms and conditions of conditional release,
822 control release, ~~conditional medical release,~~ or addiction-
823 recovery supervision, the releasee must be afforded a hearing
824 conducted by a commissioner or a duly authorized representative
825 thereof. If the releasee elects to proceed with a hearing, the
826 releasee must be informed orally and in writing of the
827 following:
828 (a) The alleged violation with which the releasee is
829 charged.
830 (b) The releasee’s right to be represented by counsel.
831 (c) The releasee’s right to be heard in person.
832 (d) The releasee’s right to secure, present, and compel the
833 attendance of witnesses relevant to the proceeding.
834 (e) The releasee’s right to produce documents on the
835 releasee’s own behalf.
836 (f) The releasee’s right of access to all evidence used
837 against the releasee and to confront and cross-examine adverse
838 witnesses.
839 (g) The releasee’s right to waive the hearing.
840 (4) Within a reasonable time following the hearing, the
841 commissioner or the commissioner’s duly authorized

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

842 representative who conducted the hearing shall make findings of
843 fact in regard to the alleged violation. A panel of no fewer
844 than two commissioners shall enter an order determining whether
845 the charge of violation of conditional release, control release,
846 ~~conditional medical release,~~ or addiction-recovery supervision
847 has been sustained based upon the findings of fact presented by
848 the hearing commissioner or authorized representative. By such
849 order, the panel may revoke conditional release, control
850 release, ~~conditional medical release,~~ or addiction-recovery
851 supervision and thereby return the releasee to prison to serve
852 the sentence imposed, reinstate the original order granting the
853 release, or enter such other order as it considers proper.
854 Effective for inmates whose offenses were committed on or after
855 July 1, 1995, the panel may order the placement of a releasee,
856 upon a finding of violation pursuant to this subsection, into a
857 local detention facility as a condition of supervision.
858 (5) Effective for inmates whose offenses were committed on
859 or after July 1, 1995, notwithstanding the provisions of ss.
860 775.08, former 921.001, 921.002, 921.187, 921.188, 944.02, and
861 951.23, or any other law to the contrary, by such order as
862 provided in subsection (4), the panel, upon a finding of guilt,
863 may, as a condition of continued supervision, place the releasee
864 in a local detention facility for a period of incarceration not
865 to exceed 22 months. Prior to the expiration of the term of
866 incarceration, or upon recommendation of the chief correctional
867 officer of that county, the commission shall cause inquiry into
868 the inmate’s release plan and custody status in the detention
869 facility and consider whether to restore the inmate to
870 supervision, modify the conditions of supervision, or enter an

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

871 order of revocation, thereby causing the return of the inmate to
872 prison to serve the sentence imposed. The provisions of this
873 section do not prohibit the panel from entering such other order
874 or conducting any investigation that it deems proper. The
875 commission may only place a person in a local detention facility
876 pursuant to this section if there is a contractual agreement
877 between the chief correctional officer of that county and the
878 Department of Corrections. The agreement must provide for a per
879 diem reimbursement for each person placed under this section,
880 which is payable by the Department of Corrections for the
881 duration of the offender's placement in the facility. This
882 section does not limit the commission's ability to place a
883 person in a local detention facility for less than 1 year.
884 (6) Whenever a conditional release, control release,
885 ~~conditional medical release,~~ or addiction-recovery supervision
886 is revoked by a panel of no fewer than two commissioners and the
887 releasee is ordered to be returned to prison, the releasee, by
888 reason of the misconduct, shall be deemed to have forfeited all
889 gain-time or commutation of time for good conduct, as provided
890 for by law, earned up to the date of release. However, if a
891 conditional medical release is revoked due to the improved
892 medical or physical condition of the releasee, the releasee
893 shall not forfeit gain-time accrued before the date of
894 conditional medical release. This subsection does not deprive
895 the prisoner of the right to gain-time or commutation of time
896 for good conduct, as provided by law, from the date of return to
897 prison.
898 (7) If a law enforcement officer has probable cause to
899 believe that an offender who is on release supervision under s.

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

900 947.1405, s. 947.146, ~~s. 947.149,~~ or s. 944.4731 has violated
901 the terms and conditions of his or her release by committing a
902 felony offense, the officer shall arrest the offender without a
903 warrant, and a warrant need not be issued in the case.
904 Section 15. This act shall take effect October 1, 2020.

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

S00556

GENERAL BILL/CS by CJ; Brandes; (CO-INTRODUCERS) Perry; Bracy; (Linked S 01728, Compare H 00837)

Inmate Conditional Medical Release. EFFECTIVE DATE: 10/01/2020.

01/14/20 S Introduced -SJ 43 ; CS by Criminal Justice read 1st time -SJ 127

01/17/20 S On Committee agenda-- Appropriations Subcommittee on Criminal and Civil Justice, 01/22/20, 1:30 pm, 37 Senate Building

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.)

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

BILL: SB 560

INTRODUCER: Senators Brandes and Perry

SUBJECT: Sentencing

DATE: January 21, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Jones	CJ	**Favorable**
2.	Forbes	Jameson	ACJ	**Pre-meeting**
3.			AP	

I. Summary:

SB 560 revises the name and primary purpose of the Criminal Punishment Code, Florida's primary sentencing policy for noncapital felonies. Under current law, the primary purpose of the Criminal Punishment Code is to punish the offender. The bill renames the Criminal Punishment Code as the Public Safety Code and provides that the primary purpose of the Public Safety Code is public safety.

The bill should not have any prison bed impact because it does not change how sentences are currently calculated under the Criminal Punishment Code, modify existing penalties, or create new penalties.

The effective date of the bill is July 1, 2020.

II. Present Situation:

In 1997, the Legislature enacted the Criminal Punishment Code[1] (Code) as Florida's "primary sentencing policy."[2] The primary purpose of the Code is to "punish the offender."[3] Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).[4] Points are assigned and accrue based upon the level ranking assigned to the primary offense, additional offenses, and prior offenses.[5] 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 drug trafficking offenses. The lowest permissible sentence is any nonstate prison sanction

[1] Sections 921.002-921.0027, F.S. The Code is effective for offenses committed on or after October 1, 1998.
[2] *See* chs. 97-194 and 98-204, L.O.F.
[3] Section 921.002(1)(b), F.S.
[4] 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.
[5] Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

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.

Absent mitigation,[6] the permissible sentencing range under the Code is generally the scored lowest permissible sentence up to, and including, the maximum sentence provided in s. 775.082, F.S.[7] However, if the offender's offense has a mandatory minimum term that is greater than the scored lowest permissible sentence, the mandatory minimum term supersedes the lowest permissible sentence scored.[8] Further, some offenders may qualify for prison diversion under various sections of the Florida Statutes.[9]

III. Effect of Proposed Changes:

The bill amends s. 921.002, F.S., to revise the name and primary purpose of the Criminal Punishment Code, Florida's primary sentencing policy for noncapital felonies. Under current law, the primary purpose of the Criminal Punishment Code is to punish the offender. The bill renames the Criminal Punishment Code as the Public Safety Code and provides that the primary purpose of the Public Safety Code is public safety.

Conforming changes are made to numerous other statutes consistent with these described changes.

The effective date of the bill is July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

---

[6] The court may "mitigate" (reduce) the scored lowest permissible sentence if the court finds a mitigating circumstance. Sections 921.002(1)(g) and (3), 921.0026(1), and 921.00265(1) and (2), F.S. Section 921.0026(2), F.S., provides a list of mitigating circumstances. This type of sentence is often referred to as a "downward departure" sentence.

[7] Sections 921.002(1)(g) and 921.0024(2), F.S. The sentencing court may impose sentences concurrently or consecutively. A prison sentence must exceed one year. If the scored lowest permissible sentence exceeds the maximum penalty in s. 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment. Section 921.0024(2), F.S.

[8] Fla. R. Crim. P. 3.704(d)(26).

[9] *See e.g.*, s. 775.082(10), F.S. (diversion for an offender whose offense is a nonviolent third degree felony and whose total sentence points are 22 points or fewer); s. 921.00241, F.S. (diversion into a Department of Corrections' prison diversion program for certain nonviolent third degree felony offenders); and s. 948.01, F.S. (diversion into a postadjudicatory treatment-based drug court program for certain nonviolent felony offenders).

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 should not have any prison bed impact because it does not change how sentences are currently calculated under the Criminal Punishment Code, modify existing penalties, or create new penalties.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 775.082, 775.087, 782.051, 817.568, 893.13, 893.20, 910.035, 921.002, 921.0022, 921.0023, 921.0024, 921.0025, 921.0026, 921.0027, 924.06, 924.07, 944.17, 948.01, 948.015, 948.06, 948.20, 948.51, 958.04, and 985.465.

IX. Additional Information:

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

None.

B. Amendments:

None.

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

By Senator Brandes

24-00766-20 2020560__

A bill to be entitled

An act relating to sentencing; amending s. 921.002, F.S.; renaming the Criminal Punishment Code as the Public Safety Code; revising the primary purpose of sentencing under the Public Safety Code from punishing an offender to public safety; conforming provisions to changes made by the act; amending ss. 775.082, 775.087, 782.051, 817.568, 893.13, 893.20, 910.035, 921.0022, 921.0023, 921.0024, 921.0025, 921.0026, 921.0027, 924.06, 924.07, 944.17, 948.01, 948.015, 948.06, 948.20, 948.51, 958.04, and 985.465, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 921.002, Florida Statutes, is amended to read:

921.002 The Public Safety ~~Criminal Punishment~~ Code.—The Public Safety Code applies ~~Criminal Punishment Code shall apply~~ to all felony offenses, except capital felonies, committed on or after October 1, 1998.

(1) The provision of criminal penalties and of limitations upon the application of such penalties is a matter of predominantly substantive law and, as such, is a matter properly addressed by the Legislature. The Legislature, in the exercise of its authority and responsibility to establish sentencing criteria, to provide for the imposition of criminal penalties, and to make the best use of state prisons so that violent

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

30 criminal offenders are appropriately incarcerated, has
31 determined that it is in the best interest of the state to
32 develop, implement, and revise a sentencing policy. The Public
33 Safety ~~Criminal Punishment~~ Code embodies the principles that:
34 (a) Sentencing is neutral with respect to race, gender, and
35 social and economic status.
36 (b) The primary purpose of sentencing is public safety ~~to~~
37 ~~punish the offender~~. Rehabilitation is a desired goal of the
38 criminal justice system but is subordinate to the goal of public
39 safety ~~punishment~~.
40 (c) The penalty imposed is commensurate with the severity
41 of the primary offense and the circumstances surrounding the
42 primary offense.
43 (d) The severity of the sentence increases with the length
44 and nature of the offender's prior record.
45 (e) The sentence imposed by the sentencing judge reflects
46 the length of actual time to be served, shortened only by the
47 application of incentive and meritorious gain-time as provided
48 by law, and may not be shortened if the defendant would
49 consequently serve less than 85 percent of his or her term of
50 imprisonment as provided in s. 944.275(4). The provisions of
51 chapter 947, relating to parole, shall not apply to persons
52 sentenced under the Public Safety ~~Criminal Punishment~~ Code.
53 (f) Departures below the lowest permissible sentence
54 established by the code must be articulated in writing by the
55 trial court judge and made only when circumstances or factors
56 reasonably justify the mitigation of the sentence. The level of
57 proof necessary to establish facts that support a departure from
58 the lowest permissible sentence is a preponderance of the

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

59 evidence.
60 (g) The trial court judge may impose a sentence up to and
61 including the statutory maximum for any offense, including an
62 offense that is before the court due to a violation of probation
63 or community control.
64 (h) A sentence may be appealed on the basis that it departs
65 from the Public Safety ~~Criminal Punishment~~ Code only if the
66 sentence is below the lowest permissible sentence or as
67 enumerated in s. 924.06(1).
68 (i) Use of incarcerative sanctions is prioritized toward
69 offenders convicted of serious offenses and certain offenders
70 who have long prior records, in order to maximize the finite
71 capacities of state and local correctional facilities.
72 (2) When a defendant is before the court for sentencing for
73 more than one felony and the felonies were committed under more
74 than one version or revision of the former sentencing guidelines
75 or the code, each felony shall be sentenced under the guidelines
76 or the code in effect at the time the particular felony was
77 committed. This subsection does not apply to sentencing for any
78 capital felony.
79 (3) A court may impose a departure below the lowest
80 permissible sentence based upon circumstances or factors that
81 reasonably justify the mitigation of the sentence in accordance
82 with s. 921.0026. The level of proof necessary to establish
83 facts supporting the mitigation of a sentence is a preponderance
84 of the evidence. When multiple reasons exist to support the
85 mitigation, the mitigation shall be upheld when at least one
86 circumstance or factor justifies the mitigation regardless of
87 the presence of other circumstances or factors found not to

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

88 justify mitigation. Any sentence imposed below the lowest
89 permissible sentence must be explained in writing by the trial
90 court judge.
91 (4)(a) The Department of Corrections shall report on trends
92 in sentencing practices and sentencing score thresholds and
93 provide an analysis on the sentencing factors considered by the
94 courts and shall submit this information to the Legislature by
95 October 1 of each year.
96 (b) The Criminal Justice Estimating Conference, with the
97 assistance of the Department of Corrections, shall estimate the
98 impact of any proposed change to the Public Safety ~~Criminal~~
99 ~~Punishment~~ Code on future rates of incarceration and on the
100 prison population. The Criminal Justice Estimating Conference
101 shall base its projections on historical data concerning
102 sentencing practices which have been accumulated by the
103 Department of Corrections and other relevant data from other
104 state agencies and records of the Department of Corrections
105 which disclose the average time served for offenses covered by
106 any proposed changes to the Public Safety ~~Criminal Punishment~~
107 Code.
108 (c) In order to produce projects that are either required
109 by law or requested by the Legislature to assist the Legislature
110 in making modifications to the Public Safety ~~Criminal Punishment~~
111 Code, the Department of Corrections is authorized to collect and
112 evaluate Public Safety ~~Criminal Punishment~~ Code scoresheets from
113 each of the judicial circuits after sentencing. Beginning in
114 1999, by October 1 of each year, the Department of Corrections
115 shall provide an annual report to the Legislature that shows the
116 rate of compliance of each judicial circuit in providing

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

117 scoresheets to the department.
118 Section 2. Paragraphs (d) and (e) of subsection (8) of
119 section 775.082, Florida Statutes, are amended to read:
120 775.082 Penalties; applicability of sentencing structures;
121 mandatory minimum sentences for certain reoffenders previously
122 released from prison.—
123 (8)
124 (d) The Public Safety ~~Criminal Punishment~~ Code applies to
125 all felonies, except capital felonies, committed on or after
126 October 1, 1998. Any revision to the Public Safety ~~Criminal~~
127 ~~Punishment~~ Code applies to sentencing for all felonies, except
128 capital felonies, committed on or after the effective date of
129 the revision.
130 (e) Felonies, except capital felonies, with continuing
131 dates of enterprise shall be sentenced under the sentencing
132 guidelines or the Public Safety ~~Criminal Punishment~~ Code in
133 effect on the beginning date of the criminal activity.
134 Section 3. Paragraph (c) of subsection (2) and paragraph
135 (c) of subsection (3) of section 775.087, Florida Statutes, are
136 amended to read:
137 775.087 Possession or use of weapon; aggravated battery;
138 felony reclassification; minimum sentence.—
139 (2)
140 (c) If the minimum mandatory terms of imprisonment imposed
141 pursuant to this section exceed the maximum sentences authorized
142 by s. 775.082, s. 775.084, or the Public Safety ~~Criminal~~
143 ~~Punishment~~ Code under chapter 921, then the mandatory minimum
144 sentence must be imposed. If the mandatory minimum terms of
145 imprisonment pursuant to this section are less than the

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

146 sentences that could be imposed as authorized by s. 775.082, s.
147 775.084, or the Public Safety ~~Criminal Punishment~~ Code under
148 chapter 921, then the sentence imposed by the court must include
149 the mandatory minimum term of imprisonment as required in this
150 section.
151 (3)
152 (c) If the minimum mandatory terms of imprisonment imposed
153 pursuant to this section exceed the maximum sentences authorized
154 by s. 775.082, s. 775.084, or the Public Safety ~~Criminal~~
155 ~~Punishment~~ Code under chapter 921, then the mandatory minimum
156 sentence must be imposed. If the mandatory minimum terms of
157 imprisonment pursuant to this section are less than the
158 sentences that could be imposed as authorized by s. 775.082, s.
159 775.084, or the Public Safety ~~Criminal Punishment~~ Code under
160 chapter 921, then the sentence imposed by the court must include
161 the mandatory minimum term of imprisonment as required in this
162 section.
163 Section 4. Section 782.051, Florida Statutes, is amended to
164 read:
165 782.051 Attempted felony murder.—
166 (1) Any person who perpetrates or attempts to perpetrate
167 any felony enumerated in s. 782.04(3) and who commits, aids, or
168 abets an intentional act that is not an essential element of the
169 felony and that could, but does not, cause the death of another
170 commits a felony of the first degree, punishable by imprisonment
171 for a term of years not exceeding life, or as provided in s.
172 775.082, s. 775.083, or s. 775.084, which is an offense ranked
173 in level 9 of the Public Safety ~~Criminal Punishment~~ Code. Victim
174 injury points shall be scored under this subsection.

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

175 (2) Any person who perpetrates or attempts to perpetrate
176 any felony other than a felony enumerated in s. 782.04(3) and
177 who commits, aids, or abets an intentional act that is not an
178 essential element of the felony and that could, but does not,
179 cause the death of another commits a felony of the first degree,
180 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
181 which is an offense ranked in level 8 of the Public Safety
182 ~~Criminal Punishment~~ Code. Victim injury points shall be scored
183 under this subsection.
184 (3) When a person is injured during the perpetration of or
185 the attempt to perpetrate any felony enumerated in s. 782.04(3)
186 by a person other than the person engaged in the perpetration of
187 or the attempt to perpetrate such felony, the person
188 perpetrating or attempting to perpetrate such felony commits a
189 felony of the second degree, punishable as provided in s.
190 775.082, s. 775.083, or s. 775.084, which is an offense ranked
191 in level 7 of the Public Safety ~~Criminal Punishment~~ Code. Victim
192 injury points shall be scored under this subsection.
193 Section 5. Subsection (3) of section 817.568, Florida
194 Statutes, is amended to read:
195 817.568 Criminal use of personal identification
196 information.—
197 (3) Neither paragraph (2)(b) nor paragraph (2)(c) prevents
198 a court from imposing a greater sentence of incarceration as
199 authorized by law. If the minimum mandatory terms of
200 imprisonment imposed under paragraph (2)(b) or paragraph (2)(c)
201 exceed the maximum sentences authorized under s. 775.082, s.
202 775.084, or the Public Safety ~~Criminal Punishment~~ Code under
203 chapter 921, the mandatory minimum sentence must be imposed. If

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

204 the mandatory minimum terms of imprisonment under paragraph
205 (2)(b) or paragraph (2)(c) are less than the sentence that could
206 be imposed under s. 775.082, s. 775.084, or the Public Safety
207 ~~Criminal Punishment~~ Code under chapter 921, the sentence imposed
208 by the court must include the mandatory minimum term of
209 imprisonment as required by paragraph (2)(b) or paragraph
210 (2)(c).
211 Section 6. Paragraph (d) of subsection (8) of section
212 893.13, Florida Statutes, is amended to read:
213 893.13 Prohibited acts; penalties.—
214 (8)
215 (d) Notwithstanding paragraph (c), if a prescribing
216 practitioner has violated paragraph (a) and received $1,000 or
217 more in payment for writing one or more prescriptions or, in the
218 case of a prescription written for a controlled substance
219 described in s. 893.135, has written one or more prescriptions
220 for a quantity of a controlled substance which, individually or
221 in the aggregate, meets the threshold for the offense of
222 trafficking in a controlled substance under s. 893.135, the
223 violation is reclassified as a felony of the second degree and
224 ranked in level 4 of the Public Safety ~~Criminal Punishment~~ Code.
225 Section 7. Subsection (2) of section 893.20, Florida
226 Statutes, is amended to read:
227 893.20 Continuing criminal enterprise.—
228 (2) A person who commits the offense of engaging in a
229 continuing criminal enterprise commits ~~is guilty of~~ a life
230 felony, punishable pursuant to the Public Safety ~~Criminal~~
231 ~~Punishment~~ Code and by a fine of $500,000.
232 Section 8. Paragraph (f) of subsection (5) of section

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

233 910.035, Florida Statutes, is amended to read:
234 910.035 Transfer from county for plea, sentence, or
235 participation in a problem-solving court.—
236 (5) TRANSFER FOR PARTICIPATION IN A PROBLEM-SOLVING COURT.—
237 (f) Upon successful completion of the problem-solving court
238 program, the jurisdiction to which the case has been transferred
239 shall dispose of the case. If the defendant does not complete
240 the problem-solving court program successfully, the jurisdiction
241 to which the case has been transferred shall dispose of the case
242 within the guidelines of the Public Safety ~~Criminal Punishment~~
243 Code.
244 Section 9. Section 921.0022, Florida Statutes, is amended
245 to read:
246 921.0022 Public Safety ~~Criminal Punishment~~ Code; offense
247 severity ranking chart.—
248 (1) The offense severity ranking chart must be used with
249 the Public Safety ~~Criminal Punishment~~ Code worksheet to compute
250 a sentence score for each felony offender whose offense was
251 committed on or after October 1, 1998.
252 (2) The offense severity ranking chart has 10 offense
253 levels, ranked from least severe, which are level 1 offenses, to
254 most severe, which are level 10 offenses, and each felony
255 offense is assigned to a level according to the severity of the
256 offense. For purposes of determining which felony offenses are
257 specifically listed in the offense severity ranking chart and
258 which severity level has been assigned to each of these
259 offenses, the numerical statutory references in the left column
260 of the chart and the felony degree designations in the middle
261 column of the chart are controlling; the language in the right

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

262 column of the chart is provided solely for descriptive purposes.
263 Reclassification of the degree of the felony through the
264 application of s. 775.0845, s. 775.085, s. 775.0861, s.
265 775.0862, s. 775.0863, s. 775.087, s. 775.0875, s. 794.023, or
266 any other law that provides an enhanced penalty for a felony
267 offense, to any offense listed in the offense severity ranking
268 chart in this section shall not cause the offense to become
269 unlisted and is not subject to the provisions of s. 921.0023.
270 (3) OFFENSE SEVERITY RANKING CHART
271 (a) LEVEL 1
272

Florida Statute	Felony Degree	Description
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2)(b)	3rd	Failure to remit sales taxes, amount $1,000 or more but less than $20,000.
316.1935(1)	3rd	Fleeing or attempting to elude law enforcement officer.

277

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

319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.
320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
322.212 (1)(a)-(c)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver license; possession of simulated identification.
322.212(4)	3rd	Supply or aid in supplying unauthorized driver license or identification card.
322.212(5)(a)	3rd	False application for driver license or identification card.
414.39(3)(a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value

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

		more than $200.
443.071(1)	3rd	False statement or representation to obtain or increase reemployment assistance benefits.
509.151(1)	3rd	Defraud an innkeeper, food or lodging value $1,000 or more.
517.302(1)	3rd	Violation of the Florida Securities and Investor Protection Act.
713.69	3rd	Tenant removes property upon which lien has accrued, value $1,000 or more.
812.014(3)(c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).
812.081(2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
815.04(5)(a)	3rd	Offense against intellectual

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

		property (i.e., computer programs, data).
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.
826.01	3rd	Bigamy.
828.122(3)	3rd	Fighting or baiting animals.
831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
832.041(1)	3rd	Stopping payment with intent to defraud $150 or more.

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

298

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.

299

838.15(2)	3rd	Commercial bribe receiving.

300

838.16	3rd	Commercial bribery.

301

843.18	3rd	Fleeing by boat to elude a law enforcement officer.

302

847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).

303

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.

304

849.23	3rd	Gambling-related machines; “common offender” as to property rights.

305

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

849.25(2)	3rd	Engaging in bookmaking.
860.08	3rd	Interfere with a railroad signal.
860.13(1)(a)	3rd	Operate aircraft while under the influence.
893.13(2)(a)2.	3rd	Purchase of cannabis.
893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.

(b) LEVEL 2

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.

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

379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413(6)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.
590.28(1)	3rd	Intentional burning of lands.
784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state

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

		limits.
806.13(1)(b)3.	3rd	Criminal mischief; damage $1,000 or more to public communication or any other public service.
810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; $750 or more but less than $5,000.
812.014(2)(d)	3rd	Grand theft, 3rd degree; $100 or more but less than $750, taken from unenclosed curtilage of dwelling.
812.015(7)	3rd	Possession, use, or attempted use of an

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

		antishoplifting or inventory control device countermeasure.
817.234(1)(a)2.	3rd	False statement in support of insurance claim.
817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over $300.
817.52(3)	3rd	Failure to redeliver hired vehicle.
817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
817.60(5)	3rd	Dealing in credit cards of another.
817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.

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

817.61	3rd	Fraudulent use of credit cards over $100 or more within 6 months.
826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
831.01	3rd	Forgery.
831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
831.11	3rd	Bringing into the state forged bank bills,

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

		checks, drafts, or notes.
832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
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.
893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.

(c) LEVEL 3

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.

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

349

316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.

350

316.193(2)(b)	3rd	Felony DUI, 3rd conviction.

351

316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.

352

319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.

353

319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.

354

319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.

355

319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or

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

		unlawfully obtained title or registration.
327.35(2)(b)	3rd	Felony BUI.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine

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

		turtle nests in violation of the Marine Turtle Protection Act.
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.
379.2431 (1)(e)7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
400.9935(4)(a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
400.9935(4)(e)	3rd	Filing a false license application or other required information or failing to report information.
440.1051(3)	3rd	False report of workers'

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

		compensation fraud or retaliation for making such a report.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than $20,000.
626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.

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

806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
812.0145(2)(c)	3rd	Theft from person 65 years of age or older; $300 or more but less than $10,000.
812.015(8)(b)	3rd	Retail theft with intent to sell; conspires with others.
815.04(5)(b)	2nd	Computer offense devised to defraud or obtain property.

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

817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.
817.234 (8)(b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
817.234(11)(a)	3rd	Insurance fraud; property value less than $20,000.
817.236	3rd	Filing a false motor vehicle insurance application.
817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
817.413(2)	3rd	Sale of used goods of $1,000 or more as new.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to

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

			defraud or possessing a counterfeit payment instrument with intent to defraud.
387	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
388	838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
389	843.19	2nd	Injure, disable, or kill police, fire, or SAR canine or police horse.
390	860.15(3)	3rd	Overcharging for repairs and parts.
391	870.01(2)	3rd	Riot; inciting or encouraging.
392	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.,

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

			(2)(c)10., (3), or (4) drugs).
393	893.13(1)(d)2.	2nd	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 university.
394	893.13(1)(f)2.	2nd	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.
395	893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other controlled substances.
396	893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of

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

		cannabis.
893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
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

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

		related to the practitioner's practice.
893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other 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.
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.
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.

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

407

944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.

408

985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).

409

410 (d) LEVEL 4

411

Florida Statute	Felony Degree	Description

412

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.

413

499.0051(1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.

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

414

499.0051(5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.

415

517.07(1)	3rd	Failure to register securities.

416

517.12(1)	3rd	Failure of dealer, associated person, or issuer of securities to register.

417

784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.

418

784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.

419

784.075	3rd	Battery on detention or commitment facility staff.

420

784.078	3rd	Battery of facility employee by throwing,

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

		tossing, or expelling certain fluids or materials.
784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
784.081(3)	3rd	Battery on specified official or employee.
784.082(3)	3rd	Battery by detained person on visitor or other detainee.
784.083(3)	3rd	Battery on code inspector.
784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
787.04(2)	3rd	Take, entice, or remove

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

		child beyond state limits with criminal intent pending custody 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.
787.07	3rd	Human smuggling.
790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
790.115(2)(c)	3rd	Possessing firearm on school property.
800.04(7)(c)	3rd	Lewd or lascivious

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

		exhibition; offender less than 18 years.
810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
810.06	3rd	Burglary; possession of tools.
810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
812.014(2)(c)3.	3rd	Grand theft, 3rd degree $10,000 or more but less than $20,000.
812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree; specified items.

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

812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen $300 or more.
817.505(4)(a)	3rd	Patient brokering.
817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
817.568(2)(a)	3rd	Fraudulent use of personal identification information.
817.625(2)(a)	3rd	Fraudulent use of scanning device, skimming device, or reencoder.
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

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

		registered horse or cattle.
837.02(1)	3rd	Perjury in official proceedings.
837.021(1)	3rd	Make contradictory statements in official proceedings.
838.022	3rd	Official misconduct.
839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
839.13(2)(c)	3rd	Falsifying records of the Department of Children and Families.
843.021	3rd	Possession of a concealed handcuff key by a person in custody.
843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of

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

		protection or communication.
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
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).
914.14(2)	3rd	Witnesses accepting bribes.
914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.

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

460

914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.

461

918.12	3rd	Tampering with jurors.

462

934.215	3rd	Use of two-way communications device to facilitate commission of a crime.

463

944.47(1)(a)6.	3rd	Introduction of contraband (cellular telephone or other portable communication device) into correctional institution.

464

951.22(1)(h), (j) & (k)	3rd	Intoxicating drug, instrumentality or other device to aid escape, or cellular telephone or other portable communication device introduced into county detention facility.

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

465
466 (e) LEVEL 5
467

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.

468
469
470
471
472
473

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

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.
379.367(4)	3rd	Willful molestation of a commercial harvester's

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

		spiny lobster trap, line, or buoy.
379.407(5)(b)3.	3rd	Possession of 100 or more undersized spiny lobsters.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
440.381(2)	3rd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
624.401(4)(b)2.	2nd	Transacting insurance

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

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

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

		electronic weapons or devices.
796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
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)(a) & (c)-(e)	3rd	Retail theft; property stolen is valued at $750 or more and one or more specified acts.

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

812.019(1)	2nd	Stolen property; dealing in or trafficking in.
812.131(2)(b)	3rd	Robbery by sudden snatching.
812.16(2)	3rd	Owning, operating, or conducting a chop shop.
817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to $50,000.
817.234(11)(b)	2nd	Insurance fraud; property value $20,000 or more but less than $100,000.
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.
817.568(2)(b)	2nd	Fraudulent use of personal identification

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

		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.
817.611(2)(a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards or related documents.
817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.
825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
827.071(4)	2nd	Possess with intent to promote any photographic

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

		material, motion picture, etc., which includes sexual conduct by a child.
827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
843.01	3rd	Resist officer with violence to person; resist arrest with violence.

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

847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
874.05(2)(a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a),

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

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

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

		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.
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.
893.13(4)(b)	2nd	Use or hire of minor; deliver to minor other controlled substance.
893.1351(1)	3rd	Ownership, lease, or rental for trafficking in or manufacturing of

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

controlled substance.

520

521 (f) LEVEL 6

522

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.
499.0051(3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.

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

528

499.0051(4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.

529

775.0875(1)	3rd	Taking firearm from law enforcement officer.

530

784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.

531

784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.

532

784.041	3rd	Felony battery; domestic battery by strangulation.

533

784.048(3)	3rd	Aggravated stalking; credible threat.

534

784.048(5)	3rd	Aggravated stalking of person under 16.

535

784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.

536

784.074(1)(b)	2nd	Aggravated assault on

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

		sexually violent predators facility staff.
784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
784.081(2)	2nd	Aggravated assault on specified official or employee.
784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
784.083(2)	2nd	Aggravated assault on code inspector.
787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
790.115(2)(d)	2nd	Discharging firearm or weapon on school property.

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

790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
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.
790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
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.
800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older

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

		but less than 16 years of age; offender less than 18 years.
800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
810.145(8)(b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
812.014(2)(b)1.	2nd	Property stolen $20,000 or more, but less than $100,000, grand theft in 2nd degree.
812.014(6)	2nd	Theft; property stolen $3,000 or more; coordination of others.

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

555

812.015(9)(a)	2nd	Retail theft; property stolen $750 or more; second or subsequent conviction.

556

812.015(9)(b)	2nd	Retail theft; aggregated property stolen within 30 days is $3,000 or more; coordination of others.

557

812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).

558

817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.

559

817.505(4)(b)	2nd	Patient brokering; 10 or more patients.

560

825.102(1)	3rd	Abuse of an elderly person or disabled adult.

561

825.102(3)(c)	3rd	Neglect of an elderly

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

		person or disabled adult.
825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
825.103(3)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than $10,000.
827.03(2)(c)	3rd	Abuse of a child.
827.03(2)(d)	3rd	Neglect of a child.
827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
836.05	2nd	Threats; extortion.
836.10	2nd	Written threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.

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

843.12	3rd	Aids or assists person to escape.
847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or

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

		inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
944.40	2nd	Escapes.
944.46	3rd	Harboring, concealing, aiding escaped prisoners.
944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
951.22(1)(i)	3rd	Firearm or weapon introduced into county detention facility.

(g) LEVEL 7

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving

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

		scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
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.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; $10,000 or less.

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

409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than $10,000, but less than $50,000.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.
462.17	3rd	Practicing naturopathy

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

		without a license.
463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(7)	3rd	Practicing medical physics without a license.

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

484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
484.053	3rd	Dispensing hearing aids without a license.
494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
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, currency or payment instruments exceeding $300 but less than $20,000.
655.50(10)(b)1.	3rd	Failure to report financial transactions

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

		exceeding $300 but less than $20,000 by financial institution.
775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of

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

		another (manslaughter).
782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.

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

621

784.048(7)	3rd	Aggravated stalking; violation of court order.

622

784.07(2)(d)	1st	Aggravated battery on law enforcement officer.

623

784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.

624

784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.

625

784.081(1)	1st	Aggravated battery on specified official or employee.

626

784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.

627

784.083(1)	1st	Aggravated battery on code inspector.

628

787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.

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

629

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.

630

790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).

631

790.16(1)	1st	Discharge of a machine gun under specified circumstances.

632

790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.

633

790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.

634

790.166(3)	2nd	Possessing, selling, using, or attempting to

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

		use a hoax weapon of mass destruction.
790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
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.
796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.

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

800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
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.
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.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.

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

810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
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.
812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than $50,000, grand theft in 2nd degree.
812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.

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

812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
812.0145(2)(a)	1st	Theft from person 65 years of age or older; $50,000 or more.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
817.034(4)(a)1.	1st	Communications fraud, value greater than $50,000.
817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.

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

658

817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.

659

817.234(11)(c)	1st	Insurance fraud; property value $100,000 or more.

660

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.

661

817.535(2)(a)	3rd	Filing false lien or other unauthorized document.

662

817.611(2)(b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.

663

825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm,

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

		disability, or disfigurement.
825.103(3)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $10,000 or more, but less than $50,000.
827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
838.015	2nd	Bribery.
838.016	2nd	Unlawful compensation or reward for official behavior.

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

670

838.021(3)(a)	2nd	Unlawful harm to a public servant.

671

838.22	2nd	Bid tampering.

672

843.0855(2)	3rd	Impersonation of a public officer or employee.

673

843.0855(3)	3rd	Unlawful simulation of legal process.

674

843.0855(4)	3rd	Intimidation of a public officer or employee.

675

847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.

676

847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.

677

872.06	2nd	Abuse of a dead human body.

678

874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a

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

		criminal gang; second or subsequent offense.
874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
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.
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

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

		(2)(c)5., within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)	1st	Use or hire of minor; deliver to minor other controlled substance.
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(c)2.a.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
893.135 (1)(c)2.b.	1st	Trafficking in hydrocodone, 50 grams or more, less than 100 grams.

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

893.135 (1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
893.135 (1)(c)3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
893.135 (1)(c)4.b.(I)	1st	Trafficking in fentanyl, 4 grams or more, less than 14 grams.
893.135 (1)(d)1.a.	1st	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, 14 grams or more, less than 28 grams.
893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.

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

893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135 (1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
893.135 (1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
893.135 (1)(m)2.a.	1st	Trafficking in synthetic cannabinoids, 280 grams or more, less than 500 grams.
893.135 (1)(m)2.b.	1st	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.
893.135 (1)(n)2.a.	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.

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

893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.
943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
943.0435(9)(a)	3rd	Sexual offender; failure

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

		to comply with reporting requirements.
943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

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

712

944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

713

985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.

714

985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

715

985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

716

717 (h) LEVEL 8

718

Florida Statute	Felony Degree	Description

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

719

316.193 (3)(c)3.a.	2nd	DUI manslaughter.

720

316.1935(4)(b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.

721

327.35(3)(c)3.	2nd	Vessel BUI manslaughter.

722

499.0051(6)	1st	Knowing trafficking in contraband prescription drugs.

723

499.0051(7)	1st	Knowing forgery of prescription labels or prescription drug labels.

724

560.123(8)(b)2.	2nd	Failure to report currency or payment instruments totaling or exceeding $20,000, but less than $100,000 by money transmitter.

725

560.125(5)(b)	2nd	Money transmitter business by unauthorized person, currency or

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

		payment instruments totaling or exceeding $20,000, but less than $100,000.
655.50(10)(b)2.	2nd	Failure to report financial transactions totaling or exceeding $20,000, but less than $100,000 by financial institutions.
777.03(2)(a)	1st	Accessory after the fact, capital felony.
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.
782.051(2)	1st	Attempted felony murder

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

		while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
782.071(1)(b)	1st	Committing vehicular homicide and failing to render aid or give information.
782.072(2)	1st	Committing vessel homicide and failing to render aid or give information.
787.06(3)(a)1.	1st	Human trafficking for labor and services of a child.
787.06(3)(b)	1st	Human trafficking using 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.

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

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.
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.
790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
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.
794.011(5)(b)	2nd	Sexual battery; victim

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

			and offender 18 years of age or older; offender does not use physical force likely to cause serious injury.
740			
	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.
741			
	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.
742			
	794.08(3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
743			
	800.04(4)(b)	2nd	Lewd or lascivious battery.

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

744

800.04(4)(c)	1st	Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.

745

806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.

746

810.02(2)(a)	1st,PBL	Burglary with assault or battery.

747

810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.

748

810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or $1,000 or more property damage.

749

812.014(2)(a)2.	1st	Property stolen; cargo valued at $50,000 or more, grand theft in 1st

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

		degree.
812.13(2)(b)	1st	Robbery with a weapon.
812.135(2)(c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
817.505(4)(c)	1st	Patient brokering; 20 or more patients.
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 employee.
817.535(4)(a)1.	2nd	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.
817.535(5)(a)	2nd	Filing false lien or

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

			other unauthorized document; owner of the property incurs financial loss as a result of the false instrument.
757	817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
758	817.611(2)(c)	1st	Traffic in or possess 50 or more counterfeit credit cards or related documents.
759	825.102(2)	1st	Aggravated abuse of an elderly person or disabled adult.
760	825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
761	825.103(3)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at $50,000 or more.

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

762

837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.

763

837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.

764

860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.

765

860.16	1st	Aircraft piracy.

766

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).

767

893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).

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

768

893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).

769

893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.

770

893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.

771

893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.

772

893.135 (1)(c)2.c.	1st	Trafficking in hydrocodone, 100 grams or more, less than 300 grams.

773

893.135 (1)(c)3.c.	1st	Trafficking in oxycodone, 25 grams or more, less than 100 grams.

774

893.135	1st	Trafficking in fentanyl,

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

(1)(c)4.b.(II)		14 grams or more, less than 28 grams.
893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, 200 grams or more, less than 400 grams.
893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, 5 kilograms or more, less than 25 kilograms.
893.135 (1)(f)1.b.	1st	Trafficking in amphetamine, 28 grams or more, less than 200 grams.
893.135 (1)(g)1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
893.135 (1)(h)1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.

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

893.135 (1)(j)1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
893.135 (1)(k)2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
893.135 (1)(m)2.c.	1st	Trafficking in synthetic cannabinoids, 1,000 grams or more, less than 30 kilograms.
893.135 (1)(n)2.b.	1st	Trafficking in n-benzyl phenethylamines, 100 grams or more, less than 200 grams.
893.1351(3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.

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

786

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

787

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

788

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

789

896.104(4)(a)2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding $20,000 but less than $100,000.

790

791 (i) LEVEL 9

792

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

24-00766-20 2020560__

Florida Statute	Felony Degree	Description
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 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.
560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or

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

		payment instruments totaling or exceeding $100,000.
655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding $100,000 by financial institution.
775.0844	1st	Aggravated white collar crime.
782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
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.
782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate

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

		a felony enumerated in s. 782.04(3).
782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
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 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.

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

787.06(3)(c)1.	1st	Human trafficking for labor and services of an unauthorized alien child.
787.06(3)(d)	1st	Human trafficking using coercion for commercial sexual activity of an unauthorized adult alien.
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.
790.161	1st	Attempted capital destructive device offense.
790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.

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

815

794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.

816

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.

817

794.011(4)(b)	1st	Sexual battery, certain circumstances; victim and offender 18 years of age or older.

818

794.011(4)(c)	1st	Sexual battery, certain circumstances; victim 12 years of age or older; offender younger than 18 years.

819

794.011(4)(d)	1st,PBL	Sexual battery, certain circumstances; victim 12 years of age or older; prior conviction for

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

		specified sex offenses.
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.
794.08(2)	1st	Female genital mutilation; victim younger than 18 years of age.
800.04(5)(b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
812.135(2)(b)	1st	Home-invasion robbery with weapon.
817.535(3)(b)	1st	Filing false lien or other unauthorized

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

		document; second or subsequent offense; property owner is a public officer or employee.
827		
817.535(4)(a)2.	1st	Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.
828		
817.535(5)(b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; owner of the property incurs financial loss as a result of the false instrument.
829		
817.568(7)	2nd, PBL	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.

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

830

827.03(2)(a)	1st	Aggravated child abuse.

831

847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.

832

847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.

833

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.

834

893.135	1st	Attempted capital trafficking offense.

835

893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.

836

893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.

837

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

893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135 (1)(c)2.d.	1st	Trafficking in hydrocodone, 300 grams or more, less than 30 kilograms.
893.135 (1)(c)3.d.	1st	Trafficking in oxycodone, 100 grams or more, less than 30 kilograms.
893.135 (1)(c)4.b.(III)	1st	Trafficking in fentanyl, 28 grams or more.
893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, 400 grams or more.
893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, 25 kilograms or more.
893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, 200 grams or more.

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

893.135 (1)(h)1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
893.135 (1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
893.135 (1)(k)2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
893.135 (1)(m)2.d.	1st	Trafficking in synthetic cannabinoids, 30 kilograms or more.
893.135 (1)(n)2.c.	1st	Trafficking in n-benzyl phenethylamines, 200 grams or more.
896.101(5)(c)	1st	Money laundering, financial instruments totaling or exceeding $100,000.
896.104(4)(a)3.	1st	Structuring transactions to evade reporting or registration

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

		requirements, financial transactions totaling or exceeding $100,000.

851

852 (j) LEVEL 10

853

Florida Statute	Felony Degree	Description
499.0051(9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in death.
782.04(2)	1st,PBL	Unlawful killing of human; act is homicide, unpremeditated.
782.07(3)	1st	Aggravated manslaughter of a child.
787.01(1)(a)3.	1st,PBL	Kidnapping; inflict bodily harm upon or terrorize victim.
787.01(3)(a)	Life	Kidnapping; child under age 13, perpetrator also commits aggravated child abuse, sexual battery,

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

		or lewd or lascivious battery, molestation, conduct, or exhibition.
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.
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.
812.135(2)(a)	1st,PBL	Home-invasion robbery with firearm or other deadly weapon.
876.32	1st	Treason against the state.

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

865 Section 10. Section 921.0023, Florida Statutes, is amended
866 to read:
867 921.0023 Public Safety ~~Criminal Punishment~~ Code; ranking
868 unlisted felony offenses.—A felony offense committed on or after
869 October 1, 1998, that is not listed in s. 921.0022 is ranked
870 with respect to offense severity level by the Legislature,
871 commensurate with the harm or potential harm that is caused by
872 the offense to the community. Until the Legislature specifically
873 assigns an offense to a severity level in the offense severity
874 ranking chart, the severity level is within the following
875 parameters:
876 (1) A felony of the third degree within offense level 1.
877 (2) A felony of the second degree within offense level 4.
878 (3) A felony of the first degree within offense level 7.
879 (4) A felony of the first degree punishable by life within
880 offense level 9.
881 (5) A life felony within offense level 10.
882 Section 11. Section 921.0024, Florida Statutes, is amended
883 to read:
884 921.0024 Public Safety ~~Criminal Punishment~~ Code; worksheet
885 computations; scoresheets.—
886 (1)(a) The Public Safety ~~Criminal Punishment~~ Code worksheet
887 is used to compute the subtotal and total sentence points as
888 follows:
889
890 FLORIDA PUBLIC SAFETY ~~CRIMINAL PUNISHMENT~~ CODE
891 WORKSHEET
892
893 OFFENSE SCORE

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

894

Primary Offense

895

Level	Sentence Points		Total
10	116	=	.....
9	92	=	.....
8	74	=	.....
7	56	=	.....
6	36	=	.....
5	28	=	.....
4	22	=	.....
3	16	=	.....
2	10	=	.....
1	4	=	.....

896 897 898 899 900 901 902 903 904 905 906

907

Total

908

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

909

Additional Offenses

910

Level	Sentence Points		Counts		Total
10	58	x	....	=	....
9	46	x	....	=	....
8	37	x	....	=	....
7	28	x	....	=	....
6	18	x	....	=	....
5	5.4	x	....	=	....
4	3.6	x	....	=	....
3	2.4	x	....	=	....
2	1.2	x	....	=	....
1	0.7	x	....	=	....
M	0.2	x	....	=	....

911 912 913 914 915 916 917 918 919 920 921 922 923

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

Total

924
925

Victim Injury

926

Level	Sentence Points		Number		Total
2nd degree murder-death	240	x	....	=	....
Death	120	x	....	=	....
Severe	40	x	....	=	....
Moderate	18	x	....	=	....
Slight	4	x	....	=	....
Sexual penetration	80	x	....	=	....
Sexual contact	40	x	....	=	....

927
928
929
930
931
932
933
934
935

Total

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

936
937 Primary Offense + Additional Offenses + Victim Injury =
938 TOTAL OFFENSE SCORE
939
940 PRIOR RECORD SCORE
941
Prior Record
942

Level	Sentence Points		Number		Total
943					
10	29	x	....	=	....
944					
9	23	x	....	=	....
945					
8	19	x	....	=	....
946					
7	14	x	....	=	....
947					
6	9	x	....	=	....
948					
5	3.6	x	....	=	....
949					
4	2.4	x	....	=	....
950					
3	1.6	x	....	=	....
951					
2	0.8	x	....	=	....
952					
1	0.5	x	....	=	....

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

24-00766-20 2020560__

953

M 0.2 x .... = ...

954

955

Total

956

957 TOTAL OFFENSE SCORE.....

958 TOTAL PRIOR RECORD SCORE.....

959

960 LEGAL STATUS.....

961 COMMUNITY SANCTION VIOLATION.....

962 PRIOR SERIOUS FELONY.....

963 PRIOR CAPITAL FELONY.....

964 FIREARM OR SEMIAUTOMATIC WEAPON.....

965 SUBTOTAL.....

966

967 PRISON RELEASEE REOFFENDER (no)(yes).....

968 VIOLENT CAREER CRIMINAL (no)(yes).....

969 HABITUAL VIOLENT OFFENDER (no)(yes).....

970 HABITUAL OFFENDER (no)(yes).....

971 DRUG TRAFFICKER (no)(yes) (x multiplier).....

972 LAW ENF. PROTECT. (no)(yes) (x multiplier).....

973 MOTOR VEHICLE THEFT (no)(yes) (x multiplier).....

974 CRIMINAL GANG OFFENSE (no)(yes) (x multiplier).....

975 DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD (no)(yes)

976 (x multiplier).....

977 ADULT-ON-MINOR SEX OFFENSE (no)(yes) (x multiplier).....

978 .....

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

979 TOTAL SENTENCE POINTS.....
980
981 (b) WORKSHEET KEY:
982
983 Legal status points are assessed when any form of legal status
984 existed at the time the offender committed an offense before the
985 court for sentencing. Four (4) sentence points are assessed for
986 an offender's legal status.
987
988 Community sanction violation points are assessed when a
989 community sanction violation is before the court for sentencing.
990 Six (6) sentence points are assessed for each community sanction
991 violation and each successive community sanction violation,
992 unless any of the following apply:
993 1. If the community sanction violation includes a new
994 felony conviction before the sentencing court, twelve (12)
995 community sanction violation points are assessed for the
996 violation, and for each successive community sanction violation
997 involving a new felony conviction.
998 2. If the community sanction violation is committed by a
999 violent felony offender of special concern as defined in s.
1000 948.06:
1001 a. Twelve (12) community sanction violation points are
1002 assessed for the violation and for each successive violation of
1003 felony probation or community control where:
1004 I. The violation does not include a new felony conviction;
1005 and
1006 II. The community sanction violation is not based solely on
1007 the probationer or offender's failure to pay costs or fines or

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

1008 make restitution payments.
1009 b. Twenty-four (24) community sanction violation points are
1010 assessed for the violation and for each successive violation of
1011 felony probation or community control where the violation
1012 includes a new felony conviction.
1013
1014 Multiple counts of community sanction violations before the
1015 sentencing court shall not be a basis for multiplying the
1016 assessment of community sanction violation points.
1017
1018 Prior serious felony points: If the offender has a primary
1019 offense or any additional offense ranked in level 8, level 9, or
1020 level 10, and one or more prior serious felonies, a single
1021 assessment of thirty (30) points shall be added. For purposes of
1022 this section, a prior serious felony is an offense in the
1023 offender’s prior record that is ranked in level 8, level 9, or
1024 level 10 under s. 921.0022 or s. 921.0023 and for which the
1025 offender is serving a sentence of confinement, supervision, or
1026 other sanction or for which the offender’s date of release from
1027 confinement, supervision, or other sanction, whichever is later,
1028 is within 3 years before the date the primary offense or any
1029 additional offense was committed.
1030
1031 Prior capital felony points: If the offender has one or more
1032 prior capital felonies in the offender’s criminal record, points
1033 shall be added to the subtotal sentence points of the offender
1034 equal to twice the number of points the offender receives for
1035 the primary offense and any additional offense. A prior capital
1036 felony in the offender’s criminal record is a previous capital

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

1037 felony offense for which the offender has entered a plea of nolo
1038 contendere or guilty or has been found guilty; or a felony in
1039 another jurisdiction which is a capital felony in that
1040 jurisdiction, or would be a capital felony if the offense were
1041 committed in this state.
1042
1043 Possession of a firearm, semiautomatic firearm, or machine gun:
1044 If the offender is convicted of committing or attempting to
1045 commit any felony other than those enumerated in s. 775.087(2)
1046 while having in his or her possession: a firearm as defined in
1047 s. 790.001(6), an additional eighteen (18) sentence points are
1048 assessed; or if the offender is convicted of committing or
1049 attempting to commit any felony other than those enumerated in
1050 s. 775.087(3) while having in his or her possession a
1051 semiautomatic firearm as defined in s. 775.087(3) or a machine
1052 gun as defined in s. 790.001(9), an additional twenty-five (25)
1053 sentence points are assessed.
1054
1055 Sentencing multipliers:
1056
1057 Drug trafficking: If the primary offense is drug trafficking
1058 under s. 893.135, the subtotal sentence points are multiplied,
1059 at the discretion of the court, for a level 7 or level 8
1060 offense, by 1.5. The state attorney may move the sentencing
1061 court to reduce or suspend the sentence of a person convicted of
1062 a level 7 or level 8 offense, if the offender provides
1063 substantial assistance as described in s. 893.135(4).
1064
1065 Law enforcement protection: If the primary offense is a

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

1066 violation of the Law Enforcement Protection Act under s.
1067 775.0823(2), (3), or (4), the subtotal sentence points are
1068 multiplied by 2.5. If the primary offense is a violation of s.
1069 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
1070 are multiplied by 2.0. If the primary offense is a violation of
1071 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
1072 Protection Act under s. 775.0823(10) or (11), the subtotal
1073 sentence points are multiplied by 1.5.
1074
1075 Grand theft of a motor vehicle: If the primary offense is grand
1076 theft of the third degree involving a motor vehicle and in the
1077 offender’s prior record, there are three or more grand thefts of
1078 the third degree involving a motor vehicle, the subtotal
1079 sentence points are multiplied by 1.5.
1080
1081 Offense related to a criminal gang: If the offender is convicted
1082 of the primary offense and committed that offense for the
1083 purpose of benefiting, promoting, or furthering the interests of
1084 a criminal gang as defined in s. 874.03, the subtotal sentence
1085 points are multiplied by 1.5. If applying the multiplier results
1086 in the lowest permissible sentence exceeding the statutory
1087 maximum sentence for the primary offense under chapter 775, the
1088 court may not apply the multiplier and must sentence the
1089 defendant to the statutory maximum sentence.
1090
1091 Domestic violence in the presence of a child: If the offender is
1092 convicted of the primary offense and the primary offense is a
1093 crime of domestic violence, as defined in s. 741.28, which was
1094 committed in the presence of a child under 16 years of age who

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

1095 is a family or household member as defined in s. 741.28(3) with
1096 the victim or perpetrator, the subtotal sentence points are
1097 multiplied by 1.5.
1098
1099 Adult-on-minor sex offense: If the offender was 18 years of age
1100 or older and the victim was younger than 18 years of age at the
1101 time the offender committed the primary offense, and if the
1102 primary offense was an offense committed on or after October 1,
1103 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the
1104 violation involved a victim who was a minor and, in the course
1105 of committing that violation, the defendant committed a sexual
1106 battery under chapter 794 or a lewd act under s. 800.04 or s.
1107 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.
1108 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
1109 800.04; or s. 847.0135(5), the subtotal sentence points are
1110 multiplied by 2.0. If applying the multiplier results in the
1111 lowest permissible sentence exceeding the statutory maximum
1112 sentence for the primary offense under chapter 775, the court
1113 may not apply the multiplier and must sentence the defendant to
1114 the statutory maximum sentence.
1115 (2) The lowest permissible sentence is the minimum sentence
1116 that may be imposed by the trial court, absent a valid reason
1117 for departure. The lowest permissible sentence is any nonstate
1118 prison sanction in which the total sentence points equals or is
1119 less than 44 points, unless the court determines within its
1120 discretion that a prison sentence, which may be up to the
1121 statutory maximums for the offenses committed, is appropriate.
1122 When the total sentence points exceeds 44 points, the lowest
1123 permissible sentence in prison months shall be calculated by

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

1124 subtracting 28 points from the total sentence points and
1125 decreasing the remaining total by 25 percent. The total sentence
1126 points shall be calculated only as a means of determining the
1127 lowest permissible sentence. The permissible range for
1128 sentencing shall be the lowest permissible sentence up to and
1129 including the statutory maximum, as defined in s. 775.082, for
1130 the primary offense and any additional offenses before the court
1131 for sentencing. The sentencing court may impose such sentences
1132 concurrently or consecutively. However, any sentence to state
1133 prison must exceed 1 year. If the lowest permissible sentence
1134 under the code exceeds the statutory maximum sentence as
1135 provided in s. 775.082, the sentence required by the code must
1136 be imposed. If the total sentence points are greater than or
1137 equal to 363, the court may sentence the offender to life
1138 imprisonment. An offender sentenced to life imprisonment under
1139 this section is not eligible for any form of discretionary early
1140 release, except executive clemency or conditional medical
1141 release under s. 947.149.
1142 (3) A single digitized scoresheet shall be prepared for
1143 each defendant to determine the permissible range for the
1144 sentence that the court may impose, except that if the defendant
1145 is before the court for sentencing for more than one felony and
1146 the felonies were committed under more than one version or
1147 revision of the guidelines or the code, separate digitized
1148 scoresheets must be prepared. The scoresheet or scoresheets must
1149 cover all the defendant’s offenses pending before the court for
1150 sentencing. The state attorney shall prepare the digitized
1151 scoresheet or scoresheets, which must be presented to the
1152 defense counsel for review for accuracy in all cases unless the

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

1153 judge directs otherwise. The defendant's scoresheet or
1154 scoresheets must be approved and signed by the sentencing judge.
1155 (4) The Department of Corrections, in consultation with the
1156 Office of the State Courts Administrator, state attorneys, and
1157 public defenders, must develop and submit the revised digitized
1158 Public Safety ~~Criminal Punishment~~ Code scoresheet to the Supreme
1159 Court for approval by June 15 of each year, as necessary. The
1160 digitized scoresheet shall have individual, structured data
1161 cells for each data field on the scoresheet. Upon the Supreme
1162 Court's approval of the revised digitized scoresheet, the
1163 Department of Corrections shall produce and provide the revised
1164 digitized scoresheets by September 30 of each year, as
1165 necessary. Digitized scoresheets must include individual data
1166 cells to indicate whether any prison sentence imposed includes a
1167 mandatory minimum sentence or the sentence imposed was a
1168 downward departure from the lowest permissible sentence under
1169 the Public Safety ~~Criminal Punishment~~ Code.
1170 (5) The Department of Corrections shall make available the
1171 digitized Public Safety ~~Criminal Punishment~~ Code scoresheets to
1172 those persons charged with the responsibility for preparing
1173 scoresheets.
1174 (6) The clerk of the circuit court shall transmit a
1175 complete and accurate digitized copy of the Public Safety
1176 ~~Criminal Punishment~~ Code scoresheet used in each sentencing
1177 proceeding to the Department of Corrections. Scoresheets must be
1178 electronically transmitted no less frequently than monthly, by
1179 the first of each month, and may be sent collectively.
1180 (7) A digitized sentencing scoresheet must be prepared for
1181 every defendant who is sentenced for a felony offense. The

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

1182 individual offender's digitized Public Safety ~~Criminal~~
1183 ~~Punishment~~ Code scoresheet and any attachments thereto prepared
1184 pursuant to Rule 3.701, Rule 3.702, or Rule 3.703, Florida Rules
1185 of Criminal Procedure, or any other rule pertaining to the
1186 preparation and submission of felony sentencing scoresheets,
1187 must be included with the uniform judgment and sentence form
1188 provided to the Department of Corrections.
1189 Section 12. Section 921.0025, Florida Statutes, is amended
1190 to read:
1191 921.0025 Adoption and implementation of revised sentencing
1192 scoresheets.—Rules 3.701, 3.702, 3.703, and 3.988, Florida Rules
1193 of Criminal Procedure, as revised by the Supreme Court, and any
1194 other rule pertaining to the preparation and submission of
1195 felony sentencing scoresheets, are adopted and implemented in
1196 accordance with this chapter for application to the Public
1197 Safety ~~Criminal Punishment~~ Code.
1198 Section 13. Paragraph (m) of subsection (2) of section
1199 921.0026, Florida Statutes, is amended to read:
1200 921.0026 Mitigating circumstances.—This section applies to
1201 any felony offense, except any capital felony, committed on or
1202 after October 1, 1998.
1203 (2) Mitigating circumstances under which a departure from
1204 the lowest permissible sentence is reasonably justified include,
1205 but are not limited to:
1206 (m) The defendant's offense is a nonviolent felony, the
1207 defendant's Public Safety ~~Criminal Punishment~~ Code scoresheet
1208 total sentence points under s. 921.0024 are 60 points or fewer,
1209 and the court determines that the defendant is amenable to the
1210 services of a postadjudicatory treatment-based drug court

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

1211 program and is otherwise qualified to participate in the program
1212 as part of the sentence. For purposes of this paragraph, the
1213 term "nonviolent felony" has the same meaning as provided in s.
1214 948.08(6).
1215 Section 14. Section 921.0027, Florida Statutes, is amended
1216 to read:
1217 921.0027 Public Safety ~~Criminal Punishment~~ Code and
1218 revisions; applicability.—The Florida Public Safety ~~Criminal~~
1219 ~~Punishment~~ Code applies to all felonies, except capital
1220 felonies, committed on or after October 1, 1998. Any revision to
1221 the Public Safety ~~Criminal Punishment~~ Code applies to sentencing
1222 for all felonies, except capital felonies, committed on or after
1223 the effective date of the revision. Felonies, except capital
1224 felonies, with continuing dates of enterprise shall be sentenced
1225 under the Public Safety ~~Criminal Punishment~~ Code in effect on
1226 the beginning date of the criminal activity.
1227 Section 15. Subsection (1) of section 924.06, Florida
1228 Statutes, is amended to read:
1229 924.06 Appeal by defendant.—
1230 (1) A defendant may appeal from:
1231 (a) A final judgment of conviction when probation has not
1232 been granted under chapter 948, except as provided in subsection
1233 (3);
1234 (b) An order granting probation under chapter 948;
1235 (c) An order revoking probation under chapter 948;
1236 (d) A sentence, on the ground that it is illegal; or
1237 (e) A sentence imposed under s. 921.0024 of the Public
1238 Safety ~~Criminal Punishment~~ Code which exceeds the statutory
1239 maximum penalty provided in s. 775.082 for an offense at

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

1240 conviction, or the consecutive statutory maximums for offenses
1241 at conviction, unless otherwise provided by law.
1242 Section 16. Paragraph (i) of subsection (1) of section
1243 924.07, Florida Statutes, is amended to read:
1244 924.07 Appeal by state.—
1245 (1) The state may appeal from:
1246 (i) A sentence imposed below the lowest permissible
1247 sentence established by the Public Safety ~~Criminal Punishment~~
1248 Code under chapter 921.
1249 Section 17. Paragraph (c) of subsection (3) and paragraph
1250 (e) of subsection (5) of section 944.17, Florida Statutes, are
1251 amended to read:
1252 944.17 Commitments and classification; transfers.—
1253 (3)
1254 (c)1. When the highest ranking offense for which the
1255 prisoner is convicted is a felony, the trial court shall
1256 sentence the prisoner pursuant to the Public Safety ~~Criminal~~
1257 ~~Punishment~~ Code in chapter 921.
1258 2. When the highest ranking offense for which the prisoner
1259 is convicted is a misdemeanor, the trial court shall sentence
1260 the prisoner pursuant to s. 775.082(4).
1261 (5) The department shall also refuse to accept a person
1262 into the state correctional system unless the following
1263 documents are presented in a completed form by the sheriff or
1264 chief correctional officer, or a designated representative, to
1265 the officer in charge of the reception process. The department
1266 may, at its discretion, receive such documents electronically:
1267 (e) A copy of the Public Safety ~~Criminal Punishment~~ Code
1268 scoresheet and any attachments thereto prepared pursuant to Rule

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

1269 3.701, Rule 3.702, or Rule 3.703, Florida Rules of Criminal
1270 Procedure, or any other rule pertaining to the preparation of
1271 felony sentencing scoresheets.
1272
1273 In addition, the sheriff or other officer having such person in
1274 charge shall also deliver with the foregoing documents any
1275 available presentence investigation reports as described in s.
1276 921.231 and any attached documents. After a prisoner is admitted
1277 into the state correctional system, the department may request
1278 such additional records relating to the prisoner as it considers
1279 necessary from the clerk of the court, the Department of
1280 Children and Families, or any other state or county agency for
1281 the purpose of determining the prisoner's proper custody
1282 classification, gain-time eligibility, or eligibility for early
1283 release programs. An agency that receives such a request from
1284 the department must provide the information requested. The
1285 department may, at its discretion, receive such information
1286 electronically.
1287 Section 18. Paragraph (a) of subsection (7) of section
1288 948.01, Florida Statutes, is amended to read:
1289 948.01 When court may place defendant on probation or into
1290 community control.—
1291 (7)(a) Notwithstanding s. 921.0024 and effective for
1292 offenses committed on or after July 1, 2009, the sentencing
1293 court may place the defendant into a postadjudicatory treatment-
1294 based drug court program if the defendant's Public Safety
1295 ~~Criminal Punishment~~ Code scoresheet total sentence points under
1296 s. 921.0024 are 60 points or fewer, the offense is a nonviolent
1297 felony, the defendant is amenable to substance abuse treatment,

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

1298 and the defendant otherwise qualifies under s. 397.334(3). The
1299 satisfactory completion of the program shall be a condition of
1300 the defendant's probation or community control. As used in this
1301 subsection, the term "nonviolent felony" means a third degree
1302 felony violation under chapter 810 or any other felony offense
1303 that is not a forcible felony as defined in s. 776.08.
1304 Section 19. Section 948.015, Florida Statutes, is amended
1305 to read:
1306 948.015 Presentence investigation reports.—The circuit
1307 court, when the defendant in a criminal case has been found
1308 guilty or has entered a plea of nolo contendere or guilty and
1309 has a lowest permissible sentence under the Public Safety
1310 ~~Criminal Punishment~~ Code of any nonstate prison sanction, may
1311 refer the case to the department for investigation or
1312 recommendation. Upon such referral, the department shall make
1313 the following report in writing at a time specified by the court
1314 prior to sentencing. The full report shall include:
1315 (1) A complete description of the situation surrounding the
1316 criminal activity with which the offender has been charged,
1317 including a synopsis of the trial transcript, if one has been
1318 made; nature of the plea agreement, including the number of
1319 counts waived, the pleas agreed upon, the sentence agreed upon,
1320 and any additional terms of agreement; and, at the offender's
1321 discretion, his or her version and explanation of the criminal
1322 activity.
1323 (2) The offender's sentencing status, including whether the
1324 offender is a first offender, a habitual or violent offender, a
1325 youthful offender, or is currently on probation.
1326 (3) The offender's prior record of arrests and convictions.

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

1327 (4) The offender’s educational background.
1328 (5) The offender’s employment background, including any
1329 military record, present employment status, and occupational
1330 capabilities.
1331 (6) The offender’s financial status, including total
1332 monthly income and estimated total debts.
1333 (7) The social history of the offender, including his or
1334 her family relationships, marital status, interests, and
1335 activities.
1336 (8) The residence history of the offender.
1337 (9) The offender’s medical history and, as appropriate, a
1338 psychological or psychiatric evaluation.
1339 (10) Information about the environments to which the
1340 offender might return or to which the offender could be sent
1341 should a sentence of nonincarceration or community supervision
1342 be imposed by the court, and consideration of the offender’s
1343 plan concerning employment supervision and treatment.
1344 (11) Information about any resources available to assist
1345 the offender, such as:
1346 (a) Treatment centers.
1347 (b) Residential facilities.
1348 (c) Career training programs.
1349 (d) Special education programs.
1350 (e) Services that may preclude or supplement commitment to
1351 the department.
1352 (12) The views of the person preparing the report as to the
1353 offender’s motivations and ambitions and an assessment of the
1354 offender’s explanations for his or her criminal activity.
1355 (13) An explanation of the offender’s criminal record, if

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

1356 any, including his or her version and explanation of any
1357 previous offenses.
1358 (14) A statement regarding the extent of any victim's loss
1359 or injury.
1360 (15) A recommendation as to disposition by the court. The
1361 department shall make a written determination as to the reasons
1362 for its recommendation, and shall include an evaluation of the
1363 following factors:
1364 (a) The appropriateness or inappropriateness of community
1365 facilities, programs, or services for treatment or supervision
1366 for the offender.
1367 (b) The ability or inability of the department to provide
1368 an adequate level of supervision for the offender in the
1369 community and a statement of what constitutes an adequate level
1370 of supervision.
1371 (c) The existence of other treatment modalities which the
1372 offender could use but which do not exist at present in the
1373 community.
1374 Section 20. Paragraph (j) of subsection (2) of section
1375 948.06, Florida Statutes, is amended to read:
1376 948.06 Violation of probation or community control;
1377 revocation; modification; continuance; failure to pay
1378 restitution or cost of supervision.—
1379 (2)
1380 (j)1. Notwithstanding s. 921.0024 and effective for
1381 offenses committed on or after July 1, 2009, the court may order
1382 the defendant to successfully complete a postadjudicatory
1383 treatment-based drug court program if:
1384 a. The court finds or the offender admits that the offender

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

1385 has violated his or her community control or probation;
1386 b. The offender's Public Safety ~~Criminal Punishment~~ Code
1387 scoresheet total sentence points under s. 921.0024 are 60 points
1388 or fewer after including points for the violation;
1389 c. The underlying offense is a nonviolent felony. As used
1390 in this subsection, the term "nonviolent felony" means a third
1391 degree felony violation under chapter 810 or any other felony
1392 offense that is not a forcible felony as defined in s. 776.08;
1393 d. The court determines that the offender is amenable to
1394 the services of a postadjudicatory treatment-based drug court
1395 program;
1396 e. The court has explained the purpose of the program to
1397 the offender and the offender has agreed to participate; and
1398 f. The offender is otherwise qualified to participate in
1399 the program under the provisions of s. 397.334(3).
1400 2. After the court orders the modification of community
1401 control or probation, the original sentencing court shall
1402 relinquish jurisdiction of the offender's case to the
1403 postadjudicatory treatment-based drug court program until the
1404 offender is no longer active in the program, the case is
1405 returned to the sentencing court due to the offender's
1406 termination from the program for failure to comply with the
1407 terms thereof, or the offender's sentence is completed.
1408 Section 21. Subsection (1) of section 948.20, Florida
1409 Statutes, is amended to read:
1410 948.20 Drug offender probation.—
1411 (1) If it appears to the court upon a hearing that the
1412 defendant is a chronic substance abuser whose criminal conduct
1413 is a violation of s. 893.13(2)(a) or (6)(a), or other nonviolent

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

1414 felony if such nonviolent felony is committed on or after July
1415 1, 2009, and notwithstanding s. 921.0024, the defendant's Public
1416 Safety ~~Criminal Punishment~~ Code scoresheet total sentence points
1417 are 60 points or fewer, the court may either adjudge the
1418 defendant guilty or stay and withhold the adjudication of guilt.
1419 In either case, the court may also stay and withhold the
1420 imposition of sentence and place the defendant on drug offender
1421 probation or into a postadjudicatory treatment-based drug court
1422 program if the defendant otherwise qualifies. As used in this
1423 section, the term "nonviolent felony" means a third degree
1424 felony violation under chapter 810 or any other felony offense
1425 that is not a forcible felony as defined in s. 776.08.
1426 Section 22. Paragraph (c) of subsection (2) of section
1427 948.51, Florida Statutes, is amended to read:
1428 948.51 Community corrections assistance to counties or
1429 county consortiums.—
1430 (2) ELIGIBILITY OF COUNTIES AND COUNTY CONSORTIUMS.—A
1431 county, or a consortium of two or more counties, may contract
1432 with the Department of Corrections for community corrections
1433 funds as provided in this section. In order to enter into a
1434 community corrections partnership contract, a county or county
1435 consortium must have a public safety coordinating council
1436 established under s. 951.26 and must designate a county officer
1437 or agency to be responsible for administering community
1438 corrections funds received from the state. The public safety
1439 coordinating council shall prepare, develop, and implement a
1440 comprehensive public safety plan for the county, or the
1441 geographic area represented by the county consortium, and shall
1442 submit an annual report to the Department of Corrections

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

1443 concerning the status of the program. In preparing the
1444 comprehensive public safety plan, the public safety coordinating
1445 council shall cooperate with the juvenile justice circuit
1446 advisory board established under s. 985.664 in order to include
1447 programs and services for juveniles in the plan. To be eligible
1448 for community corrections funds under the contract, the initial
1449 public safety plan must be approved by the governing board of
1450 the county, or the governing board of each county within the
1451 consortium, and the Secretary of Corrections based on the
1452 requirements of this section. If one or more other counties
1453 develop a unified public safety plan, the public safety
1454 coordinating council shall submit a single application to the
1455 department for funding. Continued contract funding shall be
1456 pursuant to subsection (5). The plan for a county or county
1457 consortium must cover at least a 5-year period and must include:
1458 (c) Specific goals and objectives for reducing the
1459 projected percentage of commitments to the state prison system
1460 of persons with low total sentencing scores pursuant to the
1461 Public Safety ~~Criminal Punishment~~ Code.
1462 Section 23. Subsection (3) of section 958.04, Florida
1463 Statutes, is amended to read:
1464 958.04 Judicial disposition of youthful offenders.—
1465 (3) The provisions of this section shall not be used to
1466 impose a greater sentence than the permissible sentence range as
1467 established by the Public Safety ~~Criminal Punishment~~ Code
1468 pursuant to chapter 921 unless reasons are explained in writing
1469 by the trial court judge which reasonably justify departure. A
1470 sentence imposed outside of the code is subject to appeal
1471 pursuant to s. 924.06 or s. 924.07.

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

1472 Section 24. Subsection (4) of section 985.465, Florida
1473 Statutes, is amended to read:
1474 985.465 Juvenile correctional facilities or juvenile
1475 prison.—A juvenile correctional facility or juvenile prison is a
1476 physically secure residential commitment program with a
1477 designated length of stay from 18 months to 36 months, primarily
1478 serving children 13 years of age to 19 years of age or until the
1479 jurisdiction of the court expires. Each child committed to this
1480 level must meet one of the following criteria:
1481 (4) The child is at least 13 years of age at the time of
1482 the disposition for the current offense, the child is eligible
1483 for prosecution as an adult for the current offense, and the
1484 current offense is ranked at level 7 or higher on the Public
1485 Safety ~~Criminal Punishment~~ Code offense severity ranking chart
1486 pursuant to s. 921.0022.
1487 Section 25. This act shall take effect July 1, 2020.

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

S00560
GENERAL BILL by Brandes; (CO-INTRODUCERS) Perry;
Sentencing. EFFECTIVE DATE: 07/01/2020.
11/12/19 S Now in Appropriations Subcommittee on Criminal and Civil Justice
01/14/20 S Introduced -SJ 43
01/17/20 S On Committee agenda-- Appropriations Subcommittee on Criminal and Civil Justice, 01/22/20, 1:30 pm, 37 Senate Building

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.)

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

BILL: CS/SB 574

INTRODUCER: Criminal Justice Committee; and Senators Brandes and Perry

SUBJECT: Conditional Aging Inmate Release

DATE: January 22, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cox	Jones	CJ	**Fav/CS**
2.	Forbes	Jameson	ACJ	**Pre-meeting**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 574 creates section 945.0912, Florida Statutes, to establish a conditional aging inmate release (CAIR) program within the Department of Corrections (DOC) with the purpose of determining whether such release is appropriate for eligible inmates, supervising the released inmates, and conducting revocation hearings.

The bill provides that an inmate is eligible for consideration for release under the CAIR program when the inmate has reached 70 years of age and has served at least 10 years on his or her term of imprisonment. The bill prohibits an inmate from being considered for release through the CAIR program if he or she has ever been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent for committing specified offenses.

The DOC must identify inmates who may be eligible for CAIR and, upon such identification, the DOC must refer such inmate to a panel, appointed by the Secretary for review and determination of release.

The panel must conduct a hearing to determine, by a majority, whether CAIR is appropriate for the inmate within 45 days after receiving the referral. The bill creates a process for an inmate who is denied CAIR by the panel to have the decision reviewed. The Secretary has the final decision about the appropriateness of the release on CAIR. If CAIR is approved, the inmate must

be released by the DOC to the community within a reasonable amount of time and is considered an aging releasee upon release to the community.

The bill requires that an inmate granted CAIR be released for a period equal to the length of time remaining on his or her term of imprisonment on the date the release is granted and to comply with all conditions of release the DOC imposes.

The bill establishes a specific process for the revocation of an aging releasee and provides that revocation may be based on the violation of any release conditions the DOC establishes, including, but not limited to, a new violation of law. Additionally, the bill authorizes the aging releasee to be detained when it is alleged that he or she has violated the conditions of the release, specifies a hearing process if the aging releasee elects to proceed with a revocation hearing, provides for the recommitment of an aging releasee whose CAIR has been revoked, and permits forfeiture of gain-time in certain instances.

As is provided for with the initial determination, the bill authorizes an aging releasee whose CAIR is revoked to have the revocation decision reviewed.

The bill authorizes the DOC to adopt rules as necessary to implement the act.

The Criminal Justice Impact Conference (CJIC) has not reviewed the bill at this time. However, the Office of Economic and Demographic Research has prepared a preliminary estimate of the bill, which determined that the bill will have a negative indeterminate prison bed impact (i.e. an unquantifiable decrease in prison beds).

The bill is effective October 1, 2020.

II. Present Situation:

Aging Population Statistics

In 2016, 49 million adults in the United States, or 15 percent of the population, were 65 or older.[1] It is estimated that the number will rise to approximately 98 million by 2060, which corresponds to approximately 25 percent of residents of the United States. The "baby boomers" generation[2] and post baby-boom generations will all be of advanced age by 2029, which is often defined as 55 years of age or older. A report published by the Institutes of Medicine in 2012 asserted that, by 2030, the population of adults over the age of 65 will reach 72.1 million. The report also estimated that approximately one in five persons in the elder population has a mental health or substance abuse disorder, such as depression, dementia, or related psychiatric and behavioral symptoms. Incarcerated men and women typically have physiological and mental health conditions that are associated with people at least a decade older, a phenomenon known as

[1] The Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, *Promoting Health for Older Adults*, September 13, 2019, available at https://www.cdc.gov/chronicdisease/resources/publications/factsheets/promoting-health-for-older-adults.htm (last visited December 5, 2019).

[2] The "baby boomer" generation is generally defined as persons born from 1946 through 1964. *See* Senior Living, *The Baby Boomer Generation*, available at https://www.seniorliving.org/life/baby-boomers/ (last visited December 5, 2019).

"accelerated aging." Therefore, an incarcerated person who is 50 or 55 years of age would exhibit health conditions comparable to a person who is 60 or 65 in the community. The occurrence of accelerated aging in the prison system is a result of many factors, including inadequate access to medical care before incarceration, substance abuse, the stress of incarceration, and a lack of appropriate health care during incarceration.[3]

Special Health Considerations for Aging Inmates

Similarly to aging persons in the community, aging inmates are more likely to experience certain medical and health conditions, including, in part, dementia, impaired mobility, loss of hearing and vision, cardiovascular disease, cancer, osteoporosis, and other chronic conditions.[4] However, such ailments present special challenges within a prison environment and may result in the need for increased staffing levels and enhanced officer training.[5] Such aging inmates can also require structural accessibility adaptions, such as special housing and wheelchair ramps. For example, in Florida, four facilities serve relatively large populations of older inmates, which help meet special needs such as palliative and long-term care.[6]

Aging Inmate Statistics in Florida

The DOC reports that the elderly inmate[7] population has increased by 353 inmates or 1.5 percent from June 30, 2017 to June 30, 2018 and that this trend has been steadily increasing over the last five years for an overall increase of 2,585 inmates or 12.5 percent.[8]

The DOC further reports that during Fiscal Year 2017-18, there were 3,594 aging inmates admitted to Florida prisons, which was a 2.8 percent decrease from Fiscal Year 2017-18. The majority of such inmates were admitted for violent offenses, property crimes, and drug offenses. The oldest male inmate admitted was 92 years of age with a conviction of manslaughter and the oldest female inmate admitted was 77 years of age with a conviction of drug trafficking.[9]

---

[3] Yarnell, S., MD, PhD, Kirwin, P. MD, and Zonana, H. MD, *Geriatrics and the Legal System*, Journal of the American Academy of Psychiatry and the Law, November 2, 2017, p. 208-209, available at http://jaapl.org/content/jaapl/45/2/208.full.pdf (last visited December 5, 2019).
[4] McKillop, M. and McGaffey, F., The PEW Charitable Trusts, *Number of Older Prisoners Grows Rapidly, Threatening to Drive Up Prison Health Costs*, October 7, 2015, available at https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2015/10/07/number-of-older-prisoners-grows-rapidly-threatening-to-drive-up-prison-health-costs (hereinafter cited as "PEW Trusts Older Prisoners Report"); *See also* Jaul, E. and Barron, J., Frontiers in Public Health, *Age-Related Diseases and Clinical and Public Health Implications for the 85 Years Old and Over Population*, December 11, 2017, available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5732407/; HealthinAging.org, *A Guide to Geriatric Syndromes: Common and Often Related Medical Conditions in Older Adults*, available at https://www.healthinaging.org/tools-and-tips/guide-geriatric-syndromes-common-and-often-related-medical-conditions-older-adults (all sites last visited December 5, 2019).
[5] The PEW Charitable Trusts Older Prisoners Report.
[6] *Id*.
[7] Section 944.02(4), F.S., defines "elderly offender" to mean prisoners age 50 or older in a state correctional institution or facility operated by the DOC or the Department of Management Services.
[8] The DOC, *2017-18 Annual Report*, p. 19, available at http://www.dc.state.fl.us/pub/annual/1718/FDC_AR2017-18.pdf (last visited December 5, 2019).
[9] *Id*., at p. 20.

As the population of aging inmates continues to increase, the cost to house and treat such inmates also substantially increases. The DOC reports that the episodes of outside care for aging inmates increased from 10,553 in Fiscal Year 2008-09 to 21,469 in Fiscal Year 2017-18 and further provided that outside care is generally more expensive than treatment provided within a prison facility.[10] The DOC reports that the cost of health care for the aging inmate population is very high compared to other inmates for many reasons, including, in part that aging inmates:

- Account for a majority of inpatient hospital days; and
- Have a longer length for an inpatient hospital stay than seen with younger inmate patients.[11]

Constitutional Requirement to Provide Healthcare to Inmates

The United States Supreme Court has established that prisoners have a constitutional right to adequate medical care. The Court determined that it is a violation of the Eighth Amendment prohibition against cruel and unusual punishment for the state to deny a prisoner necessary medical care, or to display "deliberate indifference" to an inmate's serious medical needs.[12]

Before the 1970s, prison health care operated without "standards of decency" and was frequently delivered by unqualified or overwhelmed providers, resulting in negligence and poor quality.[13] By January 1996, only three states had never been involved in major litigation challenging conditions in their prisons. A majority were under court order or consent decree to make improvements in some or all facilities.[14] The development of the correctional health care in Florida has been influenced by a class action lawsuit filed by inmates in 1972. The plaintiffs in *Costello v. Wainwright*[15] alleged that prison overcrowding and inadequate medical care were so severe that the resulting conditions amounted to cruel and unusual punishment. The overcrowding aspect of the case was settled in 1979, but the medical care issue continued to be litigated for years.[16]

The legal standard today for inmate medical care must be at "a level reasonably commensurate with modern medical science and of a quality acceptable within prudent professional standards" and "designed to meet routine and emergency medical, dental, and psychological or psychiatric care."[17] Prisoners are entitled to access to care for diagnosis and treatment, a professional medical opinion, and administration of the prescribed treatment and such obligation persists even if some or all of the medical services are provided through the use of contractors. This is also the

---

[10] *Id*., at p. 21.
[11] *Id*.
[12] *Estelle v. Gamble*, 429 U.S. 97, 104 (1976).
[13] The PEW Charitable Trusts, Urahn, S. and Thompson, M., *Prison Health Care: Costs and Quality*, October 2017, p. 4, available at https://www.pewtrusts.org/-/media/assets/2017/10/sfh_prison_health_care_costs_and_quality_final.pdf (last visited December 5, 2019) (hereinafter cited as "The PEW Trusts Prison Health Care Cost Report").
[14] *Id*. *See also* McDonald, D., *Medical Care in Prisons*, Crime and Justice, Vol. 26, 1999, p. 431, available at https://www.journals.uchicago.edu/doi/abs/10.1086/449301 (last visited December 5, 2019); *See also* *Newman et al. v. Alabama et al.*, 349 F. Supp. 278 (M.D. Ala. 1972).
[15] 430 U.S. 325 (1977).
[16] *Id*. The Correctional Medical Authority, FY 2017-18 Annual Report and Update on the Status of Elderly Offender's in Florida's Prisons, p. 1 (on file with the Senate Criminal Justice Committee). The Correctional Medical Authority was created in response to such federal litigation.
[17] The PEW Trusts Prison Health Care Cost Report, p. 4.

standard for state prisoners who are under the custody of private prisons or local jails. Recent cases have reinforced states' constitutional obligations.[18]

The DOC's Duty to Provide Health Care

The DOC is responsible for the inmates of the state correctional system and has supervisory and protective care, custody, and control of the inmates within its facilities.[19] The DOC has the constitutional and statutory imperative to provide adequate health services to state prison inmates directly related to this responsibility.[20] This medical care includes comprehensive medical, mental health, and dental services, and all associated ancillary services.[21] The DOC's Office of Health Service (OHS) oversees the delivery of health care services and handles statewide functions for such delivery. The OHS is led by the Director of Health Services, who reports to the Secretary.[22]

The DOC contracts with the Centurion of Florida, LLC (Centurion) to provide comprehensive statewide medical, mental health, dental services, and operates the department's reception medical center. The care provided is under a cost plus model. All inmates are screened at a DOC reception center upon arrival from the county jail. The purpose of this intake process is to determine the inmate's current medical, dental, and mental health care needs, which is achieved through assessments, in part, for auditory, mobility and vision disabilities, and the need for specialized mental health treatment.[23]

After the intake process is completed, inmates are assigned to an institution based on their medical and mental health needs and security requirements. The Centurion provides primary care using a staff of clinicians, nurses, mental health, and dental professionals and administrators within each major correctional institution. The health services team provides health care services in the dorms for inmates who are in confinement.[24]

Aging Inmate Discretionary Release

Many states, the District of Columbia, and the federal government authorize discretionary release programs for certain inmates that are based on an inmate's age without regard to the medical condition of the inmate.[25] The National Conference of State Legislatures (NCSL) reports such

---

[18] *Id*.
[19] Sections 945.04(1) and 945.025(1), F.S.
[20] *Crews v. Florida Public Employers Council 79, AFSCME*, 113 So. 3d 1063 (Fla. 1st DCA 2013); *See also* s. 945.025(2), F.S.
[21] The DOC, Office of Health Services, available at http://www.dc.state.fl.us/org/health.html (last visited December 5, 2019).
[22] *Id*.
[23] *Id*. *See also* The DOC Annual Report, p. 19.
[24] *Id*.
[25] The National Conference of State Legislatures (NCSL), *State Medical and Geriatric Parole Laws*, August 27, 2018, available at http://www.ncsl.org/research/civil-and-criminal-justice/state-medical-and-geriatric-parole-laws.aspx (hereinafter cited as "The NCSL Aging Inmate Statistics"); Code of the District of Columbia, *Section 24-465 Conditions for Geriatric Release*, available at https://code.dccouncil.us/dc/council/code/sections/24-465.html; Section 603(b) of the First Step Act, codified at 18 USC s. 3582. *See also* U.S. Department of Justice, Federal Bureau of Prisons, *Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. Section 3582 and 4205(g)*, January 17, 2019, p. 6-7, available at https://www.bop.gov/policy/progstat/5050_050_EN.pdf (all sites last visited December 5, 2019).

discretionary release based on age has been legislatively authorized in 17 states.[26] The NCSL also reports that such statutes typically require an inmate to be of a certain age and to have served either a specified number of years or a specified percentage of his or her sentence. The NCSL reports that Alabama has the lowest age for aging inmate discretionary release, which is 55 years of age, whereas most other states set the limit somewhere between 60 and 65. Additionally, some states do not set a specific age.[27]

Most states require a minimum of 10 years of an inmate's sentence to be served before being eligible for consideration for aging inmate discretionary release, but some states, such as California, set the minimum length of time served at 25 years.[28] Other states, such as Mississippi and Oklahoma, provide a term of years or a certain percentage of the sentence to be served.[29]

Inmates who are sentenced to death or serving a life sentence are typically ineligible for release. Some states specify that inmates must be sentenced for a non-violent offense or specify offenses which are not eligible for release consideration.

Florida does not currently address discretionary release based on an inmate's age alone.

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."[30] The law makes a number of changes to the federal criminal justice system and procedures applicable to inmates in the Federal Bureau of Prisons, including, in part, modifying provisions related to compassionate release, which applies to the conditional release of medical inmates and aging inmates, to require inmates be informed of reduction in sentence availability and process.[31]

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.[32] An inmate is not eligible to

---

[26] The NCSL Aging Inmate Statistics. Also, the NCSL states that at least 16 states have established both medical and aging inmate discretionary release programs legislatively and that Virginia is the only state that has aging inmate discretionary release but not medical discretionary release.
[27] *Id*.
[28] *Id*.
[29] The NCSL Aging Inmate Statistics.
[30] The First Step Act of 2018, Pub. L. No. 115-391 (2018).
[31] Section 603(b) of the First Step Act, codified at 18 USC s. 3582. *See also* U.S. Department of Justice, Federal Bureau of Prisons, *Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. Section 3582 and 4205(g)*, January 17, 2019, p. 3-4, available at https://www.bop.gov/policy/progstat/5050_050_EN.pdf (last visited December 5, 2019).
[32] 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.[33]

Basic gain-time, which automatically reduced an inmate's sentence by a designated amount each month, was eliminated for offenses committed on or after January 1, 1994.[34] The only forms of gain-time that can currently be earned are:

- Incentive gain-time;[35]
- Meritorious gain-time;[36] and
- Educational achievement gain-time.[37]

The procedure for applying gain-time awards to an inmate's sentence is dependent upon the calculation of a "maximum sentence expiration date" and a "tentative release date." The tentative release date may not be later than the maximum sentence expiration date.[38] The maximum sentence expiration date represents the date when the sentence or combined sentences imposed on a prisoner will expire. To calculate the maximum sentence expiration date, the DOC reduces the total time to be served by any time lawfully credited.[39]

The tentative release is the date projected for the prisoner's release from custody after gain-time is granted or forfeited in accordance with s. 944.275, F.S.[40] Gain-time is applied when granted or restored to make the tentative release date proportionately earlier; and forfeitures of gain-time, when ordered, are applied to make the tentative release date proportionately later.[41]

The DOC is authorized in certain circumstances to declare all gain-time earned by an inmate forfeited.[42]

Victim Input

In 2018, the Florida voters approved Amendment 6 on the ballot, which provided certain rights to victims in the Florida Constitution. In part, Art. 1, s. 16, of the Florida Constitution, provides that a victim must have the following rights upon request:

- Reasonable, accurate, and timely notice of, and to be present at, all public proceedings involving the criminal conduct, including, but not limited to, trial, plea, sentencing, or

[33] Section 944.275(4)(f), F.S.
[34] Chapter 93-406, L.O.F.
[35] Section 944.275(4)(b), F.S, provides that incentive gain-time is a total of up to ten days per month that may be awarded to inmates for institutional adjustment, performing work in a diligent manner, and actively participating in training and programs. The amount an inmate can earn is stable throughout the term of imprisonment and is based upon the date an offense was committed.
[36] Section 944.275(4)(c), F.S., provides that meritorious gain-time is awarded to an inmate who commits an outstanding deed or whose performance warrants additional credit, such as saving a life or assisting in recapturing an escaped inmate. The award may range from one day to 60 days and the statute does not prohibit an inmate from earning meritorious gain-time on multiple occasions if warranted.
[37] Section 944.275(4)(d), F.S., provides that educational gain-time is a one-time award of 60 days that is granted to an inmate who receives a General Education Development (GED) diploma or a certificate for completion of a vocational program.
[38] Section 944.275(3)(c), F.S.
[39] Section 944.275(2)(a), F.S.
[40] Section 944.275(3)(a), F.S.
[41] *Id*. *See also* s. 944.275(4)(b), F.S.
[42] Section 944.28(1), F.S.

adjudication, even if the victim will be a witness at the proceeding, notwithstanding any rule to the contrary.
- To be heard in any public proceeding involving pretrial or other release from any form of legal constraint, plea, sentencing, adjudication, or parole, and any proceeding during which a right of the victim is implicated.
- To be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of the convicted offender, any scheduled release date of the offender, and the release of or the escape of the offender from custody.
- To be informed of all postconviction processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender.[43]

III. Effect of Proposed Changes:

The bill creates s. 945.0912, F.S., which establishes a conditional aging inmate release (CAIR) program within the DOC for the purpose of:
- Determining whether release is appropriate for eligible inmates;
- Supervising the released inmates; and
- Conducting revocation hearings.

The CAIR program must include a panel of at least three people appointed by the Secretary for the purpose of determining the appropriateness of CAIR and conducting revocation hearings on the inmate releases.

Eligibility Criteria

An inmate is eligible for consideration for release under the CAIR program when the inmate has reached 70 years of age and has served at least 10 years on his or her term of imprisonment.

An inmate may not be considered for release through the CAIR program if he or she has ever been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent for committing:
- A violation of any of certain offenses which result in the actual killing of a human being:
  - A violation of s. 775.33(4), F.S. (providing material support or resources for terrorism or to terrorist organizations that results in death);
  - A violation of s. 782.04(1) or (2), F.S. (murder in the first degree and murder in the second degree mentioned above, excluding felony murder in the second degree); or
  - A violation of s. 782.09, F.S. (killing of an unborn child by injury to the mother);
- An offense that requires registration as a sexual offender on the sexual offender registry in accordance with s. 943.0435, F.S; or
- Any similar offense committed in another jurisdiction which would be an offense included in this list if it had been committed in violation of the laws of Florida.

[43] Art. 1, s. 16(b)(6)a., b., f., and g., FLA. CONST.

Referral Process

The bill requires that any inmate in the custody of the DOC who is eligible must be considered for the CAIR program. However, the authority to grant CAIR rests solely with the DOC and an inmate does not have a right to release on CAIR pursuant to s. 945.0912, F.S.

The DOC must identify inmates who may be eligible for CAIR. In considering an inmate for the CAIR program, the DOC may require the production of additional evidence or any other additional investigations that the DOC deems necessary for determining the appropriateness of the eligible inmate's release.

Upon an inmate's identification as potentially eligible for release on CAIR, the DOC must refer such inmate to the panel described above for review and determination of release.

The bill requires the DOC to provide notice to a victim of the inmate's referral to the panel immediately upon identification of the inmate as potentially eligible for release on CAIR if the case that resulted in the inmate's commitment to the DOC involved a victim and such victim specifically requested notification pursuant to Art. 1, s. 16, of the Florida Constitution. Additionally, the victim must be afforded the right to be heard regarding the release of the inmate.

Determination of Release

The bill requires the panel to conduct a hearing within 45 days after receiving the referral to determine whether CAIR is appropriate for the inmate. A majority of the panel members must agree that release on CAIR is appropriate for the inmate. If CAIR is approved, the inmate must be released by the DOC to the community within a reasonable amount of time with necessary release conditions imposed.

The bill provides that an inmate who is granted CAIR is considered an aging releasee upon release to the community.

An inmate who is denied CAIR by the panel may have the decision reviewed by the DOC's general counsel, who must make a recommendation to the Secretary. The Secretary must review all relevant information and make a final decision about the appropriateness of release on CAIR. The decision of the Secretary is a final administrative decision not subject to appeal.

Additionally, an inmate who is denied CAIR may be subsequently reconsidered for such release in a manner prescribed by department rule.

Release Conditions

The bill requires that an inmate granted release on CAIR must be released for a period equal to the length of time remaining on his or her term of imprisonment on the date the release is granted. The aging releasee must comply with all reasonable conditions of release the DOC imposes, which must include, at a minimum:

- Supervision by an officer trained to handle special offender caseloads.

- Active electronic monitoring, if such monitoring is determined to be necessary to ensure the safety of the public and the releasee's compliance with release conditions.
- Any conditions of community control provided for in s. 948.101, F.S.
- Any other conditions the DOC deems appropriate to ensure the safety of the community and compliance by the aging releasee.

The bill provides that an aging releasee is considered to be in the care, custody, supervision, and control of the DOC and remains eligible to earn or lose gain-time in accordance with s. 944.275, F.S., and department rule. The aging releasee may not be counted in the prison system population, and the aging releasee's approved community-based housing location may not be counted in the capacity figures for the prison system.

Revocation Based on Violation of Conditions

The bill provides that CAIR may be revoked for a violation of any release conditions the DOC establishes, including, but not limited to, a new violation of law. If the basis of the violation of release conditions is related to a new violation of law, the aging releasee must be detained without bond until his or her initial appearance at which a judicial determination of probable cause is made.

If the judge determines that there was no probable cause for the arrest, the aging releasee may be released. If the judge determines that there was probable cause for the arrest, the judge's probable cause determination constitutes reasonable grounds to believe that the aging releasee violated the conditions of the CAIR.

The bill requires the DOC to order that the aging releasee subject to revocation for a violation of conditions be returned to the custody of the DOC for a CAIR revocation hearing as prescribed by rule. A majority of the panel must agree that revocation is appropriate for the aging releasee's CAIR to be revoked.

The bill provides that an aging releasee who has his or her CAIR revoked due to a violation of conditions must serve the balance of his or her sentence with credit for the actual time served on CAIR. Additionally, any gain-time accrued before recommitment may be forfeited pursuant to s. 944.28(1), F.S. If the aging releasee whose CAIR is revoked would otherwise be eligible for parole or any other release program, he or she may be considered for such release program pursuant to law.

Review Process of Revocation Determination

The bill authorizes an aging releasee whose CAIR is revoked based on either basis to have the revocation decision reviewed. The bill requires the DOC's general counsel to review the revocation decision and make a recommendation to the Secretary. The Secretary must review all relevant information and make a final decision about the appropriateness of the revocation of CAIR.

The bill provides that any decision of the Secretary related to a revocation decision is a final administrative decision not subject to appeal.

Revocation Hearing Process

If the aging releasee is subject to revocation and elects to proceed with a hearing, the aging releasee must be informed orally and in writing of certain rights, including the releasee's:

- Alleged violation with which he or she is charged.
- Right to:
  - Be represented by counsel.[44]
  - Be heard in person.
  - Secure, present, and compel the attendance of witnesses relevant to the proceeding.
  - Produce documents on his or her own behalf.
  - Access all evidence used against the releasee and confront and cross-examine adverse witnesses.
  - Waive the hearing.

The bill authorizes the DOC to adopt rules as necessary to implement the act.

The bill amends ss. 316.1935, 775.084, 775.087, 784.07, 790.235, 794.0115, 893.135, 921.0024, 944.605, and 944.70, F.S., conforming these provisions to changes made by the Act.

The bill is effective October 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:

None.

E. Other Constitutional Issues:

None Identified.

[44] However, this bill explicitly provides that this does not create a right to publicly funded legal counsel.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC) has not reviewed the bill at this time. However, the Office of Economic and Demographic Research (EDR) has prepared a preliminary estimate of the bill, which determined that the bill will have a negative indeterminate prison bed impact (i.e. an unquantifiable decrease in prison beds).[45]

The DOC reports that as of October 18, 2019, there are a total of 1,849 inmates age 70 or older in its custody and, based on the criteria set forth in the bill, only 168 of these inmates would currently meet eligibility criteria for consideration for CAIR. The DOC reports that an additional 291 inmates are projected to become eligible over the next five years. In addition, the DOC reports that the overall fiscal impact of the bill is indeterminate because release will be at the discretion of the DOC.[46]

Further, the DOC reports that when the inmate population is impacted in small increments statewide, the inmate variable per diem of $20.04 is the most appropriate to use to determine the fiscal impact. The variable per diem includes costs more directly aligned with individual inmate care such as medical, food, inmate clothing, personal care items, etc. The DOC's FY 17-18 average per diem for community supervision was $5.47.[47]

The DOC also reports that it will need 2 additional staff for the Bureau of Classification Management to oversee, provide guidance, and coordinate the implementation and administration of the CAIR program as follows:

Correctional Program Consultant	$64,277 (salary and benefits)
Correctional Services Asst Consultant	$53,779 (salary and benefits)
	$ 6,756 (recurring travel)
	$ 8,858 (non-recurring travel)
	$ 658 (human resources)

[45] The Office of Economic and Demographic Research, *SB 574 Preliminary Estimate* (on file with the Senate Committee on Criminal Justice).
[46] The five highest occurring offenses of incarceration for these inmates are first or second degree murder (s. 782.04, F.S.), sexual battery on a victim under 12 (s. 794.011, F.S.), lewd or lascivious molestation on a victim under 12 (s. 800.04, F.S.), and robbery with a gun or deadly weapon (s. 812.13, F.S.). The DOC, *SB 574 Agency Analysis*, p. 1 and 4 (December 6, 2019)(on file with the Senate Committee on Criminal Justice) [hereinafter cited as "The DOC SB 574 Analysis"].
[47] The DOC SB 574 Analysis, p. 5.

This equates to $125,470 recurring and $8,858 non-recurring General Revenue.[48] Lastly, the DOC reports it will have a technology impact of $17,400, which is related to programming needed for the Offender Based Information System and Criminal Punishment Code impact.[49]

Technical Deficiencies:

None.

VI. Related Issues:

The bill creates a panel with decision-making authority, which may require the panel to comply with the statutory requirements of ch. 286, F.S. (relating to public meetings). Chapter 286, F.S., requires certain meetings to be open to the public unless specifically exempted. Additionally, the DOC is a covered entity for purposes of the Health Insurance Portability and Protection Act (HIPPA)[50] and it is possible that such information could be discussed at a CAIR hearing or revocation hearing. The bill is silent as to whether the panel is subject to the public meetings requirements of ch. 286, F.S., or how HIPPA information would be handled in such hearings.

VII. Statutes Affected:

This bill creates section 945.0912 of the Florida Statutes.

This bill substantially amends the following sections of the Florida Statutes: 316.1935, 775.084, 775.087, 784.07, 790.235, 794.0115, 893.135, 921.0024, 944.605, and 944.70.

VIII. 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 December 10, 2019:
The committee substitute:

- Ensures that an inmate granted CAIR is released into the community within a reasonable amount of time;
- Makes some technical changes, including, in part, ensuring consistency with the terms used to describe an inmate who has been approved for CAIR and released into the community;

---

[48] Department of Corrections Fiscal Impact Worksheet, January 17, 2020 (on file with the Committee).
[49] The DOC SB 574 Analysis, p. 5.
[50] The HIPAA and the Privacy Rule provide uniform federal protection for the privacy rights of individuals over their health information. HIPAA and the Privacy Rule protect the privacy rights of individuals over their health information, grant individuals access to their health information, and allow individuals to amend their health information under specified circumstances. The U.S. Department of Health and Human Services, Health Information Privacy, available at https://www.hhs.gov/hipaa/for-individuals/index.html (last visited December 9, 2019). See also 45 C.F.R. Parts 160 and 164. Additionally, the U.S. Supreme Court has recognized a limited constitutional protection of personal health information and recognized an individual's interest in avoiding the disclosure of personal matters within the context of medical information. See Whalen v. Roe, 429 U.S. 589 (1977).

- Amends a number of relevant sections to ensure the changes made by the act are incorporated; and
- Makes the effective date October 1, 2020.

B. Amendments:

None.

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

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

591-02026-20 2020574c1

A bill to be entitled

An act relating to conditional aging inmate release; creating s. 945.0912, F.S.; establishing the conditional aging inmate release program within the Department of Corrections; establishing a panel to consider specified matters; providing for program eligibility; requiring that an inmate who meets certain criteria be considered for conditional aging inmate release; providing that the inmate does not have a right to release; requiring the department to identify eligible inmates; requiring the department to refer an inmate to the panel for consideration; providing victim notification requirements under certain circumstances; requiring the panel to conduct a hearing within a specified timeframe; providing requirements for the hearing; providing that an inmate who is approved for conditional aging inmate release must be released from the department's custody within a reasonable amount of time; providing that an inmate is considered an aging releasee upon release from the department into the community; providing a review process for an inmate who is denied release; providing conditions for release; prohibiting an aging releasee or his or her community-based housing from being counted in the prison system population and the prison capacity figures, respectively; providing for the revocation of conditional aging inmate release; requiring the aging releasee to be detained if a violation is based on certain circumstances;

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

30 authorizing the aging releasee to be returned to the
31 department if he or she violates any conditions of the
32 release; requiring a majority of the panel to agree on
33 the appropriateness of revocation; authorizing the
34 forfeiture of gain-time if the revocation is based on
35 certain violations; providing a review process for an
36 aging releasee who has his or her released revoked;
37 requiring the aging releasee to be given specified
38 information in certain instances; providing rulemaking
39 authority; amending ss. 316.1935, 775.084, 775.087,
40 784.07, 790.235, 794.0115, 893.135, 921.0024, 944.605,
41 and 944.70, F.S.; conforming cross-references;
42 providing an effective date.
43
44 Be It Enacted by the Legislature of the State of Florida:
45
46 Section 1. Section 945.0912, Florida Statutes, is created
47 to read:
48 945.0912 Conditional aging inmate release.—
49 (1) CREATION.—There is established a conditional aging
50 inmate release program within the department for the purpose of
51 determining eligible inmates who are appropriate for such
52 release, supervising the released inmates, and conducting
53 revocation hearings as provided for in this section. The program
54 must include a panel of at least three people appointed by the
55 secretary or his or her designee for the purpose of determining
56 the appropriateness of conditional aging inmate release and
57 conducting revocation hearings on the inmate releases.
58 (2) ELIGIBILITY.—

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

59 (a) An inmate is eligible for consideration for release
60 under the conditional aging inmate release program when the
61 inmate has reached 70 years of age and has served at least 10
62 years on his or her term of imprisonment.
63 (b) An inmate may not be considered for release through the
64 program if he or she has ever been found guilty of, regardless
65 of adjudication, or entered a plea of nolo contendere or guilty
66 to, or has been adjudicated delinquent for committing:
67 1. A violation of any of the following sections which
68 results in the actual killing of a human being:
69 a. Section 775.33(4).
70 b. Section 782.04(1) or (2).
71 c. Section 782.09.
72 2. Any felony offense that serves as a predicate to
73 registration as a sexual offender in accordance with s.
74 943.0435; or
75 3. Any similar offense committed in another jurisdiction
76 which would be an offense listed in this paragraph if it had
77 been committed in violation of the laws of this state.
78 (3) REFERRAL FOR CONSIDERATION.—
79 (a)1. Notwithstanding any provision to the contrary, an
80 inmate in the custody of the department who is eligible for
81 consideration pursuant to subsection (2) must be considered for
82 the conditional aging inmate release program.
83 2. The authority to grant conditional aging inmate release
84 rests solely with the department. An inmate does not have a
85 right to such release.
86 (b) The department must identify inmates who may be
87 eligible for the conditional aging inmate release program. In

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

88 considering an inmate for conditional aging inmate release, the
89 department may require the production of additional evidence or
90 any other additional investigations that the department deems
91 are necessary for determining the appropriateness of the
92 eligible inmate's release.
93 (c) The department must refer an inmate to the panel
94 established under subsection (1) for review and determination of
95 conditional aging inmate release upon his or her identification
96 as potentially eligible for release pursuant to this section.
97 (d) If the case that resulted in the inmate's commitment to
98 the department involved a victim, and the victim specifically
99 requested notification pursuant to s. 16, Art. I of the State
100 Constitution, the department must notify the victim of the
101 inmate's referral to the panel immediately upon identification
102 of the inmate as potentially eligible for release under this
103 section. Additionally, the victim must be afforded the right to
104 be heard regarding the release of the inmate.
105 (4) DETERMINATION OF RELEASE.—
106 (a) Within 45 days after receiving the referral, the panel
107 established in subsection (1) must conduct a hearing to
108 determine whether the inmate is appropriate for conditional
109 aging inmate release.
110 (b) A majority of the panel members must agree that the
111 inmate is appropriate for release pursuant to this section. If
112 conditional aging inmate release is approved, the inmate must be
113 released by the department to the community within a reasonable
114 amount of time with necessary release conditions imposed
115 pursuant to subsection (5). An inmate who is granted conditional
116 aging inmate release is considered an aging releasee upon

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

117 release to the community.
118 (c) An inmate who is denied conditional aging inmate
119 release by the panel may have the decision reviewed by the
120 department's general counsel, who must make a recommendation to
121 the secretary. The secretary must review all relevant
122 information and make a final decision about the appropriateness
123 of conditional aging inmate release pursuant to this section.
124 The decision of the secretary is a final administrative decision
125 not subject to appeal. An inmate who is denied conditional aging
126 inmate release may be subsequently reconsidered for such release
127 in a manner prescribed by rule.
128 (5) RELEASE CONDITIONS.—
129 (a) An inmate granted release pursuant to this section is
130 released for a period equal to the length of time remaining on
131 his or her term of imprisonment on the date the release is
132 granted. Such inmate is considered an aging releasee upon
133 release from the department into the community. The aging
134 releasee must comply with all reasonable conditions of release
135 the department imposes, which must include, at a minimum:
136 1. Supervision by an officer trained to handle special
137 offender caseloads.
138 2. Active electronic monitoring, if such monitoring is
139 determined to be necessary to ensure the safety of the public
140 and the aging releasee's compliance with release conditions.
141 3. Any conditions of community control provided for in s.
142 948.101.
143 4. Any other conditions the department deems appropriate to
144 ensure the safety of the community and compliance by the aging
145 releasee.

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

146 (b) An aging releasee is considered to be in the care,
147 custody, supervision, and control of the department and remains
148 eligible to earn or lose gain-time in accordance with s. 944.275
149 and department rule. The aging releasee may not be counted in
150 the prison system population, and the aging releasee's approved
151 community-based housing location may not be counted in the
152 capacity figures for the prison system.
153 (6) REVOCATION HEARING AND RECOMMITMENT.—
154 (a)1. An aging releasee's conditional aging inmate release
155 may be revoked for a violation of any condition of the release
156 established by the department, including, but not limited to, a
157 new violation of law.
158 2. If the basis of the violation of release conditions is
159 related to a new violation of law, the aging releasee must be
160 detained without bond until his or her initial appearance, at
161 which a judicial determination of probable cause is made. If the
162 judge determines that there was no probable cause for the
163 arrest, the aging releasee may be released. If the judge
164 determines that there was probable cause for the arrest, the
165 judge's determination also constitutes reasonable grounds to
166 believe that the aging releasee violated the conditions of the
167 release.
168 3. The department must order that the aging releasee
169 subject to revocation under this paragraph be returned to
170 department custody for a conditional aging inmate release
171 revocation hearing as prescribed by rule.
172 4. A majority of the panel members must agree that
173 revocation is appropriate for the aging releasee's conditional
174 aging inmate release to be revoked. If conditional aging inmate

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

175 release is revoked pursuant to this paragraph, the aging
176 releasee must serve the balance of his or her sentence with
177 credit for the actual time served on conditional aging inmate
178 release. The aging releasee's gain-time accrued before
179 recommitment may be forfeited pursuant to s. 944.28(1). If the
180 aging releasee whose conditional aging inmate release is revoked
181 subject to this paragraph would otherwise be eligible for parole
182 or any other release program, he or she may be considered for
183 such release program pursuant to law.
184 5. An aging releasee whose release has been revoked
185 pursuant to this paragraph may have the revocation reviewed by
186 the department's general counsel, who must make a recommendation
187 to the secretary. The secretary must review all relevant
188 information and make a final decision about the appropriateness
189 of the revocation of conditional aging inmate release pursuant
190 to this paragraph. The decision of the secretary is a final
191 administrative decision not subject to appeal.
192 (b) If the aging releasee subject to revocation under
193 paragraph (a) elects to proceed with a hearing, the aging
194 releasee must be informed orally and in writing of the
195 following:
196 1. The alleged violation with which the releasee is
197 charged.
198 2. The releasee's right to be represented by counsel.
199 However, this subparagraph does not create a right to publicly
200 funded legal counsel.
201 3. The releasee's right to be heard in person.
202 4. The releasee's right to secure, present, and compel the
203 attendance of witnesses relevant to the proceeding.

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

204 5. The releasee's right to produce documents on his or her
205 own behalf.
206 6. The releasee's right of access to all evidence used
207 against the releasee and to confront and cross-examine adverse
208 witnesses.
209 7. The releasee's right to waive the hearing.
210 (7) RULEMAKING AUTHORITY.—The department may adopt rules as
211 necessary to implement this section.
212 Section 2. Subsection (6) of section 316.1935, Florida
213 Statutes, is amended to read:
214 316.1935 Fleeing or attempting to elude a law enforcement
215 officer; aggravated fleeing or eluding.—
216 (6) Notwithstanding s. 948.01, no court may suspend, defer,
217 or withhold adjudication of guilt or imposition of sentence for
218 any violation of this section. A person convicted and sentenced
219 to a mandatory minimum term of incarceration under paragraph
220 (3)(b) or paragraph (4)(b) is not eligible for statutory gain-
221 time under s. 944.275 or any form of discretionary early
222 release, other than pardon or executive clemency, ~~or~~ conditional
223 medical release under s. 947.149, or conditional aging inmate
224 release under s. 945.0912, prior to serving the mandatory
225 minimum sentence.
226 Section 3. Paragraph (k) of subsection (4) of section
227 775.084, Florida Statutes, is amended to read:
228 775.084 Violent career criminals; habitual felony offenders
229 and habitual violent felony offenders; three-time violent felony
230 offenders; definitions; procedure; enhanced penalties or
231 mandatory minimum prison terms.—
232 (4)

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

233 (k)1. A defendant sentenced under this section as a
234 habitual felony offender, a habitual violent felony offender, or
235 a violent career criminal is eligible for gain-time granted by
236 the Department of Corrections as provided in s. 944.275(4)(b).
237 2. For an offense committed on or after October 1, 1995, a
238 defendant sentenced under this section as a violent career
239 criminal is not eligible for any form of discretionary early
240 release, other than pardon or executive clemency, ~~or~~ conditional
241 medical release under ~~granted pursuant to~~ s. 947.149, or
242 conditional aging inmate release under s. 945.0912.
243 3. For an offense committed on or after July 1, 1999, a
244 defendant sentenced under this section as a three-time violent
245 felony offender shall be released only by expiration of sentence
246 and shall not be eligible for parole, control release, or any
247 form of early release.
248 Section 4. Paragraph (b) of subsection (2) and paragraph
249 (b) of subsection (3) of section 775.087, Florida Statutes, are
250 amended to read:
251 775.087 Possession or use of weapon; aggravated battery;
252 felony reclassification; minimum sentence.—
253 (2)
254 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
255 (a)3. does not prevent a court from imposing a longer sentence
256 of incarceration as authorized by law in addition to the minimum
257 mandatory sentence, or from imposing a sentence of death
258 pursuant to other applicable law. Subparagraph (a)1.,
259 subparagraph (a)2., or subparagraph (a)3. does not authorize a
260 court to impose a lesser sentence than otherwise required by
261 law.

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

262

263 Notwithstanding s. 948.01, adjudication of guilt or imposition
264 of sentence shall not be suspended, deferred, or withheld, and
265 the defendant is not eligible for statutory gain-time under s.
266 944.275 or any form of discretionary early release, other than
267 pardon or executive clemency, ~~or~~ conditional medical release
268 under s. 947.149, <u>or conditional aging inmate release under s.</u>
269 <u>945.0912,</u> prior to serving the minimum sentence.
270 (3)
271 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
272 (a)3. does not prevent a court from imposing a longer sentence
273 of incarceration as authorized by law in addition to the minimum
274 mandatory sentence, or from imposing a sentence of death
275 pursuant to other applicable law. Subparagraph (a)1.,
276 subparagraph (a)2., or subparagraph (a)3. does not authorize a
277 court to impose a lesser sentence than otherwise required by
278 law.
279

280 Notwithstanding s. 948.01, adjudication of guilt or imposition
281 of sentence shall not be suspended, deferred, or withheld, and
282 the defendant is not eligible for statutory gain-time under s.
283 944.275 or any form of discretionary early release, other than
284 pardon or executive clemency, ~~or~~ conditional medical release
285 under s. 947.149, <u>or conditional aging inmate release under s.</u>
286 <u>945.0912,</u> prior to serving the minimum sentence.
287 Section 5. Subsection (3) of section 784.07, Florida
288 Statutes, is amended to read:
289 784.07 Assault or battery of law enforcement officers,
290 firefighters, emergency medical care providers, public transit

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

291 employees or agents, or other specified officers;
292 reclassification of offenses; minimum sentences.—
293 (3) Any person who is convicted of a battery under
294 paragraph (2)(b) and, during the commission of the offense, such
295 person possessed:
296 (a) A "firearm" or "destructive device" as those terms are
297 defined in s. 790.001, shall be sentenced to a minimum term of
298 imprisonment of 3 years.
299 (b) A semiautomatic firearm and its high-capacity
300 detachable box magazine, as defined in s. 775.087(3), or a
301 machine gun as defined in s. 790.001, shall be sentenced to a
302 minimum term of imprisonment of 8 years.
303
304 Notwithstanding s. 948.01, adjudication of guilt or imposition
305 of sentence shall not be suspended, deferred, or withheld, and
306 the defendant is not eligible for statutory gain-time under s.
307 944.275 or any form of discretionary early release, other than
308 pardon or executive clemency, ~~or~~ conditional medical release
309 under s. 947.149, <u>or conditional aging inmate release under s.</u>
310 <u>945.0912,</u> prior to serving the minimum sentence.
311 Section 6. Subsection (1) of section 790.235, Florida
312 Statutes, is amended to read:
313 790.235 Possession of firearm or ammunition by violent
314 career criminal unlawful; penalty.—
315 (1) Any person who meets the violent career criminal
316 criteria under s. 775.084(1)(d), regardless of whether such
317 person is or has previously been sentenced as a violent career
318 criminal, who owns or has in his or her care, custody,
319 possession, or control any firearm, ammunition, or electric

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

320 weapon or device, or carries a concealed weapon, including a
321 tear gas gun or chemical weapon or device, commits a felony of
322 the first degree, punishable as provided in s. 775.082, s.
323 775.083, or s. 775.084. A person convicted of a violation of
324 this section shall be sentenced to a mandatory minimum of 15
325 years' imprisonment; however, if the person would be sentenced
326 to a longer term of imprisonment under s. 775.084(4)(d), the
327 person must be sentenced under that provision. A person
328 convicted of a violation of this section is not eligible for any
329 form of discretionary early release, other than pardon,
330 executive clemency, ~~or~~ conditional medical release under s.
331 947.149, or conditional aging inmate release under s. 945.0912.
332 Section 7. Subsection (7) of section 794.0115, Florida
333 Statutes, is amended to read:
334 794.0115 Dangerous sexual felony offender; mandatory
335 sentencing.—
336 (7) A defendant sentenced to a mandatory minimum term of
337 imprisonment under this section is not eligible for statutory
338 gain-time under s. 944.275 or any form of discretionary early
339 release, other than pardon or executive clemency, ~~or~~ conditional
340 medical release under s. 947.149, or conditional aging inmate
341 release under s. 945.0912, before serving the minimum sentence.
342 Section 8. Paragraphs (b), (c), and (g) of subsection (1)
343 and subsection (3) of section 893.135, Florida Statutes, are
344 amended to read:
345 893.135 Trafficking; mandatory sentences; suspension or
346 reduction of sentences; conspiracy to engage in trafficking.—
347 (1) Except as authorized in this chapter or in chapter 499
348 and notwithstanding the provisions of s. 893.13:

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

349 (b)1. Any person who knowingly sells, purchases,
350 manufactures, delivers, or brings into this state, or who is
351 knowingly in actual or constructive possession of, 28 grams or
352 more of cocaine, as described in s. 893.03(2)(a)4., or of any
353 mixture containing cocaine, but less than 150 kilograms of
354 cocaine or any such mixture, commits a felony of the first
355 degree, which felony shall be known as "trafficking in cocaine,"
356 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
357 If the quantity involved:
358 a. Is 28 grams or more, but less than 200 grams, such
359 person shall be sentenced to a mandatory minimum term of
360 imprisonment of 3 years, and the defendant shall be ordered to
361 pay a fine of $50,000.
362 b. Is 200 grams or more, but less than 400 grams, such
363 person shall be sentenced to a mandatory minimum term of
364 imprisonment of 7 years, and the defendant shall be ordered to
365 pay a fine of $100,000.
366 c. Is 400 grams or more, but less than 150 kilograms, such
367 person shall be sentenced to a mandatory minimum term of
368 imprisonment of 15 calendar years and pay a fine of $250,000.
369 2. Any person who knowingly sells, purchases, manufactures,
370 delivers, or brings into this state, or who is knowingly in
371 actual or constructive possession of, 150 kilograms or more of
372 cocaine, as described in s. 893.03(2)(a)4., commits the first
373 degree felony of trafficking in cocaine. A person who has been
374 convicted of the first degree felony of trafficking in cocaine
375 under this subparagraph shall be punished by life imprisonment
376 and is ineligible for any form of discretionary early release
377 except pardon or executive clemency, ~~or~~ conditional medical

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

378 release under s. 947.149, or conditional aging inmate release
379 under s. 945.0912. However, if the court determines that, in
380 addition to committing any act specified in this paragraph:
381 a. The person intentionally killed an individual or
382 counseled, commanded, induced, procured, or caused the
383 intentional killing of an individual and such killing was the
384 result; or
385 b. The person's conduct in committing that act led to a
386 natural, though not inevitable, lethal result,
387
388 such person commits the capital felony of trafficking in
389 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
390 person sentenced for a capital felony under this paragraph shall
391 also be sentenced to pay the maximum fine provided under
392 subparagraph 1.
393 3. Any person who knowingly brings into this state 300
394 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
395 and who knows that the probable result of such importation would
396 be the death of any person, commits capital importation of
397 cocaine, a capital felony punishable as provided in ss. 775.082
398 and 921.142. Any person sentenced for a capital felony under
399 this paragraph shall also be sentenced to pay the maximum fine
400 provided under subparagraph 1.
401 (c)1. A person who knowingly sells, purchases,
402 manufactures, delivers, or brings into this state, or who is
403 knowingly in actual or constructive possession of, 4 grams or
404 more of any morphine, opium, hydromorphone, or any salt,
405 derivative, isomer, or salt of an isomer thereof, including
406 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or

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

407 (3)(c)4., or 4 grams or more of any mixture containing any such
408 substance, but less than 30 kilograms of such substance or
409 mixture, commits a felony of the first degree, which felony
410 shall be known as “trafficking in illegal drugs,” punishable as
411 provided in s. 775.082, s. 775.083, or s. 775.084. If the
412 quantity involved:
413 a. Is 4 grams or more, but less than 14 grams, such person
414 shall be sentenced to a mandatory minimum term of imprisonment
415 of 3 years and shall be ordered to pay a fine of $50,000.
416 b. Is 14 grams or more, but less than 28 grams, such person
417 shall be sentenced to a mandatory minimum term of imprisonment
418 of 15 years and shall be ordered to pay a fine of $100,000.
419 c. Is 28 grams or more, but less than 30 kilograms, such
420 person shall be sentenced to a mandatory minimum term of
421 imprisonment of 25 years and shall be ordered to pay a fine of
422 $500,000.
423 2. A person who knowingly sells, purchases, manufactures,
424 delivers, or brings into this state, or who is knowingly in
425 actual or constructive possession of, 28 grams or more of
426 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as
427 described in s. 893.03(2)(a)1.g., or any salt thereof, or 28
428 grams or more of any mixture containing any such substance,
429 commits a felony of the first degree, which felony shall be
430 known as “trafficking in hydrocodone,” punishable as provided in
431 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:
432 a. Is 28 grams or more, but less than 50 grams, such person
433 shall be sentenced to a mandatory minimum term of imprisonment
434 of 3 years and shall be ordered to pay a fine of $50,000.
435 b. Is 50 grams or more, but less than 100 grams, such

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

436 person shall be sentenced to a mandatory minimum term of
437 imprisonment of 7 years and shall be ordered to pay a fine of
438 $100,000.
439 c. Is 100 grams or more, but less than 300 grams, such
440 person shall be sentenced to a mandatory minimum term of
441 imprisonment of 15 years and shall be ordered to pay a fine of
442 $500,000.
443 d. Is 300 grams or more, but less than 30 kilograms, such
444 person shall be sentenced to a mandatory minimum term of
445 imprisonment of 25 years and shall be ordered to pay a fine of
446 $750,000.
447 3. A person who knowingly sells, purchases, manufactures,
448 delivers, or brings into this state, or who is knowingly in
449 actual or constructive possession of, 7 grams or more of
450 oxycodone, as described in s. 893.03(2)(a)1.q., or any salt
451 thereof, or 7 grams or more of any mixture containing any such
452 substance, commits a felony of the first degree, which felony
453 shall be known as “trafficking in oxycodone,” punishable as
454 provided in s. 775.082, s. 775.083, or s. 775.084. If the
455 quantity involved:
456 a. Is 7 grams or more, but less than 14 grams, such person
457 shall be sentenced to a mandatory minimum term of imprisonment
458 of 3 years and shall be ordered to pay a fine of $50,000.
459 b. Is 14 grams or more, but less than 25 grams, such person
460 shall be sentenced to a mandatory minimum term of imprisonment
461 of 7 years and shall be ordered to pay a fine of $100,000.
462 c. Is 25 grams or more, but less than 100 grams, such
463 person shall be sentenced to a mandatory minimum term of
464 imprisonment of 15 years and shall be ordered to pay a fine of

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

465 $500,000.
466 d. Is 100 grams or more, but less than 30 kilograms, such
467 person shall be sentenced to a mandatory minimum term of
468 imprisonment of 25 years and shall be ordered to pay a fine of
469 $750,000.
470 4.a. A person who knowingly sells, purchases, manufactures,
471 delivers, or brings into this state, or who is knowingly in
472 actual or constructive possession of, 4 grams or more of:
473 (I) Alfentanil, as described in s. 893.03(2)(b)1.;
474 (II) Carfentanil, as described in s. 893.03(2)(b)6.;
475 (III) Fentanyl, as described in s. 893.03(2)(b)9.;
476 (IV) Sufentanil, as described in s. 893.03(2)(b)30.;
477 (V) A fentanyl derivative, as described in s.
478 893.03(1)(a)62.;
479 (VI) A controlled substance analog, as described in s.
480 893.0356, of any substance described in sub-sub-subparagraphs
481 (I)-(V); or
482 (VII) A mixture containing any substance described in sub-
483 sub-subparagraphs (I)-(VI),
484
485 commits a felony of the first degree, which felony shall be
486 known as “trafficking in fentanyl,” punishable as provided in s.
487 775.082, s. 775.083, or s. 775.084.
488 b. If the quantity involved under sub-subparagraph a.:
489 (I) Is 4 grams or more, but less than 14 grams, such person
490 shall be sentenced to a mandatory minimum term of imprisonment
491 of 3 years, and shall be ordered to pay a fine of $50,000.
492 (II) Is 14 grams or more, but less than 28 grams, such
493 person shall be sentenced to a mandatory minimum term of

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

494 imprisonment of 15 years, and shall be ordered to pay a fine of
495 $100,000.
496 (III) Is 28 grams or more, such person shall be sentenced
497 to a mandatory minimum term of imprisonment of 25 years, and
498 shall be ordered to pay a fine of $500,000.
499 5. A person who knowingly sells, purchases, manufactures,
500 delivers, or brings into this state, or who is knowingly in
501 actual or constructive possession of, 30 kilograms or more of
502 any morphine, opium, oxycodone, hydrocodone, codeine,
503 hydromorphone, or any salt, derivative, isomer, or salt of an
504 isomer thereof, including heroin, as described in s.
505 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
506 more of any mixture containing any such substance, commits the
507 first degree felony of trafficking in illegal drugs. A person
508 who has been convicted of the first degree felony of trafficking
509 in illegal drugs under this subparagraph shall be punished by
510 life imprisonment and is ineligible for any form of
511 discretionary early release except pardon or executive clemency,
512 ~~or~~ conditional medical release under s. 947.149, or conditional
513 aging inmate release under s. 945.0912. However, if the court
514 determines that, in addition to committing any act specified in
515 this paragraph:
516 a. The person intentionally killed an individual or
517 counseled, commanded, induced, procured, or caused the
518 intentional killing of an individual and such killing was the
519 result; or
520 b. The person’s conduct in committing that act led to a
521 natural, though not inevitable, lethal result,
522

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

523 such person commits the capital felony of trafficking in illegal
524 drugs, punishable as provided in ss. 775.082 and 921.142. A
525 person sentenced for a capital felony under this paragraph shall
526 also be sentenced to pay the maximum fine provided under
527 subparagraph 1.
528 6. A person who knowingly brings into this state 60
529 kilograms or more of any morphine, opium, oxycodone,
530 hydrocodone, codeine, hydromorphone, or any salt, derivative,
531 isomer, or salt of an isomer thereof, including heroin, as
532 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
533 60 kilograms or more of any mixture containing any such
534 substance, and who knows that the probable result of such
535 importation would be the death of a person, commits capital
536 importation of illegal drugs, a capital felony punishable as
537 provided in ss. 775.082 and 921.142. A person sentenced for a
538 capital felony under this paragraph shall also be sentenced to
539 pay the maximum fine provided under subparagraph 1.
540 (g)1. Any person who knowingly sells, purchases,
541 manufactures, delivers, or brings into this state, or who is
542 knowingly in actual or constructive possession of, 4 grams or
543 more of flunitrazepam or any mixture containing flunitrazepam as
544 described in s. 893.03(1)(a) commits a felony of the first
545 degree, which felony shall be known as “trafficking in
546 flunitrazepam,” punishable as provided in s. 775.082, s.
547 775.083, or s. 775.084. If the quantity involved:
548 a. Is 4 grams or more but less than 14 grams, such person
549 shall be sentenced to a mandatory minimum term of imprisonment
550 of 3 years, and the defendant shall be ordered to pay a fine of
551 $50,000.

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

552 b. Is 14 grams or more but less than 28 grams, such person
553 shall be sentenced to a mandatory minimum term of imprisonment
554 of 7 years, and the defendant shall be ordered to pay a fine of
555 $100,000.
556 c. Is 28 grams or more but less than 30 kilograms, such
557 person shall be sentenced to a mandatory minimum term of
558 imprisonment of 25 calendar years and pay a fine of $500,000.
559 2. Any person who knowingly sells, purchases, manufactures,
560 delivers, or brings into this state or who is knowingly in
561 actual or constructive possession of 30 kilograms or more of
562 flunitrazepam or any mixture containing flunitrazepam as
563 described in s. 893.03(1)(a) commits the first degree felony of
564 trafficking in flunitrazepam. A person who has been convicted of
565 the first degree felony of trafficking in flunitrazepam under
566 this subparagraph shall be punished by life imprisonment and is
567 ineligible for any form of discretionary early release except
568 pardon or executive clemency, ~~or~~ conditional medical release
569 under s. 947.149, or conditional aging inmate release under s.
570 945.0912. However, if the court determines that, in addition to
571 committing any act specified in this paragraph:
572 a. The person intentionally killed an individual or
573 counseled, commanded, induced, procured, or caused the
574 intentional killing of an individual and such killing was the
575 result; or
576 b. The person’s conduct in committing that act led to a
577 natural, though not inevitable, lethal result,
578
579 such person commits the capital felony of trafficking in
580 flunitrazepam, punishable as provided in ss. 775.082 and

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

581 921.142. Any person sentenced for a capital felony under this
582 paragraph shall also be sentenced to pay the maximum fine
583 provided under subparagraph 1.
584 (3) Notwithstanding the provisions of s. 948.01, with
585 respect to any person who is found to have violated this
586 section, adjudication of guilt or imposition of sentence shall
587 not be suspended, deferred, or withheld, nor shall such person
588 be eligible for parole prior to serving the mandatory minimum
589 term of imprisonment prescribed by this section. A person
590 sentenced to a mandatory minimum term of imprisonment under this
591 section is not eligible for any form of discretionary early
592 release, except pardon or executive clemency, ~~or~~ conditional
593 medical release under s. 947.149, or conditional aging inmate
594 release under s. 945.0912, prior to serving the mandatory
595 minimum term of imprisonment.
596 Section 9. Subsection (2) of section 921.0024, Florida
597 Statutes, is amended to read:
598 921.0024 Criminal Punishment Code; worksheet computations;
599 scoresheets.—
600 (2) The lowest permissible sentence is the minimum sentence
601 that may be imposed by the trial court, absent a valid reason
602 for departure. The lowest permissible sentence is any nonstate
603 prison sanction in which the total sentence points equals or is
604 less than 44 points, unless the court determines within its
605 discretion that a prison sentence, which may be up to the
606 statutory maximums for the offenses committed, is appropriate.
607 When the total sentence points exceeds 44 points, the lowest
608 permissible sentence in prison months shall be calculated by
609 subtracting 28 points from the total sentence points and

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

610 decreasing the remaining total by 25 percent. The total sentence
611 points shall be calculated only as a means of determining the
612 lowest permissible sentence. The permissible range for
613 sentencing shall be the lowest permissible sentence up to and
614 including the statutory maximum, as defined in s. 775.082, for
615 the primary offense and any additional offenses before the court
616 for sentencing. The sentencing court may impose such sentences
617 concurrently or consecutively. However, any sentence to state
618 prison must exceed 1 year. If the lowest permissible sentence
619 under the code exceeds the statutory maximum sentence as
620 provided in s. 775.082, the sentence required by the code must
621 be imposed. If the total sentence points are greater than or
622 equal to 363, the court may sentence the offender to life
623 imprisonment. An offender sentenced to life imprisonment under
624 this section is not eligible for any form of discretionary early
625 release, except executive clemency, ~~or~~ conditional medical
626 release under s. 947.149, or conditional aging inmate release
627 under s. 945.0912.
628 Section 10. Paragraph (b) of subsection (7) of section
629 944.605, Florida Statutes, is amended to read:
630 944.605 Inmate release; notification; identification card.—
631 (7)
632 (b) Paragraph (a) does not apply to inmates who:
633 1. The department determines have a valid driver license or
634 state identification card, except that the department shall
635 provide these inmates with a replacement state identification
636 card or replacement driver license, if necessary.
637 2. Have an active detainer, unless the department
638 determines that cancellation of the detainer is likely or that

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

639 the incarceration for which the detainer was issued will be less
640 than 12 months in duration.
641 3. Are released due to an emergency release, ~~or~~ a
642 conditional medical release under s. 947.149, or conditional
643 aging inmate release under s. 945.0912.
644 4. Are not in the physical custody of the department at or
645 within 180 days before release.
646 5. Are subject to sex offender residency restrictions, and
647 who, upon release under such restrictions, do not have a
648 qualifying address.
649 Section 11. Subsection (1) of section 944.70, Florida
650 Statutes, is amended to read:
651 944.70 Conditions for release from incarceration.—
652 (1)(a) A person who is convicted of a crime committed on or
653 after October 1, 1983, but before January 1, 1994, may be
654 released from incarceration only:
655 1. Upon expiration of the person’s sentence;
656 2. Upon expiration of the person’s sentence as reduced by
657 accumulated gain-time;
658 3. As directed by an executive order granting clemency;
659 4. Upon attaining the provisional release date;
660 5. Upon placement in a conditional release program pursuant
661 to s. 947.1405; or
662 6. Upon the granting of control release pursuant to s.
663 947.146.
664 (b) A person who is convicted of a crime committed on or
665 after January 1, 1994, may be released from incarceration only:
666 1. Upon expiration of the person’s sentence;
667 2. Upon expiration of the person’s sentence as reduced by

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

668 accumulated meritorious or incentive gain-time;
669 3. As directed by an executive order granting clemency;
670 4. Upon placement in a conditional release program pursuant
671 to s. 947.1405, ~~or~~ a conditional medical release program
672 pursuant to s. 947.149, or a conditional aging inmate release
673 program pursuant to s. 945.0912; or
674 5. Upon the granting of control release, including
675 emergency control release, pursuant to s. 947.146.
676 Section 12. This act shall take effect October 1, 2020.

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

S00574
GENERAL BILL/CS by CJ; Brandes; (CO-INTRODUCERS) Perry; (Linked S 01718, Compare H 00837)
Conditional Aging Inmate Release. EFFECTIVE DATE: 10/01/2020.
01/14/20 S Introduced -SJ 44 ; CS by Criminal Justice read 1st time -SJ 128
01/17/20 S On Committee agenda-- Appropriations Subcommittee on Criminal and Civil Justice, 01/22/20, 1:30 pm, 37 Senate Building