

Tab 2	SPB 7086 by CJ; Voting Rights Restoration						
703932	A	S	FAV	CJ, Brandes, Perry	Delete L.308 - 348:	03/25 04:57 PM	
309960	AA	S	FAV	CJ, Brandes	Delete L.35 - 62:	03/25 04:57 PM	
631578	SA	S	UNFAV	CJ, Bracy	Delete L.35 - 62:	03/25 04:57 PM	
243298	AA	S	WD	CJ, Bracy	Delete L.5 - 17:	03/25 10:58 AM	
776780	AA	S	UNFAV	CJ, Bracy	Delete L.5 - 17:	03/25 04:57 PM	
783410	AA	S	UNFAV	CJ, Bracy	Delete L.25 - 34:	03/25 04:57 PM	
Tab 3	SB 610 by Pizzo; (Similar to H 01259) Condominium Associations						
265374	A	S	RCS	CJ, Pizzo	Delete L.88 - 197:	03/25 04:52 PM	
Tab 4	CS/SB 1002 by IS, Hutson; (Similar to CS/H 00341) Motor Vehicles and Railroad Trains						
Tab 5	SB 1186 by Baxley (CO-INTRODUCERS) Perry; (Compare to H 07081) Criminal Judgments						
147294	A	S	RCS	CJ, Baxley	Delete L.129:	03/25 04:52 PM	
Tab 6	SB 1612 by Baxley; (Identical to H 06055) Prison Industry Programs						
Tab 7	SB 1796 by Perry; Public Records/Commissioners and Commission Investigators/School Administrators						
235690	A	S	RCS	CJ, Perry	Delete L.321 - 376:	03/25 04:52 PM	

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Perry, Chair
Senator Brandes, Vice Chair

MEETING DATE: Monday, March 25, 2019
TIME: 1:30—3:30 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Perry, Chair; Senator Brandes, Vice Chair; Senators Bracy, Flores, and Pizzo

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
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Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.

Secretary of Corrections

1	Inch, Mark S. ()	Pleasure of Governor	Recommend Confirm Yeas 5 Nays 0
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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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Consideration of proposed bill:

2	SPB 7086	Voting Rights Restoration; Revising terminology regarding voting rights restoration to conform to the State Constitution; requiring the voting disqualification of certain felons to be removed and voting rights restored pursuant to s. 4, Art. VI, of the State Constitution; requiring the Department of Corrections to include notification of all outstanding terms of sentence in an inmate's release documents; requiring each county detention facility to provide information on the restoration of voting rights pursuant to s. 4, Art. VI of the State Constitution to certain prisoners, etc.	Submitted and Reported Favorably as Committee Bill Yeas 3 Nays 2
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3	SB 610 Pizzo (Similar H 1259)	Condominium Associations; Revising criminal penalties relating to the acceptance of things or services of value or kickbacks; providing criminal penalties for certain violations relating to official association records; providing criminal penalties for fraudulent voting activities related to association elections, etc.	Fav/CS Yeas 4 Nays 1
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CJ 03/25/2019 Fav/CS
IT
ACJ
AP

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, March 25, 2019, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 1002 Infrastructure and Security / Hutson (Similar CS/H 341)	Motor Vehicles and Railroad Trains; Revising the definition of the term "railroad train"; requiring that, in the event of a crash involving a railroad train, the collection of certain information be at the discretion of the law enforcement officer having jurisdiction to investigate the crash; specifying that certain persons are not considered passengers for the purpose of making crash reports, etc. IS 03/12/2019 Fav/CS CJ 03/25/2019 Favorable RC	Favorable Yeas 4 Nays 0
5	SB 1186 Baxley (Compare H 7081)	Criminal Judgments; Requiring that judgments of guilty or not guilty of a felony be in a written record, rather than in writing, or an electronic record with the judge's electronic signature, recorded by the clerk of the circuit court; requiring that for an electronic record of a judgment of guilty, the fingerprints of a defendant be electronically captured and a certain certification be included, etc. CJ 03/25/2019 Fav/CS JU RC	Fav/CS Yeas 4 Nays 0
6	SB 1612 Baxley (Identical H 6055)	Prison Industry Programs; Removing provisions that provide a limitation on the total sales by a specified corporation of certain products offered for purchase to a state agency, etc. CJ 03/25/2019 Favorable GO RC	Favorable Yeas 5 Nays 0
7	SB 1796 Perry	Public Records/Commissioners and Commission Investigators/School Administrators; Providing an exemption from public records requirements for the personal identifying and location information of commissioners and commission investigators of the Commission on Offender Review and the names and personal identifying and location information of the spouses and children of such personnel; providing for future review and repeal of the exemption; providing an exemption from public records requirements for the personal identifying and location information of school administrators and the names and personal identifying and location information of the spouses and children of the school administrators; providing statements of public necessity, etc. CJ 03/25/2019 Fav/CS GO RC	Fav/CS Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, March 25, 2019, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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Other Related Meeting Documents

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of

Mark S. Inch

Secretary of Corrections

NOTICE OF HEARING

TO: Secretary Mark S. Inch

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Monday, March 25, 2019, in the Mallory Horne Committee Room, 37 Senate Building, commencing at 1:30 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 20th day of March, 2019

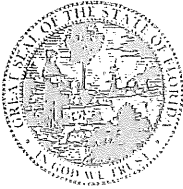
Committee on Criminal Justice



Senator Keith Perry
As Chair and by authority of the committee

cc: Members, Committee on Criminal Justice
Office of the Sergeant at Arms

Amended



RON DESANTIS
GOVERNOR

January 30, 2019



COMMITTEE ON
ETHICS AND ELECTIONS

Secretary Jennifer Kennedy
Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, FL 32399-0250

Dear Secretary Kennedy,

Please be advised I have made the following appointment under the provisions of Section 20.315, Florida Statutes:

Mr. Mark Inch

As Secretary of the Department of Correction, subject to confirmation by the Senate. This appointment is effective January 14, 2019, for a term ending at the pleasure of the Governor.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis
Governor

RD/mm

HAND DELIVERED

R 11

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

2019 FEB 12 PM 2:13

STATE OF FLORIDA

County of Leon

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Secretary, Florida Department of Corrections
(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Phil S. Inch

Signature

Sworn to and subscribed before me this 12th day of February, 2019

Stacey Hackney

Signature of Officer Administering Oath or Notary Public

Stacey Hackney

Print Name, or Stamp Commissioned Name of Notary Public



STACEY HACKNEY
MY COMMISSION # GG 003956
EXPIRES: October 20, 2020
Bonded Thru Budget Notary Services

Personally Known ☒ OR

Produced Identification ☐

Type of identification produced

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☒ Home ☐ Office

Street or Post Office Box

City, State, Zip Code

MARK S. INCH

Print Name

Phil S. Inch

Signature

500

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Laurel M. Lee, Secretary of State,
do hereby certify that

Mark S. Inch

is duly appointed

Secretary,

Department of Corrections

for a term beginning on the Fourteenth day of January, A.D.,
2019, to serve at the pleasure of the Governor and is subject to
be confirmed by the Senate during the next regular session of the
Legislature.

Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Thirteenth day of February, A.D., 2019.



Secretary of State



DSDE 99 (3/03)

The original document has a reflective line mark in paper. Hold at an angle to view when checking.

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8 1/2 x 11" document.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/25/19.

Meeting Date

Bill Number (if applicable)

Topic Confirmation Hearing?

Amendment Barcode (if applicable)

Name Mark Inch.

Job Title Secretary.

Address 501 S. Calhoun ST.

Phone 850-712-3030.

Street

Tallahassee

City

FL

State

32399.

Zip

Email Mark.Inch@fdc-myflorida.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Dept. of Corrections

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/25/14

Meeting Date

Bill Number (if applicable)

Topic Confirmation of Secretary of Connections

Amendment Barcode (if applicable)

Name James Baiardi

Job Title PBA - Vice President Services

Address 300 RANSB BROAD ST

Phone 800 733-3722

Street

TALL

FLA

32301

City

State

Zip

Email jimbaiardi@PBA.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida PBA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
**COMMITTEE RECOMMENDATION ON
EXECUTIVE APPOINTMENT**

COMMITTEE: Committee on Criminal Justice
MEETING DATE: Monday, March 25, 2019
TIME: 1:30—3:30 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Building

TO: The Honorable Bill Galvano, President

FROM: Committee on Criminal Justice

The committee was referred the following executive appointment subject to confirmation by the Senate:

Office: Secretary of Corrections

Appointee: Inch, Mark S.

Term: 1/14/2019-Pleasure of Governor

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor.

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

Mark S. Inch

WITNESS'S NAME: Secretary of Corrections

ANSWER: I do

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Senate Criminal Justice Committee

DATE: 03/25/19

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 Committee on Criminal Justice

BILL: SPB 7086

INTRODUCER: Criminal Justice Committee

SUBJECT: Voting Rights Restoration

DATE: March 26, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Cox	Jones		CJ Submitted as Comm. Bill/Fav

I. Summary:

SPB 7086 makes a number of conforming changes to ensure the Amendment 4 ballot initiative approved by the Florida voters in 2018 is uniformly implemented and relevant terms are defined.

Specifically, the bill creates s. 98.0751, F.S., codifying that a person who has been disqualified from voting based on a felony conviction for an offense other than murder or a felony sexual offense must have such disqualification removed and his or her voting rights restored pursuant to Article VI, section 4, of the Florida Constitution upon the completion of all terms of his or her sentence, including parole or probation. Additionally, the bill defines necessary terms, including “completion of all terms of sentence,” “felony sexual offense,” and “murder.”

The bill also creates an undesignated section of statute which establishes the Restoration of Voting Rights Work Group within the Department of State (DOS) for the purpose of conducting a comprehensive review of the process of verifying registered voters, applicants, or potential applicants who have been convicted of a felony but who may be eligible for restoration of voting rights. The bill establishes the Work Group membership and appointment procedures and also provides duties. The Work Group is required to submit a report of its specified recommendations to the Legislature by November 1, 2019.

The bill amends s. 940.061, F.S., requiring the Department of Corrections (DOC) to inform inmates and offenders of voting rights restoration pursuant to Article VI, section 4, of the Florida Constitution, in addition to executive clemency and restoration of civil rights.

The bill requires the DOC and county detention facilities to notify specified persons of all outstanding terms of the sentence to assist the inmate in determining his or her status with regard to the completion of all terms of sentence, as defined in s. 98.0751, F.S.

Sections 97.052, 97.053, 98.045, and 98.075, F.S., are amended to revise the term “civil” to “voting” clarifying that these provisions relate to the restoration of voting rights. Section 98.075, F.S., is also amended to require county supervisors of elections to notify a potential voter of

instructions for seeking restoration of voting rights pursuant to Article VI, section 4, of the Florida Constitution, in addition to restoration of civil rights pursuant to Article IV, section 8, of the Florida Constitution. Lastly, s. 944.292, F.S., is amended to reference the voting rights restoration process.

To the extent that the bill results in an increased workload to such entities as the DOS, DOC, Florida Department of Law Enforcement, and Florida Commission on Offender Review, the bill will likely result in a positive fiscal impact on these entities. However, this is not expected to increase the entities' workload more than the passage of Amendment 4 has already done. *See* Section V. Fiscal Impact Statement.

The bill is effective upon becoming law.

II. Present Situation:

Voting Registration in Florida

Eligibility to Register to Vote

The Florida Constitution and Florida Statutes provide for a person's eligibility to vote in an election¹ and specifically state that a person is eligible to vote in Florida only if that person is:

- At least 18 years old;
- A United States citizen;
- A legal resident of Florida;
- A legal resident of the county in which the person seeks to register; and
- Registered pursuant to the Florida Election Code.²

In part, a person is not qualified to register to vote in Florida, without having his or her voting rights restored, if he or she has been convicted of a felony³ by any court of record.⁴ The Secretary of State, who is the head of the Florida Department of State (DOS), is designated as the chief election officer of Florida⁵ and is required, in part, to:

- Obtain and maintain uniformity in the interpretation and implementation of the election laws;⁶
- Enact rules to provide uniform standards for the proper and equitable implementation of the registration laws;⁷ and

¹ Section 97.021(12), F.S., defines "election" to mean any primary election, special primary election, special election, general election, or presidential preference primary election.

² Article VI, s. 2, FLA. CONST. and s. 97.041(1), F.S. Additionally, s. 97.011, F.S., provides that chs. 97-106 are known as the "Florida Election Code."

³ Article X, section 10, of the Florida Constitution defines "felony" to mean any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or by imprisonment in the state penitentiary. Additionally, s. 775.08(1), F.S., defines "felony" to mean any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or imprisonment in a state penitentiary. "State penitentiary" is further defined to include state correctional facilities. A person must be imprisoned in the state penitentiary for each sentence which, except an extended term, exceeds 1 year.

⁴ Article VI, s. 4(a), FLA. CONST. and s. 97.041(2), F.S.

⁵ Section 97.012, F.S.

⁶ Section 97.012(1), F.S.

⁷ Section 97.012(2), F.S.

- Create and administer a uniform statewide voter registration system as required by the Help America Vote Act of 2002.⁸

Uniform Statewide Voter Registration

The statewide voter registration system must contain the name and registration information of every legally registered voter in the state. The voter registration system is the official list of registered voters in the state and must provide secured access by authorized voter registration officials.⁹ The DOS may not contract with any other entity for the operation of the statewide voter registration system.¹⁰

A supervisor of elections is an elected position whose primary duties include updating voter registration information, entering new voter registrations into the statewide voter registration system, and acting as the official custodian of documents received related to the registration of electors and changes in voter registration status of electors of the supervisor's county.¹¹ The supervisor of elections must also ensure that all voter registration and list maintenance procedures conducted and the voter registration system used are in compliance with any federal and state laws as well as the DOS rule through the statewide voter registration system.¹²

As mentioned above, the DOS develops a uniform statewide voter registration application (application) for distribution to any person seeking to register to vote.¹³ The application elicits specified information from the applicant, including, in part, the applicant's:

- Name;
- Date of birth;
- Address;
- County of residence;
- Race or ethnicity;
- State or county of birth;
- Sex; and
- Party affiliation.¹⁴

Additionally, the application must contain a question as to whether the applicant has been convicted of a felony, and, if convicted, has had his or her civil rights restored. The convicted felon who has gained his or her rights back must not be made to divulge the existence of such a conviction when filling out an application. The affirmative statement required to be included in

⁸ Section 97.012(11), F.S. The secretary may delegate voter registration duties and records maintenance activities to voter registration officials provided that any responsibilities delegated are performed in accordance with state and federal law. Section 97.021(17), F.S., defines "lists of registered electors" to mean names and associated information of registered electors maintained by the DOS in the statewide voter registration system or generated or derived from the statewide voter registration system and provides that lists may be produced in printed or electronic format.

⁹ Section 97.021(43), F.S., defines "voter registration official" to mean any supervisor of elections or individual authorized by the DOS to accept voter registration applications and execute updates to the statewide voter registration system.

¹⁰ Section 98.035(2) and (3), F.S.

¹¹ Section 98.015, F.S.

¹² Section 98.015(10), F.S. The specific federal laws that are cited relating to compliance are the Voting Rights Act of 1965, the National Voter Registration Act of 1993, or the Help America Vote Act of 2002.

¹³ Section 97.052(1)(b), F.S.

¹⁴ Section 97.052(2), F.S.

the application is: “I affirm I am not a convicted felon, or, if I am, my rights relating to voting have been restored.”¹⁵

In part, applications must be accepted in the office of any supervisor of elections,¹⁶ the DOS, or a voter registration agency during the hours that office is open or when mailed.¹⁷ An application is complete and becomes the official voter registration record of that applicant when all information necessary to establish the applicant’s eligibility as discussed above is received by a voter registration official.¹⁸ The supervisor of elections must notify an applicant by mail within five business days if the applicant fails to provide any of the required information on the application and the applicant must be given an opportunity to complete the application to vote in the next election up until the book closing for that next election.¹⁹

Verification of Eligibility and Maintenance of the Voting Registration System

A supervisor of elections is prohibited from removing a voter from the statewide voter registration system except in limited circumstances, including, in part, as a result of a felony conviction.²⁰ The DOS identifies ineligible registered voters who qualify for removal from the registration system by comparing information received from specified entities, including, in part:

- The Florida Commission on Offender Review (FCOR);²¹
- The Department of Corrections (DOC);²²
- The Florida Department of Law Enforcement (FDLE);²³ or
- A United States Attorney’s Office.²⁴

The DOS reviews ineligibility information, including relevant information provided by such entities, and makes an initial credibility and reliability determination.²⁵ The DOS notifies the voter’s supervisor of elections if it determines the information is credible and reliable and provides a copy of supporting documentation indicating the voter’s potential ineligibility.²⁶ A supervisor of elections must notify the registered voter of his or her potential ineligibility by mail

¹⁵ Section 97.052(2)(t), F.S. Section 97.053(5)(a)6., F.S., further provides that this requirement is satisfied in the application with a mark in the checkbox affirming that the applicant has not been convicted of a felony or that, if convicted, has had his or her civil rights restored.

¹⁶ Section 97.021(43), F.S., includes supervisors of election in the definition of “voter registration official” and provides that such entities accept voter registration applications and execute updates to the statewide voter registration system.

¹⁷ Section 97.053(1), F.S.

¹⁸ See s. 97.053(5)(a) and (6), F.S.

¹⁹ Section 97.052(6), F.S.

²⁰ Section 98.045(2)(a), F.S.

²¹ Section 98.093(1)(e), F.S., requires the FCOR to provide information on a bimonthly frequency that identifies persons granted clemency in the preceding month or any updates to prior records which occurred in the preceding month.

²² Section 98.093(1)(f), F.S., requires the DOC to provide information identifying persons convicted of a felony and committed to the custody of or supervision with the DOC. This information must be provided in a time and in a manner that allows the DOC to identify registered voters who are convicted felons and to meet its obligations under state and federal law.

²³ Section 98.093(1)(d), F.S., requires the FDLE to provide information identifying persons convicted of a felony whose name appears in the voter registration records supplied by the statewide voter registration system, in a time and manner that enables the FDLE to meet its obligations under state and federal law.

²⁴ Section 98.093(1)(c), F.S., requires the United States Attorney to provide information to the DOS listing persons convicted of a felony in federal court.

²⁵ Section 98.075(5), F.S.

²⁶ *Id.* Further, ss. 98.075(6) and 98.093(3), F.S., also authorize the supervisor of elections to remove the name of an ineligible person from the statewide voter registration system based on information received from other sources.

within seven days after receiving the notice or information from the DOS. The notice must include:

- A statement regarding the basis for potential ineligibility and a copy of any supporting documentation;
- A statement that failing to respond within 30 days after receiving the notice may result in an ineligibility determination and removal from the statewide voter registration system;
- A return form requiring the registered voter to admit or deny the accuracy of the information used to make the initial ineligibility determination;
- Instructions for contacting the supervisor of elections if the person requires assistance; and
- Instructions for seeking restoration of civil rights following a felony conviction, if applicable.²⁷

If a registered voter fails to respond to the notice, or responds without requesting a hearing, the supervisor of elections makes a final ineligibility determination and may remove the voter from the statewide voter registration system and provide a notification of removal.²⁸

If the voter denies the accuracy of the information and requests a hearing, the supervisor of elections must conduct a hearing at which the registered voter may present evidence, prior to making an eligibility determination. If the supervisor of elections determines the voter is ineligible following a hearing, the supervisor of elections may remove the voter from the statewide voter registration system and notify the voter of such action.²⁹ An eligibility determination must be supported by a preponderance of the evidence, and upon removal, a voter has the right to appeal the determination of ineligibility in the circuit court of the county where the person registered.³⁰

Any voter whose name was removed from the statewide voter registration system on the basis of a determination of ineligibility who subsequently becomes eligible to vote must reregister in order to have his or her name restored to the statewide voter registration system.³¹ When the name of any elector has been erroneously or illegally removed from the statewide voter registration system, the name of the elector must be restored by a voter registration official upon satisfactory proof, even though the registration period for that election is closed.³²

In addition to updating the voter registration system as described above, the supervisor of elections is required to conduct a general registration list maintenance program to protect the

²⁷ Section 98.075(7)(a), F.S. Further, if the mailed notice is returned as undeliverable, the supervisor of elections must publish a specified notice once in a newspaper of general circulation in the county.

²⁸ Section 98.075(7)(a)3., F.S.

²⁹ Section 98.075(7)(a)5., F.S.

³⁰ Sections 98.075(7)(b) and 98.0755, F.S. Section 98.0755, F.S., further provides that notice of appeal must be filed within the time and in the manner provided by the Florida Rules of Appellate Procedure and the voter must bear the cost of the trial in the circuit court unless there is a finding that his or her name was erroneously or illegally removed from the statewide voter registration system, or that he or she is indigent.

³¹ Section 98.075(7)(b)5., F.S.

³² Section 98.081(2), F.S.

integrity of the electoral process by ensuring the maintenance of accurate and current voter registration records.³³

Conditions Placed Upon Regaining the Right to Vote Subsequent to a Felony Conviction

Poll taxes began in the 1890s and essentially operated as a voting fee. Eligible voters were required to pay a tax before they could cast a ballot.³⁴ In 1964, the 24th Amendment to the United States Constitution was ratified, which prohibited the use of poll taxes for federal elections.³⁵ Despite the federal ban on the use of poll taxes, states tried to keep them in operation. The United States Supreme Court held those attempts unconstitutional by finding that, “[A] state violates the Equal Protection Clause of the Fourteenth Amendment whenever it makes the affluence of the voter or payment of any fee an electoral standard.”³⁶

However, the issue of whether the imposition of fees or fines as a requisite to a completion of a sentence to *restore* voting rights has not been resolved. Florida’s suspension of a person’s voting rights subsequent to a felony conviction has been challenged on constitutional grounds a number of times. In *Beacham v. Braterman*, the court held that such suspension does not violate the Equal Protection nor the Due Process Clause of the United States Constitution, holding that a state may constitutionally exclude persons otherwise qualified to vote who have been convicted of a felony.³⁷

In *Johnson v. Bush*, the plaintiffs’ alleged that the imposition of financial conditions on regaining the right to vote, specifically the requirement to pay all victim restitution, constituted a practical equivalent of a poll tax.³⁸ The court rejected this argument, reasoning that Florida had permissibly suspended the plaintiffs’ right to vote along with other civil rights based on their felony convictions and that the state’s requirement for the plaintiffs seeking to have their civil rights fully restored to satisfy victim restitution is one made within the state’s authority. Furthermore, the court held that payment of restitution to the victim was *part of the sentence* and thus, the sentence was not complete without such payment. The court further reasoned that the payment of restitution to the victim was not a condition precedent to the plaintiffs’ right to vote, but rather a prerequisite to having their civil rights restored.³⁹

³³ Section 98.065(1), F.S. Further, s. 98.065(2), F.S., requires that a registration list maintenance program be conducted by each supervisor of elections, at a minimum, in each odd-numbered year and must be completed not later than 90 days prior to the date of any federal election.

³⁴ The National Museum of American History, *Poll Taxes*, available at <http://americanhistory.si.edu/democracy-exhibition/vote-voice/keeping-vote/state-rules-federal-rules/poll-taxes> (last visited March 20, 2019).

³⁵ *Id.* U.S. CONST., amend. IV.

³⁶ See *Harper v. Virginia State Bd. of Elections*, 383 U.S. 663, 666 (U.S. 1966).

³⁷ *Beacham v. Braterman*, 300 F.Supp. 182, 184 (S.D. Fla. 1969).

³⁸ *Johnson v. Bush*, 353 F.3d 1287, 1308 (11th Cir. 2003); See also *Johnson v. Bush*, 405 F.3d 1214, 1228 (11th Cir. 2005).

³⁹ *Id.* at 1343. See also *Howard v. Gilmore*, 205 F.3d 1333 (4th Cir. 2000), where the court in that case held that requiring felons to pay a \$10 fee to the Circuit Court of Richmond in order to begin the process of having a person’s civil rights restored did not constitute an unconstitutional poll tax. See also *Johnson v. Bredesen*, 624 F.3d 742, 750-751 (6th Cir. 2010); *Harvey v. Brewer*, 605 F.3d 1067, 1079 (9th Cir. 2010).

Restoration of Civil Rights

As discussed above, a person convicted of a felony forfeits specified rights as a result of the conviction under the Florida Constitution.⁴⁰ Additional civil rights are lost in accordance with statute, including the right to serve on a jury⁴¹ and possess a firearm.⁴² Prior to 2019, the civil rights of a convicted felon were suspended until restored by a pardon⁴³ or restoration of civil rights.⁴⁴

The Florida Constitution, in part, grants the power of restoring civil rights to the Governor with the consent of at least two Cabinet members.⁴⁵ The Governor and Cabinet sit as the Executive Board of Clemency (Clemency Board).⁴⁶ The Rules of Executive Clemency (Clemency Rules) outline the eligibility criteria for the process of restoration of civil rights, are adopted by the Governor with the approval of two members of the Clemency Board.⁴⁷ The Clemency Rules provide, in part, that the unfettered discretion to:

- Deny the restoration of civil rights at any time, for any reason, rests with the Governor; and
- Grant the restoration of civil rights at any time, for any reason, rests with the Governor, provided at least two members of the Clemency Board also approve.⁴⁸

The current Clemency Rules define the restoration of civil rights as a process that restores all of the applicant's rights of citizenship enjoyed before the felony conviction, except the specific authority to own, possess, or use firearms.⁴⁹ The Clemency Rules further provide the specific authority to own, possess, or use a firearm must be restored through a separate process for such rights.⁵⁰

Restoration of Civil Rights Under Governor Scott's Administration

The current Clemency Rules, which have not been amended since Governor DeSantis and the new Cabinet members were sworn into office on January 8, 2019, became effective March 9,

⁴⁰ Article VI, section 4, of the Florida Constitution provides that a person loses their right to hold office subsequent to a felony conviction.

⁴¹ Section 40.013, F.S.

⁴² Section 790.23, F.S. *See also* s. 790.06(2)(d) and (k), F.S.

⁴³ Florida provides for several types of pardons applicable to felony convictions. A full pardon unconditionally releases a person from punishment and forgives guilt for any Florida convictions. It restores to an applicant all of the rights of citizenship possessed by the person before his or her conviction, including the right to own, possess, or use firearms. A pardon without firearm authority releases a person from punishment and forgives guilt. It entitles an applicant to all of the rights of citizenship enjoyed by the person before his or her conviction, except the specific authority to own, possess, or use firearms. The FCOR, *Clemency Overview*, available at <https://www.fcor.state.fl.us/clemencyOverview.shtml> (last visited March 19, 2019).

⁴⁴ Section 944.292, F.S.

⁴⁵ Article IV, s. 8(a), FLA. CONST. This authority is also codified in s. 940.01, F.S.

⁴⁶ Rules of Executive Clemency (2017), Rule 1., available at https://www.fcor.state.fl.us/docs/clemency/clemency_rules.pdf (last visited March 20, 2019)(hereinafter cited as "Clemency Rule").

⁴⁷ Section 940.03, F.S. *See also* Clemency Rule 2.A.

⁴⁸ Clemency Rule 4.

⁴⁹ Clemency Rule 4.I.G. Restoration of civil rights in accordance with the Clemency Rules does not relieve an applicant from the registration and notification requirements or any other obligations and restrictions imposed by law upon sexual predators or sexual offenders.

⁵⁰ *See* Clemency Rule 4.I.F.

2011 under then Governor Scott.⁵¹ Eligibility for restoration of civil rights is separated out between applications that require a hearing in front of the Clemency Board for approval and those that do not. The investigations for the applications requiring a hearing are more intensive than applications that do not require a hearing.⁵²

For a person to qualify for civil rights restoration without a hearing an applicant must have not committed or been arrested for any crime for five years from the date of completion of all sentences, conditions of supervision imposed, and meet the following requirements:

- Complete all sentences imposed and all conditions of supervision must have expired or been completed, including but not limited to, imprisonment, parole, probation, community control, control release, and conditional release;
- Have no outstanding detainers or pending criminal charges;
- Owe no restitution pursuant to a court order, civil judgment, or ch. 960, F.S.;⁵³
- Not have a conviction for:
 - Murder, attempted murder, attempted felony murder, or manslaughter (ch. 782, F.S.);
 - Driving under the influence (DUI) manslaughter or DUI causing serious bodily injury (s. 316.193, F.S.);
 - Leaving the scene of an accident involving injury or death (s. 316.027, F.S.);
 - Sexual battery, attempted sexual battery, unlawful sexual activity with a minor, or female genital mutilation (ch. 794, F.S.);
 - Any violation of lewdness or indecent exposure (ch. 800, F.S.);
 - Lewd or lascivious offense on an elderly or disabled person (s. 825.1025, F.S.);⁵⁴
 - Sexual performance by a child (s. 827.071, F.S.);⁵⁵
 - Aggravated child abuse (s. 827.03, F.S.);
 - Failure to register as a sexual predator or sexual offender (s. 775.21 or s. 943.0435, F.S.);
 - Computer pornography, transmission of computer pornography, or any crime involving a minor (ch. 847, F.S.);
 - Kidnapping, false imprisonment, or luring or enticing a child (ch. 787, F.S.);⁵⁶
 - Aggravated battery (s. 784.045, F.S.);⁵⁷
 - Felony battery or domestic battery by strangulation (s. 784.041, F.S.);
 - Robbery, carjacking, home invasion (ch. 812, F.S.);⁵⁸
 - Poisoning food or water (s. 859.01, F.S.);
 - Abuse of a dead human body (s. 872.06, F.S.);

⁵¹ Clemency Rule 2.B. See also The FCOR, *Executive Clemency Timeline: 1991-2015*, p. 2 (on file with the Senate Committee on Criminal Justice)(hereinafter cited as “Clemency Timeline”).

⁵² See The FCOR, *Annual Report 2016-17*, p. 15, available at <https://www.fcor.state.fl.us/docs/reports/FCORAnnualreport201617.pdf> (last visited March 20, 2019).

⁵³ The FCOR reports that the current Clemency Rules require all restitution to be paid even if such restitution is converted to a civil lien. However, the FCOR reports that other financial obligations do not have to be paid to be eligible for clemency unless the other obligation was ordered by the court as restitution. Email from Alexander Yarger, Legislative Affairs Director, the FCOR, January 2, 2019 (on file with the Senate Criminal Justice Committee). Chapter 960, F.S., provides compensation for crime victim assistance services including, but not limited to, mental health counseling, forensic physical examinations, and relocation assistance for specified crimes.

⁵⁴ Clemency Rule 9.A.4. A conviction for attempt to commit the offense also disqualifies a person from eligibility.

⁵⁵ *Id.* A conviction for attempt to commit the offense also disqualifies a person from eligibility.

⁵⁶ *Id.* A conviction for attempt to commit any of the offenses also disqualifies a person from eligibility.

⁵⁷ *Id.* A conviction for attempt to commit arson also disqualifies a person from eligibility.

⁵⁸ Clemency Rule 9.A.4. A conviction for attempt to commit any of the offenses also disqualifies a person from eligibility.

- Burglary of a dwelling or first degree burglary (s. 810.02, F.S.);⁵⁹
- Arson (s. 806.01, F.S.);⁶⁰
- Aggravated assault (s. 784.021, F.S.);
- Aggravated stalking (s. 784.048, F.S.);
- Battery, aggravated battery, or aggravated assault on an officer (s. 784.07, F.S.);
- Trafficking or conspiracy to traffic in a controlled substance or any other first or second degree felony (ch. 893, F.S.);
- Aircraft piracy (s. 860.16, F.S.);
- Unlawful throwing, placing, or discharging of a destructive device or bomb (s. 790.161, F.S.);
- Facilitating or furthering terrorism (s. 775.31, F.S.);
- Treason (s. 876.32, F.S.);
- Possession of a firearm by a convicted felon or violent career criminal (s. 790.23 or s. 790.235, F.S.);
- Bribery, misuse of public office (ch. 838, F.S.), extortion by a state officer (s. 839.11, F.S.), misappropriation of money by a commission to make a sale (s. 839.17, F.S.), or any crime committed by an elected official while in office;
- Illegal use of explosives (ch. 552, F.S.);
- Racketeering (ch. 895, F.S.);
- Exploitation of an elderly person (s. 825.103, F.S.);
- Public corruption;
- Any felony violation of election law;
- A “dangerous crime” as defined by s. 907.041, F.S.; or
- A similar offense committed in another jurisdiction.

Additionally, an applicant may not be previously declared a:

- Habitual felony offender;⁶¹
- Three-time violent felony offender;⁶²
- Violent career criminal;⁶³
- Prison Releasee Reoffender;⁶⁴ or
- Sexual predator.⁶⁵

The FCOR reviews an applicant’s eligibility for restoration of civil rights without a hearing, and if so qualified, the Clemency Board may restore civil rights. If approval is denied, FCOR notifies the applicant who may pursue a hearing to restore the applicant’s civil rights.⁶⁶

⁵⁹ Clemency Rule 9.A.4. An attempt to commit an offense also disqualifies a person from eligibility.

⁶⁰ The attempt or conspiracy to commit an offense also disqualifies a person from eligibility.

⁶¹ Section 775.084(1)(b), F.S.

⁶² Section 775.084(1)(c), F.S.

⁶³ Section 775.084(1)(d), F.S.

⁶⁴ Section 775.082(9)(a), F.S.

⁶⁵ Section 775.21, F.S.

⁶⁶ Clemency Rule 9.B.

To qualify for restoration of civil rights with a hearing, an applicant must:

- Not be convicted of a felony for seven years or more after completing all sentences imposed for the applicant's most recent felony conviction, and all conditions of supervision are expired or completed, including but not limited to, imprisonment, parole, community control, control release, and conditional release; and
- Pay all restitution pursuant to a court order, civil judgment, or ch. 960, F.S.⁶⁷

Clemency hearings occur four times a year and the Clemency Board allows an applicant to make a five-minute presentation. Following a hearing, the Clemency Board may issue an Executive Order restoring a person's civil rights. For each case, the applicant is entitled to a letter stating the official disposition of his or her case.⁶⁸ A person granted or denied any form of executive clemency may not apply for further relief for at least two years from the date of final action.⁶⁹

Role of Specified Entities in the Restoration of Civil Rights Process

The FCOR's Office of Executive Clemency, in part, assists in the acceptance, review, and recommendation of applications for restoration of civil rights, as well as the agenda for Clemency Board meetings.⁷⁰ A coordinator must be appointed by the Clemency Board and serves as the official custodian of the records.⁷¹ The FCOR's Office of Clemency Investigations, in part, conducts comprehensive, confidential investigations of persons that have applied for restoration of civil rights.⁷² An individual seeking restoration of civil rights submits an application to the Office of Executive Clemency and the application is forwarded to the FCOR for investigation, report, and recommendation.⁷³

The DOC is required to inform inmates and offenders on community supervision about the restoration of civil rights. Additionally, DOC is required to electronically send to the FCOR a list of the names of inmates who have been released from incarceration and offenders who have been terminated from supervision that may be eligible for restoration of civil rights.⁷⁴

Amendment 4 (2018) Ballot Measure

As mentioned above, until the 2018 election, Article VI, section 4, of the Florida Constitution disqualified a person convicted of a felony from voting or holding office until restoration of his or her civil rights.⁷⁵ At that time, Florida was one of only four states, including Iowa, Kentucky, and Virginia, that did not restore voting rights to a convicted felon unless and until restored by a state officer or board.⁷⁶

⁶⁷ Clemency Rule 10.A.

⁶⁸ Clemency Rule 12.D.

⁶⁹ Clemency Rule 14.

⁷⁰ Clemency Rule 2.B. *See also* Clemency Timeline, p. 2.

⁷¹ Clemency Timeline, p. 2.

⁷² Section 947.13(1)(d), F.S., requires the FCOR to conduct investigations as may be necessary. *See also* Clemency Timeline, p. 2.

⁷³ Section 940.03, F.S. *See also* Clemency Rules 6 and 7.

⁷⁴ Section 940.061, F.S.

⁷⁵ Article VI, s. 4, FLA. CONST.

⁷⁶ Florida Association of Counties, *Amendment 4: Voting Rights Restoration for Felons Initiative*, available at <http://www.fl-counties.com/amendment-4>. Additionally, the National Conference of State Legislatures (NCSL) provides a summary of state laws related to felon voting rights as of December 2018, including: that in two states, felons never lose their right to vote,

In the 2018 General Election, Florida voters approved Amendment 4 with 64 percent of the vote, amending the Florida Constitution to provide voting rights restoration to specified voters. Specifically, the ballot language provided that “any disqualification arising from a felony conviction shall terminate and voting rights shall be restored upon completion of all terms of sentence including parole or probation.”⁷⁷ The provision excludes a “person convicted of murder or a felony sexual offense” from restoration of voting rights unless and until his or her civil rights are restored.⁷⁸

Following the passage of Amendment 4, advocates have asserted the amendment is self-executing and required no legislative implementation.⁷⁹ However, officials responsible for determining voter eligibility expressed considerable confusion and concerns about uniform implementation of the provisions across the state. As a result, the DOS has suspended the process of reviewing criminal records it receives to verify a voter’s eligibility for registration discussed above or sending such records to the supervisors of elections.⁸⁰

The DOS, various supervisors of elections, and other entities involved in verifying an applicant’s eligibility have reported, including during committee workshops in both the Florida Senate and the Florida House of Representatives, that much of the confusion with implementing Amendment 4 provisions centers around ambiguity related to which crimes qualify as “murder” or a “felony sexual offense” and what it means for an offender to have “completed all terms of sentence.”⁸¹

even while they are incarcerated; in 14 states and the District of Columbia, felons lose their voting rights only while incarcerated, and receive automatic restoration upon release; in 22 states, felons lose their voting rights during incarceration, and for a period of time after, typically while on parole and/or probation, voting rights are automatically restored after this time period, and former felons may also have to pay any outstanding fines, fees or restitution before their rights are restored; and in 12 states felons lose their voting rights indefinitely for some crimes, or require a governor’s pardon in order for voting rights to be restored, or face an additional waiting period after completion of sentence (including parole and probation) before voting rights can be restored. See the NCSL, *Felon Voting Rights*, December 21, 2018, available at <http://www.ncsl.org/research/elections-and-campaigns/felon-voting-rights.aspx> (all sites last visited on March 20, 2019).

⁷⁷ *Id.* See also Time, ‘Our Voice Will Count.’ *Former Felon Praises Florida Passing Amendment 4, Which Will Restore Voting Rights to 1.4 Million People*, Alejandro De Le Garza, November 7, 2018, available at <http://time.com/5447051/florida-amendment-4-felon-voting/> (last visited on March 20, 2019).

⁷⁸ The DOS, Division of Elections, *Proposed Constitutional Amendments and Revisions for the 2018 General Election*, p. 11, available at <https://dos.myflorida.com/media/699824/constitutional-amendments-2018-general-election-english.pdf> (last visited on March 19, 2019).

⁷⁹ The Florida Rights Restoration Coalition (FRRC), *Amendment 4 Implementation, Frequently Asked Questions*, March 14, 2019 (on file with the Senate Criminal Justice Committee). This webpage has been subsequently taken down, however, the on file copy was printed from the website on such date.

⁸⁰ Herald Tribune, *Florida elections officials confused on how to give felons the vote*, Zac Anderson, December 4, 2018, available at <https://www.heraldtribune.com/news/20181204/florida-elections-officials-confused-on-how-to-give-felons-vote> (last visited on March 20, 2019).

⁸¹ Orlando Sentinel, *Florida election supervisors will register ex-felons Jan. 8, despite confusion over amendment*, Steven Lemongello, December 20, 2018, available at <http://www.orlandosentinel.com/news/politics/political-pulse/os-ne-former-felons-register-vote-20181220-story.html>; See also Senate Criminal Justice Committee, Workshop on Amendment 4, January 22, 2019, available at <https://thefloridachannel.org/videos/1-22-19-senate-criminal-justice-committee/> (hereinafter cited as “Senate Workshop Video”) and House of Representatives Judiciary Committee and Criminal Justice Subcommittee Joint Workshop on Amendment 4, available at <https://thefloridachannel.org/videos/2-14-19-joint-house-meeting-of-the-criminal-justice-subcommittee-and-the-judiciary-committee/> (all sites last visited on March 20, 2019).

During the Senate workshop, the political director for the Florida Rights Restoration Coalition (FRRRC), which is the grassroots organization that was instrumental in the passage of Amendment 4, stated that the FRRRC supports efforts to clarify what constitutes eligibility under the amendment, provided it does not infringe on the rights of people to vote. The political director of the FRRRC also acknowledged that there is confusion about eligibility and stated that they are advising people to wait to register to vote if a potential applicant is unsure about whether he or she qualifies for voting restoration under the ballot measure.⁸²

In December 2018, then Governor-elect, Ron DeSantis, stated that Amendment 4 should take effect after lawmakers pass and he approves “implementing language” in a bill.⁸³ Additionally, the Secretary of State called for the Legislature to direct the DOS as to “implementation, definitions, [and other ambiguities raised by the supervisors of elections].”⁸⁴ On January 8, 2019, supervisors of elections began registering new voters eligible under Amendment 4 and continued to register new voters. However, supervisors of elections are registering such voters without an initial eligibility verification from the DOS. The DOS reports that there have been 132,532 new persons registered since January 8, 2019, which was the implementation date included in the Amendment 4 constitutional ballot language. However, this number is inclusive of all persons who have registered to vote in Florida since the implementation date, not just persons who have registered that may qualify under the new provisions of Article VI, section 4, of the Florida Constitution.⁸⁵

Completion of All Terms of Sentence

As of March 14, 2019, the FRRRC stated on its website that “completion of all terms of sentence” includes any period of incarceration, probation, parole, and financial obligations imposed as part of an individual’s sentence.⁸⁶ The FRRRC further stated that the financial obligations contemplated may include restitution, fines, and fees imposed as part of a sentence or a condition of probation under existing Florida statutes. However, it stated that “fees not specifically identified as part of a sentence or a condition of probation are therefore not necessary for ‘completion of sentence’ and thus, do not need to be paid before an individual may register.”⁸⁷ The statement relates its position to the policies used by the FCOR to determine “completion of sentence.” However, the language in the statement by the FRRRC does not align with the language used by the FCOR on its website or in the Rules adopted by Governor Scott’s Cabinet, which are still in effect today.⁸⁸

⁸² Senate Workshop Video, at 1:06-1:07.

⁸³ Tampa Bay Times, *Ron DeSantis says Amendment 4 should be delayed until he signs bill from lawmakers*, Michael Van Sickler, December 13, 2018, available at <https://www.tampabay.com/florida-politics/buzz/2018/12/13/ron-desantis-says-amendment-4-should-be-delayed-until-he-signs-bill-from-lawmakers/> (last visited on March 20, 2019).

⁸⁴ Orlando Sentinel, *Florida elections officials express confusion over restoring felon voting rights*, Dara Kam, December 4, 2018, <http://www.orlandosentinel.com/news/politics/political-pulse/os-ne-election-felon-voting-rights-20181204-story.html> (last visited on March 20, 2019).

⁸⁵ Email from Brittany Dover, the DOS Legislative Affairs Director, March 25, 2019 (on file with the Senate Criminal Justice Committee). The DOS further states that this number is accurate as of March 25, 2019.

⁸⁶ *Supra* n. 79.

⁸⁷ *Id.*

⁸⁸ *See Id.*; *see also* Clemency Rules.

Additionally, during oral arguments in front of the Florida Supreme Court concerning the single subject of the proposed Amendment 4 ballot language and whether the title and summary page provided a clear explanation of the initiative, the justices asked several questions about the intent of the ballot language to the FRRC counsel, Jon Mills. The questions specifically addressed the intent of the group for the terms in the amendment.⁸⁹ The FRRC counsel answered in the affirmative on multiple occasions when asked by the Court about whether certain terms, such as “the full payment of any fines,” “payment of fines and costs” and “payment of restitution when it was ordered to a victim as part of a sentence,” were contemplated by the “completion of all terms of sentence” provision.⁹⁰

Incarceration

A court may sentence a defendant convicted of a felony offense to any term of incarceration authorized under s. 775.082, F.S.⁹¹ The Criminal Punishment Code (Code) is Florida’s primary sentencing policy. Generally, the permissible sentencing range under the Code is the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.⁹²

Upon release, s. 944.705(6), F.S., requires the DOC to notify every inmate, in no less than 18-point type in the inmate’s release documents, that the inmate may be sentenced pursuant to s. 775.082(9), F.S., if the inmate commits any enumerated felony offense within 3 years after the inmate’s release. Additionally, the notice must be prefaced by the word “WARNING” in boldfaced type.⁹³

Parole

Prior to 1983, Florida law authorized defendants who were sentenced to certain felonies to be eligible for release onto parole supervision prior to the expiration of the inmate’s court-ordered sentence. Parole is a period of supervision to be successfully completed by complying with the conditions and terms of the release agreement ordered by the FCOR. The decision of the FCOR to parole an inmate is considered an act of grace and is not a right. Currently, all inmates whose crimes were committed prior to October 1, 1983, may be considered for release on parole. There

⁸⁹ The WFSU, Gavel to Gavel Video Portal, *Advisory Opinion to the Attorney General Re: Voting Rights Restoration Amendment and Advisory Opinion to the Attorney General Re: Voting Restoration Amendment (FIS)*, Case Number(s): SC16-1785, SC16-1981, March 6, 2017 available at <https://wfsu.org/gavel2gavel/viewcase.php?eid=2421> (last visited on March 19, 2019).

⁹⁰ See Transcript for *Advisory Opinion to the Attorney General Re: Voting Rights Restoration Amendment and Advisory Opinion to the Attorney General Re: Voting Restoration Amendment (FIS)*, Case Number(s): SC16-1785, SC16-1981, p. 4 and 10-11, available at https://wfsu.org/gavel2gavel/transcript/pdfs/16-1785_16-1981.pdf (last visited on March 21, 2019).

⁹¹ Section 775.082, F.S., provides that the statutory maximum sentence for a first-degree felony is 30 years, for a second-degree felony is 15 years, and for a third degree felony is 5 years.

⁹² Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10). Points are assigned and accrue based upon the level ranking assigned to the primary offense, additional offenses, and prior offenses. Section 921.0024, F.S., provides that if the 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.

⁹³ Section 944.705(6), F.S., further provides that evidence that the DOC failed to provide this notice to an inmate will not prohibit a person from being sentenced pursuant to s. 775.082(9), F.S. The state is not be required to demonstrate that a person received any notice from the DOC in order for the court to impose a sentence pursuant to s. 775.082(9), F.S.

are a number of additional specified inmates that may be eligible for release on parole based on the type of offense committed and the date of such commission.⁹⁴

Community Supervision

At sentencing, a judge may place an offender on probation or community control in lieu of or in addition to incarceration.⁹⁵ The DOC supervises more than 166,000 offenders on active community supervision. This includes offenders released from prison on parole, conditional release, or conditional medical release and offenders placed on court ordered supervision including probation, drug offender probation, sex offender probation, and community control.⁹⁶

Probation

Probation is a form of community supervision requiring specified contacts with probation officers and other conditions a court may impose.⁹⁷ There are also specialized forms of supervision such as drug offender probation⁹⁸ and mental health probation.⁹⁹ Section 948.03, F.S., requires a court to determine the terms and conditions of probation. A court may order additional specific terms and conditions of probation that it considers proper, but the court must orally pronounce, as well as provide in writing, any special conditions of probation imposed.¹⁰⁰ Standard conditions of probation that are enumerated in s. 948.03, F.S., are not required to be announced on the record. The standard terms and conditions of probation include, but are not limited to, a probationer to:

- Report to a probation officer as directed;
- Permit a probation officer to visit his or her workplace or home;
- Maintain employment, if possible;
- Live without violating the law;
- Make restitution to a victim, if applicable;
- Make payment of a debt due to a county or municipal detention facility for medical care;
- Support his or her legal dependents to the best of his or her ability;
- Pay the state any debt due for crime victim compensation;¹⁰¹
- Pay specified application¹⁰² and attorney fees;¹⁰³
- Not associate with persons engaging in criminal activity;
- Submit to random drug or alcohol testing; and

⁹⁴ The FCOR, *Release Types, Parole*, available at <https://www.fcor.state.fl.us/release-types.shtml> (last visited March 20, 2019). Sections 947.16-947.24, F.S., provide for the eligibility criteria, process for the hearing and granting of parole, terms of parole, etc.

⁹⁵ Section 948.01, F.S.

⁹⁶ The DOC, *Probation Services*, available at <http://www.dc.state.fl.us/cc/index.html> (last visited March 21, 2019).

⁹⁷ Section 948.001(8), F.S. Terms and conditions of probation are provided in s. 948.03, F.S.

⁹⁸ Section 948.001(4), F.S., defines “drug offender probation” as a form of intensive supervision that emphasizes treatment of drug offenders in accordance with individualized treatment plans administered by probation officers with reduced caseloads.

⁹⁹ Section 948.001(5), F.S., “mental health probation” means a form of specialized supervision that emphasizes mental health treatment and working with treatment providers to focus on underlying mental health disorders and compliance with a prescribed psychotropic medication regimen in accordance with individualized treatment plans.

¹⁰⁰ Section 948.03(1) and (2), F.S.

¹⁰¹ Section 960.17, F.S.

¹⁰² Section 27.52(1)(b), F.S.

¹⁰³ Section 938.29, F.S.

- Submit to drawing of blood or other biological specimens, for specified reasons.¹⁰⁴

Community Control

Community control¹⁰⁵ is a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads.¹⁰⁶ The community control program is rigidly structured and designed to accommodate offenders who, in the absence of such a program, will be committed to the custody of the DOC or a county jail.¹⁰⁷ A person on community control (controlee) has an individualized program and is restricted to his or her home or noninstitutional residential placement, unless working, attending school, performing public service hours, participating in treatment or another special activity that has been approved in advance by his or her parole and probation officer.¹⁰⁸

Conditions of community control are determined by the court when the offender is placed on such supervision. There are standard conditions of community control with which all controlees must comply as well as additional terms of supervision as part of his or her community control sentence.¹⁰⁹

Financial Obligations of a Sentence

Restitution

Unless a clear and compelling reason is found for not ordering restitution, a court must order the defendant to make restitution to the victim, if applicable,¹¹⁰ in addition to any punishment. The restitution may be ordered for:

- Damage or loss caused directly or indirectly by the defendant's offense; and
- Damage or loss related to the defendant's criminal episode.¹¹¹

¹⁰⁴ Section 948.03, F.S.

¹⁰⁵ Section 948.001(3), F.S.

¹⁰⁶ Section 948.10(2), F.S., provides that caseloads must be no more than 30 cases per officer.

¹⁰⁷ Section 948.10(1), F.S.

¹⁰⁸ *Id.*

¹⁰⁹ See s. 948.101(1) and (2), F.S.

¹¹⁰ Section 775.089(1)(c), F.S., defines the term "victim" to mean each person who suffers property damage or loss, monetary expense, or physical injury or death as a direct or indirect result of the defendant's offense or criminal episode, and also includes the victim's estate if the victim is deceased, and the victim's next of kin if the victim is deceased as a result of the offense. The term includes governmental entities and political subdivisions, as those terms are defined in s. 11.45, F.S., when such entities are a direct victim of the defendant's offense or criminal episode and not merely providing public services in response to the offense or criminal episode. The term also includes the victim's trade association if the offense is a violation of s. 540.11(3)(a)3., F.S., involving the sale, or possession for purposes of sale, of physical articles and the victim has granted the trade association written authorization to represent the victim's interests in criminal legal proceedings and to collect restitution on the victim's behalf. The restitution obligation relating to violations of s. 540.11(3)(a)3., F.S., applies only to physical articles and does not apply to electronic articles or digital files that are distributed or made available online. The term "trade association" means an organization founded and funded by businesses that operate in a specific industry to protect their collective interests.

¹¹¹ Section 775.089(1)(a), F.S. Section 960.001(1)(j), F.S., also speaks to a victim's right to request, receive, and enforce restitution pursuant to s. 775.089, or s. 985.437, F.S.

Restitution may be monetary or nonmonetary restitution. If a court places an offender on probation, it must make the payment of restitution a condition of probation.¹¹² A court may require an offender to make restitution payments within a specified period or in installments. An offender must pay restitution no later than:

- The end of the period of probation ordered;
- Five years after the end of the term of imprisonment, if the court does not order probation; or
- Five years after the sentencing date in any other case.¹¹³

A court may order the clerk of courts to collect and dispense restitution payments in any case or the DOC to collect and dispense restitution and other payments from a person remanded to its custody or supervision.¹¹⁴ A court may also order an income deduction order related to restitution. The clerk of court receives a payment made pursuant to an income deduction order.¹¹⁵

Court Costs, Fines, and Fees

A person convicted of a felony offense is assessed court costs and fines upon the disposition of a case. Chapter 938, F.S., provides a number of court costs that are associated with criminal cases in Florida. Some of these costs are mandatory in all cases.¹¹⁶ There are a number of other costs that are mandatory costs for specific types of cases,¹¹⁷ mandatory court costs authorized by local governmental entities,¹¹⁸ or discretionary costs in specific types of cases.¹¹⁹ Fines are generally proscribed by the degree of offense committed, but there can be additional fines added for specific offenses.¹²⁰ There are also fees that may be assessed at the conclusion of a case, such as an application fee for the services of a public defender or regional conflict counsel.¹²¹

In addition to standard court costs and fines, a person ordered to supervision must pay the DOC monthly supervision fees and may be subject to fees for additional conditions such as electronic monitoring or urinalysis. Failure to pay supervision fees may result in revocation of probation; however, the DOC can exempt a person from payment of supervision fees if it makes specified findings related to the offender's financial or employment status.¹²²

¹¹² *Id.* An order requiring the defendant to make restitution to a victim does not remove or diminish the requirement that the court order payment to the Crimes Compensation Trust Fund pursuant to ch. 960, F.S. Payment of an award by the Crimes Compensation Trust Fund creates an order of restitution to the Crimes Compensation Trust Fund, unless specifically waived.

¹¹³ Section 775.089(3), F.S.

¹¹⁴ Section 775.089(1)(a) and (b), F.S.

¹¹⁵ Section 775.089(12), F.S.

¹¹⁶ Some of the mandatory costs imposed in all cases include s. 938.01, F.S. (additional court costs clearing trust fund); s. 938.03, F.S. (Crimes Compensation Trust Fund), s. 938.04, F.S. (additional costs with respect to criminal fines); s. 938.05, F.S. (additional costs for felonies, misdemeanors, and criminal traffic offenses); s. 938.055, F.S. (Operating Trust Fund of the Department of Law Enforcement); and s. 938.06, F.S. (cost for crime stoppers programs).

¹¹⁷ See ss. 938.07-938.13, F.S.

¹¹⁸ See ss. 938.15 and 938.17, F.S.

¹¹⁹ See ss. 938.21-938.301, F.S.

¹²⁰ Section 775.083, F.S. Additionally, specific fines can occur throughout Florida statute related to specific offenses. For example, s. 893.135, F.S., imposes mandatory fines related to drug trafficking, while s. 817.568, F.S., imposes additional surcharge fines for the offense of the criminal use of personal identification information.

¹²¹ Section 938.29, F.S.

¹²² See ss. 948.03 and 948.09, F.S.

Civil Judgment Liens

Any person liable for payment of any financial obligation, such as restitution, fines, or fees discussed above, in any criminal case is subject to s. 938.30, F.S., and courts have jurisdiction over such financial obligations to ensure compliance. A court has the authority, in part, to:

- Require a person liable for payment of an obligation to appear and be examined under oath concerning the person's financial ability to pay the obligation.
- Convert the statutory financial obligation into a court-ordered obligation to perform community service after examining a person under oath and determining the person's inability to pay.¹²³
- Order that any nonexempt property of the person which is in the hands of another be applied toward satisfying the obligation.¹²⁴

The outstanding unpaid amount accrues interest, and when properly recorded, becomes a lien on any real estate owned by the defendant.¹²⁵

If a civil judgment has not been previously entered on any court-imposed financial obligation, the court may enter judgment and issue any writ necessary to enforce the judgment in the manner allowed in civil cases.¹²⁶ However, if a criminal or civil judgment has previously been entered on a court-imposed financial obligation, the judgment constitutes a civil lien against the judgment debtor's presently owned or after-acquired real or personal property when recorded pursuant to s. 55.10, F.S.¹²⁷

The judgment must secure all unpaid court-imposed financial obligations that are due and may accrue subsequent to the recording of the judgment, as well as interest and reasonable costs for issuing a satisfaction and recording the satisfaction in the official records.¹²⁸

The clerk of the court must enforce, satisfy, compromise, settle, subordinate, release, or otherwise dispose of any debts or liens imposed and collected through the civil lien process.¹²⁹ Additionally, the court may order the person to comply with a payment schedule to satisfy the obligation.¹³⁰

A judgment, order, or decree becomes a lien on real property in any county when a certified copy of it is recorded in the official records or judgment lien record of the county, provided that the judgment contains the address of the person who has a lien as a result of such judgment is recorded simultaneously stating the address of the person who has a lien as a result of such

¹²³ Section 938.30, F.S. Community service may be ordered subject to the provisions of s. 318.18(8), F.S. Additionally, any person who fails to attend a hearing may be arrested on warrant or capias issued by the clerk upon order of the court.

¹²⁴ Section 938.30(5), F.S.

¹²⁵ *Id.*

¹²⁶ Section 938.30(6), F.S.

¹²⁷ Section 938.30, F.S. Additionally, authority to convert and enforce restitution as a civil lien is addressed in s. 775.089(3), F.S. However, s. 938.30(8), F.S., provides a judgment on a court-imposed financial obligation is not subject to the 10-year rerecording requirement of s. 55.10, F.S.

¹²⁸ *Id.*

¹²⁹ Section 938.30(9), F.S.

¹³⁰ Section 938.30(10), F.S.

judgment, order, or decree.¹³¹ Such a lien must expire after 20 years from the date of the entry of the judgment.¹³²

Felony Sexual Offense

Florida law does not define “felony sexual offense,” however, several places in statute define the term “sexual offense.”¹³³ Florida law requires a person convicted of specified offenses that are sexual in nature to register as a sexual offender or sexual predator.¹³⁴ Qualifying offenses for registration as a sexual offender, which subsumes all offenses required for registration as a sexual predator, include:

- Sexual misconduct with a person having a developmental disability (s. 393.135(2), F.S.);
- Sexual misconduct with a mental health patient by an employee (s. 394.4593(2), F.S.);
- Specified violations of kidnapping or falsely imprisoning a minor (s. 787.01 or s. 787.02, F.S.);¹³⁵
- Luring or enticing a child, by a person with a prior sexual conviction (s. 787.025(2), F.S.);
- Human trafficking for commercial sexual activity (s. 787.06(3)(b), (d), (f), or (g), F.S.);
- Sexual battery (s. 794.011, excluding s. 794.011(10), F.S.);
- Unlawful sexual activity with a minor (s. 794.05, F.S.);
- Lewd or lascivious battery, molestation, conduct, or exhibition (s. 800.04, F.S.);
- Video voyeurism, involving a minor victim (s. 810.145(8), F.S.);
- Lewd or lascivious offense on an elderly or disabled person (s. 825.1025, F.S.);
- Sexual performance by a child (s. 827.071, F.S.);
- Providing obscene materials to a minor (s. 847.0133, F.S.);
- Computer pornography involving a minor (s. 847.0135(2), F.S.);
- Soliciting a minor over the internet (s. 847.0135(3), F.S.);
- Traveling to meet a minor (s. 847.0135(4), F.S.);
- Lewd or lascivious exhibition over the internet (s. 847.0135(5), F.S.);
- Transmitting child pornography by electronic device or equipment (s. 847.0137, F.S.);
- Transmitting material harmful to a minor by electronic device (s. 847.0138, F.S.);
- Selling or buying a minor to engage in sexually explicit conduct (s. 847.0145, F.S.);
- Racketeering involving a sexual offense (s. 895.03, F.S.);
- Sexual misconduct with a forensic client (s. 916.1075(2), F.S.); and
- Sexual misconduct by an employee with a juvenile offender (s. 985.701(1), F.S.).

¹³¹ Section 55.10(1), F.S.

¹³² Sections 55.10(2) and 55.081, F.S.

¹³³ For example, s. 92.55, F.S., relating to protections for specified witnesses, defines the term to include any offense for which a conviction requires an offender to register as a sexual predator or sexual offender pursuant to s. 775.21 or s. 943.0435, F.S., respectively. Additionally, s. 90.404, F.S., relating to admissibility of character evidence, defines the term to mean specified enumerated offenses that also require an offender to register on the sexual predator and sexual offender registries.

¹³⁴ See generally, ss. 775.21, 943.0435, and 944.607, F.S. In very general terms, the distinction between a sexual predator and a sexual offender depends on what offense the person has been convicted of, whether the person has previously been convicted of a sexual offense, and the date the offense occurred. A sexual predator or sexual offender must comply with a number of statutory registration requirements.

¹³⁵ However, the Florida Supreme Court has held there must be a sexual element to the kidnapping or false imprisonment when the victim is a minor.

In addition to the above listed offenses, there are a number of offenses that are classified as a felony that have an element that is sexual in nature, but that do not require registration as a sexual predator or sexual offender, including:

- Prostitution or soliciting a prostitute, subsequent conviction (ss. 796.07 and 796.08, F.S.);
- Video voyeurism (s. 810.145(6) and (7), F.S.);¹³⁶
- Incest (s. 826.04, F.S.);
- Lewd or lascivious exhibition in the presence of a correctional facility employee (s. 800.09(2), F.S.);
- Sexual offenses against a student by an authority figure (s. 800.101(2), F.S.);
- Locating an adult entertainment store within 2,500 feet of a school (s. 847.0134(1), F.S.);
- Committing an enumerated offense by a person who is HIV positive (s. 775.0877, F.S.);
- Sexual cyberharassment, second or subsequent offense (s. 784.049(3)(b), F.S.);
- Sexual misconduct between a detention facility employee and an inmate (s. 951.221(1), F.S.);
- Sexual misconduct by a psychotherapist with a client, or former client when the professional relationship was terminated primarily for the purpose of engaging in sexual contact (s. 491.0112(1) and (2), F.S.);
- Sexually abusing a dead human body (s. 872.06(2), F.S.);
- Sexual misconduct by a correctional facility employee with an inmate (s. 944.35(3)(b)2., F.S.);
- Committing specified acts with obscene, lewd, etc. materials, second or subsequent offense (s. 847.011(1), F.S.);
- Requiring as a condition to sale or delivery for resale of a publication that a purchaser or consignee receive for resale any other obscene publication (s. 847.011(3), F.S.);
- Knowingly promoting, conducting, performing, or participating in an obscene show, second or subsequent offense (s. 847.011(4), F.S.);
- Sale or distribution to minors or using minors in production of harmful materials (s. 847.012, F.S.); and
- Wholesale promotion of obscene materials (s. 847.07(2) and (3), F.S.).

Murder

Chapter 782, F.S., establishes a number of offenses that impose penalties for the killing of another person.

Section 782.04, F.S., prohibits the unlawful killing of a human being in a number of circumstances and specifically provides that:

- Murder in the first degree, which is a capital felony,¹³⁷ is the unlawful killing of a human being when committed:
 - With premeditation to cause the death of the person killed or any human being; or
 - By a person engaged in perpetrating, or attempting to perpetrate, any:
 - Drug trafficking offense (s. 893.135, F.S.);

¹³⁶ This provides penalties for when the offense is committed by a person 19 or older, or when the offense is a second or subsequent offense. These specific provisions do not require registration as a sexual offender as required by a violation of s. 810.145(8), F.S.

¹³⁷ A capital felony is punishable by death or life imprisonment. Section 775.082(1)(a), F.S.

- Arson (s. 806.01, F.S.);
- Sexual battery (s. 794.011, F.S.);
- Robbery or home-invasion robbery (s. 812.13 or s. 812.135, F.S.);
- Burglary (s. 810.02, F.S.);
- Kidnapping (s. 787.01, F.S.);
- Escape (s. 944.40, F.S.);
- Aggravated child abuse (s. 827.03, F.S.);
- Aggravated abuse of an elderly person or disabled adult (s. 825.1025, F.S.);
- Aircraft piracy (s. 860.16, F.S.);
- Unlawful throwing, placing, or discharging of a destructive device or bomb (s. 790.1615, F.S.);
- Carjacking (s. 812.133, F.S.);
- Aggravated stalking (s. 784.048, F.S.);
- Murder of a human being (s. 782.04, F.S.);
- Resisting an officer with violence (s. 843.01, F.S.);
- Aggravated fleeing or eluding with serious bodily injury or death (s. 316.1935(4)(b), F.S.);
- A felony act of terrorism;¹³⁸
- Human trafficking (s. 787.06, F.S.); or
- Unlawful distribution of a specified controlled substance,¹³⁹ which is the proximate cause of a user's death.¹⁴⁰
- Murder in the second degree, which is a felony of the first degree punishable by imprisonment for a term of years not exceeding life,¹⁴¹ is the unlawful killing of a human being when:
 - Perpetrated by any act imminently dangerous to another and evincing a depraved mind regardless of human life, but without any premeditated design to effect the death of any particular individual;¹⁴²
 - Committed by a person other than the person engaged in the commission of, or attempt to commit, an enumerated felony¹⁴³ during such felony.¹⁴⁴

¹³⁸ Or an act in furtherance of terrorism, including a felony under s. 775.30, F.S., s. 775.32, F.S., s. 775.33, F.S., s. 775.34, F.S., or s. 775.35, F.S.

¹³⁹ A substance controlled under s. 893.03(1), F.S., includes substances such as cocaine, opium or any synthetic or natural salt, compound, derivative, or preparation of opium; methadone, alfentanil, carfentanil, fentanyl, sufentanil, or specified controlled substance analogs.

¹⁴⁰ Section 782.04(1)(a), F.S.

¹⁴¹ A first degree felony is punishable by a term of imprisonment not exceeding 30 years or, when specifically provided by statute, by imprisonment for a term of years not exceeding life imprisonment, and a fine of \$10,000. Sections 775.082(3)(b)1. and 775.083, F.S.

¹⁴² Section 782.04(2), F.S.

¹⁴³ Enumerated felonies include drug trafficking under s. 893.135(1), F.S.; arson; sexual battery; robbery or home-invasion robbery; burglary; kidnapping; escape; aggravated child abuse or aggravated abuse of an elderly person or disabled adult; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; carjacking; aggravated stalking; murder of another human being; aggravated fleeing or eluding with serious bodily injury or death; resisting an officer with violence; and a felony act of terrorism or act in furtherance of terrorism. Section 782.04(3), F.S.

¹⁴⁴ Section 782.04(3), F.S.

- Murder in the third degree, which is a second degree felony,¹⁴⁵ is the unlawful killing of a human being, without design to effect death, by a person engaged in the commission of, or the attempt to commit, any felony not enumerated by statute.¹⁴⁶

Other offenses included in ch. 782, F.S., which result in the killing of a human being, but are not specifically included in s. 782.04, include:

- Attempted felony murder (s. 782.051, F.S.);
- Manslaughter and aggravated manslaughter (s. 782.07, F.S.);
- Vehicular homicide and vessel homicide (ss. 782.071 and 782.072, F.S.);
- Assisting self-murder and commercial exploitation of self-murder (ss. 782.08 and 782.081, F.S.);
- Killing of an unborn child by injury to its mother (s. 782.09, F.S.);
- Unnecessary killing to prevent an unlawful act (s. 782.11, F.S.); and
- Partial-birth abortion (s. 782.34, F.S.).

III. Effect of Proposed Changes:

Codification of Article VI, Section 4, of the Florida Constitution and Relevant Definitions

The bill creates s. 98.0751, F.S., codifying the language passed in Amendment 4 (2018) and defining specified relevant terms. The bill provides that a person who has been disqualified from voting based on a felony conviction for an offense other than murder or a felony sexual offense must have such disqualification removed and his or her voting rights restored pursuant to Article VI, section 4, of the Florida Constitution upon the completion of all terms of his or her sentence, including parole or probation. The bill further provides that the voting disqualification that arises from a felony conviction of murder or a felony sexual offense as defined below does not terminate unless a person's civil rights are restored pursuant to Article IV, section 8, of the Florida Constitution.

Completion of All Terms of Sentence

The bill defines “completion of all terms of sentence” to mean:

- Release from any term of imprisonment ordered by the court as a condition of the sentence;
- Termination from any term of probation or community control ordered by the court as a condition of the sentence;
- Fulfillment of any term ordered by the court as a condition of the sentence;
- Termination from any term of parole supervision which is monitored by the FCOR;
- Payment of all restitution ordered by the court as a condition of the sentence, regardless of whether such restitution is converted to a civil lien;
- Payment of all fees ordered by the court as part of the sentence or that are ordered as a condition of probation, community control, or parole; and
- Payment of all fines ordered by the court as part of the sentence or that are ordered as a part of probation, community control, or parole.

¹⁴⁵ A second degree felony is punishable by a maximum of 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

¹⁴⁶ Section 782.04(4), F.S. *See also supra* n. 142.

The definition provides that unless expressly stated otherwise, a financial obligation required to be paid in accordance with the bill is deemed completed if such obligation has been converted to a civil lien. The definition does not include court costs.

Felony Sexual Offense

The bill defines the term “felony sexual offense” to include any 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 listed in this paragraph if it had been committed in Florida.¹⁴⁷

Murder

The bill defines “murder” to include:

- 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), which results in the actual killing of, or an attempt to kill, a human being; or
- A violation of s. 782.09, F.S. (killing of an unborn child by injury to the mother), that results in the actual killing of the unborn child; or
- Any similar offense committed in another jurisdiction which would be an offense listed above if it had been committed in Florida.

Notification of All Outstanding Terms of Sentence

The bill requires the DOC and county detention facilities to notify specified persons of all outstanding terms of the sentence to assist the inmate in determining his or her status with regard to the completion of all terms of sentence, as defined in s. 98.0751, F.S.

The bill amends s. 944.705, F.S., and creates s. 948.041, F.S., requiring the DOC to notify an inmate or offender in writing of all outstanding terms of sentence at the time of release or termination of probation or community control. The bill references the newly created s. 98.0751, F.S., for a list of potential terms of sentence that must be included in the written notification.

The bill also amends s. 951.29, F.S., requiring all county detention facilities to provide a prisoner in writing of specified information at least two weeks prior to his or her discharge, if possible.

The specified information required to be provided includes:

- Information explaining voting rights restoration pursuant to Article VI, section 4, of the Florida Constitution; and
- Written notification of all outstanding terms of the prisoner’s sentence at the time of release to assist the prisoner in determining his or her status with regard to the completion of all terms of sentence, as defined in s. 98.0751, F.S.

For inmates being released from imprisonment with the DOC or county detention facilities, the bill provides that written notification does not have to be given if the inmate or prisoner is being released to a term of supervision with the DOC.

¹⁴⁷ As mentioned above, this definition includes any offenses that require registration as a sexual predator.

Additionally, the bill amends s. 940.061, F.S., requiring the DOC to inform inmates and offenders of voting rights restoration pursuant to Article VI, section 4, of the Florida Constitution, in addition to executive clemency and restoration of civil rights.

The Restoration of Voting Rights Work Group

The bill creates an undesignated section of statute that establishes the Restoration of Voting Rights Work Group (Work Group) within the DOS for the purpose of conducting a comprehensive review of the DOS's process of verifying registered voters, applicants, or potential applicants who have been convicted of a felony, but who may be eligible for restoration of voting rights under Article VI, section 4, of the Florida Constitution.

The bill provides the Work Group is comprised of the following specific members:

- The Secretary of the DOS or his or her designee.
- The Secretary of the DOC or his or her designee.
- The Executive director of the FDLE or his or her designee.
- The Chairman of the FCOR or his or her designee.
- Two clerks of the circuit court who must be appointed by the Governor.
- Two supervisors of elections who must be appointed by the Governor.

The bill provides that the designee from the DOS will serve as chair for the Work Group. The bill requires the appointments of all members to be made within 30 days and to serve for the duration of the Work Group. If a vacancy occurs, the original appointing authority must appoint a new member to fill the vacancy.

The Work Group is authorized and directed to study, evaluate, analyze, and undertake a comprehensive review of the DOS's process of verifying registered voters, applicants, or potential applicants who have been convicted of a felony, but who may be eligible for restoration of voting rights under Article VI, section 4, of the Florida Constitution, to develop recommendations for the Legislature, related to:

- The consolidation of all relevant data necessary to verify the eligibility of a registered voter, applicant, or potential applicant for restoration of voting rights.
- Informing a registered voter, applicant, or potential applicant of the entity or entities which are custodians of the relevant data necessary for verifying his or her eligibility for restoration of voting rights under Article VI, section 4, of the Florida Constitution.
- Any other relevant policies or procedures for verifying the eligibility of a registered voter, applicant, or potential applicant for restoration of voting rights under Article VI, section 4, of the Florida Constitution.

The bill specifically provides that if any entity is recommended to manage the consolidated relevant data, the recommendations must provide the feasibility of such entity to manage the consolidated relevant data and a timeline for implementation of such consolidation.

The bill requires the Work Group to submit a report of its findings, conclusions, and recommendations to the President of the Senate and the Speaker of the House of Representatives by November 1, 2019. Further, the Work Group must dissolve upon the submission of the report

and all members are discharged of further duties. The DOS is required to provide support for the Work Group in performing its duties and Work Group members are required to serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061, F.S.

Conforming Changes

The following conforming changes are made to conform the language to the Florida Constitution and implement the act, including:

- Sections 97.052, 97.053, and 98.045, F.S., are amended to revise the term “civil” to “voting” to clarify that these provisions relate to the restoration of voting rights.
- Section 98.075, F.S., is amended to revise the term “civil” to “voting” as it relates to voting rights restoration provisions and to require supervisors of elections to notify the voter of instructions for seeking restoration of voting rights pursuant to Article VI, section 4, of the Florida Constitution, in addition to restoration of civil rights pursuant to Article IV, section 8, of the Florida Constitution.
- Section 944.292, F.S., is amended to clarify that, notwithstanding the suspension of civil rights, a person’s voting rights may be obtained pursuant to Article VI, section 4, of the Florida Constitution.

The bill is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill requires all county detention facilities to notify a prisoner, in writing upon discharge, of all outstanding terms of the prisoner’s sentence at the time of release, unless the prisoner is being discharged to the custody or control of the DOC. It is possible that the requirements of the bill related to notification of outstanding terms of sentence will result in an increased workload or expenditures by the local governments. However, because any such local funding resulting from the requirements of the bill will directly relate to the detention and imprisonment of persons who have been arrested or convicted of criminal offenses, under Article VII, subsection 18(d), of the Florida Constitution, it appears there is no unfunded mandate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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:

Verification of Eligibility

The bill provides clarification related to the terms included in the Amendment 4 ballot language so that the DOS can resume its verification process to determine an applicant's eligibility to register to vote subsequent to obtaining voting rights restoration pursuant to Article VI, section 4, of the Florida Constitution. Additionally, to assist with applicant verification determinations the bill utilizes existing information sharing relationships to ensure that the DOS receives any relevant information. To the extent that the bill results in an increased workload to entities such as the DOS, DOC, FDLE, and FCOR, the bill will likely result in a positive fiscal impact on these entities. However, this is not expected to increase the entities' workload more than the passage of Amendment 4 has already done.

Notification of Outstanding Terms of Sentence

The provision to notify specified offenders or inmates of any outstanding terms of his or her sentence is similar to a provision included in SB 642. When analyzing these similar provisions, the DOC reported that it does not track various costs associated with an inmate's resolved case, with the exception of certain inmates in various forms of paid employment, such as work release, prison industries, etc. To comply with the requirements, the DOC stated it will have to research clerk of court records prior to release for updated information on what an inmate, who is not being released to supervision, presently owes in regard to each case for which a sentence was imposed. Additionally, the DOC states that this will be a significant workload increase as it could generate a significant volume of contacts to the clerk of court to determine the current status of various assessed costs. The DOC estimated it will need additional FTE to achieve this requirement to provide notification.¹⁴⁸

Additionally, there will likely be an increased workload on the county detention facilities who are also required to notify prisoners of the outstanding terms of sentence as these entities will need to research information in a similar manner as the DOC.

¹⁴⁸ The DOC SB 642 Agency Analysis, p. 5.

VI. Technical Deficiencies:

None.

VII. Related Issues:**Legislative Implementation of Constitutional Amendments**

One of the issues to consider with implementing language of a constitutional amendment is whether the amendment itself is self-executing and thus, doesn't require further legislation. In *Gray v. Bryant*, the Supreme Court of Florida established that, "[T]he basic guide in determining whether a constitutional provision should be construed to be self-executing or not is whether the provision lays down a sufficient rule by means of which the right or purpose which it gives or is intended to accomplish may be determined, enjoyed, or protected without the aid of legislative enactment."¹⁴⁹

In *Florida Hospital Waterman, Inc. v. Buster*, the court held that the amendment at issue in that case was self-executing. The court considered the fact that the amendment provided definitions and there was an expressed intent made in its provisions that, "[E]xisting law was sufficient to implement the provisions of the amendment and that no further legislation was necessary." Furthermore, the amendment in that case stated it was to be effective upon passage, which effectively left no time for the enactment of implementing language.¹⁵⁰

There is a presumption that constitutional amendments are intended to be self-executing. However, the courts have held that, even with provisions that expressly indicate such a self-executing operation, the Legislature may provide additional laws addressing a self-executing constitutional scheme assuming that such laws supplement, protect, or further the availability of the constitutionally conferred right.¹⁵¹

Amendment 4 is silent on all of these factors. The amendment does not define "completion of all terms of sentence," "felony sexual offense," or "murder." As discussed above, the lack of definitions could result in inconsistent implementation of the amendment throughout the state. Additionally, the amendment does not have any language indicating that it is self-executing or that it is effective upon becoming law.¹⁵²

Constitutionality of Re-enfranchisement of Felons' Voting Rights

The courts have consistently held that states may strip convicted felons of their voting rights. It is well-settled that Florida can remove certain rights from a person convicted of a felony under Section Two of the Fourteenth Amendment.¹⁵³

¹⁴⁹ *Gray v. Bryant*, 125 So.2d 846, 951 (Fla. 1960).

¹⁵⁰ *Florida Hosp. Waterman, Inc. v. Buster*, 984 So.2d 478, 485 (Fla. 2008).

¹⁵¹ *Browning v. Florida Hometown Democracy, Inc. v. PAC*, 29 So.3d 1053, 1064 (Fla. 2010).

¹⁵² *Supra* n. 81 and 83.

¹⁵³ *Hand v. Scott*, 285 F. Supp. 3d 1289, 1294 (N.D. Fla. 2018), citing *Richardson v. Ramirez*, 418 U.S. 24, 56 (1974) and *Johnson v. Bush*, 405 F.3d 1214, 1228 (11th Cir. 2005) (en banc).

In determining whether a statute violates the United States Constitution, the courts will use one of three levels of scrutiny: rational basis, intermediate, or strict. The courts have used rational basis scrutiny to determine whether statutes that re-enfranchise a felon are constitutional. This level of scrutiny is used because laws that aim to restore the voting rights of a felon do not implicate a fundamental right nor target a suspect class. The right to vote is a fundamental right. However, the courts have drawn an important distinction in noting that the right of felons to vote is not fundamental. Therefore, the statutes must only survive rational basis scrutiny, where by the statute only needs to be “rationally related to legitimate government interests.”¹⁵⁴

Rulemaking Authority

Section 97.012(1), F.S., provides broad rulemaking authority to the DOS to implement all provisions of the Florida Election Code (chs. 97-102, F.S.). Additionally, s. 98.075(1), F.S., provides the DOS with specific rulemaking authority to implement the protection of the integrity of the electoral process by ensuring the maintenance of accurate and current voter registration records, including ineligibility determinations related to felony convictions.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 97.052, 97.053, 98.045, 98.075, 940.061, 944.292, 944.705, and 951.29.

This bill creates the following sections of the Florida Statutes: 98.0751 and 948.041

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.

¹⁵⁴ *Johnson v. Bredesen*, 624 F.3d 742, 746 (6th Cir. 2010).



703932

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/25/2019	.	
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The Committee on Criminal Justice (Brandes and Perry)
recommended the following:

Senate Amendment (with title amendment)

Delete lines 308 - 348
and insert:

5. Payment of all:

a. Restitution ordered by the court as a condition of the
sentence, regardless of whether such restitution is converted to
a civil lien;

b. Fees ordered by the court as part of the sentence or
that are ordered as a condition of probation, community control,



703932

11 or parole; and

12 c. Fines ordered by the court as part of the sentence or
13 that are ordered as a part of probation, community control, or
14 parole.

15 d. Unless expressly stated, a financial obligation required
16 to be paid in accordance with this subparagraph is deemed
17 completed if such obligation has been converted to a civil lien.

18 (b) "Felony sexual offense" means either of the following:

19 1. Any felony offense that serves as a predicate to
20 registration as a sexual offender in accordance with s.
21 943.0435; or

22 2. Any similar offense committed in another jurisdiction
23 which would be an offense listed in this paragraph if it had
24 been committed in this state.

25 (c) "Murder" means any of the following:

26 1. A violation of any of the following sections which
27 results in the actual killing of a human being:

28 a. Section 782.04(1) or (2).

29 b. Section 782.09.

30 2. An attempt to kill a human being in violation of s.
31 782.04(1) or (2).

32 3. Any similar offense committed in another jurisdiction
33 which would be an offense listed in this paragraph if it had
34 been committed in this state.

35 (3) The department may adopt rules to implement this
36 section for the purpose of verifying registered voters,
37 applicants, or potential applicants who have been convicted of a
38 felony, but who may be eligible for restoration of voting rights
39 under s. 4, Art. VI, of the State Constitution.



703932

Section 6. Section 98.0752, Florida Statutes, is created to read:

98.0752 Restoration of Voting Rights Work Group.—The Restoration of Voting Rights Work Group is created within the Department of State for the purpose of conducting a comprehensive review of the department's process of verifying registered voters, applicants, or potential applicants who have been convicted of a felony, but who may be eligible for restoration of voting rights under s. 4, Art. VI, of the State Constitution.

(1) MEMBERSHIP.—The work group is composed of the following members:

(a) The Secretary of State or his or her designee, who shall serve as chair for the work group.

(b) The Secretary of Corrections or his or her designee.

(c) The Commissioner of the Department of Law Enforcement or his or her designee.

(d) The Chairman of the Florida Commission on Offender Review or his or her designee.

(e) Two clerks of the circuit court appointed by the Florida Court Clerks and Comptrollers.

(f) Two supervisors of elections appointed by the Florida State Association of Supervisors of Elections.

(2) TERMS OF MEMBERSHIP.—Appointments to the work group shall be made within 30 days of the effective date of this act. All members shall serve for the duration of the work group. Any vacancy shall be filled by the original appointing authority for the remainder of the work group.

(3) DUTIES.—



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69 (a) The work group is authorized and directed to study,
70 evaluate, analyze, and undertake a comprehensive review of the
71 Department of State's process of verifying registered voters,
72 applicants, or potential applicants who have been convicted of a
73 felony, but who may be eligible for restoration of voting rights
74 under s. 4, Art. VI, of the State Constitution, to develop
75 recommendations for the Legislature, related to:

76 1. The consolidation of all relevant data necessary to
77 verify the eligibility of a registered voter, applicant, or
78 potential applicant for restoration of voting rights under s. 4,
79 Art. VI, of the State Constitution. If any entity is recommended
80 to manage the consolidated relevant data, the recommendations
81 must provide the feasibility of such entity to manage the
82 consolidated relevant data and a timeline for implementation of
83 such consolidation.

84 2. Informing a registered voter, applicant, or potential
85 applicant of the entity or entities which are custodians of the
86 relevant data necessary for verifying his or her eligibility for
87 restoration of voting rights under s. 4, Art. VI, of the State
88 Constitution.

89 3. Any other relevant policies or procedures for verifying
90 the eligibility of a registered voter, applicant, or potential
91 applicant for restoration of voting rights under s. 4, Art. VI,
92 of the State Constitution.

93 (4) REPORT.—The work group shall submit a report of its
94 findings, conclusions, and recommendations for the Legislature
95 to the President of the Senate and the Speaker of the House of
96 Representatives by November 1, 2019. Upon submission of the
97 report, the work group is dissolved and discharged of further



703932

duties.

(5) STAFFING.—The Department of State to provide support for the work group in performing its duties.

(6) PER DIEM AND TRAVEL EXPENSES.—Work group members shall serve without compensation but are entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061.

(7) EXPIRATION.—This section expires January 31, 2020.

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

And the title is amended as follows:

Delete lines 22 - 23

and insert:

definitions; authorizing the Department of State to adopt rules for certain purposes; creating s. 98.0752, F.S.; creating the Restoration of Voting Rights Work Group within the Department of State; specifying membership of the work group; establishing the manner of appointments and the terms of membership; prescribing the duties of the work group; requiring the work group to submit a report to the Legislature by a specified date; providing for staffing; authorizing reimbursement for per diem and travel expenses; providing for expiration; amending s. 940.061, F.S.;



309960

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/25/2019	.	
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The Committee on Criminal Justice (Brandes) recommended the following:

Senate Amendment to Amendment (703932) (with title amendment)

Delete lines 35 - 62
and insert:

Section 6. Section 98.0752, Florida Statutes, is created to read:

98.0752 Restoration of Voting Rights Work Group.—The Restoration of Voting Rights Work Group is created within the Department of State for the purpose of conducting a



309960

comprehensive review of the department's process of verifying
registered voters, applicants, or potential applicants who have
been convicted of a felony, but who may be eligible for
restoration of voting rights under s. 4, Art. VI, of the State
Constitution.

(1) MEMBERSHIP.—The work group is comprised of the
following members:

(a) The Secretary of State or his or her designee, who
shall serve as chair for the work group.

(b) The Secretary of Corrections or his or her designee.

(c) The Commissioner of the Department of Law Enforcement
or his or her designee.

(d) The Chairman of the Florida Commission on Offender
Review or his or her designee.

(e) Two clerks of the circuit court who must be appointed
by the Governor.

(f) Two supervisors of elections who must be appointed by
the Governor.

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

And the title is amended as follows:

Delete lines 110 - 111

and insert:

definitions; creating s. 98.0752,



243298

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/25/2019	.	
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The Committee on Criminal Justice (Bracy) recommended the following:

Senate Amendment to Amendment (703932)

Delete lines 5 - 17

and insert:

5. Payment of all:

a. Restitution ordered by the court as a condition of the sentence;

b. Fees ordered by the court as part of the sentence or that are ordered as a condition of probation, community control, or parole; and



243298

11 c. Fines ordered by the court as part of the sentence, or
12 which are ordered as a part of probation, community control, or
13 parole.

14
15 A financial obligation required to be paid in accordance with
16 subparagraph 5. is deemed complete if such obligation is a part
17 of an established payment plan or has been converted to a civil
18 lien. A person may not be denied the restoration of voting
19 rights due to nonpayment of restitution, fees, or fines, unless
20 the nonpayment is deemed to be willful and substantial by the
21 court.



776780

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/25/2019	.	
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	.	
	.	

The Committee on Criminal Justice (Bracy) recommended the following:

Senate Amendment to Amendment (703932)

Delete lines 5 - 17

and insert:

5. Payment of all:

a. Restitution ordered by the court as a condition of the sentence;

b. Fees ordered by the court as part of the sentence or that are ordered as a condition of probation, community control, or parole; and



776780

11 c. Fines ordered by the court as part of the sentence, or
12 which are ordered as a part of probation, community control, or
13 parole.

14
15 A financial obligation required to be paid in accordance with
16 subparagraph 5. is deemed complete if such obligation is a part
17 of an established payment plan or has been converted to a civil
18 lien.



783410

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/25/2019	.	
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	.	

The Committee on Criminal Justice (Bracy) recommended the following:

Senate Amendment to Amendment (703932)

Delete lines 25 - 34
and insert:

(c) "Murder" means any of the following:

1. A violation of any of the following sections which
results in the actual killing of a human being:

a. Section 782.04(1) or (2).

b. Section 782.09.

2. Any similar offense committed in another jurisdiction



783410

11 which would be an offense listed in this paragraph if it had
12 been committed in this state.



631578

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/25/2019	.	
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The Committee on Criminal Justice (Bracy) recommended the following:

Senate Substitute for Amendment (309960) (with title amendment)

Delete lines 35 - 62
and insert:

Section 6. Section 98.0752, Florida Statutes, is created to read:

98.0752 Restoration of Voting Rights Work Group.—The Restoration of Voting Rights Work Group is created within the Department of State for the purpose of conducting a



631578

comprehensive review of the department's process of verifying
registered voters, applicants, or potential applicants who have
been convicted of a felony, but who may be eligible for
restoration of voting rights under s. 4, Art. VI, of the State
Constitution.

(1) MEMBERSHIP.—The work group is comprised of the
following members:

(a) The Secretary of State or his or her designee, who
shall serve as chair for the work group.

(b) The Secretary of Corrections or his or her designee.

(c) The Commissioner of the Department of Law Enforcement
or his or her designee.

(d) The Chairman of the Florida Commission on Offender
Review or his or her designee.

(e) Two clerks of the circuit court who must be appointed
by the Governor.

(f) Two supervisors of elections who must be appointed by
the Governor.

(g) Two persons who are eligible for voting rights
restoration pursuant to s. 4, Art. VI, of the State
Constitution, who must be appointed by the Florida Rights
Restoration Coalition.

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

And the title is amended as follows:

Delete lines 110 - 111

and insert:

definitions; creating s. 98.0752,

FOR CONSIDERATION By the Committee on Criminal Justice

591-03205B-19

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1 A bill to be entitled
 2 An act relating to voting rights restoration; amending
 3 ss. 97.052, 97.053, and 98.045, F.S.; revising
 4 terminology regarding voting rights restoration to
 5 conform to the State Constitution; amending s. 98.075,
 6 F.S.; revising terminology regarding voting rights
 7 restoration to conform to the State Constitution;
 8 requiring the supervisor of elections of the county in
 9 which an ineligible voter is registered to notify the
 10 voter of instructions for seeking restoration of
 11 voting rights pursuant to s. 4, Art. VI of the State
 12 Constitution, in addition to restoration of civil
 13 rights pursuant to s. 8, Art. IV of the State
 14 Constitution; creating s. 98.0751, F.S.; requiring the
 15 voting disqualification of certain felons to be
 16 removed and voting rights restored pursuant to s. 4,
 17 Art. VI, of the State Constitution; providing that the
 18 voting disqualification arising from specified felony
 19 offenses is not removed unless a person's civil rights
 20 are restored through the clemency process pursuant to
 21 s. 8, Art. IV of the State Constitution; providing
 22 definitions; authorizing the department to adopt rules
 23 for certain purposes; amending s. 940.061, F.S.;
 24 requiring the Department of Corrections to inform
 25 inmates and offenders of voting rights restoration
 26 pursuant to s. 4, Art. VI of the State Constitution,
 27 in addition to executive clemency and civil rights
 28 restoration; amending s. 944.292, F.S.; conforming a
 29 provision regarding the suspension of civil rights;

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30 amending s. 944.705, F.S.; requiring the Department of
 31 Corrections to include notification of all outstanding
 32 terms of sentence in an inmate's release documents;
 33 providing an exception to the notification requirement
 34 for inmates who are released to any type of
 35 supervision monitored by the department; creating s.
 36 948.041, F.S.; requiring the department, upon the
 37 termination of an offender's term of probation or
 38 community control, to provide written notification to
 39 the offender of all outstanding terms of sentence;
 40 amending s. 951.29, F.S.; requiring each county
 41 detention facility to provide information on the
 42 restoration of voting rights pursuant to s. 4, Art. VI
 43 of the State Constitution to certain prisoners;
 44 requiring each county detention facility to provide
 45 written notification to certain prisoners of all
 46 outstanding terms of sentence upon release; providing
 47 an effective date.

48
 49 Be It Enacted by the Legislature of the State of Florida:

50
 51 Section 1. Subsection (2) of section 97.052, Florida
 52 Statutes, is amended to read:
 53 97.052 Uniform statewide voter registration application.—
 54 (2) The uniform statewide voter registration application
 55 must be designed to elicit the following information from the
 56 applicant:
 57 (a) Last, first, and middle name, including any suffix.
 58 (b) Date of birth.

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59 (c) Address of legal residence.
 60 (d) Mailing address, if different.
 61 (e) E-mail address and whether the applicant wishes to
 62 receive sample ballots by e-mail.
 63 (f) County of legal residence.
 64 (g) Race or ethnicity that best describes the applicant:
 65 1. American Indian or Alaskan Native.
 66 2. Asian or Pacific Islander.
 67 3. Black, not Hispanic.
 68 4. White, not Hispanic.
 69 5. Hispanic.
 70 (h) State or country of birth.
 71 (i) Sex.
 72 (j) Party affiliation.
 73 (k) Whether the applicant needs assistance in voting.
 74 (l) Name and address where last registered.
 75 (m) Last four digits of the applicant's social security
 76 number.
 77 (n) Florida driver license number or the identification
 78 number from a Florida identification card issued under s.
 79 322.051.
 80 (o) An indication, if applicable, that the applicant has
 81 not been issued a Florida driver license, a Florida
 82 identification card, or a social security number.
 83 (p) Telephone number (optional).
 84 (q) Signature of applicant under penalty for false swearing
 85 pursuant to s. 104.011, by which the person subscribes to the
 86 oath required by s. 3, Art. VI of the State Constitution and s.
 87 97.051, and swears or affirms that the information contained in

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88 the registration application is true.
 89 (r) Whether the application is being used for initial
 90 registration, to update a voter registration record, or to
 91 request a replacement voter information card.
 92 (s) Whether the applicant is a citizen of the United States
 93 by asking the question "Are you a citizen of the United States
 94 of America?" and providing boxes for the applicant to check to
 95 indicate whether the applicant is or is not a citizen of the
 96 United States.
 97 (t) Whether the applicant has been convicted of a felony,
 98 and, if convicted, has had his or her voting ~~civil~~ rights
 99 restored by including the statement "I affirm I am not a
 100 convicted felon, or, if I am, my rights relating to voting have
 101 been restored." and providing a box for the applicant to check
 102 to affirm the statement.
 103 (u) Whether the applicant has been adjudicated mentally
 104 incapacitated with respect to voting or, if so adjudicated, has
 105 had his or her right to vote restored by including the statement
 106 "I affirm I have not been adjudicated mentally incapacitated
 107 with respect to voting, or, if I have, my competency has been
 108 restored." and providing a box for the applicant to check to
 109 affirm the statement.
 110
 111 The registration application must be in plain language and
 112 designed so that convicted felons whose voting ~~civil~~ rights have
 113 been restored and persons who have been adjudicated mentally
 114 incapacitated and have had their voting rights restored are not
 115 required to reveal their prior conviction or adjudication.
 116 Section 2. Paragraph (a) of subsection (5) of section

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117 97.053, Florida Statutes, is amended to read:

118 97.053 Acceptance of voter registration applications.—

119 (5) (a) A voter registration application is complete if it
120 contains the following information necessary to establish the
121 applicant's eligibility pursuant to s. 97.041, including:

122 1. The applicant's name.

123 2. The applicant's address of legal residence, including a
124 distinguishing apartment, suite, lot, room, or dormitory room
125 number or other identifier, if appropriate. Failure to include a
126 distinguishing apartment, suite, lot, room, or dormitory room or
127 other identifier on a voter registration application does not
128 impact a voter's eligibility to register to vote or cast a
129 ballot, and such an omission may not serve as the basis for a
130 challenge to a voter's eligibility or reason to not count a
131 ballot.

132 3. The applicant's date of birth.

133 4. A mark in the checkbox affirming that the applicant is a
134 citizen of the United States.

135 5.a. The applicant's current and valid Florida driver
136 license number or the identification number from a Florida
137 identification card issued under s. 322.051, or

138 b. If the applicant has not been issued a current and valid
139 Florida driver license or a Florida identification card, the
140 last four digits of the applicant's social security number.

141
142 In case an applicant has not been issued a current and valid
143 Florida driver license, Florida identification card, or social
144 security number, the applicant shall affirm this fact in the
145 manner prescribed in the uniform statewide voter registration

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146 application.

147 6. A mark in the checkbox affirming that the applicant has
148 not been convicted of a felony or that, if convicted, has had
149 his or her voting ~~civil~~ rights restored.

150 7. A mark in the checkbox affirming that the applicant has
151 not been adjudicated mentally incapacitated with respect to
152 voting or that, if so adjudicated, has had his or her right to
153 vote restored.

154 8. The original signature or a digital signature
155 transmitted by the Department of Highway Safety and Motor
156 Vehicles of the applicant swearing or affirming under the
157 penalty for false swearing pursuant to s. 104.011 that the
158 information contained in the registration application is true
159 and subscribing to the oath required by s. 3, Art. VI of the
160 State Constitution and s. 97.051.

161 Section 3. Paragraph (c) of subsection (1) of section
162 98.045, Florida Statutes, is amended to read:

163 98.045 Administration of voter registration.—

164 (1) ELIGIBILITY OF APPLICANT.—The supervisor must ensure
165 that any eligible applicant for voter registration is registered
166 to vote and that each application for voter registration is
167 processed in accordance with law. The supervisor shall determine
168 whether a voter registration applicant is ineligible based on
169 any of the following:

170 (c) The applicant has been convicted of a felony for which
171 his or her voting ~~civil~~ rights have not been restored.

172 Section 4. Subsections (5) and (6) and paragraph (a) of
173 subsection (7) of section 98.075, Florida Statutes, are amended
174 to read:

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175 98.075 Registration records maintenance activities;
 176 ineligibility determinations.—
 177 (5) FELONY CONVICTION.—The department shall identify those
 178 registered voters who have been convicted of a felony and whose
 179 voting rights have not been restored by comparing information
 180 received from, but not limited to, a clerk of the circuit court,
 181 the Board of Executive Clemency, the Department of Corrections,
 182 the Department of Law Enforcement, or a United States Attorney's
 183 Office, as provided in s. 98.093. The department shall review
 184 such information and make an initial determination as to whether
 185 the information is credible and reliable. If the department
 186 determines that the information is credible and reliable, the
 187 department shall notify the supervisor and provide a copy of the
 188 supporting documentation indicating the potential ineligibility
 189 of the voter to be registered. Upon receipt of the notice that
 190 the department has made a determination of initial credibility
 191 and reliability, the supervisor shall adhere to the procedures
 192 set forth in subsection (7) prior to the removal of a registered
 193 voter's name from the statewide voter registration system.
 194 (6) OTHER BASES FOR INELIGIBILITY.—If the department or
 195 supervisor receives information from sources other than those
 196 identified in subsections (2)-(5) that a registered voter is
 197 ineligible because he or she is deceased, adjudicated a
 198 convicted felon without having had his or her voting ~~civil~~
 199 rights restored, adjudicated mentally incapacitated without
 200 having had his or her voting rights restored, does not meet the
 201 age requirement pursuant to s. 97.041, is not a United States
 202 citizen, is a fictitious person, or has listed a residence that
 203 is not his or her legal residence, the supervisor must adhere to

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204 the procedures set forth in subsection (7) prior to the removal
 205 of a registered voter's name from the statewide voter
 206 registration system.
 207 (7) PROCEDURES FOR REMOVAL.—
 208 (a) If the supervisor receives notice or information
 209 pursuant to subsections (4)-(6), the supervisor of the county in
 210 which the voter is registered shall:
 211 1. Notify the registered voter of his or her potential
 212 ineligibility by mail within 7 days after receipt of notice or
 213 information. The notice shall include:
 214 a. A statement of the basis for the registered voter's
 215 potential ineligibility and a copy of any documentation upon
 216 which the potential ineligibility is based.
 217 b. A statement that failure to respond within 30 days after
 218 receipt of the notice may result in a determination of
 219 ineligibility and in removal of the registered voter's name from
 220 the statewide voter registration system.
 221 c. A return form that requires the registered voter to
 222 admit or deny the accuracy of the information underlying the
 223 potential ineligibility for purposes of a final determination by
 224 the supervisor.
 225 d. A statement that, if the voter is denying the accuracy
 226 of the information underlying the potential ineligibility, the
 227 voter has a right to request a hearing for the purpose of
 228 determining eligibility.
 229 e. Instructions for the registered voter to contact the
 230 supervisor of elections of the county in which the voter is
 231 registered if assistance is needed in resolving the matter.
 232 f. Instructions for seeking restoration of civil rights

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

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pursuant to s. 8, Art. IV of the State Constitution and information explaining voting rights restoration pursuant to s. 4., Art. VI of the State Constitution following a felony conviction, if applicable.

2. If the mailed notice is returned as undeliverable, the supervisor shall publish notice once in a newspaper of general circulation in the county in which the voter was last registered. The notice shall contain the following:

- a. The voter's name and address.
- b. A statement that the voter is potentially ineligible to be registered to vote.
- c. A statement that failure to respond within 30 days after the notice is published may result in a determination of ineligibility by the supervisor and removal of the registered voter's name from the statewide voter registration system.
- d. An instruction for the voter to contact the supervisor no later than 30 days after the date of the published notice to receive information regarding the basis for the potential ineligibility and the procedure to resolve the matter.

e. An instruction to the voter that, if further assistance is needed, the voter should contact the supervisor of elections of the county in which the voter is registered.

3. If a registered voter fails to respond to a notice pursuant to subparagraph 1. or subparagraph 2., the supervisor shall make a final determination of the voter's eligibility. If the supervisor determines that the voter is ineligible, the supervisor shall remove the name of the registered voter from the statewide voter registration system. The supervisor shall notify the registered voter of the supervisor's determination

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20197086pb

and action.

4. If a registered voter responds to the notice pursuant to subparagraph 1. or subparagraph 2. and admits the accuracy of the information underlying the potential ineligibility, the supervisor shall make a final determination of ineligibility and shall remove the voter's name from the statewide voter registration system. The supervisor shall notify the registered voter of the supervisor's determination and action.

5. If a registered voter responds to the notice issued pursuant to subparagraph 1. or subparagraph 2. and denies the accuracy of the information underlying the potential ineligibility but does not request a hearing, the supervisor shall review the evidence and make a final determination of eligibility. If such registered voter requests a hearing, the supervisor shall send notice to the registered voter to attend a hearing at a time and place specified in the notice. Upon hearing all evidence presented at the hearing, the supervisor shall make a determination of eligibility. If the supervisor determines that the registered voter is ineligible, the supervisor shall remove the voter's name from the statewide voter registration system and notify the registered voter of the supervisor's determination and action.

Section 5. Section 98.0751, Florida Statutes, is created to read:

98.0751 Restoration of voting rights; removal of ineligibility subsequent to a felony conviction.-

(1) A person who has been disqualified from voting based on a felony conviction for an offense other than murder or a felony sexual offense must have such disqualification removed and his

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291 or her voting rights restored pursuant to s. 4, Art. VI of the
 292 State Constitution upon the completion of all terms of his or
 293 her sentence, including parole or probation. The voting
 294 disqualification that arises from a felony conviction of murder
 295 or a felony sexual offense as specified under subsection (2)
 296 does not terminate unless a person's civil rights are restored
 297 pursuant to s. 8, Art. IV of the State Constitution.

298 (2) For purposes of this section, the term:

299 (a) "Completion of all terms of sentence" means:

300 1. Release from any term of imprisonment ordered by the
 301 court as a condition of the sentence;

302 2. Termination from any term of probation or community
 303 control ordered by the court as a condition of the sentence;

304 3. Fulfillment of any term ordered by the court as a
 305 condition of the sentence;

306 4. Termination from any term of parole supervision which is
 307 monitored by the Florida Commission on Offender Review;

308 5. Payment of all restitution ordered by the court as a
 309 condition of the sentence, regardless of whether such
 310 restitution is converted to a civil lien;

311 6. Payment of all fees ordered by the court as part of the
 312 sentence or that are ordered as a condition of probation,
 313 community control, or parole, regardless of whether such fees
 314 are converted to a civil lien; and

315 7. Payment of all fines ordered by the court as part of the
 316 sentence or that are ordered as a part of probation, community
 317 control, or parole, regardless of whether such fines are
 318 converted to a civil lien.

319 (b) "Felony sexual offense" includes any of the following

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320 felonies:

321 1. An offense that serves as a predicate to registration as
 322 a sexual offender in accordance with s. 943.0435;

323 2. Section 775.0877(3);

324 3. Section 800.09(2);

325 4. Section 800.101;

326 5. Section 810.145(6)(b) or (7);

327 6. Section 847.012;

328 7. Section 872.06(2);

329 8. Section 944.35(3)(b)2.;

330 9. Section 951.221(1); or

331 10. Any similar offense committed in another jurisdiction
 332 which would be an offense listed in this paragraph if it had
 333 been committed in this state.

334 (c) "Murder" means either of the following:

335 1. A violation of any of the following sections which
 336 results in the actual killing of, or an attempt to kill, a human
 337 being:

338 a. Section 782.04.

339 b. Section 782.07.

340 c. Section 782.09.

341 d. Section 782.11.

342 2. Any similar offense committed in another jurisdiction
 343 which would be an offense listed in subparagraph 1. if it had
 344 been committed in this state.

345 (3) The department may adopt rules to implement this
 346 section for the purpose of determining those registered voters
 347 convicted of a felony whose voting rights have not been restored
 348 pursuant to s. 4, Art. VI of the State Constitution.

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349 Section 6. Section 940.061, Florida Statutes, is amended to
350 read:

351 940.061 Informing persons about executive clemency, ~~and~~
352 restoration of civil rights, and restoration of voting rights.—
353 The Department of Corrections shall inform and educate inmates
354 and offenders on community supervision about the restoration of
355 civil rights and the restoration of voting rights resulting from
356 the removal of the disqualification to vote pursuant to s. 4,
357 Art. VI of the State Constitution. Each month, the Department of
358 Corrections shall send to the Florida Commission on Offender
359 Review by electronic means a list of the names of inmates who
360 have been released from incarceration and offenders who have
361 been terminated from supervision who may be eligible for
362 restoration of civil rights.

363 Section 7. Subsection (1) of section 944.292, Florida
364 Statutes, is amended to read:

365 944.292 Suspension of civil rights.—

366 (1) Upon conviction of a felony as defined in s. 10, Art. X
367 of the State Constitution, the civil rights of the person
368 convicted shall be suspended in Florida until such rights are
369 restored by a full pardon, conditional pardon, or restoration of
370 civil rights granted pursuant to s. 8, Art. IV of the State
371 Constitution. Notwithstanding the suspension of civil rights,
372 such a convicted person may obtain restoration of his or her
373 voting rights pursuant to s. 4, Art. VI of the State
374 Constitution and s. 98.0751.

375 Section 8. Subsection (6) of section 944.705, Florida
376 Statutes, is amended to read:

377 944.705 Release orientation program.—

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378 (6) (a) The department shall notify every inmate, ~~in no less~~
379 ~~than 18-point type~~ in the inmate's release documents;—

380 1. Of all outstanding terms of the inmate's sentence at the
381 time of release to assist the inmate in determining his or her
382 status with regard to the completion of all terms of his or her
383 sentence, as that term is defined in s. 98.0751. This
384 subparagraph does not apply to inmates who are being released
385 from the custody of the department to any type of supervision
386 monitored by the department; and

387 2. In not less than 18-point type, that the inmate may be
388 sentenced pursuant to s. 775.082(9) if the inmate commits any
389 felony offense described in s. 775.082(9) within 3 years after
390 the inmate's release. This notice must be prefaced by the word
391 "WARNING" in boldfaced type.

392 (b) ~~Nothing in~~ This section does not preclude ~~precludes~~ the
393 sentencing of a person pursuant to s. 775.082(9), and ~~nor shall~~
394 evidence that the department failed to provide this notice does
395 not prohibit a person from being sentenced pursuant to s.
396 775.082(9). The state is ~~shall~~ not ~~be~~ required to demonstrate
397 that a person received any notice from the department in order
398 for the court to impose a sentence pursuant to s. 775.082(9).

399 Section 9. Section 948.041, Florida Statutes, is created to
400 read:

401 948.041 Notification of outstanding terms of sentence upon
402 termination of probation or community control.—Upon the
403 termination of an offender's term of probation or community
404 control, the department must notify the offender in writing of
405 all outstanding terms at the time of termination to assist the
406 offender in determining his or her status with regard to the

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completion of all terms of his or her sentence, as that term is
defined in s. 98.0751.

Section 10. Subsection (1) of section 951.29, Florida
Statutes, is amended to read:

951.29 Procedure for requesting restoration of civil rights
of county prisoners convicted of felonies.—

(1) With respect to a person who has been convicted of a
felony and is serving a sentence in a county detention facility,
the administrator of the county detention facility shall provide
the following to the prisoner, at least 2 weeks before
discharge, if possible:—

(a) An application form obtained from the Florida
Commission on Offender Review which the prisoner must complete
in order to begin the process of having his or her civil rights
restored;—

(b) Information explaining voting rights restoration
pursuant to s. 4, Art. VI of the State Constitution; and

(c) Written notification of all outstanding terms of the
prisoner's sentence at the time of release to assist the
prisoner in determining his or her status with regard to the
completion of all terms of his or her sentence, as that term is
defined in s. 98.0751.

Section 11. This act shall take effect upon becoming law.



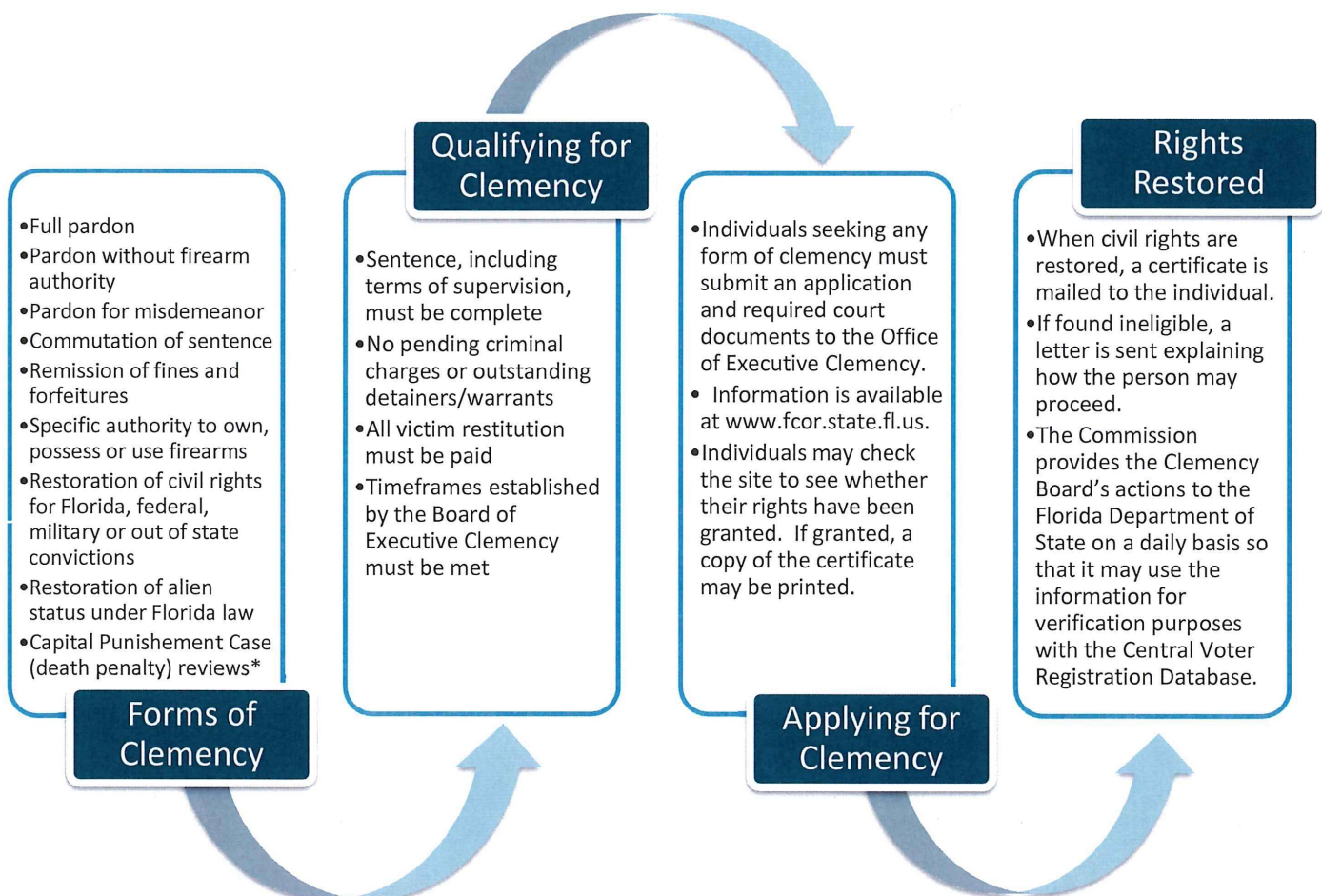
FLORIDA COMMISSION ON OFFENDER REVIEW

SERVING THE CITIZENS OF FLORIDA SINCE 1941

Executive Clemency Timeline: 1991-2015

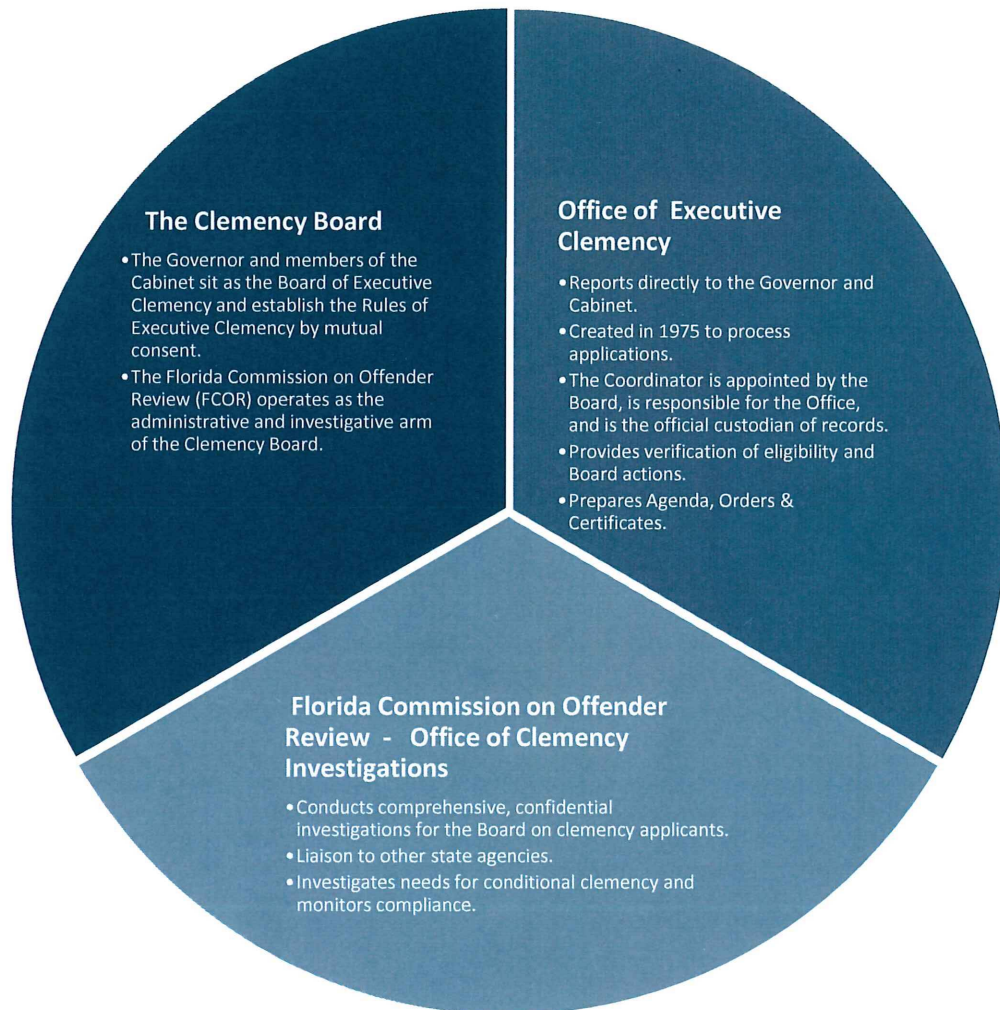
CLEMENCY - Under the Florida Constitution, a person convicted of a felony loses the right to vote, serve on a jury, hold public office, and possess a firearm.

Clemency is the constitutionally authorized process that provides the means through which convicted felons may be considered for relief from punishment and seek restoration of their civil rights. The clemency function is an act of mercy that absolves an individual from all, or any part, of the punishment that the law imposes. This is a power to grant full or conditional pardons, or commute punishment. There are rules for these procedures, and these powers to grant clemency are vested in the Governor with the agreement of two Cabinet members who are also statewide elected officials. The Governor also has the sole power to deny clemency.



*Capital Punishment Clemency Cases follow a different qualifying and application process. For more information visit <https://www.fcor.state.fl.us/clemencyOverview.shtml>

Clemency Administration





2011- Present - Governor Scott's Administration

- Under Governor Scott's Administration, The Florida Board of Executive Clemency amended the Rules of Executive Clemency (Rules), which became effective on March 9, 2011.
- The Rule changes resulted in the redesign of the application, related instructional information, and website content.
- Felons seeking to have their rights restored must complete a five (5) or seven (7) year waiting period upon completion of the sentence to become eligible.

• >>>more info



2007-2010 - Governor Crist's Administration

- Under Governor Crist's Administration, Rule revisions were made effective on April 5, 2007.
- For restoration of civil rights, the Board implemented Rules which designated three levels of eligibility based upon the severity of offense for exoffenders who had completed their sentences or supervision and paid all restitution.

• >>>more info



1999-2006 - Governor Bush's Administration

- Under Governor Bush's Administration, Rule revisions were made effective January 1, 2000.
- The Board amended the rule on the restoration of civil rights to add a list of disqualifying crimes and new language stating that restoration of civil rights does not relieve a person from the registration, notification requirements, or any other obligations and restrictions imposed by law upon sexual predators or sexual offenders.

• >>>more info



1991-1998 - Governor Chiles' Administration

- Under Governor Chiles' Administration, Rule revisions were made effective January 1992.
- The Board expanded the Commission's duties to allow capital case inmates to receive interviews by panels of three commissioners and created a waiver procedure for female inmates to be evaluated by special panels if they met criteria to claim they were victims of the "battered woman syndrome." Requests for clemency increased due to more inmates being ineligible for any other form of early release consideration.

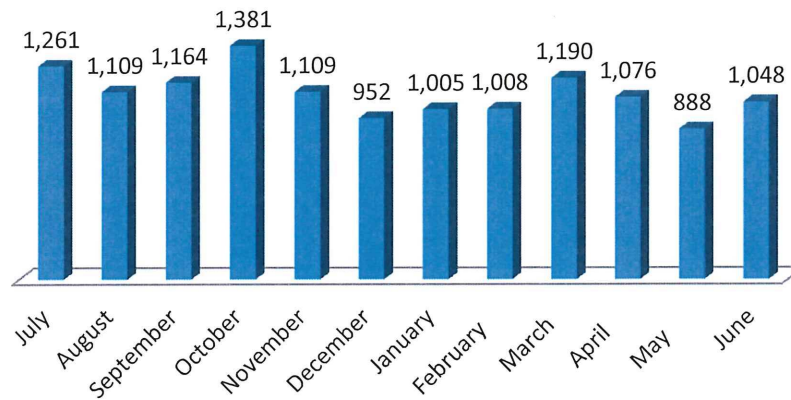
• >>>more info

Recent Activity

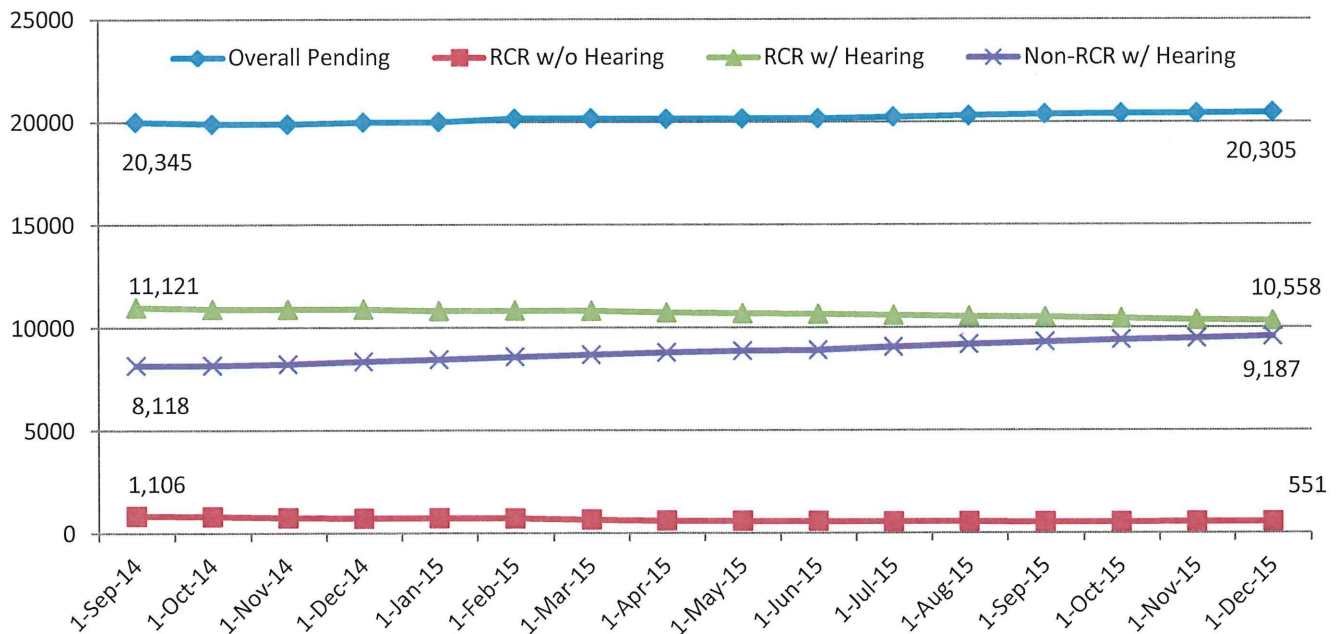
Customer Service

- Stakeholders are provided updates of the most current information by phone and email.
- FCOR staff is trained to assist the public efficiently and courteously.
- Applicants are informed of their eligibility in timely manner.
- FCOR Website (as of September 2015): Searches for Restoration of Civil Rights: 1,123,585; RCR Certificates Located: 129,403; RCR Certificates Printed 78,457; RCR Certificates Available: 376,648.

Executive Clemency Toll Free Line Calls Received FY 2014-15



Restoration of Civil Rights (RCR) Pending Cases



Funding

- Additional \$350,000 in recurring OPS General Revenue funds for clemency received in 2012 Legislative Session.
- Additional \$25,000 in non-recurring OPS General Revenue funds for clemency received in 2013 Legislative Session.
- Nine additional full-time clemency employees (FTEs), \$46,500 increase in OPS funds for clemency phone operators, and \$125,000 in contracted services funding to manage clemency for capital case proceedings received in 2014 Legislative Session.

Victims' Services

- Identifies, locates and contacts victims of record by working with State Attorneys and the Attorney General's Victims' Services Office.
- Provides guidance, support and assistance to victims and victim's family members throughout the clemency process and at Clemency Hearings.

2011- Present Governor Scott's Administration

- Under Governor Scott's Administration, the Florida Board of Executive Clemency amended the Rules of Executive Clemency (Rules), which became effective on March 9, 2011.
- The Rule changes resulted in the redesign of the application, related instructional information, and website content.
- Felons seeking to have their rights restored must complete a five (5) or seven (7) year waiting period upon completion of the sentence to become eligible.
- In 2011, the *Jim King Keep Florida Working Act* was established to allow offenders lacking civil rights the ability to apply for a license, permit, certificate, or employment. As a safeguard, the Act specified exemptions for positions deemed to be critical to security or public safety, law enforcement agencies, and correctional agencies.

Restoration of Civil Rights (RCR) cases are now classified as follows: *Without a Hearing* (Rule 9.A.) and *With a Hearing* (Rule 10.A.). *Without a Hearing* investigations are those where offenders are eligible for consideration only after five (5) years have passed since the date of completion of all sentences and conditions of supervision imposed for all felony convictions, if no crimes have been committed and if the applicant has not been arrested for a misdemeanor or felony for the five (5) years prior to the date the application is being reviewed. *With a Hearing* investigations are those where offenders are eligible for consideration only after seven (7) years have passed since the date of completion of all sentences and conditions of supervision imposed for all felony convictions.

Clemency Funding Summary

Under Governor Scott's administration, an additional \$350,000 in recurring OPS General Revenue funds for Clemency were received in 2012 Legislative Session. And an additional \$25,000 in non-recurring OPS General Revenue funds for Clemency were received in 2013 Legislative Session. In 2014 Legislative Session, clemency funding included nine additional full-time clemency employees (FTEs), \$46,500 increase in OPS funds for clemency phone operators, and \$125,000 in contracted services funding to manage clemency for capital case proceedings. In fiscal year 2015-16, the Commission received additional funding in the amount of \$153,537 for capital clemency counsel services for a total funding of \$250,000.

2007-2010 Governor Crist's Administration

- Under Governor Crist's Administration, Rule revisions were made effective on April 5, 2007.
- For restoration of civil rights, the Board implemented Rules which designated three levels of eligibility based upon the severity of offense for exoffenders who had completed their sentences or supervision and paid all restitution.

Cases were sent electronically to the Commission (Clemency Investigations Office) by the Florida Department of Corrections (Department) based on offenders either ending their prison sentence (EOS) or being terminated from community supervision (TOS). An eligibility review was conducted by the Commission for these electronic requests and if deemed eligible, the case was placed on an Executive Order and submitted to the Board for signature. If found ineligible, the person was notified and told of the process to request a hearing. **This amended process did not eliminate the requirements that the exoffender must still be reviewed for eligibility, deemed eligible, then placed on an Executive Order for signature of the Clemency Board.** Once the order was signed, certificates were mailed to persons granted restoration of civil rights. Applications were also being submitted and reviewed for persons who had been released from incarceration or terminated supervision previously, had Federal, military or out-of-state convictions and now reside in Florida or were requesting other forms of clemency.

The amended Rules designated three levels of eligibility for the Restoration of Civil Rights: The persons eligible for Level I approval were those convicted of less serious offenses such as Grand Theft, Burglary of a Dwelling, Possession of Firearm by Convicted Felon; Robbery (No Deadly Weapon); Felony DUI; and Sale of a Controlled Substance. The cases were reviewed for eligibility and placed on an executive order for signature by the Board. These cases still required the Commission to conduct an eligibility review and required approval by the Board. Once the order was signed, certificates were mailed to the persons granted restoration of civil rights.

Those offenders convicted of more serious offenses such as Aggravated Battery/Assault, Trafficking in Cocaine, Aggravated Stalking, Kidnapping/False Imprisonment or designated as a Three-Time Violent Felony Offender, were eligible for a Level II review for restoration of civil rights without a hearing. An investigation was required on these cases, with the information forwarded to the Board for a 30-day review. If approved by the Board, the names of the offenders found eligible were placed on an executive order for signature by the Board and restoration of civil rights certificates were mailed to those persons once the order was signed.

Persons convicted of the most serious offenses such as Murder/Manslaughter, Sexual Battery, Aggravated Child Abuse, or persons designated as Sexual Predators required a more in-depth investigation for restoration of civil rights with a hearing as a Level III case.

Clemency Funding Summary

The streamlining of the clemency RCR process by the Governor and Cabinet in April 2007 created a greater clemency workload for the Commission. In 2008-2009, due to an economic downturn and statewide budget challenges, the Commission's budget was reduced by 20% with reductions made primarily in the clemency staffing area.

1999-2006 Governor Bush's Administration

- Under Governor Bush's Administration, Rule revisions were made effective January 1, 2000.
- The Board amended the rule on the restoration of civil rights to add a list of disqualifying crimes and new language stating that restoration of civil rights does not relieve a person from the registration, notification requirements, or any other obligations and restrictions imposed by law upon sexual predators or sexual offenders.

In June 2001, the rule on Restoration of Civil Rights (RCR) was amended to: eliminate owing outstanding monetary obligations excluding restitution as a disqualifier; eliminate having more than two felony convictions as a disqualifier for RCR without a hearing; and offenders including habitual felony offenders, habitual violent felony offenders, three-time violent felony offenders, violent career criminals, and prison release re-offenders were required to have a hearing before the Clemency Board.

"Lawsuit" Cases and Clemency Funding: In 2002, a lawsuit filed against the Florida Department of Corrections by the Florida Conference of Black State Legislators resulted in an additional 155,000 RCR cases being reviewed by the Commission, substantially impacting the workload of the Office of Executive Clemency and the Office of Clemency Investigations.

Bush Lawsuit Cases' Implementation Plan: In a letter dated December 14, 2001, Governor Bush directed the Office of Executive Clemency to implement a plan to provide the clemency application form to all prison or community supervision releases. This plan required the Department to submit to the Commission a monthly computer-generated list of offenders being released from prison (EOS – expiration of sentence) and offenders being terminated from supervision (TOS) who might be eligible for restoration of civil rights without a hearing. Data regarding these individuals was then downloaded into the Commission's clemency database. This process ensured that all offenders would be notified of their eligibility or ineligibility for RCR without a hearing.

Computer generated "EOS/TOS" lists provides the names of offenders determined eligible for RCR without a hearing were forwarded to the Board of Executive Clemency for approval and then notified of the Board's action. Offenders determined ineligible from the computer-generated lists were provided a hard-copy application and instructions regarding further consideration of restoration of their civil rights. The names of individuals determined eligible for RCR without a hearing were electronically placed on a list for submission to the Clemency Board. If the Board review did not result in objection by the Board, the names were electronically placed on an Executive Order and submitted to the Board for signature. Once the Executive Order was signed, certificates were electronically generated. If the Board objected to RCR without a hearing, the individual was notified. All lawsuit cases were completed June 2004.

Governor Bush's Paperless RCR Initiative Beginning in July 2004, Governor Bush eliminated the use of a paper application and persons seeking to have their civil rights restored could call, send a letter to the Office of Executive Clemency, send an e-mail, or fill out a data information form directly online at the Commission's website.

On December 9, 2004, the rule on the restoration of civil rights was revised to: eliminate a Board hearing provision that individuals who have been granted RCR or a pardon in the past 10 years be required to have a hearing before the Board. Allow individuals with certain disqualifying convictions to be eligible for RCR Without a Hearing if they remained crime-free for a period of five years after completion of all sentences; and allow any individual, regardless of the nature of any conviction, to be eligible for RCR Without a Hearing if they remained crime-free for a period of 15 years after completion of all sentences.

Clemency Funding Summary

As a result of the lawsuit cases, Governor Bush recognized the seriousness of the situation and recommended funding for additional clemency positions to help reduce the pending cases. The Legislature agreed and provided funding for 14 Parole Examiner positions for FY 2003-04. With the additional positions, these "lawsuit" cases were completed by mid-June 2004. The Legislature then reduced the 14 Parole Examiner positions by 10. This was the last funding for positions for clemency provided by the Legislature to the Commission until the 2012 Legislative Session, wherein the General Appropriations Act provided \$350,000 in recurring annual general revenue OPS funds for FY 2012-13 for the reduction of the RCR Without a Hearing pending cases.

1991-1998 Governor Chiles' Administration

- Under Governor Chiles' Administration, Rule revisions were made effective January 1992.
- The Board expanded the Commission's duties to allow capital case inmates to receive interviews by panels of three commissioners and created a waiver procedure for female inmates to be evaluated by special panels if they met criteria to claim they were victims of the "battered woman syndrome." Requests for clemency increased due to more inmates being ineligible for any other form of early release consideration.

In 1991-92, the clemency workload was adversely affected by the State's budget crisis and worked much of the year with positions either frozen or eliminated. A backlog in pending applications resulted in decreases in some workload categories.

Clemency Funding Summary

The Commission experienced budget cuts in FY 1990-91 of \$895,238 and 28 positions. The adjusted annual budget for FY 1990-91 was \$7,799,264. One professional position in Clemency Investigations was reduced and 27 positions eliminated in the revocation function as a result of budget cuts. A majority of the Commission's budget was allocated to the control release function.

Select Page



AMENDMENT 4 IMPLEMENTATION

– FREQUENTLY ASKED QUESTIONS –

AMENDMENT 4 IMPLEMENTATION

– FREQUENTLY ASKED QUESTIONS –

When does Amendment 4 go into effect?

The amendment goes into effect on January 8th, 2019.

If I am a Returning Citizen who has completed all portions of my sentence, can I register to vote on January 8th?

Yes. Returning Citizens (people with former felony convictions) who have completed their sentence and have not been convicted of murder or a felony sexual offense can register to vote starting January 8th, as soon as the Amendment language is written in to the State Constitution.



Will FRRC be helping Returning Citizens who want to register on or after January 8th?

Yes. If you are a Returning Citizen (person with a former felony conviction) and you plan to register starting January 8th, please **let us know through our website** so we can make sure your registration is protected. You can also ask us any questions you have that are not covered here.

Does the legislature need to write rules to implement Amendment 4?

No. The legislature does not need to write enabling legislation. The amendment is self-executing. The State has conceded this point in its filing in the *Hand v. Scott* case. This means that, unlike what we may have seen after Fair Districts or Medical Marijuana was passed, the legislature does not have to do anything to implement Amendment 4.

What is the legislature's role in Amendment 4 implementation?

The legislature is responsible for oversight and funding of the government agencies responsible for administering the implementation of Amendment 4.

Do Returning Citizens register through the normal voter registration process?

Yes. The existing voter registration form is adequate and sufficient to immediately register individuals impacted by Amendment 4. Question #2 on that form asks individuals to "affirm that I am not a convicted felon, or if I am, my right to vote has been restored." Individuals can check this box in the same way that they affirm they are U.S. Citizens (see below for an example of how to fill out the Eligibility section of the form). Starting on January 8th you can also register online via the Florida Online Voter Registration System. In the mean time, if you're planning to register on the 8th or soon after, we encourage you to **sign up through our website** and we'll send you information when it's time to register.

Eligibility

- * Are you a citizen of the United States of America? ☒ Yes ☐ No
- * I affirm that I am not a convicted felon, or if I am, my right to vote has been restored. ☒ Yes ☐ No
- * I affirm that I have not been adjudicated mentally incapacitated with respect to voting or, if I have, my right to vote has been restored. ☒ Yes ☐ No

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Do Returning Citizens need to bring proof of a completed sentence before registering?

No. The responsibility of the citizen is to honestly affirm that, by completing the terms of their sentence, their voting rights have been restored – because, if they have completed their sentence, the voter's rights have been restored.

What does it mean to complete all portions of my sentence?

We believe that "completion of all terms of sentence" includes any period of incarceration, probation, parole and financial obligations imposed as part of an individual's sentence. These financial obligations may include restitution, fines, and fees imposed as part of a sentence or a condition of probation under existing Florida statute. That said, fees not specifically identified as part of a sentence or a condition of probation are therefore not necessary for 'completion of sentence' and thus, do not need to be paid before an individual may register. These are the policies used by the Office of Offender Review to determine "completion of sentence" and therefore consistent with current state practices.

Will there be obstacles to Amendment 4 implementation? If so, what are those obstacles?

We are very confident in the strength of Amendment 4's language, and the protection it will afford Returning Citizens who are qualified to register to vote, beginning on January 8th. We also understand that we may still encounter obstacles along the way, in particular around the process of verifying "completion of

sentence.” Therefore, we have assembled a group of experienced attorneys, from several renowned organizations, who stand ready to defend any Returning Citizen that is denied the right to register to vote, and to defend any attempt to infringe on any of the Constitutional rights created by Amendment 4.

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Cox, Ryan

From: Yarger, Alexander <alecyarger@fcor.state.fl.us>
Sent: Wednesday, January 2, 2019 3:36 PM
To: Cox, Ryan
Cc: Jones, Lauren
Subject: RE: Questions about current practices for completion of sentence

Good afternoon,

To answer your questions:

- 1) If a person's probation is terminated and remaining restitution is converted to a civil lien, does the order of civil lien satisfy the definition of completion of sentence? I ask this because the rule mentions "restitution pursuant to court order or civil lien..."

The conversion of restitution to a civil lien would not satisfy the eligibility requirements for restoration of civil rights (RCR) under the current Rules of Executive Clemency. All court ordered restitution, even if reduced to a civil judgement, must be paid before an applicant is eligible to apply for RCR.

- 2) What other financial obligations are required to be completely paid for completion of sentence to be met? For example, does a defendant have to pay, in full, obligations such as court costs, cost of prosecution, Public defender fees, cost of investigation, etc to be deemed to have completed his or her sentence? Will a conversion to a civil lien for these obligations be enough to satisfy the completion of sentence?

The only financial obligation required for RCR eligibility under the current Rules of Executive Clemency is the payment of court ordered restitution. There are some instances where a judge might specifically order the cost of investigation/prosecution as restitution. In those cases, all restitution would still have to be paid to satisfy the eligibility requirement for RCR.

- 3) What other financial obligations does FCOR and the Clemency Board consider to be covered by the reference to ch. 960, F.S., in the clemency rule for Restoration of Civil Rights?

For RCR, the only financial obligation FCOR and the Clemency Board consider under the current Rules of Executive Clemency is court ordered restitution, even if reduced to a civil judgement.

Please let me know if you have any additional questions.

Thank you,

Alec Yarger

Director of Legislative Affairs
Florida Commission on Offender Review
Office: (850) 921-2804
Cell: (850) 728-3548

From: Cox, Ryan [mailto:Cox.Ryan@flsenate.gov]
Sent: Friday, December 28, 2018 1:46 PM
To: Yarger, Alexander <alecyarger@fcor.state.fl.us>
Cc: Jones, Lauren <JONES.LAUREN@flsenate.gov>
Subject: Questions about current practices for completion of sentence

Alec,

Thank you for chatting with me again today. The clarifying questions we would like to get from you regarding the practice under Governor Scott's administration include:

- 1) If a person's probation is terminated and remaining restitution is converted to a civil lien, does the order of civil lien satisfy the definition of completion of sentence? I ask this because the rule mentions "restitution pursuant to court order or civil lien..."
- 2) What other financial obligations are required to be completely paid for completion of sentence to be met? For example, does a defendant have to pay, in full, obligations such as court costs, cost of prosecution, Public defender fees, cost of investigation, etc to be deemed to have completed his or her sentence? Will a conversion to a civil lien for these obligations be enough to satisfy the completion of sentence?
- 3) What other financial obligations does FCOR and the Clemency Board consider to be covered by the reference to ch. 960, F.S., in the clemency rule for Restoration of Civil Rights?

I appreciate your prompt response to these questions.

Sincerely,

Ryan C. Cox

Senior Attorney

Senate Committee on Criminal Justice

(850) 487-5192

Cox, Ryan

From: Dover, Brittany N. <Brittany.Dover@dos.myflorida.com>
Sent: Monday, March 25, 2019 5:53 PM
To: Cox, Ryan
Subject: Fwd: Number of Voters Registered Since Jan. 8th

Sent from my iPhone

Begin forwarded message:

From: Brittany.Dover@dos.myflorida.com
Date: March 25, 2019 at 1:43:58 PM EDT
To: ryan.cox@flsenate.gov
Subject: Number of Voters Registered Since Jan. 8th

Ryan,

Here are the number of persons registered new since January 8, 2019: 132,532.

Of that number, we can break it down further if you would like for specific number of potential felons. I apologize for our delay in getting you a number.

Thank you,

Brittany Dover
Department of State

THE FLORIDA SENATE
APPEARANCE RECORD

25 Mar 19

Meeting Date

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

SB 7080

Bill Number (if applicable)

783410

Amendment Barcode (if applicable)

Topic Amendment 4

Name Cecile Scoon

Job Title Attorney

Address 512 Bunkers Cove Rd

Street

Panama City FL

City

State

Zip

Phone 850-319-1975

Email cscoon@knology.net

Speaking: ☐ For ☐ Against ☒ Information

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

Representing League of Women Voters Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/25/2019

Meeting Date

SB 7086

Bill Number (if applicable)

783410

Amendment Barcode (if applicable)

Topic Amendment 4 Implementation

Name Scott D. McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

Street

Tallahassee

City

FL

State

32302

Zip

Phone 850-521-3042

Email scott.mccoy@splcenter.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Southern Poverty Law Center Action Fund

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3, 25, 19
Meeting Date

776780
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road
Street
Tallahassee
City

Phone 850.510.9922

Email barney@barneybishop.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Smart Justice Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/25/2019

Meeting Date

SB 7086

Bill Number (if applicable)

776780

Amendment Barcode (if applicable)

Topic Amendment 4 Implementation

Name Scott D. McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

Street

Tallahassee

City

FL

State

32302

Zip

Phone 850-521-3042

Email scott.mccoy@splcenter.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Southern Poverty Law Center Action Fund

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

25 Mar 19

Meeting Date

SB 7086

Bill Number (if applicable)

Topic Amendment 4 proposed implementing legislation

776780, ~~776780~~

Amendment Barcode (if applicable)

Name Cecile Scoon, Attorney

Job Title First V. President League of Women Voters

Address 512 Bunkers Cove Rd
Panama City, Fl. 32401

Phone 850-319-1975

Email cmscoon1@knology.net

Speaking: ☐ For ☐ Against ☒ Information

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

Representing League of Women Voters, Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/25/19

Meeting Date

SB 7086

Bill Number (if applicable)

Topic AMENDMENT 4 - VOTING RIGHTS

Amendment Barcode (if applicable)

Name KIRK BAILEY

Job Title POLITICAL DIRECTOR

Address 4343 W. FLAGLER ST.

Street

MIAMI

City

FL. 33134

State

Zip

Phone 202-468-9590

Email KBAILEY@ACLUFL.ORG

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against

(The Chair will read this information into the record.)

Representing ACLU - FLORIDA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/24/19
Meeting Date

7082
Bill Number (if applicable)

Topic Amend 4

Amendment Barcode (if applicable)

Name Kathleen M. Clark

Job Title N/A

Address 2767 Mikol Tuff S.

Phone 727-226-0495

Street
City State Zip
St Petersburg FL 33712

Email K.M.Clark@austhink

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FRCC / Sen

Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

25 Mar 19

Meeting Date

SB 7068

Bill Number (if applicable)

Topic Am 4 legislation

Amendment Barcode (if applicable)

Name Cecile Scoon

Job Title Attorney

Address 512 Bunkers Cove

Phone 850-769-7825

Street Panama City

City State Zip

Email cecilscoon1@kuology.net

Speaking: ☐ For ☐ Against ☒ Information

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

Representing League of Women Voters, Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/25/19

Meeting Date

57B 7086

Bill Number (if applicable)

Topic Voting Rights

Amendment Barcode (if applicable)

Name Mark Schlakman

Job Title Senior Program Director

Address FSU Center for the Advancement of Human Rights, 436 W. Jefferson St.

Street

Phone 850 644-4614

Tallahassee

FL

32301

Email mschlakman@fsu.edu

City

State

Zip

Speaking: ☐ For ☐ Against ☒ Information

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

Representing FSU Center for the Advancement of Human Rights

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-25-2019

Meeting Date

7086

Bill Number (if applicable)

Topic AMENDMENT 4 - ~~REB~~

VOTING RIGHTS

Amendment Barcode (if applicable)

Name KAREN LEIGHT

Job Title PARALEGAL - MANAGER

Address 11610 N BAYSHORE DRIVE #2D

Street

Phone 858-945-5731

MIAMI FLORIDA 33181

City

State

Zip

Email LEIGHTSOURCE@AOL.COM

Speaking: ☐ For ☒ Against ☐ Information

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

Representing MYSELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

APPEARANCE RECORD

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

3/25/19
Meeting Date

7086
Bill Number (if applicable)

Topic Amendment 4 - Voting Rights

Amendment Barcode (if applicable)

Name Coral Nichols

Job Title Vice President / Co-founder

Address 7190 Seminole Blvd
Street
Seminole, FL 33772
City State Zip

Phone 727-479-8476
Email cnichols@empowered-to-change.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Myself / Organization

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

SB 7086

Bill Number (if applicable)

SB 7086

Amendment Barcode (if applicable)

Meeting Date _____

Topic Voting Rights Restoration

Name Janet Wright

Job Title Night Auditor

Address 910 Cochran Drive

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850 321-9090

Email wrightjanetd457@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Faith In Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/25/2019

Meeting Date

SPB 7086

Bill Number (if applicable)

Topic Voting Rights Restoration

Amendment Barcode (if applicable)

Name Ashley Thomas

Job Title Florida State Director, Fines and Fees Justice Center

Address 185 West Broadway Suite C538

Phone 802-299-9059

Street

New York

City

NY

State

10013

Zip

Email athomas@finesandfeesjusticecenter.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Fines + Fees Justice Center

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3/25/19

Meeting Date

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

SPB 7086

Bill Number (if applicable)

Topic SPB 7086 Voter Restriction

Amendment Barcode (if applicable)

Name Shelli Freeland Eddie

Job Title City Commissioner, City of Sarasota

Address PO Box 592

Phone (941) 954-4115

Street Sarasota State FL Zip 34230

Email freelandeddie.law@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/25/19

Meeting Date

7086

Bill Number (if applicable)

Topic Amendment 4 legislation

Amendment Barcode (if applicable)

Name Lance Wissingner

Job Title Director of Business Development

Address 11290 Royal Tee Cir

Street

Phone 239-770-0465

Cape Coral

City

FL

State

33991

Zip

Email wissmonine@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FRRC

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/25/19

Meeting Date

Amendment 4

SPB 7086

SPB 7086

Bill Number (if applicable)

Topic Voting rights restoration, agenda item 2

Amendment Barcode (if applicable)

Name Paul de Revere

Job Title

Address

Street

Phone

Email

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Dream Defenders Tallahassee

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3/25/2019

Meeting Date

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

SPB 7086

Bill Number (if applicable)

Topic Amendment 4

Amendment Barcode (if applicable)

Name Bob Rackleff

Job Title Member

Address 502-D Hillcrest St.

Phone 850-212-5663

Street

Tallahassee

FL

32308

City

State

Zip

Email bob.rackleff@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Big Bend Voting Rights Project

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

APPEARANCE RECORD

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

3/25/19

Meeting Date

7086

Bill Number (if applicable)

Topic

AC Implementation

Amendment Barcode (if applicable)

Name

Neil Voltz

Job Title

Political Director

Address

4081 UB Molead

Phone

239-848-5502

Street

Orlando

State

FL

Zip

2381

Email

neil@floridare.org

City

Speaking:

☐

For

☒

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Florida Rights Restoration Coalition

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/25/2019
Meeting Date

7086
19-03
Bill Number (if applicable)

Topic Amendment 4

Amendment Barcode (if applicable)

Name Teze Jones

Job Title

Address P.O. Box 17784

Phone (813) 516-0091

Street Tampa FL 33682
City State Zip

Email tezejones@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FRRC

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-25-19

Meeting Date

7086

Bill Number (if applicable)

Topic Voting Rights #4

Amendment Barcode (if applicable)

Name CONNIE Burton

Job Title _____

Address 4210-Faye Ct

Phone 27-623-5637

Street

Tampa

City

Fl.

State

33610

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FRRC

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/24/19

Meeting Date

7006

Bill Number (if applicable)

Topic Amendment 4

Amendment Barcode (if applicable)

Name Marcus McKenzie

Job Title

Address 2137 San Jose Blvd
Street

Phone 407-406-9640

Orlando FL 32808
City State Zip

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Rights Restoration Coalition

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

SPB 7086
Bill Number (if applicable)

Topic SPB 7086 - Voting Rights

Amendment Barcode (if applicable) _____

Name Michael Dobson

Job Title President, The Dream Foundation, Inc.

Address 4005 Brandon Hill Dr

Phone (850) 241-5896

Street

Tallahassee, FL 32309

City

State

Zip

Email Michael@live.thedreamfoundation.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing The Dream Foundation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/25/19
Meeting Date

Against 7086

1656
Bill Number (if applicable)

Topic Amendment 4

Amendment Barcode (if applicable)

Name Letyisia Larry

Job Title Co owner

Address 623 Bittern Ct.
Street

Phone 407 485-2259

Rissimonee Fl. 34759
City State Zip

Email heavenly hands cleaning 561
@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FRRC

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/25/19

Meeting Date

Against
7086

Bill 1566

Bill Number (if applicable)

Topic

Amendment 4 / ~~Bill~~ 7086 changes using

Amendment Barcode (if applicable)

Name

Melissa Rodriguez

Job Title

Life Coach / Credible Messenger

Address

2530 Skan Court

Phone

702-445-5797

Street

Orlando

FL

32839

City

State

Zip

Email

healingtouchsinlife
@icloud.com

Speaking:

☐

For

☒

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

FRRC / Credible Messengers Florida

Appearing at request of Chair:

☐

Yes

☐

No

Lobbyist registered with Legislature:

☐

Yes

☐

No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/25/19

Meeting Date

7086

Bill Number (if applicable)

Topic Amendment 4

Amendment Barcode (if applicable)

Name Samantha Brown

Job Title Psychosocial Rehabilitation Specialist

Address 1913 E Central Blvd
Street

Phone 321-266-4595

Orlando
City

FL
State

32803
Zip

Email sbrown9094@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FRRC/Credible Messengers

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/25/19

Meeting Date

7086

Bill Number (if applicable)

Topic Amendment 4

Amendment Barcode (if applicable)

Name Ruben Saldana

Job Title Youth Crime Prevention Coach

Address 5838 Tomoka Dr.
Street

Phone 305-619-3080

Orlando, FL. 32839
City State Zip

Email RuCamp@Outlook.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FRRC / Credible Messengers of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/25/19

Meeting Date

Against
HB 117886
Bill Number (if applicable)

Topic Amendment 4/6.11

Amendment Barcode (if applicable)

Name Cynthia Claytor

Job Title Parent/Credible Messenger

Address 2529 Skaw Ct.

Phone 407-953-1423

Street

Orlando

FL

32839

City

State

Zip

Email cclaytor@exhco.com (R) (R)

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FRRC/Credible Messenger

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/25/14

Meeting Date

7086

Bill Number (if applicable)

Topic

Implementation Amendment 2

Amendment Barcode (if applicable)

Name

Carolyn Fletcher

Job Title

Business owner (Cleaning Service)

Address

1705 E. Sisco St

Phone

803-750-6265

Street

Tampa

FL

33604

City

State

Zip

Email

Speaking:

☒

For

☒

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

FRRC

Appearing at request of Chair:

☐

Yes

☐

No

Lobbyist registered with Legislature:

☐

Yes

☐

No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/25/19
Meeting Date

7086
Bill Number (if applicable)

Topic Implementation of Amendment 4

Amendment Barcode (if applicable)

Name Gale Buswell

Job Title Organizer Team

Address 1516 Regan Ave
Street

Phone 407 591 8948

Orlando FL 32807
City State Zip

Email gbuswell2@yahoo.com

Speaking: ☒ For ☒ Against ☐ Information

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

Representing FRRC + Amendment 4

Appearing at request of Chair: ☐ Yes ☐ No Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/25

Meeting Date

7084

Bill Number (if applicable)

Topic Implementation of amendments 4

Amendment Barcode (if applicable)

Name Erica Bac2

Job Title

Address 714 Cardinal Streets

Street

Phone

Lehigh Ave FL 33974

City

State

Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FRRC

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

<u>Meeting Date</u>		<u>Bill Number (if applicable)</u> <i>Amme # 4</i>	
Topic	<u>Amendment 4</u>		
Name	<u>Warren Cave</u>		
Job Title	<u>Detailing / Outreach</u>		
Address	<u>8830 Flicker Rd</u>	Phone	<u>850-408-0250</u>
<small>Street</small>			
<u>Tallahassee</u>	<u>FL</u>	<u>32305</u>	Email <u>WarrentCave@hotmail.com</u>
<small>City</small>	<small>State</small>	<small>Zip</small>	
Speaking:	<input checked="" type="checkbox"/> For	<input type="checkbox"/> Against	<input type="checkbox"/> Information
	Waive Speaking: <input type="checkbox"/> In Support <input type="checkbox"/> Against (The Chair will read this information into the record.)		

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

70886
Bill Number (if applicable) _____

Topic Amendment 4

Amendment Barcode (if applicable) _____

Name Jermaine Miller

Job Title Community Advisor

Address 1790 Bgikin Road Apt 2
Street

Phone _____

Tallahassee FL 32305
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Wesley

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name

Job Title

Address

Street

City

State

Zip

Phone

Email

Speaking:

☐

For

☒

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-25-19

Meeting Date

7086

Bill Number (if applicable)

Topic Amendment 4

Amendment Barcode (if applicable)

Name Maria Muriolo

Job Title Latino Outreach Organizer FRRC

Address 5580 Green Shadows PL

Phone _____

Street

Orlando

City

FL

State

32811

Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3.25.19

Meeting Date

7086

Bill Number (if applicable)

Topic Voting Rights Restoration

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tallahassee

FL

32308

Email barney@barneybishop.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Smart Justice Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/25/2019

Meeting Date

SB 7086

Bill Number (if applicable)

Topic Amendment 4 Implementation

Amendment Barcode (if applicable)

Name Scott D. McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

Phone 850-521-3042

Street

Tallahassee

FL

32302

Email scott.mccoy@splcenter.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Southern Poverty Law Center Action Fund

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23/19
Meeting Date

7086
Bill Number (if applicable)

Topic Rights Restoration

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title New Florida Majority

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

Phone 407 376 4801

Email ida.eskaman@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing New Florida Majority

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

March 25, 2019

Meeting Date

SB 7086

Bill Number (if applicable)

SB 7086

Amendment Barcode (if applicable)

Topic Voting Rights Restoration

Name Warren Cave

Job Title 4042 Bald Cypress Way

Address Tallahassee, FL

Street

Phone _____

City

State

Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FAITH IN FLORIDA

(No)

Appearing at request of Chair: ☒ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/25/19

Meeting Date

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

SB 7086

Bill Number (if applicable)

Topic Voters Right Restoration

Amendment Barcode (if applicable)

Name Nicolette Springer

Job Title Legislative Analyst

Address

Street

Orlando

City

FL

State

32832

Zip

Phone

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing League of Women Voters

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3-25-19

Meeting Date

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

7086

Bill Number (if applicable)

Topic Amendment 4

Amendment Barcode (if applicable)

Name Dr. Sarah Butzin (But-zeen)

Job Title Concerned Citizen

Address 1628 Woodgate Way

Phone 850-728-1097

Tallahassee FL 32308

City State Zip

Email sally.butzin@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

March 25, 2019
Meeting Date

SB 7086
Bill Number (if applicable)

SB 7086
Amendment Barcode (if applicable)

Topic Voting Rights Restoration

Name KAREN MILLER

Job Title Organizer

Address 831 Piney Village Loop

Street

Tallahassee FL 32311

City

State

Zip

Phone _____

Email ~~Karen~~ Kmiller@faithinflorida.org

NOT
Speaking:

☐

For

☒

Against

☐

Information

Waive Speaking:

☐

In Support

☒

Against

(The Chair will read this information into the record.)

Representing FAITH IN FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/25/2019
Meeting Date

SPB 7096
Bill Number (if applicable)

Topic VOTING RIGHTS

Amendment Barcode (if applicable)

Name MARK LAZARUS

Job Title RETIRED SOCIAL WORKER

Address 4260 KIMBERLEY CIR
Street

Phone

TLH FL 32309
City State Zip

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

7086
Bill Number (if applicable) _____

Topic Amendment 4

Amendment Barcode (if applicable) _____

Name Laura Hernandez

Job Title Legislative Representative

Address 638 E park Ave #9

Phone _____

Street

Tallahassee

FL

32301

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Alliance Of Planned Parenthood Affiliates

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/25/19

Meeting Date

7086

Bill Number (if applicable)

Topic Voting Rights Restoration

Amendment Barcode (if applicable)

Name David Sleeth

Job Title Policy Director of Engage Florida

Address 1639 Corey Wood Circle

Street

Tallahassee

City

FL

State

32304

Zip

Phone 305-587-3405

Email dsleeth@engageaction.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Engage Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-25-19

Meeting Date

7086

Bill Number (if applicable)

Topic Voting Rights Restoration

Amendment Barcode (if applicable)

Name Susan Smith

Job Title _____

Address 16111 Vanderbilt Dr

Phone 813-926-2768

Street

Odessa

City

FL

State

33556

Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-25-19

Meeting Date

7086

Bill Number (if applicable)

Topic Former Felons Voting Rights

Amendment Barcode (if applicable)

Name Barbara DeBane

Job Title Ms

Address 625 E. Brevard St

Phone 251-4280

Street

City

State

Zip

Email bdebane1@fla.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL NOW

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-25-19

Meeting Date

SB 7086

Bill Number (if applicable)

Topic Voting Rights Restoration

Amendment Barcode (if applicable)

Name Marcus L. McCay, Jr.

Job Title Organizer

Address 116 Conforello CT

Street

Phone (386) 547-1379

Daytona Beach

City

FL

State

32117

Zip

Email mmccay8faithinflorida.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Faith In Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

SB 7086
Bill Number (if applicable)

SB 7086
Amendment Barcode (if applicable)

Topic Voting Rights Restoration

Name Maria Revelles

Job Title Deputy Director

Address 406 East Amelia St
Street

Phone 315 9305841

Orlando FL 32803
City State Zip

Email mrevelles@faithinflorida.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Faith in Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/25/2019

Meeting Date

7086

Bill Number (if applicable)

Topic Amendment 4

Amendment Barcode (if applicable)

Name MARY IRVINE

Job Title Retired

Address 2914 BATTLE MOUNTAIN WAY
Street

Phone 917-554-0831

TALLAHASSEE FL 32301
City State Zip

Email MIRVINE669@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/25/19
Meeting Date

7086
Bill Number (if applicable)

Topic Voting Rights Restoration

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title _____

Address 104. S. Monroe Street
Street
Tallahassee FL 32301
City State Zip

Phone 850-425-1344

Email TcgLobby@aol.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida State Conference of NAACP

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/25/19
Meeting Date

PCB 7086
Bill Number (if applicable)

Topic _____ Amendment Barcode (if applicable) _____

Name Peter Butzin (But-seen)

Job Title Volunteer

Address 1628 Woodgate Way
Street
City TLH State FL Zip 32308

Phone 850-524-8946

Email pbutzin@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing COMMON CAUSE

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 610

INTRODUCER: Criminal Justice Committee and Senator Pizzo

SUBJECT: Condominium Associations

DATE: March 25, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Jones	CJ	Fav/CS
2.			IT	
3.			ACJ	
4.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 610 amends s. 718.111, F.S., relating to condominium associations, to:

- Provide that it is a third degree felony for an officer, director, or manager of a condominium association to knowingly solicit, offer to accept, or accept any thing or service of value or kickback;
- Relocate or revise the current offenses relating to forgery of a ballot or voting certificate used in a condominium association election, theft or embezzlement of funds of an association, and destruction of or refusal to allow inspection or copying of certain official records of an association;
- Provide that it is a second degree misdemeanor for any director or member of the board or association to knowingly, willfully, and “repeatedly” violate (two or more violations within a 12-month period) any specified requirements relating to inspection and copying of official records of an association;
- Provide that it is a first degree misdemeanor to knowingly or intentionally deface or destroy required accounting records or knowingly and intentionally fail to create or maintain required accounting records, with the intent of causing harm to the association or one or more of its members;
- Provide that it is a third degree felony to willfully and knowingly refuse to release or otherwise produce association records, with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape; and

- Provide that a person commits theft by use of a debit card, if the person uses a debit card issued in the name of an association, or billed directly to an association, for any expense that is not a lawful obligation of the association.

The bill also creates s. 718.129, F.S., which specifies acts constituting fraudulent voting activities related to an association election and acts in furtherance of such fraudulent voting activities, and provides that commission of any of those acts is a third degree felony.

Some of the changes made by the bill regarding condominium association records and elections are similar to changes recommended in a 2017 report by a Miami-Dade County grand jury.

The Legislature's Office of Economic and Demographic Research preliminarily estimates that the bill will have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds). See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2019.

II. Present Situation:

Condominium Association

Chapter 718, F.S., titled "The Condominium Act," "give[s] statutory recognition to the condominium form of ownership of real property and establish[es] procedures for the creation, sale and operation of condominiums."¹ A condominium is a form of ownership of real property created pursuant to ch. 718, F.S., which is comprised entirely of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements.²

A condominium association, which is a Florida corporation for profit or a Florida corporation not for profit,³ "manages and operates the condominium community, maintains the common elements, and provides services in furtherance of its duties to the members. Each purchaser, by accepting title to his or her unit, automatically becomes an association member, and is bound by the association rules and regulations."⁴

"The board of directors, initially appointed by the developer and subsequently elected by the unit owners, is responsible for managing the affairs of the association. The board may appoint

¹ *Citizen Property Insurance Corp. v. River Manor Condominium Assoc., Inc.*, 125 So.3d 846, 850 (Fla. 4th DCA 2013) (citation omitted).

² Section 718.103(11), F.S. "Common elements" are the portions of the condominium property not included in the units. Section 718.103(8), F.S. "The structure of the building including the roof, walls, conduit and hallways, and recreation facilities are examples of items that are usually part of the common elements. Common elements are legally attached to each unit and are transferred with the unit when it is sold." *Condominium Living in Florida* (Revised Jan. 2018), Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes, available at <http://www.myfloridalicense.com/dbpr/lsc/documents/CondominiumLiving.pdf> (last visited on March 18, 2019). This document is further cited in this analysis as "*Condominium Living in Florida*."

³ Section 718.111(1)(a), F.S.

⁴ *Condominium Living in Florida*, *supra*. Owners of units are shareholders or association members. Section 718.111(1)(a), F.S.

committees to assist with the various duties of the association.”⁵ “It is the board’s duty and responsibility to determine the association’s needs, limited by the association’s fiscal resources. An association may be self-managed or hire professional management.”⁶

“The Division of Florida Condominiums, Timeshares, and Mobile Homes within the Department of Business and Professional Regulation (DBPR) is the agency charged with the responsibility of ensuring that condominium associations comply with the requirements of the Condominium Act. The DBPR also promulgates administrative rules necessary to implement, enforce, and interpret these laws.”⁷

Miami-Dade County Grand Jury Report “Addressing Condo Owners’ Pleas for Help: Recommendations for Legislative Action”

The increasing numbers of condominiums in this state, the increasing numbers of problems for people living in them, and the increasing numbers of complaints against the DBPR, motivated a Miami-Dade County grand jury to conduct an investigation of complaints by condominium residents and the DBPR’s responses to their complaints.⁸ The grand jury’s report contains numerous findings and recommendations. Findings and recommendations relevant to provisions of the bill are discussed in this analysis, *infra*.

Regulation of Condominium Associations (s. 718.111, F.S.)

Section 718.111, F.S., regulates the activities of a condominium association. “The statute, for example, establishes how the association shall be constituted, *see* s. 718.111(1)(a)-(c); the powers and duties of the association, *see* s. 718.111(2)-(14), including the association’s rights to own and convey property, *see* s. 718.111(7)(a); and the association’s right to purchase land, leases, and condominium units. *See* s. 718.111(8)-(9).”⁹

Breaches of a Fiduciary Duty and Prohibited Acts (s. 718.111(1)(a) and (d), F.S.)

Officers and directors of a condominium association have a fiduciary relationship to the unit owners, and may be sanctioned for breach of their fiduciary duty.¹⁰ An officer, director, or manager may not solicit, offer to accept, or accept any thing or service of value or kickback for which consideration has not been provided for his or her own benefit or that of his or her immediate family, from any person providing or proposing to provide goods or services to the association.¹¹

⁵ *Condominium Living in Florida, supra*.

⁶ *Id.*

⁷ *Id.* The rules are chs. 61B-15 through 61B-24, F.A.C. (condominiums) and chs. 61B-45 and 61B-50, F.A.C. (arbitration of certain disputes between unit owners and their association).

⁸ *Final Report of the Miami-Dade County Grand Jury (Addressing Condo Owner’s Pleas for Help: Recommendations for Legislative Action)* (Filed Feb. 6, 2017), Eleventh Judicial Circuit, available at <http://www.miamisao.com/wp-content/uploads/2017/02/Grand-Jury-Report-Final.pdf> (last visited on March 18, 2019). This document is further cited in this analysis as “*Final Report of the Miami-Dade County Grand Jury*.”

⁹ *Citizen Property Insurance Corp. v. River Manor Condominium Assoc., Inc.*, *supra*, 125 So.3d at 850.

¹⁰ Section 718.111(1)(a), F.S.

¹¹ Section 718.111(1)(a), F.S., does not prohibit an officer, director, or manager from accepting services or items received in connection with trade fairs or education programs.

Any such officer, director, or manager who knowingly solicits, offers to accept, or accepts any thing or service of value or kickback is subject to a civil penalty pursuant to s. 718.501(1)(d), F.S., and, if applicable, a criminal penalty as provided in s. 718.111(1)(d), F.S.¹² Section 718.111(1)(d), F.S., requires an officer, director, or agent to discharge his or her duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the interests of the association. This paragraph further provides that an officer, director, or agent is liable for monetary damages as provided in s. 617.0834, F.S., if such officer, director, or agent breached or failed to perform his or her duties and the breach of, or failure to perform, his or her duties constitutes:

- A violation of criminal law as provided in s. 617.0834, F.S.;
- A transaction from which the officer or director derived an improper personal benefit, either directly or indirectly; or
- Recklessness or an act or omission that was in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

Section 718.111(1)(d), F.S., also criminalizes the following acts:

- Forgery of a ballot envelope or voting certificate used in a condominium association election is punishable as provided in s. 831.01, F.S.;
- Theft or embezzlement of funds of a condominium association is punishable as provided in s. 812.014, F.S.; and
- Destruction of or refusal to allow inspection or copying of an official record of a condominium association that is accessible to unit owners within the time periods required by general law in furtherance of any crime is punishable as tampering with physical evidence as provided in s. 918.13, F.S., or as obstruction of justice as provided in ch. 843, F.S.

Finally, s. 718.111(1)(d), F.S., provides that an officer or director charged by information or indictment with any crime referenced in this paragraph¹³ must be removed from office, and the vacancy must be filled as provided in s. 718.112(2)(d)2., F.S., until the end of the officer's or director's period of suspension or the end of his or her term of office, whichever occurs first.¹⁴ If a criminal charge is pending against the officer or director, he or she may not be appointed or elected to a position as an officer or a director of any association and may not have access to the official records of any association, except pursuant to a court order. However, if the charges are resolved without a finding of guilt, the officer or director must be reinstated for the remainder of his or her term of office, if any.

¹² *Id.* All information in this paragraph of the analysis is from s. 718.111(1)(a), F.S.

¹³ The only crimes specifically referenced in s. 718.111(1)(d), F.S., are the previously-described offenses relating to forgery of a ballot envelope or voting certificate, theft or embezzlement of association funds, and destruction of or refusal to allow inspection or copying of association records. Additionally, s. 718.111(1)(d), F.S., states that an officer, director, or agent shall be liable for monetary damages as provided in s. 617.0834, F.S., if such officer, director, or agent breached or failed to perform his or her duties and the breach of, or failure to perform, his or her duties constitutes a violation of criminal law as provided in s. 617.0834, F.S. The reference to criminal violations in s. 718.111(1)(d), F.S., is slightly different than the reference to criminal violations in s. 718.112(2)(o), F.S., which provides that a director or officer charged by information or indictment with a felony theft or embezzlement offense involving the association's funds or property must be removed from office. The latter provision appears to be more limited than the former provision.

¹⁴ All information in this paragraph of the analysis is from s. 718.111(1)(d), F.S.

The Miami-Dade County grand jury found:

Although the directors have a legally mandated fiduciary obligation toward their unit owners, it appears that some of them are more involved in self-dealing and looking out for their own financial interests. The position of board director is not generally a paid position. Yet, some directors appear to view the ability to get into office as an opportunity to cash in. This should not be countenanced.¹⁵

The grand jury did not make any specific recommendation to criminalize what is currently subject to civil penalty under s. 718.111(1)(a), F.S.: An officer, director, or manager knowingly soliciting, offering to accept, or accepting any thing or service of value or kickback for which consideration has been provided for his or her own benefit or that of his or her immediate family, from any person proposing to provide goods or services to the association.

Records of a Condominium Association and Violations Involving Those Records
(s. 718.111(12)(a),(b), (c), and (g), F.S.)

Section 718.111(12)(a), F.S., requires a condominium association to maintain numerous records specified in that paragraph, including but not limited to, the association's recorded bylaws and amendments to those bylaws, articles of incorporation and amendments to those articles, bills of sale or transfer for association-owned property, accounting records, voting ballots, contracts for work to be performed, and bids.

Section 718.111(12)(b), F.S., requires that some of these records (e.g., bylaws and articles of incorporation) must be permanently maintained from the inception of the association. All other official records must be maintained within the state for at least 7 years, unless otherwise provided by general law.¹⁶ The records must be made available to a unit owner within 45 miles of the condominium property or within the county in which the condominium property is located within 10 working days after receipt of a written request by the board or its designee.

Compliance with this requirement includes having a copy of the records available for inspection or copying on the condominium property or association property or offering the option of making the records available to a unit owner electronically via the Internet or by allowing the records to be viewed in electronic format on a computer screen and printed upon request.

Section 718.111(12)(c)1., F.S., provides that official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times.¹⁷ A renter of a unit has a right to inspect and copy the association's bylaws and rules. The failure of an association to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with these requirements. A unit owner who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. The failure

¹⁵ *Final Report of the Miami-Dade County Grand Jury, supra*, at page 10 (citation omitted).

¹⁶ All information in this paragraph of the analysis is from s. 718.111(12)(b), F.S.

¹⁷ All information in this paragraph of the analysis is from s. 718.111(12)(c)1., F.S. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the member or authorized representative of such member. The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying.

to permit inspection entitles any person prevailing in an enforcement action to recover reasonable attorney fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records.

Section 718.111(12)(c)2., F.S., provides that any person who knowingly or intentionally defaces or destroys accounting records that are required by ch. 718, F.S., to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. 718.501(1)(d), F.S.

Section 718.111(12)(g), F.S., provides that by January 1, 2019, an association managing a condominium with 150 or more units which does not contain timeshare units must post digital copies of specified records on its website.¹⁸ These documents include, but are not limited to: the recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration, the recorded association bylaws and amendments to those bylaws, articles of incorporation of the association and amendments to those articles, the annual and proposed budget, and various contracts, including any contract or document regarding a conflict of interest or possible conflict of interest. The failure of the association to post required information is not in and of itself sufficient to invalidate any action or decision of the association's board or its committees.

The Miami-Dade County grand jury found that provisions of s. 718.111, F.S., “are not effectively protecting unit owners’ right to access records.”¹⁹ “Under the law, if the association fails to comply with a valid request, monetary damages can be awarded to the unit owner. The problem is that the source of those funds will come from assessments levied against all owners.”²⁰ The grand jury also found:

It does not seem right to us that a recalcitrant board, acting against the interests of the association, can take willful action and not personally suffer serious consequences. To the extent that the association can engage in these tactics when a unit owner is making record requests for budget, accounting, audit or financial records, is most troubling. The willful failure to provide such documents may be part of a broader scheme to cover up embezzlement or other financial wrongdoing committed by the board or association. In furtherance of possible cover-ups, directors may also chose to intentionally deface or destroy accounting records or knowingly or intentionally create or maintain false accounting records that are required to be maintained by statute. Even such willful action, which again, may be done to cover-up theft of funds from the association, is only punishable by a civil penalty.²¹

¹⁸ All information in this paragraph of the analysis is from s. 718.111(12)(g), F.S.

¹⁹ *Final Report of the Miami-Dade County Grand Jury, supra*, at page 5.

²⁰ *Id.* (citation omitted).

²¹ *Final Report of the Miami-Dade County Grand Jury, supra*, at page 6 (citation omitted).

The grand jury made three recommendations regarding violations relating to access or destruction of association records that are relevant to directors:

- Section 718.11, F.S., should be amended to provide that directors and members of the board “who willfully and repeatedly fail to comply with their statutory obligation to appropriately and timely respond to written requests for official records of the association (more than two (2) violations within a rolling twelve(12) month period) shall be personally liable for payment of damages to the requesting unit owner(s)[.]”
- “... [D]irectors and members of the board or association who knowingly or intentionally deface or destroy accounting records or fail to create or maintain such records that are required by law shall be criminally liable for such conduct. We recommend that each such act will constitute a 2nd degree misdemeanor for a first offense, and that any subsequent offenses or violations will constitute a first degree misdemeanor[.]”
- “... [A]ny association, board director, management company or management company employee who willfully, knowingly, or intentionally refuses to release or otherwise produce official association records, and such refusal is done to facilitate or cover-up the commission of a crime, shall be criminally liable for such conduct. The violation shall be classified as a 3rd degree felony[.]”²²

Sanctions Relating to Unauthorized Use of Association-Related Debit Cards
(s. 718.111(15)(b), F.S.)

Section 718.111(15)(b), F.S., provides that use of a debit card issued in the name of the association, or billed directly to the association, for any expense that is not a lawful obligation of the association may be prosecuted as credit card fraud pursuant to s. 817.61, F.S.

Civil Immunity (ss. 617.0834 and 617.0830, F.S.)

As previously noted, s. 718.111(1)(d), F.S., provides that an association officer, director, or agent is liable for monetary damages as provided in s. 617.0834, F.S., if such officer, director, or agent breaches or fails to perform his or her duties as provided in that paragraph. Section 617.0834(1), F.S., in part, provides that an officer or director of a nonprofit organization recognized under s. 501(c)(3) or s. 501(c)(4) or s. 501(c)(6) of the Internal Revenue Code of 1986, as amended, is not personally liable for monetary damages to any person for any statement, vote, decision, or failure to take an action, regarding organizational management or policy by an officer or director, unless:

- The officer²³ or director²⁴ breached or failed to perform his or her duties as an officer or director; and
- The officer’s or director’s breach of, or failure to perform, his or her duties constitutes:
 - A violation of the criminal law, unless the officer or director had reasonable cause to believe his or her conduct was lawful or had no reasonable cause to believe his or her conduct was unlawful. A judgment or other final adjudication against an officer or director in any criminal proceeding for violation of the criminal law estops that officer or

²² *Final Report of the Miami-Dade County Grand Jury, supra*, at pages 8-9.

²³ “Officer” means a person who serves as an officer without compensation except reimbursement for actual expenses incurred or to be incurred. Section 617.0834(2)(c), F.S.

²⁴ “Director” means a person who serves as a director, trustee, or member of the governing board of an organization. Section 617.0834(2)(b), F.S.

- director from contesting the fact that his or her breach, or failure to perform, constitutes a violation of the criminal law, but does not estop the officer or director from establishing that he or she had reasonable cause to believe that his or her conduct was lawful or had no reasonable cause to believe that his or her conduct was unlawful;
- A transaction from which the officer or director derived an improper personal benefit, directly or indirectly; or
 - Recklessness²⁵ or an act or omission that was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

Section 617.0830, F.S., provides general standards for non-profit directors and also specifies when a director is not personally liable for actions he or she takes or fails to take as a director. A director must discharge his or her duties as a director, including his or her duties as a member of a committee, in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the best interests of the corporation.²⁶ A director is not liable for any action taken as a director, or any failure to take any action, if he or she performed the duties of his or her office in compliance with s. 617.0830, F.S.²⁷

Civil Penalty (s. 718.501(1)(d), F.S.)

As previously noted, s. 718.111(1)(d), F.S., provides that a condominium association officer, director, or manager who knowingly solicits, offers to accept, or accepts any thing or service of value or kickback is subject to a civil penalty pursuant to s. 718.501(1)(d), F.S. Further, s. 718.111(12)(c)2., F.S., provides that any person who knowingly or intentionally defaces or destroys accounting records as specified in that subparagraph or knowingly or intentionally fails to create or maintain accounting records as specified in that paragraph is personally subject to a civil penalty pursuant to s. 718.501(1)(d), F.S.

Section 718.501(1), F.S., authorizes the Division of Florida Condominiums, Timeshares, and Mobile Homes (Division) to enforce and ensure compliance with the provisions of ch. 718, F.S., and rules relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units. Section 718.501(1)(d)6., F.S., in part, authorizes the Division to impose a civil penalty individually against an officer or board member who willfully and knowingly²⁸ violates a provision of ch. 718, F.S., adopted rule, or a final order of the Division.

²⁵ “Recklessness” means the acting, or omission to act, in conscious disregard of a risk: known, or so obvious that it should have been known, to the officer or director; and known to the officer or director, or so obvious that it should have been known, to be so great as to make it highly probable that harm would follow from such action or omission. Section 617.0834(2)(a), F.S.

²⁶ Section 617.0830(1), F.S.

²⁷ Section 617.0830(4), F.S.

²⁸ The term “willfully and knowingly” means that the Division informed the officer or board member that his or her action or intended action violates ch. 718, F.S., a rule adopted under ch. 718, F.S., or a final order of the Division and that the officer or board member refused to comply with the requirements of ch. 718, F.S., a rule adopted under ch. 718, F.S., or a final order of the Division. Section 718.501(1)(d)6., F.S.

Condominium Association Elections (s. 718.112, F.S.)

Section 718.112, F.S., relating to condominium association bylaws, addresses condominium association elections. Members of the board of an association are generally selected through elections.²⁹ However, candidates for election to the board may not include a person who is delinquent in the payment of any monetary obligation due to the association.³⁰ Similarly, the association may suspend the voting rights of members who are delinquent in paying any monetary obligation to the association by more than 90 days.³¹ Section 718.112, F.S., specifies requirements for the association to provide notice of the election date and ballot to unit owners entitled to vote, and for an eligible person to provide notice to the association of his or her intent to be a candidate.³²

Elections are decided by a plurality of ballots cast.³³ There is no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election.³⁴ A unit owner may not authorize any other person to vote his or her ballot, and any ballots improperly cast are invalid.³⁵ The election must be by secret ballot.³⁶

The Miami-Dade County grand jury found that “[f]raud in the election process was a major factor impacting unit owners.”³⁷ Some of the fraudulent activity noted by the jury regarding one condominium association election included:

- The Election Monitor discovered what appeared to be double voting by many unit owners.
- “The candidate realized that some of the double votes were of owners from whom she had collected their ballot personally.”
- “Those owners identified their signatures on the true ballots and saw their names on other ballots, purportedly signed by those owners. The signatures on the other ballots were forged, notarized, and dated[.]”
- “Other owners identified their true ballots and identified forged signatures on ballots containing their names. Those ballots were also notarized and dated[.]”
- “All ballots with forged signatures were notarized by the same notary on the same day[.]”
- “Some unit owners whose names were on forged ballots were not in the country on the date the notary verified their signature and identity[.]”
- “None of the unit owners whose signatures were forged and notarized had ever met the notary[.]”
- The notary “later admitted the ballots were not signed in her presence[.]”³⁸

²⁹ See s. 718.112(2)(d)4., F.S.

³⁰ Section 718.112(2)(d)2., F.S.

³¹ Section 718.303(5), F.S.

³² Section 718.112(2)(d)4.a., F.S.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ Section 718.112(2)(d)1., F.S.

³⁷ *Final Report of the Miami-Dade County Grand Jury, supra*, at page 21.

³⁸ *Final Report of the Miami-Dade County Grand Jury, supra*, at page 22.

Two recommendations of the grand jury pertained to criminal penalties:

- "... [W]e recommend that any person or entity that engages in any fraudulent activity conducted in connection with the election of board members for the association shall be subject to criminal liability."
- "We further recommend that any director, LCAM,³⁹ management company, notary, attorney, or any other person who engages in, or conspires with another person to engage in fraudulent election activity shall be subject to criminal charges classified as a 3rd degree felony."⁴⁰

III. Effect of Proposed Changes:

The bill amends s. 718.111, F.S., relating to condominium associations, to:

- Provide that it is a third degree felony⁴¹ for an officer, director, or manager of a condominium association to knowingly solicit, offer to accept, or accept any thing or service of value or kickback;
- Relocate or revise the current offenses relating to forgery of a ballot or voting certificate used in a condominium association election, theft or embezzlement of funds of an association, and destruction of or refusal to allow inspection or copying of certain official records of an association;⁴²
- Require additional financial records (e.g., bank statements and invoices) to be maintained by a condominium association and made available for inspection by association members;
- Provide that maintaining association records includes maintaining them in an orderly manner and obtaining and recreating lost, destroyed, or otherwise unavailable records to the fullest extent possible;
- Relevant to the rebuttable presumption that an association willfully failed to copy inspection records, require that the written request for inspection comply with the association's document inspection rule;
- Provide that the assessment of minimum damages for an association's willful failure to copy inspection records begins on the eleventh working day after receipt of the written request that complies with the association's document inspection rule;
- Provide that the association may fulfill its requirement to provide inspection of association records by posting the records on its website and directing to its website persons authorized to request access to those records;

³⁹ "LCAM" refers to a licensed condominium association manager.

⁴⁰ *Final Report of the Miami-Dade County Grand Jury, supra*, at page 24.

⁴¹ A third degree felony is punishable by up to five years in state prison and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

⁴² The bill punishes forgery of a ballot or voting certification in s. 718.129, F.S., a new statute created by the bill. The bill punishes theft or embezzlement of funds as theft by use of a debit card, if the person uses a debit card issued in the name of an association, or billed directly to an association, for any expense that is not a lawful obligation of the association. The bill punishes destruction of association accounting records as a first degree misdemeanor. The bill punishes refusal to allow inspection or copying of association records (repeated violations) as a second degree misdemeanor or third degree felony (where there is intent to avoid or escape detection, arrest, etc., for the commission of a crime). The removal of these offenses from s. 771.111(d), F.S., leaves only the current reference in that paragraph to "a violation of criminal law as provided in s. 617.0834" as a specific reference to a criminal violation, which is relevant to removing an officer or director based on a "pending criminal charge." However, as previously noted, s. 718.112(2)(o), F.S., provides that a director or officer charged by information or indictment with a felony theft or embezzlement offense involving the association's funds or property must be removed from office.

- Provide that it is a second degree misdemeanor⁴³ for any director or member of the board or association to knowingly, willfully, and “repeatedly” violate (two or more violations within a 12-month period) any specified requirements relating to inspection and copying of official records of an association;
- Provide that it is a first degree misdemeanor⁴⁴ to knowingly or intentionally deface or destroy required accounting records or knowingly and intentionally fail to create or maintain required accounting records, with the intent of causing harm to the association or one or more of its members;⁴⁵
- Provide that it is a third degree felony to willfully and knowingly refuse to release or otherwise produce association records, with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape;⁴⁶
- Remove a requirement that an association managing a condominium of 150 or more units (and no timeshare units) provide digital copies of specified documents on the association’s website and substitute a requirement that, by January 1, 2021, an association managing a condominium of 25 or more units (and no timeshare units) provide on its website digital copies of those specified documents and records subject to inspection by tenants or unit owners or their authorized representatives; and
- Provide that a person commits theft⁴⁷ by use of a debit card, if the person uses a debit card issued in the name of an association, or billed directly to an association, for any expense that is not a lawful obligation⁴⁸ of the association.

⁴³ A second degree misdemeanor is punishable by up to 60 days in county jail and a fine of up to \$500. Sections 775.082 and 775.083, F.S.

⁴⁴ A first degree misdemeanor is punishable by up to one year in county jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

⁴⁵ This provision is similar to the Miami-Dade County grand jury’s recommendation to criminally punish directors and members of the board or association who knowingly or intentionally deface or destroy accounting records or fail to create or maintain such records. The grand jury recommended a second degree misdemeanor for a first offense, and a first degree misdemeanor for any subsequent offenses. *Final Report of the Miami-Dade County Grand Jury, supra*, at pages 8-9.

⁴⁶ This provision is similar to the Miami-Dade County grand jury’s recommendation to make it a third degree felony for any association, board director, management company, or management company employee to willfully, knowingly, or intentionally refuse to release or otherwise produce official association records, if such refusal is done to facilitate or cover-up the commission of a crime. *Final Report of the Miami-Dade County Grand Jury, supra*, at pages 8-9.

⁴⁷ Theft is generally punishable based upon the value of the property stolen. Petit theft is generally a second degree misdemeanor or first degree misdemeanor. Section 812.014(3)(a) and (b), F.S. Grand theft is generally a third degree felony, second degree felony, or first degree felony. Section 812.014(1)(a)-(c), F.S. A second degree felony is punishable by up to 15 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S. A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to \$10,000. *Id.*

⁴⁸ The bill defines a “lawful obligation of the association” as an obligation that has been properly preapproved by the board and is reflected in the meeting minutes or the written budget.

The bill also creates s. 718.129, F.S., which specifies that the following acts constitute fraudulent voting activities related to an association election and that the commission of any of these acts is a third degree felony:⁴⁹

- Willfully and falsely swearing or affirming any oath or affirmation, or willfully procuring another person to swear or affirm falsely to an oath of affirmation, in connection with or arising out of voting or elections;
- Perpetrating or attempting to perpetrate, or aiding in the perpetration of, any fraud in connection with any vote cast, to be cast, or attempted to be cast;
- Preventing an elector from voting, or preventing an elector from voting as the elector intended, by fraudulently changing or attempting to change a ballot, ballot envelope, vote, or voting certificate of the elector;
- Using bribery, menace, threat, or any other corruption to attempt, directly or indirectly, to influence, deceive, or deter any elector in voting;
- Directly or indirectly giving or promising anything of value to another person with the intent to buy the vote of that person or another person or to corruptly influence that person or another person in casting his or her vote;⁵⁰ and
- Directly or indirectly using or threatening to use force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel an individual to vote or refrain from voting in an election or on any particular ballot measure.

Newly-created s. 718.129, F.S., also specifies that the commission of any of the following acts in furtherance of the previously-described fraudulent voting activities is a third degree felony:⁵¹

- Knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections;
- Agreeing, conspiring, combining, or confederating with at least one other person to commit a fraudulent voting activity related to association elections; and
- Having knowledge of a fraudulent voting activity related to association elections and giving any aid to the offender with intent that the offender avoid or escape detection, arrest, trial, or punishment.⁵²

Some of the changes made by the bill regarding condominium association records and elections are similar to changes recommended in a 2017 report by a Miami-Dade County grand jury.⁵³

The bill is effective October 1, 2019.

⁴⁹ This provision is similar to the Miami-Dade County grand jury's recommendation to provide that it is a third degree felony for any director, LCAM, management company, notary, attorney, or any other person to engages in fraudulent election activity. *Final Report of the Miami-Dade County Grand Jury, supra*, at page 24.

⁵⁰ The bill provides that this offense does not apply to the serving of food to be consumed at an election rally or meeting or to any item of nominal value which is used as an election advertisement, including a campaign message designed to be worn by a person.

⁵¹ This provision is similar to the Miami-Dade County grand jury's recommendation to provide that it is a third degree felony for any director, LCAM, management company, notary, attorney, or any other person to conspire with another person to engage in fraudulent election activity. *Final Report of the Miami-Dade County Grand Jury, supra*, at page 24.

⁵² The bill provides that this offense does not apply to a licensed attorney giving legal advice to a client.

⁵³ See footnotes, 45, 46, 49, and 51, *supra*.

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 Legislature's Office of Economic and Demographic Research (EDR) preliminarily estimates that the bill will have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds).⁵⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁵⁴ The EDR estimate is on file with the Senate Committee on Criminal Justice.

VIII. Statutes Affected:

This bill substantially amends section 718.111 of the Florida Statutes.

This bill creates section 718.129 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.)

CS by Criminal Justice on March 25, 2019:

The Committee Substitute:

- Requires additional financial records (e.g., bank statements and invoices) to be maintained by a condominium association and made available for inspection by association members;
- Provides that maintaining association records includes maintaining them in an orderly manner and obtaining and recreating lost, destroyed, or otherwise unavailable records to the fullest extent possible;
- Relevant to the rebuttable presumption that an association willfully failed to copy inspection records, requires that the written request for inspection comply with the association's document inspection rule;
- Provides that the assessment of minimum damages for an association's willful failure to copy inspection records begins on the eleventh working day after receipt of the written request that complies with the association's document inspection rule; and
- Removes a requirement that an association managing a condominium of 150 or more units (and no timeshare units) provide digital copies of specified documents on the association's website and substitutes a requirement that, by January 1, 2021, an association managing a condominium of 25 or more units (and no timeshare units) provide on its website digital copies of those specified documents and records subject to inspection by tenants or unit owners or their authorized representatives.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2019	.	
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The Committee on Criminal Justice (Pizzo) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 88 - 197
and insert:

(a) From the inception of the association, the association shall maintain each of the following items, if applicable, which constitutes the official records of the association:

1. A copy of the plans, permits, warranties, and other items provided by the developer pursuant to s. 718.301(4).

2. A photocopy of the recorded declaration of condominium



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of each condominium operated by the association and each amendment to each declaration.

3. A photocopy of the recorded bylaws of the association and each amendment to the bylaws.

4. A certified copy of the articles of incorporation of the association, or other documents creating the association, and each amendment thereto.

5. A copy of the current rules of the association.

6. A book or books that contain the minutes of all meetings of the association, the board of administration, and the unit owners.

7. A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers. The association shall also maintain the e-mail addresses and facsimile numbers of unit owners consenting to receive notice by electronic transmission. The e-mail addresses and facsimile numbers are not accessible to unit owners if consent to receive notice by electronic transmission is not provided in accordance with sub-subparagraph (c)3.e. However, the association is not liable for an inadvertent disclosure of the e-mail address or facsimile number for receiving electronic transmission of notices.

8. All current insurance policies of the association and condominiums operated by the association.

9. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility.

10. Bills of sale or transfer for all property owned by the



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association.

11. Accounting records for the association and separate accounting records for each condominium that the association operates. Any person who knowingly or intentionally defaces or destroys such records, or who knowingly or intentionally fails to create or maintain such records, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. 718.501(1)(d). The accounting records must include, but are not limited to:

a. Accurate, itemized, and detailed records of all receipts and expenditures.

b. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid on the account, and the balance due.

c. All audits, reviews, accounting statements, and financial reports of the association or condominium.

d. All contracts for work to be performed. Bids for work to be performed are also considered official records and must be maintained by the association.

e. All bank statements, canceled checks, and credit card statements.

f. All invoices, transaction receipts, deposit slips, or other underlying documentation that substantiates any receipt or expenditure of funds by the association.

12. Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by unit owners, which must be maintained for 1 year from the date of the



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election, vote, or meeting to which the document relates,
notwithstanding paragraph (b).

13. All rental records if the association is acting as
agent for the rental of condominium units.

14. A copy of the current question and answer sheet as
described in s. 718.504.

15. All other written records of the association not
specifically included in the foregoing which are related to the
operation of the association.

16. A copy of the inspection report as described in s.
718.301(4) (p).

17. Bids for materials, equipment, or services.

(b) The official records specified in subparagraphs (a)1.-
6. must be permanently maintained from the inception of the
association. All other official records must be maintained
within the state for at least 7 years, unless otherwise provided
by general law. The official records must be maintained in an
organized manner that facilitates inspection of the records by a
unit owner. The obligation to maintain official records includes
the obligation to obtain and recreate those records to the
fullest extent possible in the event that the records are lost,
destroyed, or otherwise unavailable. The records of the
association shall be made available to a unit owner within 45
miles of the condominium property or within the county in which
the condominium property is located within 10 working days after
receipt of a written request by the board or its designee.
However, such distance requirement does not apply to an
association governing a timeshare condominium. This paragraph
may be complied with by having a copy of the official records of



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the association available for inspection or copying on the condominium property or association property, or the association may offer the option of making the records available to a unit owner electronically via the Internet or by allowing the records to be viewed in electronic format on a computer screen and printed upon request. The association is not responsible for the use or misuse of the information provided to an association member or his or her authorized representative pursuant to the compliance requirements of this chapter unless the association has an affirmative duty not to disclose such information pursuant to this chapter.

(c)1. The official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the member or authorized representative of such member. A renter of a unit has a right to inspect and copy the association's bylaws and rules. The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying. The failure of an association to provide the records within 10 working days after receipt of a written request that complies with the association's document inspection rule creates a rebuttable presumption that the association willfully failed to comply with this paragraph. A unit owner who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. Minimum damages are \$50 per calendar day for up to 10 days, beginning on the 11th working day after



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receipt of the written request that complies with the
association's document inspection rule. The failure to permit
inspection entitles any person prevailing in an enforcement
action to recover reasonable attorney fees from the person in
control of the records who, directly or indirectly, knowingly
denied access to the records. If the requested records are
posted on an association's website, the association may fulfill
its obligations as provided under this paragraph by directing to
the website all persons authorized to request access to official
records pursuant to this paragraph.

2. Any director or member of the board or association or a
community association manager who knowingly, willfully, and
repeatedly violates subparagraph 1. commits a misdemeanor of the
second degree, punishable as provided in s. 775.082 or s.
775.083. For the purposes of this subparagraph, the term
"repeatedly" means two or more violations within a 12-month
period.

3.2- Any person who knowingly or intentionally defaces or
destroys accounting records that are required by this chapter to
be maintained during the period for which such records are
required to be maintained, or who knowingly or intentionally
fails to create or maintain accounting records that are required
to be created or maintained, with the intent of causing harm to
the association or one or more of its members, commits a
misdemeanor of the first degree, punishable as provided in s.
775.082 or s. 775.083 ~~is personally subject to a civil penalty~~
~~pursuant to s. 718.501(1)(d).~~

4. Any person who willfully and knowingly refuses to
release or otherwise produce association records with the intent



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to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

~~5.3-~~ The association shall maintain an adequate number of copies of the declaration, articles of incorporation, bylaws, and rules, and all amendments to each of the foregoing, as well as the question and answer sheet as described in s. 718.504 and year-end financial information required under this section, on the condominium property to ensure their availability to unit owners and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the documents. An association shall allow a member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association's providing the member or his or her authorized representative with a copy of such records. The association may not charge a member or his or her authorized representative for the use of a portable device. Notwithstanding this paragraph, the following records are not accessible to unit owners:

a. Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including a record prepared by an association attorney or prepared at the attorney's express direction, which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association, and which was prepared exclusively for civil or criminal litigation or for



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adversarial administrative proceedings, or which was prepared in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.

b. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a unit.

c. Personnel records of association or management company employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this subparagraph, the term "personnel records" does not include written employment agreements with an association employee or management company, or budgetary or financial records that indicate the compensation paid to an association employee.

d. Medical records of unit owners.

e. Social security numbers, driver license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a unit owner other than as provided to fulfill the association's notice requirements, and other personal identifying information of any person, excluding the person's name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the association to fulfill the association's notice requirements. Notwithstanding the restrictions in this sub-subparagraph, an association may print and distribute to parcel owners a directory containing the name, parcel address, and all telephone numbers of each parcel owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact



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information described in this sub-subparagraph. The association is not liable for the inadvertent disclosure of information that is protected under this sub-subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

f. Electronic security measures that are used by the association to safeguard data, including passwords.

g. The software and operating system used by the association which allow the manipulation of data, even if the owner owns a copy of the same software used by the association. The data is part of the official records of the association.

(g)1. By January 1, 2021 ~~2019~~, an association managing a condominium with 25 ~~150~~ or more units which does not contain timeshare units shall post digital copies of the documents specified in subparagraph 2. on its website.

a. The association's website must be:

(I) An independent website or web portal wholly owned and operated by the association; or

(II) A website or web portal operated by a third-party provider with whom the association owns, leases, rents, or otherwise obtains the right to operate a web page, subpage, web portal, or collection of subpages or web portals dedicated to the association's activities and on which required notices, records, and documents may be posted by the association.

b. The association's website must be accessible through the Internet and must contain a subpage, web portal, or other protected electronic location that is inaccessible to the general public and accessible only to unit owners and employees



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of the association.

c. Upon a unit owner's written request, the association must provide the unit owner with a username and password and access to the protected sections of the association's website that contain any notices, records, or documents that must be electronically provided.

2. A current copy of the following documents must be posted in digital format on the association's website:

a. The recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

b. The recorded bylaws of the association and each amendment to the bylaws.

c. The articles of incorporation of the association, or other documents creating the association, and each amendment thereto. The copy posted pursuant to this sub-subparagraph must be a copy of the articles of incorporation filed with the Department of State.

d. The rules of the association.

e. A list of all executory contracts or documents to which the association is a party or under which the association or the unit owners have an obligation or responsibility and, after bidding for the related materials, equipment, or services has closed, a list of bids received by the association within the past year. Summaries of bids for materials, equipment, or services which exceed \$500 must be maintained on the website for 1 year. In lieu of summaries, complete copies of the bids may be posted.

f. The annual budget required by s. 718.112(2)(f) and any



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proposed budget to be considered at the annual meeting.

g. The financial report required by subsection (13) and any monthly income or expense statement to be considered at a meeting.

h. The certification of each director required by s. 718.112(2)(d)4.b.

i. All contracts or transactions between the association and any director, officer, corporation, firm, or association that is not an affiliated condominium association or any other entity in which an association director is also a director or officer and financially interested.

j. Any contract or document regarding a conflict of interest or possible conflict of interest as provided in ss. 468.436(2)(b)6. and 718.3027(3).

k. The notice of any unit owner meeting and the agenda for the meeting, as required by s. 718.112(2)(d)3., no later than 14 days before the meeting. The notice must be posted in plain view on the front page of the website, or on a separate subpage of the website labeled "Notices" which is conspicuously visible and linked from the front page. The association must also post on its website any document to be considered and voted on by the owners during the meeting or any document listed on the agenda at least 7 days before the meeting at which the document or the information within the document will be considered.

1. Notice of any board meeting, the agenda, and any other document required for the meeting as required by s. 718.112(2)(c), which must be posted no later than the date required for notice pursuant to s. 718.112(2)(c).

3. The association shall ensure that the information and



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records described in paragraph (c), which are not allowed to be accessible to unit owners, are not posted on the association's website. If protected information or information restricted from being accessible to unit owners is included in documents that are required to be posted on the association's website, the association shall ensure the information is redacted before posting the documents online. Notwithstanding the foregoing, the association or its agent is not liable for disclosing information that is protected or restricted pursuant to this paragraph unless such disclosure was made with a knowing or intentional disregard of the protected or restricted nature of such information.

4. The failure of the association to post information required under subparagraph 2. is not in and of itself sufficient to invalidate any action or decision of the association's board or its committees.

5. By January 1, 2021, an association managing 25 or more units shall post on its website digital copies of all official records subject to inspection by tenants or unit owners or their authorized representatives.

==== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete line 18

and insert:

paragraphs (a), (b), (c), and (g) of subsection (12), and paragraph (b) of

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



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And the title is amended as follows:

Delete lines 5 - 7

and insert:

kickbacks; revising the documents required to be included with accounting records; requiring an association to maintain official records in a specified manner; revising requirements for the creation of a rebuttable presumption relating to the provision of records; authorizing an association to direct certain persons to the association's website to fulfill certain obligations relating to the inspection of records; providing criminal penalties for certain violations relating to official association records; defining the term "repeatedly"; requiring certain associations to post copies of certain documents on the association's website by a specified date; revising criminal

By Senator Pizzo

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A bill to be entitled

An act relating to condominium associations; amending s. 718.111, F.S.; revising criminal penalties relating to the acceptance of things or services of value or kickbacks; providing criminal penalties for certain violations relating to official association records; defining the term "repeatedly"; revising criminal penalties relating to the use of association debit cards; defining the term "lawful obligation of the association"; creating s. 718.129, F.S.; providing criminal penalties for fraudulent voting activities related to association elections; providing an effective date.

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

Section 1. Paragraphs (a) and (d) of subsection (1), paragraph (c) of subsection (12), and paragraph (b) of subsection (15) of section 718.111, Florida Statutes, are amended to read:

718.111 The association.—

(1) CORPORATE ENTITY.—

(a) The operation of the condominium shall be by the association, which must be a Florida corporation for profit or a Florida corporation not for profit. However, any association which was in existence on January 1, 1977, need not be incorporated. The owners of units shall be shareholders or members of the association. The officers and directors of the association have a fiduciary relationship to the unit owners. It

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is the intent of the Legislature that nothing in this paragraph shall be construed as providing for or removing a requirement of a fiduciary relationship between any manager employed by the association and the unit owners. An officer, director, or manager may not solicit, offer to accept, or accept any thing or service of value or kickback for which consideration has not been provided for his or her own benefit or that of his or her immediate family, from any person providing or proposing to provide goods or services to the association. Any such officer, director, or manager who knowingly so solicits, offers to accept, or accepts any thing or service of value or kickback commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and is subject to a civil penalty pursuant to s. 718.501(1)(d) ~~and, if applicable, a criminal penalty as provided in paragraph (d).~~ However, this paragraph does not prohibit an officer, director, or manager from accepting services or items received in connection with trade fairs or education programs. An association may operate more than one condominium.

(d) As required by s. 617.0830, an officer, director, or agent shall discharge his or her duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the interests of the association. An officer, director, or agent shall be liable for monetary damages as provided in s. 617.0834 if such officer, director, or agent breached or failed to perform his or her duties and the breach of, or failure to perform, his or her duties constitutes a violation of criminal law as provided in s. 617.0834;

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constitutes a transaction from which the officer or director derived an improper personal benefit, either directly or indirectly; or constitutes recklessness or an act or omission that was in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. ~~Forgery of a ballot envelope or voting certificate used in a condominium association election is punishable as provided in s. 831.01, the theft or embezzlement of funds of a condominium association is punishable as provided in s. 812.014, and the destruction of or the refusal to allow inspection or copying of an official record of a condominium association that is accessible to unit owners within the time periods required by general law in furtherance of any crime is punishable as tampering with physical evidence as provided in s. 918.13 or as obstruction of justice as provided in chapter 843.~~ An officer or director charged by information or indictment with a crime referenced in this paragraph must be removed from office, and the vacancy shall be filled as provided in s. 718.112(2)(d)2. until the end of the officer's or director's period of suspension or the end of his or her term of office, whichever occurs first. If a criminal charge is pending against the officer or director, he or she may not be appointed or elected to a position as an officer or a director of any association and may not have access to the official records of any association, except pursuant to a court order. However, if the charges are resolved without a finding of guilt, the officer or director must be reinstated for the remainder of his or her term of office, if any.

(12) OFFICIAL RECORDS.—

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(c)1. The official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the member or authorized representative of such member. A renter of a unit has a right to inspect and copy the association's bylaws and rules. The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying. The failure of an association to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with this paragraph. A unit owner who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. Minimum damages are \$50 per calendar day for up to 10 days, beginning on the 11th working day after receipt of the written request. The failure to permit inspection entitles any person prevailing in an enforcement action to recover reasonable attorney fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records.

2. Any director or member of the board or association who knowingly, willfully, and repeatedly violates subparagraph 1. commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. For the purposes of this subparagraph, the term "repeatedly" means two or more violations within a 12-month period.

~~3.2.~~ Any person who knowingly or intentionally defaces or

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destroys accounting records that are required by this chapter to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083 ~~is personally subject to a civil penalty pursuant to s. 718.501(1)(d).~~

4. Any person who willfully and knowingly refuses to release or otherwise produce association records with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

5.3- The association shall maintain an adequate number of copies of the declaration, articles of incorporation, bylaws, and rules, and all amendments to each of the foregoing, as well as the question and answer sheet as described in s. 718.504 and year-end financial information required under this section, on the condominium property to ensure their availability to unit owners and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the documents. An association shall allow a member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association's providing the member or his or her authorized

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representative with a copy of such records. The association may not charge a member or his or her authorized representative for the use of a portable device. Notwithstanding this paragraph, the following records are not accessible to unit owners:

a. Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including a record prepared by an association attorney or prepared at the attorney's express direction, which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.

b. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a unit.

c. Personnel records of association or management company employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this subparagraph, the term "personnel records" does not include written employment agreements with an association employee or management company, or budgetary or financial records that indicate the compensation paid to an association employee.

d. Medical records of unit owners.

e. Social security numbers, driver license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a unit owner other than as provided to fulfill the association's notice

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requirements, and other personal identifying information of any person, excluding the person's name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the association to fulfill the association's notice requirements. Notwithstanding the restrictions in this sub-subparagraph, an association may print and distribute to parcel owners a directory containing the name, parcel address, and all telephone numbers of each parcel owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this sub-subparagraph. The association is not liable for the inadvertent disclosure of information that is protected under this sub-subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

f. Electronic security measures that are used by the association to safeguard data, including passwords.

g. The software and operating system used by the association which allow the manipulation of data, even if the owner owns a copy of the same software used by the association. The data is part of the official records of the association.

(15) DEBIT CARDS.—

(b) A person who uses ~~Use of~~ a debit card issued in the name of the association, or billed directly to the association, for any expense that is not a lawful obligation of the association commits theft under s. 812.014. For the purposes of this paragraph, a "lawful obligation of the association" means

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an obligation that has been properly preapproved by the board and is reflected in the meeting minutes or the written budget ~~may be prosecuted as credit card fraud pursuant to s. 817.61.~~

Section 2. Section 718.129, Florida Statutes, is created to read:

718.129 Fraudulent voting activities related to association elections; penalties.—

(1) Each of the following acts is a fraudulent voting activity related to association elections and constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Willfully and falsely swearing or affirming any oath or affirmation, or willfully procuring another person to swear or affirm falsely to an oath of affirmation, in connection with or arising out of voting or elections.

(b) Perpetrating or attempting to perpetrate, or aiding in the perpetration of, any fraud in connection with any vote cast, to be cast, or attempted to be cast.

(c) Preventing an elector from voting, or preventing an elector from voting as the elector intended, by fraudulently changing or attempting to change a ballot, ballot envelope, vote, or voting certificate of the elector.

(d) Using bribery, menace, threat, or any other corruption to attempt, directly or indirectly, to influence, deceive, or deter any elector in voting.

(e) Directly or indirectly giving or promising anything of value to another person with the intent to buy the vote of that person or another person or to corruptly influence that person or another person in casting his or her vote. However, this

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paragraph does not apply to the serving of food to be consumed at an election rally or meeting or to any item of nominal value which is used as an election advertisement, including a campaign message designed to be worn by a person.

(f) Directly or indirectly using or threatening to use force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel an individual to vote or refrain from voting in an election or on any particular ballot measure.

(2) Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections.

(b) Agreeing, conspiring, combining, or confederating with at least one other person to commit a fraudulent voting activity related to association elections.

(c) Having knowledge of a fraudulent voting activity related to association elections and giving any aid to the offender with intent that the offender avoid or escape detection, arrest, trial, or punishment. This paragraph does not apply to a licensed attorney giving legal advice to a client.

Section 3. This act shall take effect October 1, 2019.

HB 1259 – Division of Florida Condominiums, Timeshares, and Mobile Homes (Similar SB 610)

This bill amends s. 781.111, F.S., creating an **unranked, 3rd degree felony** for an officer, director, or manager knowingly soliciting, offering to accept, or accepting any thing or service of value or kickback for which consideration has not been provided for his or her own benefit or that of his or her immediate family, from any person providing or proposing to provide goods or services to the association.” Previously, any potential criminal penalty was referred to paragraph (d), the reference now deleted. Furthermore, an **unranked, 3rd degree felony** is also created for “any person who willfully and knowingly refuses to release or otherwise produce association records with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape.” It also adds that “a person who uses a debit card issued in the name of the association, or billed directly to the association, for any expense that is not a lawful obligation of the association commits theft under s. 812.014, F.S.” It originally had this act prosecuted as credit card fraud pursuant to s. 817.61, F.S.

Additionally, it deletes the following language under s. 781.111(1)(d), F.S.: “Forgery of a ballot envelope or voting certificate used in a condominium association election is punishable as provided in s. 831.01, F.S., the theft or embezzlement of funds of a condominium association is punishable as provided in s. 812.014, F.S., and the destruction of or the refusal to allow inspection or copying of an official record of a condominium association that is accessible to unit owners within the time periods required by general law in furtherance of any crime is punishable as tampering with physical evidence as provided in s. 918.13, F.S. or as obstruction of justice as provided in chapter 843.”

It also creates s. 718.129, F.S., adding multiple felonies for fraudulent voting activities relating to association elections, creating an **unranked, 3rd degree felony** for each of the following:

- willfully and falsely swearing or affirming any oath or affirmation, or willfully procuring another person to swear or affirm falsely to an oath or affirmation, in connection with or arising out of voting or elections
- perpetrating or attempting to perpetrate, or aiding in the perpetration of, any fraud in connection with any vote cast, to be cast, or attempted to be cast
- preventing an elector from voting, or preventing an elector from voting as the elector intended, by fraudulently changing or attempting to change a ballot, ballot envelope, vote, or voting certificate of the elector
- using bribery, menace, threat, or any other corruption to attempt, directly or indirectly, to influence, deceive, or deter any elector in voting
- directly or indirectly giving or promising anything of value to another person with the intent to buy the vote of that person or another person or to corruptly influence that person or another person in casting his or her vote (with exceptions)

- directly or indirectly using or threatening to use force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel an individual to vote or refrain from voting in an election or on any particular ballot measure
- knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections
- agreeing, conspiring, combining, or confederating with at least one other person to commit a fraudulent voting activity related to association elections
- having knowledge of a fraudulent voting activity related to association elections and giving any aid to the offender with intent that the offender avoid or escape detection, arrest, trial, or punishment.

Per DOC, in FY 17-18 there were 549 (adj.) offenders sentenced for the Level 2, 3rd degree felony under s. 817.61, F.S., with 54 (adj.) of these offenders sentenced to prison (mean sentence length=35.9 m, incarceration rate: 9.8% adj-9.8% unadj). By moving this to s. 812.014, F.S., this increases the minimum threshold for this felony from \$100 to \$300, while also removing the requirement that it be used more than two times in a six month period when under the \$100 threshold.

Per DOC, in FY 17-18 there were 199 (adj.) offenders sentenced for the Level 2, 3rd degree felony under s. 831.01, F.S., with 21 (adj.) of these offenders sentenced to prison (mean sentence length=26.2 m, incarceration rate: 10.6% adj-10.8% unadj).

Per DOC, in FY 17-18 there were 10,351 (adj.) offenders sentenced for the Level 2, 3rd degree felony under s. 812.014, F.S., with 1,131 (adj.) of these offenders sentenced to prison (mean sentence length=25.7 m, incarceration rate: 10.9% adj-10.9% unadj). For the Level 3, 3rd degree felony, there were 334 (adj.) offenders sentenced, with 33 (adj.) of these offenders sentenced to prison (mean sentence length=25.1 m, incarceration rate: 9.9% adj-9.9% unadj). There were 506 (adj.) offenders sentenced for the Level 4, 3rd degree felony, with 110 (adj.) of these offenders sentenced to prison (mean sentence length=26.7 m, incarceration rate: 21.7% adj-21.8% unadj). There were 420 (adj.) offenders sentenced for the Level 6, 2nd degree felony, with 119 (adj.) of these offenders sentenced to prison (mean sentence length=34.7 m, incarceration rate: 28.3% adj-28.3% unadj). Finally, there were 8 (adj.) offenders sentenced for the Level 7, 1st degree felony, with 4 (adj.) of these offenders sentenced to prison (mean sentence length=155.8 m, incarceration rate: 50.0% adj-57.1% unadj).

Per DOC, in FY 17-18 there were 742 (adj.) offenders sentenced for the Level 3, 3rd degree felony under s. 918.13, F.S., with 82 (adj.) of these offenders sentenced to prison (mean sentence length=32.3 m, incarceration rate: 11.1% adj-11.0% unadj). It is not known what felonies under Chapter 843 would be used in the acts described in s. 781.111(1)(d), F.S.

Per DOC, in FY 17-18, 24 (adj.) offenders were sentenced under s. 838.015, F.S. (Level 7, 2nd degree felony), involving bribery of a public servant, and 9 (adj.) were sentenced to prison (mean sentence length=29.9 m, incarceration rate: 37.5% adj.-36.4% unadj.). Nobody was sentenced under s. 836.12, F.S. (unranked, 3rd degree felony), for a

second or subsequent act of threatening a public official with death or serious bodily harm.

Per DBPR, in FY 17-18, there were 3,405 condominium complaints received statewide, with 214 of these allegations recommended for arbitration, 368 with the association brought into compliance, and 18 recommended for administrative action.

In FY 17-18, the incarceration rate for an unranked, 3rd degree felony was 8.7%.

EDR PROPOSED ESTIMATE: Positive Indeterminate

Requested by: Senate

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/25/19

Meeting Date

610

Bill Number (if applicable)

Topic Community Associations

Amendment Barcode (if applicable)

Name Travis Moore

Job Title _____

Address Po Box 2020
Street

Phone 727.421.6902

St Petersburg FL 33731
City State Zip

Email Travis@moore-relations.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Community Associations Institute (CAI)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/25/19
Meeting Date

5610
Bill Number (if applicable)

Topic Condo Assoc.

Amendment Barcode (if applicable)

Name Jordan W. Leonard

Job Title Council Member / Mayor

Address 9665 Bay Harbor Terr
Street

Phone 305-206-8497

Bay Harbor Islands FL 33154
City State Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Miami-Dade County League of Cities

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/25/19
Meeting Date

610
Bill Number (if applicable)

Topic SB610 - Associations

Amendment Barcode (if applicable)

Name Mark Anderson

Job Title Lobbyist

Address 110 S. Monroe, Suite I

Phone 813-205-0658

Street

Tallahassee

FL

32301

City

State

Zip

Email Mark@ConsultHAnderson.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Chief Executive Officers of Mgmt. Companies

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)



The Florida Senate

Committee Agenda Request

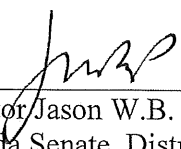
To: Senator Keith Perry, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: February 15, 2019

I respectfully request that **Senate Bill #610**, relating to Condominium Associations, be placed on the:

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



Senator Jason W.B. Pizzo
Florida Senate, District 38

The Florida Senate
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 Committee on Criminal Justice

BILL: CS/SB 1002

INTRODUCER: Infrastructure and Security Committee and Senator Hutson

SUBJECT: Motor Vehicles and Railroad Trains

DATE: March 22, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	IS	Fav/CS
2.	Erickson	Jones	CJ	Favorable
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1002 clarifies the duties of law enforcement with respect to the collection of information required for crash reports in the event of a motor vehicle crash involving a railroad train.

The bill revises the definition of “railroad train” to provide that a railroad train is not a motor vehicle for purposes of the Florida Uniform Traffic Control Law.

The bill specifies that in the event that a motor vehicle crash involves a railroad train, the collection of certain required crash report information is at the discretion of the law enforcement officer having jurisdiction to investigate the crash.

Current law requires that the crash report contain the names of insurance companies for the “respective parties” involved in the crash, unless not available. The bill amends this requirement to specify it applies to insurance companies of the motor vehicles involved in the crash.

The bill provides a railroad train crew member or a passenger on a railroad train is not a passenger for purposes of completing a crash report. However, in the event of a motor vehicle crash involving a railroad train, a railroad train crew member must furnish: date, time, and location of the crash; description of the vehicles involved in the crash; and the names and addresses of parties involved in or witnesses to the crash. A railroad train crew member must also furnish the train engineer’s and the conductor’s federally-required, railroad-issued certificates, upon the request of the law enforcement officer investigating the crash.

The fiscal impact is indeterminate but expected to be positive (a cost reduction or avoidance). See Section V. Fiscal Impact Statement.

The bill is effective on July 1, 2019.

II. Present Situation:

Florida Uniform Traffic Control Law

The Florida Uniform Traffic Control Law, ch. 316, F.S., is intended “to make uniform traffic laws to apply throughout the state and its several counties and uniform traffic ordinances to apply in all municipalities.”¹

Section 316.003(63), F.S., defines the term “railroad train” as a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except a streetcar. For purposes of ch. 316, F.S., the term “motor vehicle” excludes a self-propelled vehicle that is operated upon rails or guideway.² Similarly, the term “vehicle” excludes a device used exclusively upon stationary rails or tracks.³ Further, the term “driver” is defined as any person who drives or is in actual physical control of a vehicle on a highway or who is exercising control of a vehicle or steering a vehicle being towed by a motor vehicle.⁴ Finally, the term “operator” is defined as any person who is in actual physical control of a motor vehicle upon the highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.⁵

Duties Related to Motor Vehicle Crashes

Among other requirements, s. 316.027, F.S., which relates to crashes involving death or personal injury, requires the driver of a vehicle involved in a crash resulting in injury to a person other than serious bodily injury,⁶ serious bodily injury to a person, or death of a person, to immediately stop the vehicle at the crash scene and remain there until the driver has fulfilled requirements of s. 316.062, F.S.⁷

Section 316.062(1), F.S., requires such driver to provide specified personal and vehicle identification information, and upon request and if available exhibit his or her license or permit to drive, to any person injured in such crash or to the driver or occupant of or person attending any vehicle or other property damaged in the crash. Such driver must also give such information and, upon request, exhibit such license or permit to any police officer at the scene of the crash or who is investigating the crash and render to any person injured in the crash reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a

¹ Section 316.002, F.S.

² Section 316.003(42), F.S.

³ Section 316.003(99), F.S.

⁴ Section 316.003(20), F.S.

⁵ Section 316.003(48), F.S.

⁶ “Serious bodily injury” means an injury to a person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of a bodily member or organ. Section 316.027(1)(a), F.S.

⁷ Section 316.027(2)(a)(b), and (c), F.S.

physician, surgeon, or hospital for medical or surgical treatment if it is apparent that treatment is necessary, or if such carrying is requested by the injured person.⁸

In the event none of the persons specified are in the condition to receive the information to which they otherwise would be entitled under s. 316.062(1), F.S., and no police officer is present, the driver of any vehicle involved in such crash, after fulfilling all other requirements of ss. 316.027 and s. 316.062(1), F.S., must report the crash to the nearest office of a duly authorized police authority and submit the information specified in s. 316.062(1), F.S.⁹

The driver of a vehicle involved in a crash resulting only in damage to a vehicle or other property which is driven or attended by any person must also comply with the requirements of s. 316.062, F.S.¹⁰

Section 316.065(1), F.S., requires the driver of a vehicle involved in a crash resulting in injury to or death of any person or damage to any vehicle or other property in an apparent amount of at least \$500 to immediately give notice of the crash to local law enforcement.

Section 316.066(1)(a), F.S., requires a traffic crash report to be completed and submitted to the Department of Highway Safety and Motor Vehicles (DHSMV) within 10 days after an investigation is completed by the law enforcement officer investigating a motor vehicle crash if such crash:

- Resulted in the death of, personal injury to, or any indication of complaints of pain or discomfort by any of the parties or passengers involved in the crash;
- Involved a violation of s. 316.061, F.S. (failure to immediately stop a vehicle involved in a crash resulting only in damage to a vehicle or other property) or a violation of s. 316.193, F.S. (driving under the influence);
- Rendered a vehicle inoperable to a degree that required a wrecker to remove it from the scene of the crash; or
- Involved a commercial motor vehicle.

Crash Report Forms

Sections 316.066(1) and 316.068(2), F.S., require law enforcement personnel to complete a report of each motor vehicle crash and provide it to the DHSMV. This report must include the following information:

- The date, time, and location of the crash;
- A description of the vehicles involved;
- The names and addresses of the parties involved;
- The names and addresses of all drivers and passengers in the vehicles involved;
- The names and addresses of witnesses;
- The name, badge number, and law enforcement agency of the officer investigating the crash; and
- The names of the insurance companies for the respective parties involved in the crash.

⁸ Section 316.062(1), F.S.

⁹ Section 316.062(2), F.S.

¹⁰ Section 316.061(1), F.S.

However, current law is unclear as to how to treat the passengers and crew of a railroad train when a motor vehicle crash involves a railroad train. Because the current statute can be read to include every person on the railroad train as a “passenger” or “witness” for purposes of the crash report, law enforcement may be compelled to interview every passenger and crew member on a railroad train as a potential witness, even though in many instances nothing relevant was actually witnessed.

The process of interviewing every passenger and crew member on a railroad train may keep the railroad train at the crash scene for hours, resulting in a number of potential issues, such as deteriorating passenger safety and comfort, blocked railroad crossings, and economic loss.

Railroad Train Accident Reports

Florida law does not address the railroad company reporting requirements as they relate to accident reports. However, federal regulations generally require railroad companies to submit a monthly report to the Federal Railroad Authority (FRA) of all railroad accidents or incidents that are:

- Highway-rail grade crossing accidents or incidents;
- Rail equipment accidents or incidents; and
- Death, injury, and occupational illness accidents or incidents.¹¹

In addition, each railroad company must immediately report certain types of accidents or incidents, including certain train accidents or train incidents, by calling the National Response Center.¹² The FRA or the National Transportation Safety Board may choose to investigate such train accidents or incidents.¹³

Certification of Locomotive Engineers and Conductors

Federal regulations prescribe minimum federal safety standards for the eligibility, training, testing, certification, and monitoring of all locomotive engineers¹⁴ and conductors.¹⁵ The FRA does not test or certify engineers or conductors itself. Instead, the regulations require each railroad to adopt training and certification programs that meet the minimum requirements in the regulations,¹⁶ and the FRA must approve the design of individual railroad programs.¹⁷

Ultimately, an individual who successfully completes a railroad’s FRA-approved engineer or conductor certification program receives a certificate that identifies the railroad company and person certified, and shows the qualifications, conditions, and limitations of the certification.¹⁸

¹¹ 49 C.F.R. ss. 225.11 and 225.19.

¹² 49 C.F.R. s. 225.9.

¹³ See *FRA Investigations of Railroad Accidents*, Federal Railroad Authority, available at <https://www.fra.dot.gov/Page/P0474> (last visited on March 19, 2019), and *The Investigative Process*, National Transportation Safety Board, available at <https://www.nts.gov/investigations/process/Pages/default.aspx> (last visited on March 19, 2019).

¹⁴ 49 C.F.R. Part 240.

¹⁵ 49 C.F.R. Part 242.

¹⁶ See, e.g., 49 C.F.R. ss. 240.101 and 242.101.

¹⁷ 49 C.F.R. ss. 240.103 and 242.103.

¹⁸ 49 C.F.R. ss. 240.223 and 242.207.

The certificate must be signed and wallet-sized for ease of carry.¹⁹ Each locomotive engineer and conductor who receives a certificate is required to have the certificate in his or her possession while on duty.²⁰

III. Effect of Proposed Changes:

The bill seeks to clarify the duties of law enforcement with regard to collecting required information for certain crash reports.

The bill amends s. 316.003(63), F.S., the definition of “railroad train,” to provide that a railroad train is not a motor vehicle for purposes of the Florida Uniform Traffic Control Law.

The bill also amends s. 316.068(2)(c) and (d), F.S., which, respectively, require a crash report to include the names and addresses of the parties involved in a crash and the names and addresses of all drivers and passengers in the motor vehicles involved in a crash. The bill provides that in the event of a crash covered by s. 316.027, F.S., s. 316.061, F.S., s. 316.065, F.S., or s. 316.066, F.S.,²¹ involving a railroad train, collection of names and addresses is at the discretion of the investigating law enforcement officer.

Currently, s. 316.068(2)(g), F.S., requires a crash report contain the names of insurance companies for the “respective parties” involved in the crash, unless not available. The bill amends this requirement to specify it applies to insurance companies of the motor vehicles involved in the crash.

Section 316.068(2)(g), F.S., is also amended to provide that a railroad train crew member or a passenger on a railroad train is not a passenger for purposes of completing a crash report. However, in the event of a motor vehicle crash involving a railroad train, a railroad train crew member must furnish:

- The date, time, and location of the crash;
- A description of the vehicles involved;
- The names and addresses of the parties involved; and
- The names and addresses of witnesses.

Finally, s. 316.068(2)(g), F.S., is amended to require a railroad train crew member to furnish the train engineer’s and conductor’s federal certificates under 49 C.F.R., parts 240 and 242, upon the request of the law enforcement officer with jurisdiction to investigate the crash.

As a result of these changes, law enforcement officers may exercise discretion in their investigations of motor vehicle crashes involving a railroad train and the collection of information relevant to such crashes. This may reduce delays associated with collecting necessary information for crash reports.

¹⁹ *Id.*

²⁰ 49 C.F.R. ss. 242.209(a)(1) and 240.305(b)1.

²¹ These statutes relate to crashes involving personal injury or death (s. 316.027, F.S.), crashes involving damage to vehicles or property (s. 316.061, F.S.), reporting to law enforcement a crash involving injury or death of any person or damage to any vehicle or property in the apparent amount of at least \$500 (s. 316.065, F.S.), and written reports of crashes (s. 316.066, F.S.)

The bill is effective on July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The fiscal impact of the bill is indeterminate. The bill may positively impact (a cost reduction or avoidance) railroad train companies and their operations if all crew members and passengers of the train are not required to be interviewed in the event of a motor vehicle crash involving a train. However, railroad train companies may incur indeterminate expenses associated with the requirement that a railroad train crew member collect and furnish specified information. To the extent that this requirement results in delay for the railroad train crew, the expected positive fiscal impact may be offset.

C. Government Sector Impact:

The fiscal impact of the bill is indeterminate. However, the bill may reduce government expenditures relating to the investigation of railroad train accidents. Government personnel involved in these investigations will no longer be required to obtain the name and address of each person on the railroad train, unless the person is considered a witness.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 316.003 and 316.068.

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 Infrastructure and Security on March 11, 2019:

The committee substitute requires a member of the railroad train crew to furnish specified information relating to a crash, as well as the train engineer's and conductor's certificates issued by the railroad in accordance with federal regulations.

B. Amendments:

None.

By the Committee on Infrastructure and Security; and Senator
Hutson

596-02961-19

20191002c1

A bill to be entitled

An act relating to motor vehicles and railroad trains; amending s. 316.003, F.S.; revising the definition of the term "railroad train"; amending s. 316.068, F.S.; requiring that, in the event of a crash involving a railroad train, the collection of certain information be at the discretion of the law enforcement officer having jurisdiction to investigate the crash; revising the collection of information to include the names of insurance companies of the motor vehicles involved in the crash, rather than the names of insurance companies for all respective parties; specifying that certain persons are not considered passengers for the purpose of making crash reports; requiring a member of the railroad train crew to furnish specified information; providing an effective date.

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

Section 1. Subsection (63) of section 316.003, Florida Statutes, is amended to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(63) RAILROAD TRAIN.—A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except a streetcar. A railroad train is not a motor vehicle for purposes of this chapter.

Page 1 of 3

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

596-02961-19

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Section 2. Subsection (2) of section 316.068, Florida Statutes, is amended to read:

316.068 Crash report forms.—

(2) Every crash report required to be made in writing must be made on the appropriate form approved by the department and must contain all the information required therein, including:

(a) The date, time, and location of the crash;

(b) A description of the vehicles involved;

(c) The names and addresses of the parties involved; however, in the event of a crash involving a railroad train, including crashes covered by s. 316.027, s. 316.061, s. 316.065, or s. 316.066, the collection of the information specified in this paragraph shall be at the discretion of the law enforcement officer having jurisdiction to investigate the crash;

(d) The names and addresses of all drivers and passengers in the motor vehicles involved; however, in the event of a crash involving a railroad train, including crashes covered by s. 316.027, s. 316.061, s. 316.065, or s. 316.066, the collection of the information specified in this paragraph shall be at the discretion of the law enforcement officer having jurisdiction to investigate the crash;

(e) The names and addresses of witnesses;

(f) The name, badge number, and law enforcement agency of the officer investigating the crash; and

(g) The names of the insurance companies of the motor vehicles ~~for the respective parties~~ involved in the crash, unless not available. A member of a railroad train crew or a passenger on a railroad train is not a passenger for purposes of this section. A member of the railroad train crew shall furnish

Page 2 of 3

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

596-02961-19

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59 the information required under paragraphs (a), (b), (c), and (e)
60 and, upon the request of the law enforcement officer with
61 jurisdiction to investigate the crash, the train engineer's and
62 conductor's federal certification pursuant to 49 C.F.R., parts
63 240 and 242. The absence of information in such written crash
64 reports regarding the existence of passengers in the vehicles
65 involved in the crash constitutes a rebuttable presumption that
66 no such passengers were involved in the reported crash.
67 Notwithstanding any other provisions of this section, a crash
68 report produced electronically by a law enforcement officer
69 must, at a minimum, contain the same information as is called
70 for on those forms approved by the department.

71 Section 3. This act shall take effect July 1, 2019.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3.25.19

Meeting Date

1002

Bill Number (if applicable)

Topic Motor Vehicles and Railroad Trains

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tallahassee

FL

32308

City

State

Zip

Email barney@barneybishop.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Smart Justice Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/25/19

Meeting Date

SB

1002

Bill Number (if applicable)

Topic Motor Vehicles + Railroad Trains

Amendment Barcode (if applicable)

Name Candice Ericks

Job Title Consultant

Address 205 S. Adams St

Phone 954-648-1209

Tallahassee FL 32301

Email Candice@ericksconsultants.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing South Florida Regional Transportation Authority

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1186

INTRODUCER: Criminal Justice Committee and Senators Baxley and Perry

SUBJECT: Criminal Judgments

DATE: March 25, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Storch	Jones	CJ	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1186 requires that a judgment of guilty or not guilty of petit theft or a felony or guilty judgment of any offense under ch. 796, F.S., be in a written or an *electronic* record, signed by the judge, and recorded by the clerk of the court.

The bill requires that an electronic record of a guilty judgment include electronically captured fingerprints of the defendant and certification by the judge that such fingerprints belong to the defendant. The bill provides that such certification, in a written or electronic record, of a guilty judgment is admissible as prima facie evidence that the fingerprints on the judgment are those of the defendant.

The bill retains the requirement for the social security number of a defendant who is guilty of a felony to be taken and requires such number to be specified in the written or *electronic* judgment.

The bill permits, but does not require, the courts to implement an electronic fingerprinting and judgment process. However, circuits that wish to capture electronic fingerprints may incur costs associated with the implementation of new technology necessary for such a process. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2019.

II. Present Situation:

Petit Theft and Felony Judgments

Current law requires every criminal judgment adjudicating a person guilty or not guilty of petit theft¹ or a felony must be in *writing*, signed by the judge, and recorded by the clerk of the circuit court.²

At the time the judgment of guilty is rendered, the fingerprints of the defendant must be taken and affixed beneath the judge's signature to such judgment. Beneath the fingerprints, the judge must certify and attest that such fingerprints belong to the defendant. Such judgment, with the certification, is admissible as prima facie evidence that the fingerprints are those of the defendant.³

For a guilty felony judgment, in addition to the defendant's fingerprints, the judge must also record the defendant's social security number and affix it to the written judgment. If the defendant is unable or unwilling to provide his or her social security number, the reason for its absence must be indicated on the written judgment.⁴

Criminal Judgments Under Ch. 796, F.S.

Chapter 796, F.S., governs prostitution and similar crimes. Every criminal judgment adjudicating a person guilty of a misdemeanor or felony offense governed by ch. 796, F.S., must be in *writing*, signed by the judge, and recorded by the clerk of the circuit court. Additionally, the fingerprints of the defendant must be taken and affixed beneath the judge's signature to such judgment. Beneath the fingerprints, the judge must certify and attest that such fingerprints belong to the defendant.⁵ Such judgment, with the certification, is admissible as prima facie evidence that the fingerprints are those of the defendant.⁶

Electronic Fingerprinting

Capturing legible fingerprint images is paramount to the administrative process. Failure to capture legible fingerprint images can lead to an increase in administrative burden and lengthy waiting periods. Increasing electronic fingerprint capture is one method that has been utilized in efforts to improve fingerprint image quality reject rates. Electronic live scan fingerprinting technology allows for the capture of sharper, clearer images, which helps to ensure that the images captured are legible prior to submission.⁷

¹ A person commits petit theft if he or she steals property that is valued between \$100 and \$300. Petit theft is punishable as a first degree misdemeanor. Section 812.014(2)(e), F.S.

² Sections 812.014(3)(d)1. and 921.241(2), F.S.

³ Sections 812.014(3)(d)2. and 921.241(2) and (3), F.S.

⁴ Section 921.241(4), F.S.

⁵ Section 921.242(1), F.S.

⁶ Section 921.242(2), F.S.

⁷ Federal Bureau of Investigation, *The National Crime Prevention and Privacy Compact Council's Civil Fingerprint Image Quality Strategy Guide*, (November 2018), pg. 2-3, available at <https://www.fbi.gov/file-repository/civil-fingerprint-image-quality-strategy-guide.pdf> (last visited March 19, 2019).

III. Effect of Proposed Changes:

Current law requires that a judgment of guilty or not guilty of petit theft or a felony, or a judgment of guilty for a misdemeanor under ch. 796, F.S., be in *writing*. The bill expands this, allowing such judgments to be made in a written *or electronic* record.

The bill retains the requirement for such judgments to be signed by the judge and recorded by the clerk of the court. If an electronic record is made, the bill requires such record to contain the judge's electronic signature, which is defined in s. 933.40, F.S., as any letters, characters, symbols, or process manifested by electronic or similar means and attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.⁸

Current law requires that the fingerprints of the defendant be taken and affixed to a guilty judgment of petit theft, any felony, or a misdemeanor under ch. 796, F.S. For a written record, the bill requires such fingerprints be manually taken and affixed beneath the judge's signature. For an electronic record, the bill requires the fingerprints of the defendant be electronically captured and included in the judgment.

The bill provides that digital fingerprint records will be associated with a transaction control number, which is defined as the unique identifier comprised of numbers, letters, or other symbols for a digital fingerprint record which is generated by the device used to electronically capture the fingerprints. For an electronic record, the bill requires the judge to provide certification with the following language: "I hereby certify that the digital fingerprints record associated with the Transaction Control Number ... contains the fingerprints of the defendant, ..., which were electronically captured from the defendant in my presence, in open court, this the ... day of ..., ...(year)..."

Current law provides that the judge's certification of a written record of a judgment of guilty for petit theft, any felony, or a misdemeanor under ch. 796, F.S., is admissible as prima facie evidence that the fingerprints included in the judgment are those of the defendant. The bill provides that the judge's certification that the digital fingerprint record associated with the transaction control number that is included in an electronic record of such judgments will be regarded in the same manner.

The bill retains the requirement for the social security number of a defendant who is found guilty of a felony to be taken and included in the written or *electronic* record. If the defendant is unable or unwilling to provide his or her social security number, the bill requires that the reason for its absence be specified in the written or electronic record.

The bill reenacts s. 775.084, F.S., to make conforming changes for the purposes of incorporating amendments made by the bill.

The bill is effective July 1, 2019.

⁸ Section 933.40(1)(d), F.S.

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

Currently, certain judgments are required to be in a written record. The bill provides that such judgments may alternatively be created in an electronic record. With that, the bill provides discretion to the clerk in determining the form in which the record will be created. Additionally, because any such costs incurred by the circuit courts resulting from the bill directly relate to persons who have been arrested or convicted of criminal offenses, under Article VII, subsection 18(d) of the Florida Constitution, it appears there is no unfunded mandate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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 permits, but does not require, the courts to implement an electronic fingerprinting and judgment process. Therefore, the bill does not mandate a fiscal impact. Those circuits that wish to implement electronic recordkeeping will need to procure electronic Live Scan fingerprinting technology, which could provide for initial costs associated with implementing this electronic system. However, this may save money and

reduce the workload on the courts in the long run to the extent that it is less time consuming to create and maintain electronic criminal fingerprints and judgments.⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 812.014, 921.241, and 921.242.

This bill reenacts section 775.084 of the Florida Statutes.

IX. Additional Information:

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

CS by Criminal Justice on March 25, 2019:

The Committee Substitute clarifies that the judge's certification of a defendant's fingerprints included in a guilty judgment for petit theft and misdemeanor offenses under ch. 796, F.S., is admissible as prima facie evidence that the fingerprints belong to the defendant.

- B. **Amendments:**

None.

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

⁹ Office of the State Courts Administrator, *2019 Judicial Impact Statement for SB 1186*, (March 21, 2019) (on file with the Senate Criminal Justice Committee).



147294

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2019	.	
	.	
	.	
	.	

The Committee on Criminal Justice (Baxley) recommended the following:

Senate Amendment

Delete line 129
and insert:
~~written~~ judgment of guilty ~~of a felony~~, or a certified copy

By Senator Baxley

12-00779A-19

20191186__

A bill to be entitled

An act relating to criminal judgments; amending s. 812.014, F.S.; requiring that judgments of guilty or not guilty of petit theft be in a written record, rather than in writing, or in an electronic record with the judge's electronic signature, recorded by the clerk of the circuit court; providing requirements for such records; conforming provisions to changes made by the act; amending s. 921.241, F.S.; defining terms; requiring that judgments of guilty or not guilty of a felony be in a written record, rather than in writing, or an electronic record with the judge's electronic signature, recorded by the clerk of the circuit court; requiring that for an electronic record of a judgment of guilty, the fingerprints of a defendant be electronically captured and a certain certification be included; requiring the judge to place his or her electronic signature on the certificate; conforming provisions to changes made by the act; amending s. 921.242, F.S.; requiring that specified judgments of guilty be in a written record, rather than in writing, or an electronic record with the judge's electronic signature, recorded by the clerk of the circuit court; conforming provisions to changes made by the act; reenacting s. 775.084(3)(a), (b), and (c), F.S., relating to fingerprinting a defendant for the purpose of identification, to incorporate the amendment made to s. 921.241, F.S., in references thereto; providing an effective date.

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

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

Section 1. Paragraph (d) of subsection (3) of section 812.014, Florida Statutes, is amended to read:

812.014 Theft.—

(3)

(d)1. A ~~Every~~ judgment of guilty or not guilty of a petit theft must ~~shall~~ be in:

a. A written record that is ~~writing~~, signed by the judge, and recorded by the clerk of the circuit court; or

b. An electronic record that contains the judge's electronic signature, as defined in s. 933.40, and is recorded by the clerk of the circuit court.

2. At the time a defendant is found guilty of petit theft, the judge shall cause the following to occur ~~to be affixed to every such written judgment of guilty of petit theft~~, in open court and in the presence of such judge:—

a. For a written record of a judgment of guilty, the fingerprints of the defendant against whom such judgment is rendered ~~must be manually taken and. Such fingerprints shall be~~ affixed beneath the judge's signature on the ~~to such~~ judgment. ~~Beneath such fingerprints shall be appended~~ A certificate, containing substantially ~~to~~ the following language must be appended beneath the fingerprints ~~effect~~:

"I hereby certify that the affixed ~~above and foregoing~~ fingerprints on this judgment are the fingerprints of the defendant, . . . , and that they were placed there ~~thereon~~ by said

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

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defendant in my presence, in open court, this the day of
...., ...(year)...."

Such certificate ~~must shall~~ be signed by the judge, whose
signature ~~must thereto shall~~ be followed by the word "Judge."

b. For an electronic record of a judgment of guilty, the
fingerprints of the defendant must be electronically captured,
and a certificate must be issued as provided in s.
921.241(3)(b).

3.2. A Any such written or an electronic record of a
judgment of guilty of a petit theft, or a certified copy
thereof, is admissible in evidence in the courts of this state
as provided in s. 921.241(4) prima facie evidence that the
fingerprints appearing thereon and certified by the judge are
the fingerprints of the defendant against whom such judgment of
guilty of a petit theft was rendered.

Section 2. Section 921.241, Florida Statutes, is amended to
read:

921.241 Felony judgments; fingerprints and social security
number required in record.—

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

(a) "Electronic signature" has the same meaning as in s.
933.40.

(b) "Transaction control number" means the unique
identifier comprised of numbers, letters, or other symbols for a
digital fingerprint record which is generated by the device used
to electronically capture the fingerprints At the time a
defendant is found guilty of a felony, the judge shall cause the
defendant's fingerprints to be taken.

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(2) A Every judgment of guilty or not guilty of a felony
~~must shall~~ be in:

(a) A written record that is writing, signed by the judge,
and recorded by the clerk of the court; or

(b) An electronic record that contains the judge's
electronic signature and is recorded by the clerk of the court.

(3) At the time a defendant is found guilty of a felony,
the judge shall cause the following to occur to be affixed to
~~every written judgment of guilty of a felony,~~ in open court and
in the presence of such judge:

(a) For a written record of a judgment of guilty, and at
the time the judgment is rendered, the fingerprints of the
defendant must be manually taken and against whom such judgment
is rendered. Such fingerprints shall be affixed beneath the
judge's signature on the to such judgment. Beneath such
fingerprints shall be appended A certificate containing
substantially to the following language must be appended beneath
the fingerprints effect:

"I hereby certify that the affixed above and foregoing
fingerprints on this judgment are the fingerprints of the
defendant,, and that they were placed there thereon by said
defendant in my presence, in open court, this the day of
...., ...(year)...."

Such certificate ~~must shall~~ be signed by the judge, whose
signature ~~must thereto shall~~ be followed by the word "Judge."

(b) For an electronic record of a judgment of guilty, the
fingerprints of the defendant must be electronically captured,

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and the following certificate must be included in the electronic record of judgment:

"I hereby certify that the digital fingerprints record associated with Transaction Control Number contains the fingerprints of the defendant,, which were electronically captured from the defendant in my presence, in open court, this the day of, ... (year)...."

The judge shall place his or her electronic signature, which must be followed by the word "Judge," on the certificate.

(4)(3) A written or an electronic record of a ~~Any such~~ written judgment of guilty of a felony, or a certified copy thereof, is ~~shall be~~ admissible in evidence in the ~~several~~ courts of this state as prima facie evidence that:

(a) The manual fingerprints appearing thereon and certified by the judge ~~as aforesaid~~ are the fingerprints of the defendant against whom ~~the such~~ judgment of guilty of a felony was rendered.

(b) The digital fingerprint record associated with the transaction control number specified in the judge's certificate contains the fingerprints of the defendant against whom the judgment of guilty was rendered.

(5)(4) At the time the defendant's fingerprints are manually taken or electronically captured, the judge shall also cause the defendant's social security number to be taken. The defendant's social security number ~~must shall~~ be specified in each affixed to every written or electronic record of a judgment of guilty of a felony, in open court ~~and~~ in the presence of

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such judge, ~~and~~ at the time the judgment is rendered. If the defendant is unable or unwilling to provide his or her social security number, the reason for its absence ~~must shall~~ be specified in indicated on the written or electronic record of judgment.

Section 3. Section 921.242, Florida Statutes, is amended to read:

921.242 Subsequent offenses under chapter 796; method of proof applicable.—

(1) ~~A Every~~ judgment of guilty with respect to any offense governed by the provisions of chapter 796 ~~must shall~~ be in:

(a) A written record of a judgment that is writing, signed by the judge, and recorded by the clerk of the circuit court; ~~or~~

(b) An electronic record of a judgment that contains the judge's electronic signature, as defined in s. 933.40, and is recorded by the clerk of the circuit court.

(2) At the time a defendant is found guilty, the judge shall cause the following to occur ~~to be affixed to every such written judgment of guilty,~~ in open court and in the presence of such judge:

(a) For a written record of a judgment of guilty, the fingerprints of the defendant ~~must be manually taken and against whom such judgment is rendered. Such fingerprints shall be~~ affixed beneath the judge's signature ~~on the to any such~~ judgment. ~~Beneath such fingerprints shall be appended A~~ certificate containing substantially to the following language must be appended beneath the fingerprints effect:

"I hereby certify that the affixed ~~above and foregoing~~

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fingerprints on this judgment are the fingerprints of the defendant, ...(name)..., and that they were placed ~~there~~ thereon by said defendant in my presence, in open court, this the day of, ...(year)...."

Such certificate ~~must~~ shall be signed by the judge, whose signature ~~must~~ there ~~shall~~ be followed by the word "Judge."

(b) For an electronic record of a judgment of guilty, the fingerprints of the defendant must be electronically captured, and a certificate must be issued as provided in s. 921.241(3)(b).

(2) ~~A Any such written or an electronic record of a judgment of guilty, or a certified copy thereof, is shall be~~ admissible in evidence in the ~~several~~ courts of this state as provided in s. 921.241(4) ~~prima facie evidence that the fingerprints appearing thereon and certified by the judge as aforesaid are the fingerprints of the defendant against whom such judgment of guilty was rendered.~~

Section 4. For the purpose of incorporating the amendment made by this act to section 921.241, Florida Statutes, in a reference thereto, paragraphs (a), (b), and (c) of subsection (3) of section 775.084, Florida Statutes, are reenacted to read:

775.084 Violent career criminals; habitual felony offenders and habitual violent felony offenders; three-time violent felony offenders; definitions; procedure; enhanced penalties or mandatory minimum prison terms.—

(3)(a) In a separate proceeding, the court shall determine if the defendant is a habitual felony offender or a habitual violent felony offender. The procedure shall be as follows:

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1. The court shall obtain and consider a presentence investigation prior to the imposition of a sentence as a habitual felony offender or a habitual violent felony offender.

2. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

3. Except as provided in subparagraph 1., all evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

4. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable to the extent normally applicable to similar findings.

5. For the purpose of identification of a habitual felony offender or a habitual violent felony offender, the court shall fingerprint the defendant pursuant to s. 921.241.

6. For an offense committed on or after October 1, 1995, if the state attorney pursues a habitual felony offender sanction or a habitual violent felony offender sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a habitual felony offender or a habitual violent felony offender, subject to imprisonment pursuant to this section unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence the defendant as a habitual felony

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offender or a habitual violent felony offender, the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. Each month, the court shall submit to the Office of Economic and Demographic Research of the Legislature the written reasons or transcripts in each case in which the court determines not to sentence a defendant as a habitual felony offender or a habitual violent felony offender as provided in this subparagraph.

(b) In a separate proceeding, the court shall determine if the defendant is a three-time violent felony offender. The procedure shall be as follows:

1. The court shall obtain and consider a presentence investigation prior to the imposition of a sentence as a three-time violent felony offender.

2. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

3. Except as provided in subparagraph 1., all evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

4. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable to the extent normally applicable to similar findings.

5. For the purpose of identification of a three-time violent felony offender, the court shall fingerprint the defendant pursuant to s. 921.241.

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6. For an offense committed on or after the effective date of this act, if the state attorney pursues a three-time violent felony offender sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a three-time violent felony offender, subject to imprisonment pursuant to this section as provided in paragraph (4)(c).

(c) In a separate proceeding, the court shall determine whether the defendant is a violent career criminal with respect to a primary offense committed on or after October 1, 1995. The procedure shall be as follows:

1. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

2. All evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

3. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable only as provided in paragraph (d).

4. For the purpose of identification, the court shall fingerprint the defendant pursuant to s. 921.241.

5. For an offense committed on or after October 1, 1995, if the state attorney pursues a violent career criminal sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets

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291 the criteria under subsection (1) for imposing such sanction,
292 the court must sentence the defendant as a violent career
293 criminal, subject to imprisonment pursuant to this section
294 unless the court finds that such sentence is not necessary for
295 the protection of the public. If the court finds that it is not
296 necessary for the protection of the public to sentence the
297 defendant as a violent career criminal, the court shall provide
298 written reasons; a written transcript of orally stated reasons
299 is permissible, if filed by the court within 7 days after the
300 date of sentencing. Each month, the court shall submit to the
301 Office of Economic and Demographic Research of the Legislature
302 the written reasons or transcripts in each case in which the
303 court determines not to sentence a defendant as a violent career
304 criminal as provided in this subparagraph.

305 Section 5. This act shall take effect July 1, 2019.

OFFICE OF THE STATE COURTS ADMINISTRATOR
2019 JUDICIAL IMPACT STATEMENT

BILL NUMBER: SB 1186

DATE: March 21, 2019

SPONSOR(S): Senator Baxley

STATUTE(S) AFFECTED: Amending ss. 812.041, 921.241, and 921.242, F.S.

COMPANION BILL(S): HB 7081

AGENCY CONTACT: Sarah Naf Biehl

TELEPHONE: (850) 922-5692

ASSIGNED OSCA STAFF: SNB/TW

- I. SUMMARY: Under current law, judges are required to enter written judgments of guilty or not guilty for felonies and certain misdemeanors. Additionally, for guilty judgments, a judge must cause the defendant's fingerprints to be manually taken and affixed below the judge's signature on the judgment. The bill amends these provisions to authorize judges to electronically capture fingerprints and enter electronic judgments as an alternative to the paper-based process.

The purposes of the amendments are to:

- Enable the replacement of paper-based filing systems that require physical storage space and are not electronically searchable with searchable, electronic filing systems.
- Enable the use of electronic verification processes that will decrease errors that are more apt to occur with manual creation processes.
- Significantly improve the quality of the fingerprints captured at the time of judgment which are submitted to the Florida Department of Law Enforcement (FDLE) for inclusion in state and federal criminal history record databases.¹
- Facilitate implementation of an electronic fingerprinting and judgment pilot project. Currently, the trial court administrators in four judicial circuits are working with the FDLE to obtain federal grant funding for the purchase of electronic Live Scan fingerprinting technology for the project.

¹ According to information on the Federal Bureau of Investigation's website, "Electronic Live Scan fingerprinting technology allows for the capture of sharper, clearer fingerprint images with built-in quality controls that help to ensure the images captured are legible prior to submission, thus improving fingerprint image quality reject rates." *See Civil Fingerprint Image Quality Strategy Guide*, National Crime Prevention and Privacy Compact Council, November 2015, available at <https://www.fbi.gov/file-repository/civil-fingerprint-image-quality-strategy-guide.pdf>.

II. **EFFECT OF PROPOSED CHANGES:** Under current law, a judgment of guilty or not guilty for a misdemeanor petit theft² or prostitution³ offense or a felony⁴ offense must be in writing, signed by the judge, and recorded by the Clerk of Circuit Court. If it is a guilty judgment, the judge, when entering the written judgment, must:

- Cause the defendant's fingerprints to be taken and affixed below the judge's signature on the judgment.
- Sign a certificate that is appended beneath the fingerprints which indicates that the judge witnessed the taking of the defendant's fingerprints.⁵

For a judgment of guilty for a felony, the judge must also cause the defendant's social security number to be taken and affixed to the judgment at the time the judgment is entered. If the defendant is unable or unwilling to provide his or her social security number, the reason for its absence shall be indicated on the judgment.⁶

A written judgment of guilty is admissible in this state's courts as prima facie evidence that the fingerprints affixed to the judgment are those of the defendant.⁷

The bill amends the above-described provisions to:

- Authorize electronic fingerprinting and judgments as an alternative to manual fingerprinting and written judgments; thus, allowing courts to use either process.
- Require the judge for an electronic judgment of guilty to certify that the digital fingerprint record associated with a specified transaction control number⁸ (TCN) contains the defendant's fingerprints that were electronically captured from the defendant in the judge's presence.
- Specify that an electronic judgment of guilty or a certified copy thereof constitutes prima facie evidence that the digital fingerprint record associated with the TCN specified in the judge's certificate contains the fingerprints of the defendant against whom the judgment of guilty was rendered
- Make other conforming changes to recognize the authorization of the electronic fingerprinting and judgment process.

III. **ANTICIPATED JUDICIAL OR COURT WORKLOAD IMPACT:** The use of an electronic fingerprinting and judgment process may reduce court system workload to the extent that it is less time consuming to create and maintain electronic criminal fingerprints and judgments.

² s. 812.014(3)(d), F.S.

³ s. 921.242, F.S.

⁴ s. 921.241, F.S.

⁵ ss. 812.014(3)(d)1., 921.241(2), and 921.242(1), F.S.

⁶ s. 921.241(4), F.S.

⁷ ss. 812.014(3)(d)2., 921.241(3), and 921.242(2), F.S.

⁸ The bill defines "transaction control number" to mean "the unique identifier comprised of numbers, letters, or other symbols for a digital fingerprint record which is generated by the device used to electronically capture the fingerprints."

IV. **IMPACT TO COURT RULES/JURY INSTRUCTIONS:** Fla. R. Crim. P. 3.670 and 3.986 will need to be amended to recognize the electronic fingerprinting and judgment process authorized by the bill.

V. **ESTIMATED FISCAL IMPACTS ON THE JUDICIARY:**

A. **Revenues:** None.

B. **Expenditures:** The bill is discretionary; thus, there is no mandatory fiscal impact. Circuits that wish to implement an electronic fingerprinting and judgment process will need to procure electronic Live Scan fingerprinting technology. As discussed above, four circuits are currently seeking federal grant funding for the acquisition of such technology.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3.25.19

Meeting Date

1186

Bill Number (if applicable)

Topic Criminal Judgments

Amendment Barcode (if applicable)

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

Representing Florida Smart Justice Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

APPEARANCE RECORD

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

3/25/19

Meeting Date

1186

Bill Number (if applicable)

Topic Criminal Judgments

Amendment Barcode (if applicable)

Name Sarah Naf BiehlJob Title Chief of Legislative AffairsAddress 500 S. Duval St.

Street

Phone 850-922-5692Tallahassee

City

FL

State

32399

Zip

Email nafs@flcourts.orgSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing State Courts SystemAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

COMMITTEES:

Ethics and Elections, *Chair*
Appropriations Subcommittee on Education
Education
Finance and Tax
Health Policy
Judiciary

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR DENNIS BAXLEY

12th District

March 8, 2019

The Honorable Chairman Keith Perry
316 Senate Office Building
Tallahassee, FL 32399

Dear Chairman Perry,

I would like to request SB 1186 Criminal Judgements be heard in your next Criminal Justice committee meeting.

This bill gives a judge the option to use an electronic record to enter a judgment of guilty or not guilty in a case of petit theft or any felony or to enter the judgment in a written record as under current law. The bill affords a judge this same option for entering a judgment of guilt for a crime relating to prostitution. In a case involving any of these three categories of crimes, current law requires a guilty defendant's fingerprints to be taken and included with the judgment. The bill permits a court that is entering one of these judgments electronically to also electronically take and enter the defendant's fingerprints. Current law also requires these judgments to include the judge's certification that the fingerprints are authentic. As to electronically captured fingerprints, the bill requires a similar certification, which must also include a "transaction control number."

Finally, the bill specifies that the electronic judgements authorized in the bill are admissible in the courts of this state as prima facie evidence that the fingerprints are those of the defendant against whom the judgment was entered.

I appreciate your favorable consideration.

Onward & Upward,



Senator Dennis Baxley
Senate District 12

DKB/dd

cc: Lauren Jones, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012

Email: baxley.dennis@flsenate.gov

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 Committee on Criminal Justice

BILL: SB 1612

INTRODUCER: Senator Baxley

SUBJECT: Prison Industry Programs

DATE: March 22, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cox	Jones	CJ	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 1612 amends s. 287.095, F.S., repealing a legislatively imposed cap on the amount of non-inmate made goods that may be provided by the Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE Enterprises) to its customers. The current cap for non-inmate made products is no more than two percent of total sales of the corporation. The PRIDE Enterprises reports that this will allow it to provide certain items complimentary to its customers that are customary for the specified industry.

The bill does not appear to have an impact on government revenues since the PRIDE Enterprises does not receive state funding or contribute to state revenues. However, the ability to provide such customary products free of charge without the additional costs of having to maintain and audit records to verify compliance with the two percent cap will likely result in a positive fiscal impact on the PRIDE Enterprises.

The bill is effective July 1, 2019.

II. Present Situation:

The PRIDE Enterprises - Background

The PRIDE Enterprises was incorporated in December 1981 and was formally established by the Legislature in 1983 to act as a private not-for-profit corporation¹ operating correctional work programs in Florida's prisons.² The final transfer of correctional work programs was completed

¹ Section 946.503(1), F.S., defines "corporation" for this chapter to mean the private nonprofit corporation established pursuant to s. 946.504(1), F.S., or a private nonprofit corporation whose sole member is the private nonprofit corporation established pursuant to s. 946.504(1), F.S., and at least 51 percent of the board of which contains members of the board of directors of the private nonprofit corporation established pursuant to s. 946.504(1), F.S., to carry out this part.

² Sections 946.501 and 946.502, F.S.; Ch. 83-209, L.O.F.

in July 1984.³ The PRIDE Enterprises does not receive funding from the Legislature and is supported by the earnings that it generates from the sale of its products and services.⁴

A correctional work program is defined to mean any program presently a part of the prison industries program operated by the Department of Corrections (DOC) or any other correctional work program carried on at any state correctional facility presently or in the future.⁵ The DOC is required to lease buildings and land to the PRIDE Enterprises to operate these correctional work programs.⁶

The PRIDE Enterprises currently operates 35 different work programs in 21 prison correctional facilities.⁷ These programs serve an average of 3,000 inmates a year, including 3,117 inmates in 2017.⁸ The inmates of these programs produce over 3,000 unique products, such as janitorial products, metal products, seating, and office and detention furniture.⁹ The PRIDE Enterprises manufactures and sells products to all levels of government as well as nonstate and private entities.¹⁰

The PRIDE Enterprises reports that it provides a number of “pass through” items to its clients at a small mark-up that it ships with the products that the PRIDE Enterprises produces. This allows the PRIDE Enterprises to serve as a single source for its customers. The PRIDE Enterprises reports that the two percent cap restricts them from being able to pass through these customary items in an amount that it would prefer.¹¹

Cap on Non-Inmate Made Goods

Section 287.095, F.S., provides, in part, that all products offered for purchase to a state agency by the PRIDE Enterprises must be produced primarily by inmate labor. The PRIDE Enterprises is able to provide products that are not made by inmates when the products are contractually allied to products made by inmates which are offered by the corporation. However, the PRIDE Enterprises may not offer these non-inmate made products in an amount that exceeds two percent of the total sales of the corporation in any year.¹²

³ The PRIDE Enterprises, *Annual Report 2017*, p. 29, available at https://www.pride-enterprises.org/Themes/PrideDefault/MediaContent/About/2017%20Annual%20Report/2017_Annual_Report.pdf (last visited March 17, 2019)(hereinafter cited as “Annual Report”).

⁴ *Id.*

⁵ Section 946.503(2), F.S. However, the term does not include any program authorized by s. 945.091, F.S. (extension of the limits on confinement, specifically work release), or s. 946.40, F.S. (use of prisoners in public works).

⁶ Section 946.504, F.S.

⁷ The PRIDE Enterprises, *Company Overview*, available at <https://www.pride-enterprises.org/content.aspx?page=CompanyOverview>; See also The PRIDE Enterprises, *PRIDE locations*, February 2, 2019, available at <https://www.pride-enterprises.org/content.aspx?page=Locations> (all sites last visited on March 17, 2019).

⁸ Annual Report, p. 19.

⁹ The PRIDE Enterprises, *PRIDE Enterprises Company Profile*, January 2019 (on file with the Senate Criminal Justice Committee).

¹⁰ Annual Report, p. 23.

¹¹ The PRIDE Enterprises, *SB 1612, HB 6055 Prison Industry Programs Repealer Bill, Explanation of Repealer Bill* (on file with the Senate Criminal Justice Committee).

¹² Section 287.095(3), F.S.

Prison Industry Enhancement Program

The Prison Industry Enhancement Program (PIE) allows for inmate-produced goods to enter into interstate commerce if produced under a Prison Industry Enhancement Certification Program (PIECP)¹³ designated authority.¹⁴ The PRIDE Enterprises is the PIECP certificate holder for the state of Florida, which allows inmates assigned to these PRIDE Enterprise industries to have the opportunity to earn wages comparable to those paid to free-world workers in the locality of the prison industry. As proscribed by law and discussed below, authorized deductions from wages are required and give inmates the opportunity to pay restitution to victims and to provide support for their families.¹⁵

The PRIDE Enterprises is authorized to operate or contract with the private sector for substantial involvement in a PIE program that includes, but is not limited to, contracts for the operation of a direct private sector business within a prison and the hiring of inmates. Any contract authorized must be in compliance with federal law governing inmate work programs and must not result in the significant displacement of employed workers in the community.¹⁶

The PRIDE Enterprises is authorized to deposit and withdraw funds from the Prison Industries Trust Fund (Trust Fund). Deposits to the fund are generated through a 50 percent withholding on all PIE inmate wages.¹⁷ The Trust Fund must consist of moneys authorized to be deducted pursuant to 18 U.S.C. s. 1761(c), U.S.C., and the applicable federal guidelines, to be appropriated by the Legislature, and moneys deposited by the PRIDE Enterprises to manage and operate correctional work programs.¹⁸

The appropriated funds must be used by the PRIDE Enterprises for purposes of construction or renovation of its facilities or for the expansion or establishment of correctional work programs or for PIE programs.¹⁹ Further, the funds must be deposited in the State Treasury and may only be paid out on warrants drawn by the Chief Financial Officer upon receipt of an authorized corporate resolution. The PRIDE Enterprises is required to maintain all necessary records and accounts relative to such funds.²⁰ Any balance in the trust fund at the end of any fiscal year must

¹³ The Bureau of Justice Assistance provides that the PIECP is “an effective inmate employment program that enables prisoners to repay their debt to society, reduce incarceration costs, and prepare for release with improved work prospects. In the process, PIECP supports victims’ families, decreases recidivism, generates products and tax income for local economies, and uses free-market principles and private-sector participation to improve efficiency in the corrections industry.” See Bureau of Justice Assistance, *PIECP Program Brief*, August 2018, available at https://www.bja.gov/Publications/PIECP-Program-Brief_2018.pdf (last visited on March 17, 2019).

¹⁴ U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, Program Brief, p. 1, March 2004, available at <https://www.ncjrs.gov/pdffiles1/bja/203483.pdf>; See also The PRIDE Enterprises, *Governing Laws*, available at <https://www.pride-enterprises.org/content.aspx?page=GoverningLaws#StatutoryMissions> (all sites last visited on March 17, 2019).

¹⁵ *Id.* In 2018, inmate workers contributed over \$112,000 to the State Crime Compensation Fund and paid over \$110,000 toward court-ordered restitution and family support.

¹⁶ Section 946.523(1), F.S.

¹⁷ The PRIDE Enterprises, *Governing Laws*, available at <https://www.pride-enterprises.org/content.aspx?page=GoverningLaws#StatutoryMissions> (last visited on March 17, 2019).

¹⁸ Section 946.522(1), F.S.

¹⁹ Such programs are authorized under s. 946.523, F.S.

²⁰ Section 946.522(2), F.S.

remain in the trust fund at the end of that year and will be available for carrying out the purposes of the trust fund.²¹

Other Statutory Requirements Placed on the PRIDE Enterprises

An inmate may be employed by the PRIDE Enterprises or by any other private entity operating on the grounds of a correctional institution during the last 24 months of the inmate's imprisonment.²² The PRIDE Enterprises is required to establish a compensation plan that provides for a specific amount to be paid to the DOC to be credited to an account for an inmate performing labor and a portion to be used to make any court-ordered payments, including restitution to the victim. Additionally, a specific amount must be paid to the Trust Fund.²³

III. Effect of Proposed Changes:

The bill amends s. 287.095, F.S., repealing the restriction that the PRIDE Enterprises is not able to provide non-inmate made goods to its customers in an amount that is more than two percent of the total corporation sales.

The removal of this cap will allow the PRIDE Enterprises to provide non-inmate made products to its customers in any amount and will remove the requirement for the PRIDE Enterprises to have to perform an audit to show compliance with this provision. The PRIDE Enterprises reports that this will allow it to provide certain items to its customers that are customary for the specified industry.²⁴

The bill is effective July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

²¹ Section 946.522(3), F.S.

²² Section 946.513(1), F.S.

²³ Section 946.512, F.S.

²⁴ *Supra*, n. 11.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill removes the statutorily imposed cap for the percentage of overall non-inmate goods which will allow the PRIDE Enterprises to provide such customary products free of charge without the additional costs of having to maintain and audit records to verify compliance. This will likely result in a positive fiscal impact on the PRIDE Enterprises.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 287.095 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.

By Senator Baxley

12-01309-19

20191612__

A bill to be entitled

An act relating to prison industry programs; amending
s. 287.095, F.S.; removing provisions that provide a
limitation on the total sales by a specified
corporation of certain products offered for purchase
to a state agency; providing an effective date.

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

Section 1. Subsection (3) of section 287.095, Florida
Statutes, is amended to read:

287.095 Department of Corrections; prison industry
programs.—

(3) All products offered for purchase to a state agency by
the corporation organized under chapter 946 shall be produced in
majority part by inmate labor, except for products not made by
inmates which products are contractually allied to products made
by inmates which are offered by the corporation, ~~provided the
value of the products not made by inmates do not exceed 2
percent of the total sales of the corporation in any year.~~

Section 2. This act shall take effect July 1, 2019.



PRIDE Enterprises Company Profile

ABOUT PRIDE ENTERPRISES

Prison Rehabilitative Industries and Diversified Enterprises, Inc. (d/b/a PRIDE Enterprises) is a private, not-for-profit (501 (c) 3) corporation created by the Florida Legislature in 1981. PRIDE is a self-funded organization statutorily designated to operate Florida's prison industries. More than 3,000 unique products and services are produced and delivered by PRIDE's 35 diverse inmate work programs which are located in 20 Florida correctional facilities.

ORGANIZATION

The 11 members of the PRIDE Enterprises Board of Directors are appointed by the Governor and confirmed by the Senate. PRIDE has approximately 200 staff members and trains over 3,000 inmates annually. The company is comprised of 6 distinct business units: Land Management, Sewn Products, Graphics/Digital, Services, General Manufacturing, and Specialty Manufacturing.

COMMUNITY CONTRIBUTIONS

PRIDE Enterprises trains inmates in real-world job skills in many diverse fields with a focus on external certifications such as: welding, forklift training, culinary, carpentry, dental and optical lab, engineering, software development, customer service, and manufacturing. These programs, which include 400+ vocational job titles, have been developed to assist the offenders in their successful transition into the job market upon completion of their sentences. Re-entry programs lower the number of repeat offenders and reduce criminal justice costs for all citizens.

PRIDE also serves the community through its statutory missions of serving the Department of Corrections' security goals by preventing inmate idleness; reducing the cost of state government; simulating a real-world working environment; and providing work training programs and post release job placement.

MANUFACTURING CAPABILITIES & SERVICES

Products: • Seating, Panel Systems, Office and Detention Furniture • Corrugated Boxes & Packaging Products • Indoor and Outdoor Signage • Bedding Products • Uniforms and Specialty Apparel • Footwear • Embroidery/Screen Printing • Traffic Paint • Lumber and Outdoor Furniture Products • Metal Products • Janitorial Products and Services • Specialty & Custom Products • Warehousing • Graphics/Printing • Cattle & Citrus • Meat Processing

Services: • Digital Imaging/Storage • Mailing • Optical Lab • Dental Lab • Tire Retread • Heavy Vehicle Conversions, Repair & Renovation.

VALUE ADDED SERVICES

Contract Manufacturing: • Product/Process Engineering • Manufacturing Expertise • Contract Management
• Marketing & Message Communication • Digital Asset Management

Product Expert Professionals: • Technologically Knowledgeable • Quality Driven • ISO 9000 Certified

Centralized Customer Service: • Local Service Representatives • Web-based Purchasing • Industry- specific expertise
• Customer specific website

Partnerships: • Strategic Relationships • Innovative Solutions

Vocational Training and Job Placement

QUALIFICATIONS

Qualifications: • 38 years of manufacturing experience • Demonstrated ability to process complex large volume orders or small custom jobs. • On-site customer service • Professional staff includes engineers, designers, IT professionals, manufacturing experts and technical specialists.

January, 2019

SB 1612 Senator Baxley
HB 6055 Representative Plakon
Prison Industry Programs Repealer Bill

Explanation of Repealer bill

PRIDE does a "pass through" of hundreds of items that are complimentary to the products that PRIDE produces, and functions in many ways like many other businesses where customers want to have a single source to meet their needs.

Two examples:

(1) Janitorial and cleaning supplies. Items that are complimentary to the janitorial and cleaning supplies, are plastic bags, mops, trash containers, floor mats, paper towels, and the like that PRIDE purchases and inventories to accommodate PRIDE's customers.

PRIDE ships those purchased items along with the items that PRIDE manufactures, i.e. floor cleaning products, floor waxes, strippers, degreasers, hand soap, glass cleaners and the like. PRIDE has a small mark-up on these products, but they are shipped together, with the main product which is the janitorial and cleaning supplies to government and other companies that use janitorial and cleaning supplies.

(2) Modular furniture. PRIDE purchases the wiring and the overhead lights that go underneath cabinets which are attached to the modular furniture. PRIDE builds all the modular furniture at its plant using inmate labor, but cannot manufacture the complimentary wires or lighting or lighting fixtures which are essential to marketing modular furniture, due to the certification requirements of such products.

The 2% restriction hampers the ability to "pass through" these products, which are for the convenience of the customer. The 2% was put into the law in the late 1980's, and the types of business needs have changed.

Any push back that PRIDE is competing with private enterprise is not accurate, because PRIDE cannot manufacture lights and wiring or other products such as mops, brooms, etc. at the same location. All other companies that do janitorial and cleaning supplies and make modular furniture have substantially the same business model that PRIDE does on both product lines.

THE FLORIDA SENATE

COMMITTEES:

Ethics and Elections, *Chair*
Appropriations Subcommittee on Education
Education
Finance and Tax
Health Policy
Judiciary

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR DENNIS BAXLEY

12th District

March 15, 2019

The Honorable Chairman Keith Perry
316 Senate Office Building
Tallahassee, FL 32399

Dear Chairman Perry,

I would like to request SB 1612 Prison Industry Program be heard in the next Criminal Justice Committee meeting.

This bill removes the 2% restriction that hampers PRIDE the ability to "pass through" products which are for the convenience of the customer. The 2% requirement was put into law in the late 1980's and the types of business needs have changed since then.

PRIDE builds modular furniture at its plant using inmate labor, but cannot manufacture the lighting and wires due to the certification requirements of such products. However, wiring and lighting products are essential to marketing of the modular furniture. Same is the case for the janitorial and cleaning supplies, there are plastic bags, mops, trash containers, floor mats, paper towels and the like that PRIDE purchases to accommodate their customer's needs to accompany the floor cleaning products, floor waxes, and the like.

I appreciate your favorable consideration.

Onward & Upward,



Senator Dennis Baxley
Senate District 12

DKB/dd

cc: Lauren Jones, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012

Email: baxley.dennis@flsenate.gov

Bill Galvano
President of the Senate

David Simmons
President Pro Tempore

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 Committee on Criminal Justice

BILL: CS/SB 1796

INTRODUCER: Criminal Justice Committee and Senator Perry

SUBJECT: Public Records/Commissioners and Commission Investigators/School Administrators

DATE: March 25, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Jones	CJ	Fav/CS
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1796 creates two new exemptions from public records requirements in s. 119.071(4)(d)2., F.S.

The first exemption makes exempt the personal and location information related to current and former commissioners and investigators of the Florida Commission on Offender Review (FCOR). The exemption is based upon a public necessity statement that explains the nature of the FCOR's work and the possibility that because of the effect of decisions made and actions taken by commissioners and investigators, harm may come to them or their families. The exemption does not appear to be broader than necessary to accomplish the purpose of the law because the information exempted is limited in type and scope.

The second exemption created by the bill makes exempt the personal and location information related to school administrators. This exemption appears to be no broader than necessary to accomplish its purpose because the information exempted is limited and only relates to school administrators, their spouses, and children. The exemption is based on a statement of public necessity that explains the nature of the authority, decisions, and actions the job of a school administrator entails, and the potential that harm might come to the administrator or his or her spouse and children because of the contentious action of a disgruntled student, parent, or school employee.

The bill provides a statement of public necessity as required.

The bill requires a two-thirds vote of the members present and voting for final passage.

The bill stands repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill is effective upon becoming a law.

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

“any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁷

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

Only the Legislature may create an exemption to public records requirements.¹⁰ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹¹ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹² and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹³

When creating or expanding a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹⁴ Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature or pursuant to a court order. Records designated as ‘exempt’ may be released at the discretion of the records custodian under certain circumstances.¹⁵

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁸ The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.¹⁹

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ *Id.*

¹² The bill may, however, contain multiple exemptions that relate to one subject.

¹³ FLA. CONST., art. I, s. 24(c).

¹⁴ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The Sch. Bd. of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

¹⁷ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

Current Law

Agency and Government Personnel Exemptions

Section 119.071(4)(d)2.a.-t., F.S., contains public records exemptions related to agency and government personnel, both current and former. These exemptions include, but are not limited to:

- Home addresses;
- Telephone numbers;
- Dates of birth; and
- Photographs.²⁰

The exemptions generally include the same information related to the spouse and children, including the names and locations of schools and day care facilities attended by the children and the spouse's place of employment.²¹

Florida Commission on Offender Review

The Florida Commission on Offender Review (FCOR) is authorized by Article IV, section 8(c), State Constitution of 1968²² and s. 20.32, F.S.²³ It was formerly known as the Parole Commission.²⁴

The duties of the FCOR are the administration of parole, conditional release, conditional medical release, control release, and addiction recovery supervision.²⁵ As such, the commissioners have authority affecting the placement or retention of inmates in certain programs or opportunities for release from prison that may be available to the inmate. These consist of the following programs:

- *Parole* is a discretionary prison release, which allows an inmate who has been granted parole to serve the remainder of his or her prison sentence outside of the confines of the prison. Once released, the parolee is subject to strict conditions of supervision set by the FCOR. If a parolee is found to have violated the terms and conditions of his or her supervision, the FCOR may return the parolee to prison. As of June 30, 2018, there were 4,275 inmates who

²⁰ Section 119.071(4)(d)2.a.-t., F.S.

²¹ See for example, s. 119.071(4)(d)2.k., F.S., which makes exempt from public records requirements the home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.820, F.S.; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons.

²² There may be created by law a parole and probation commission with power to supervise persons on probation and to grant paroles or conditional releases to persons under sentences for crime. The qualifications, method of selection and terms, not to exceed six years, of members of the commission shall be prescribed by law. FLA. CONST., art. IV, s. 8(c) (1968).

²³ The commission retains its powers, duties, and functions with respect to the granting and revoking of parole and shall exercise powers, duties, and functions relating to investigations of applications for clemency as directed by the Governor and Cabinet. Section 20.32(1), F.S.

²⁴ *Id.*

²⁵ Sections 947.16, 947.1405, 947.149, 947.146, and 944.7431, F.S.

were eligible for parole and 448 releasees on parole supervision. In FY 2017-18, the FCOR made 1,499 parole determinations and granted parole to 14 inmates.²⁶

- *Conditional Release* is a non-discretionary release program and requires mandatory post-prison supervision for inmates who are sentenced for certain violent crimes and who have served a prior felony commitment at a state or federal correctional institution, or who are sentenced as habitual offenders, violent habitual offenders, violent career criminals, or designated sexual predators. The FCOR conducts revocation hearings when alleged violations are reported. If a conditional releasee is found to have violated the conditions of supervision, the FCOR may return the offender to prison. As of June 30, 2018, there were 2,936 releasees on conditional release supervision.²⁷
- *Conditional Medical Release* is discretionary release of an inmate recommended by the Department of Corrections, and accepted for supervision by the FCOR. Conditional medical release is available for inmates who are permanently incapacitated or terminally ill. This supervision can be revoked, and the offender returned to prison if the FCOR determines that a violation of the terms of supervision has occurred. Also, the FCOR may return the offender to custody if his or her medical or physical condition improves.²⁸
- *Control Release* was created by the Legislature in 1989 as a prison over-population management tool. The program is not currently operational, however the FCOR reports that it is supervising a small number of control releasees. As with the other supervision programs under the FCOR's authority, violations of supervision can result in an offender's return to prison.²⁹
- *Addiction Recovery Supervision* requires mandatory post-prison supervision for offenders released from a state correctional facility who are convicted of a crime committed on or after July 1, 2001, and have a history of substance abuse or addiction or have participated in any drug treatment, and have not been convicted of a disqualifying offense. If an offender is found to have violated the terms of supervision, the FCOR may return he or she to prison. During FY 2017-18, 1,046 offenders were placed in the program. As of June 30, 2018, there were 245 offenders on addiction recovery supervision.³⁰

The FCOR also acts as the investigative arm of the Governor and Cabinet, sitting as the Board of Executive Clemency (Clemency Board), in clemency matters.³¹ The forms of clemency include:

²⁶ Florida Commission on Offender Review, *2018 Annual Report*, available at <https://www.fcor.state.fl.us/docs/reports/Annual%20Report%202018%20WEB.pdf> (last viewed March 20, 2019). Section 947.16, F.S.

²⁷ Florida Commission on Offender Review, *2018 Annual Report*, available at <https://www.fcor.state.fl.us/docs/reports/Annual%20Report%202018%20WEB.pdf> (last viewed March 20, 2019). Section 947.1405, F.S.

²⁸ Florida Commission on Offender Review, *2018 Annual Report*, available at <https://www.fcor.state.fl.us/docs/reports/Annual%20Report%202018%20WEB.pdf> (last viewed March 20, 2019). Section 947.149, F.S.

²⁹ Florida Commission on Offender Review, *2018 Annual Report*, available at <https://www.fcor.state.fl.us/docs/reports/Annual%20Report%202018%20WEB.pdf> (last viewed March 20, 2019). Section 947.146, F.S.

³⁰ Florida Commission on Offender Review, *2018 Annual Report*, available at <https://www.fcor.state.fl.us/docs/reports/Annual%20Report%202018%20WEB.pdf> (last viewed March 20, 2019). Section 944.7431, F.S.

³¹ Section 947.13(e), F.S. Under the Rules of Executive Clemency, the FCOR may be tasked with reviewing or investigating clemency applications, and the FCOR may hold hearings in certain cases and make recommendations to the Clemency Board

full pardon; pardon without firearm authority; pardon for misdemeanor; commutation of sentence; remission of fines and forfeitures; specific authority to own, possess, or use firearms; restoration of civil rights; restoration of alien status under Florida law; and capital case (death penalty) reviews.³²

Every application which meets the requirements of the Rules of Executive Clemency may be referred to the FCOR for an investigation, report, and recommendation.³³ In commutation of sentence cases where a person is granted a Request for Review by the Governor and at least one member of the Clemency Board, the Clemency Coordinator may refer the case to the FCOR for a full investigation.³⁴

In FY 2017-18 the FCOR received 5,381 applications from offenders seeking clemency and 5,639 clemency cases were completed.³⁵ The FCOR reports that as of June 30, 2018 there were 22,746 pending applications.³⁶

School Administrators

School administrators have responsibility for and authority over school personnel and students associated with the administrator's school. The administrators' decisions, particularly those related to personnel standards issues and student discipline, can have a negative effect on personnel, students, or parents.

School administrators are defined as:

- School principals or school directors who are staff members performing the assigned activities as the administrative head of a school and to whom have been delegated responsibility for the coordination and administrative direction of the instructional and noninstructional activities of the school. This classification also includes career center directors.
- Assistant principals who are staff members assisting the administrative head of the school. This classification also includes assistant principals for curriculum and administration.³⁷

The school principal or director, and assistant principal as his or her duties are assigned, are responsible for supervising personnel, providing instructional leadership, and school administration and budgeting.³⁸

to consider in making its clemency decisions. Rules of Executive Clemency available at https://www.fcor.state.fl.us/docs/clemency/clemency_rules.pdf (last viewed March 19, 2019).

³² Florida Commission on Offender Review, *2018 Annual Report*, available at <https://www.fcor.state.fl.us/docs/reports/Annual%20Report%202018%20WEB.pdf> (last viewed March 20, 2019); Rules of Executive Clemency, available at https://www.fcor.state.fl.us/docs/clemency/clemency_rules.pdf (last viewed March 20, 2019).

³³ Rule 7, Rules of Executive Clemency, available at https://www.fcor.state.fl.us/docs/clemency/clemency_rules.pdf (last viewed March 20, 2019).

³⁴ Rule 8. B., Rules of Executive Clemency, available at https://www.fcor.state.fl.us/docs/clemency/clemency_rules.pdf (last viewed March 20, 2019).

³⁵ Florida Commission on Offender Review, *2018 Annual Report*, available at <https://www.fcor.state.fl.us/docs/reports/Annual%20Report%202018%20WEB.pdf> (last viewed March 20, 2019).

³⁶ *Id.*

³⁷ Section 1012.01(3)(c), F.S.

³⁸ Section 1012.28, F.S.

Although the school district superintendent may transfer instructional personnel throughout the district, school principals or directors have statutory authority to refuse to accept the placement or transfer of instructional personnel.³⁹

The school principal or director is generally in charge of discipline at his or her assigned school. The principal approves and prepares guidelines for the use of corporal punishment, according to school board policy.⁴⁰

Additionally, the principal may place a student who has been removed from the classroom by a teacher for disciplinary reasons in another appropriate classroom, in in-school suspension, or in a dropout prevention and academic intervention program or the principal may recommend the student for out-of-school suspension or expulsion, as appropriate. The student may be prohibited from attending or participating in school-sponsored or school-related activities as well.⁴¹

III. Effect of Proposed Changes:

Florida Commission on Offender Review

The bill amends s. 119.071(4)(d)2., F.S., to make exempt from public records requirements the home addresses, telephone numbers, dates of birth, and photographs of current or former commissioners or investigators of the FCOR, and their spouses and children. Spouses and children's names and places of employment, and children's schools and day care facilities are also made exempt by the bill.

A statement of public necessity related to this exemption appears in Section 2 of the bill. It states, in part, that the Legislature finds that the release of the personal and location information made exempt by the bill might place the current or former commissioners or investigators of the FCOR, their spouses and children in danger of physical and emotional harm from disgruntled persons who react contentiously to actions taken by FCOR personnel.

School Administrators

The bill amends s. 119.071(4)(d)2., F.S., to make exempt from public records requirements the home addresses, telephone numbers, and dates of birth, of school administrators as described in s. 1012.01(3)(c), F.S. Also made exempt are the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of school administrators and their children's schools and day care facilities.

Section 2 of the bill contains a statement of public necessity related to this exemption. It lists the many ways the efforts of school administrators may affect students, parents, and personnel in adverse ways. Therefore, the Legislature finds that the release of the personal identifying information and location information made exempt by the bill might place these school

³⁹ A principal may refuse to accept the placement or transfer of instructional personnel by the district school superintendent to his or her school unless the instructional personnel has a performance rating of effective or highly effective under s. 1012.34, F.S. Section 1012.28(6), F.S.

⁴⁰ Section 1003.32, F.S.

⁴¹ *Id.*

administrators and their families in danger of harm from disgruntled persons who react contentiously to actions taken by school administrators.

The exemptions from public records requirements provided in the bill are repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for the home addresses, telephone numbers, dates of birth, and photographs of current or former commissioners or investigators of the FCOR, and their spouses and children. Spouse's and children's names and places of employment, and children's schools and day care facilities are also made exempt by the bill.

Additionally, the bill enacts a new exemption for the home addresses, telephone numbers, and dates of birth, of school administrators as described in s. 1012.01(3)(c), F.S. Also made exempt are the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of school administrators and their children's schools and day care facilities.

Thus, the bill requires a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemptions created by the bill.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. One purpose of the law is to protect current and former commissioners and investigators of the FCOR, their spouses, and children from potential harm by disgruntled persons who react contentiously to actions taken by FCOR personnel. This bill exempts only the home addresses, telephone numbers, dates of birth, and photographs of current or former

commissioners or investigators of the FCOR, and their spouses and children. Additionally, their spouse's and children's names and places of employment, and children's schools and day care facilities are exempted from the public records requirements. This exemption does not appear to be broader than necessary to accomplish the purpose of the law.

The other purpose of the law is to protect school administrators and their families from danger of harm from disgruntled persons who react contentiously to actions taken by school administrators. This bill exempts only the home addresses, telephone numbers, and dates of birth, of school administrators as described in s. 1012.01(3)(c), F.S. Also made exempt are the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of school administrators and their children's schools and day care facilities. This exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None reported.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.071 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.)

CS by Criminal Justice on March 25, 2019

The committee substitute changes the term Commission on Offender Review to *Florida* Commission on Offender Review to be consistent with the title of the commission in current law.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2019	.	
	.	
	.	
	.	

The Committee on Criminal Justice (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete lines 321 - 376
and insert:
investigators of the Florida Commission on Offender Review; the
names, home addresses, telephone numbers, dates of birth,
photographs, and places of employment of the spouses and
children of such current or former commissioners and commission
investigators; and the names and locations of schools and day
care facilities attended by the children of such current or



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former commissioners and commission investigators are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature. v. The home addresses, telephone numbers, and dates of birth of school administrators as described in 1012.01(3)(c), the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of school administrators, and the names and locations of schools and day care facilities attended by the children of school administrators are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

3. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. shall maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written request for maintenance of the exemption to the custodial agency.

4. The exemptions in this paragraph apply to information held by an agency before, on, or after the effective date of the exemption.

Section 2. (1)(a) The Legislature finds that it is a public



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necessity to exempt from public records requirements the home addresses, telephone numbers, dates of birth, and photographs of current or former commissioners or commission investigators of the Florida Commission on Offender Review; the names, home addresses, telephone numbers, dates of birth, photographs, and places of employment of the spouses and children of such current or former commissioners and commission investigators; and the names and locations of schools and day care facilities attended by the children of such current or former commissioners and commission investigators.

(b) The efforts of commissioners and commission investigators can have a direct effect on which persons are placed on parole or released on conditional medical release; on the terms and conditions of those persons released on parole, conditional release, conditional medical release, or addiction recovery supervision; and on the determination of whether a releasee has violated the terms of his or her parole. The Legislature finds that the release of such personal identifying information and location information might place these personnel of the Florida Commission on Offender Review and their family members in

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

And the title is amended as follows:

Delete line 6

and insert:

investigators of the Florida Commission on Offender
Review and

By Senator Perry

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A bill to be entitled

An act relating to public records; amending s. 119.071, F.S.; providing an exemption from public records requirements for the personal identifying and location information of commissioners and commission investigators of the Commission on Offender Review and the names and personal identifying and location information of the spouses and children of such personnel; providing for future review and repeal of the exemption; providing an exemption from public records requirements for the personal identifying and location information of school administrators and the names and personal identifying and location information of the spouses and children of the school administrators; providing statements of public necessity; providing an effective date.

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

Section 1. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term "telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

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

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2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn or civilian law enforcement personnel, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care

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facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-

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subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15, and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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117 g. The home addresses, dates of birth, and telephone
 118 numbers of general magistrates, special magistrates, judges of
 119 compensation claims, administrative law judges of the Division
 120 of Administrative Hearings, and child support enforcement
 121 hearing officers; the names, home addresses, telephone numbers,
 122 dates of birth, and places of employment of the spouses and
 123 children of general magistrates, special magistrates, judges of
 124 compensation claims, administrative law judges of the Division
 125 of Administrative Hearings, and child support enforcement
 126 hearing officers; and the names and locations of schools and day
 127 care facilities attended by the children of general magistrates,
 128 special magistrates, judges of compensation claims,
 129 administrative law judges of the Division of Administrative
 130 Hearings, and child support enforcement hearing officers are
 131 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 132 Constitution. This sub-subparagraph is subject to the Open
 133 Government Sunset Review Act in accordance with s. 119.15 and
 134 shall stand repealed on October 2, 2022, unless reviewed and
 135 saved from repeal through reenactment by the Legislature.

136 h. The home addresses, telephone numbers, dates of birth,
 137 and photographs of current or former human resource, labor
 138 relations, or employee relations directors, assistant directors,
 139 managers, or assistant managers of any local government agency
 140 or water management district whose duties include hiring and
 141 firing employees, labor contract negotiation, administration, or
 142 other personnel-related duties; the names, home addresses,
 143 telephone numbers, dates of birth, and places of employment of
 144 the spouses and children of such personnel; and the names and
 145 locations of schools and day care facilities attended by the

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146 children of such personnel are exempt from s. 119.07(1) and s.
 147 24(a), Art. I of the State Constitution.

148 i. The home addresses, telephone numbers, dates of birth,
 149 and photographs of current or former code enforcement officers;
 150 the names, home addresses, telephone numbers, dates of birth,
 151 and places of employment of the spouses and children of such
 152 personnel; and the names and locations of schools and day care
 153 facilities attended by the children of such personnel are exempt
 154 from s. 119.07(1) and s. 24(a), Art. I of the State
 155 Constitution.

156 j. The home addresses, telephone numbers, places of
 157 employment, dates of birth, and photographs of current or former
 158 guardians ad litem, as defined in s. 39.820; the names, home
 159 addresses, telephone numbers, dates of birth, and places of
 160 employment of the spouses and children of such persons; and the
 161 names and locations of schools and day care facilities attended
 162 by the children of such persons are exempt from s. 119.07(1) and
 163 s. 24(a), Art. I of the State Constitution. This sub-
 164 subparagraph is subject to the Open Government Sunset Review Act
 165 in accordance with s. 119.15 and shall stand repealed on October
 166 2, 2022, unless reviewed and saved from repeal through
 167 reenactment by the Legislature.

168 k. The home addresses, telephone numbers, dates of birth,
 169 and photographs of current or former juvenile probation
 170 officers, juvenile probation supervisors, detention
 171 superintendents, assistant detention superintendents, juvenile
 172 justice detention officers I and II, juvenile justice detention
 173 officer supervisors, juvenile justice residential officers,
 174 juvenile justice residential officer supervisors I and II,

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175 juvenile justice counselors, juvenile justice counselor
 176 supervisors, human services counselor administrators, senior
 177 human services counselor administrators, rehabilitation
 178 therapists, and social services counselors of the Department of
 179 Juvenile Justice; the names, home addresses, telephone numbers,
 180 dates of birth, and places of employment of spouses and children
 181 of such personnel; and the names and locations of schools and
 182 day care facilities attended by the children of such personnel
 183 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 184 Constitution.

185 1. The home addresses, telephone numbers, dates of birth,
 186 and photographs of current or former public defenders, assistant
 187 public defenders, criminal conflict and civil regional counsel,
 188 and assistant criminal conflict and civil regional counsel; the
 189 names, home addresses, telephone numbers, dates of birth, and
 190 places of employment of the spouses and children of current or
 191 former public defenders, assistant public defenders, criminal
 192 conflict and civil regional counsel, and assistant criminal
 193 conflict and civil regional counsel; and the names and locations
 194 of schools and day care facilities attended by the children of
 195 current or former public defenders, assistant public defenders,
 196 criminal conflict and civil regional counsel, and assistant
 197 criminal conflict and civil regional counsel are exempt from s.
 198 119.07(1) and s. 24(a), Art. I of the State Constitution.

199 m. The home addresses, telephone numbers, dates of birth,
 200 and photographs of current or former investigators or inspectors
 201 of the Department of Business and Professional Regulation; the
 202 names, home addresses, telephone numbers, dates of birth, and
 203 places of employment of the spouses and children of such current

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204 or former investigators and inspectors; and the names and
 205 locations of schools and day care facilities attended by the
 206 children of such current or former investigators and inspectors
 207 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 208 Constitution. This sub-subparagraph is subject to the Open
 209 Government Sunset Review Act in accordance with s. 119.15 and
 210 shall stand repealed on October 2, 2022, unless reviewed and
 211 saved from repeal through reenactment by the Legislature.

212 n. The home addresses, telephone numbers, and dates of
 213 birth of county tax collectors; the names, home addresses,
 214 telephone numbers, dates of birth, and places of employment of
 215 the spouses and children of such tax collectors; and the names
 216 and locations of schools and day care facilities attended by the
 217 children of such tax collectors are exempt from s. 119.07(1) and
 218 s. 24(a), Art. I of the State Constitution. This sub-
 219 subparagraph is subject to the Open Government Sunset Review Act
 220 in accordance with s. 119.15 and shall stand repealed on October
 221 2, 2022, unless reviewed and saved from repeal through
 222 reenactment by the Legislature.

223 o. The home addresses, telephone numbers, dates of birth,
 224 and photographs of current or former personnel of the Department
 225 of Health whose duties include, or result in, the determination
 226 or adjudication of eligibility for social security disability
 227 benefits, the investigation or prosecution of complaints filed
 228 against health care practitioners, or the inspection of health
 229 care practitioners or health care facilities licensed by the
 230 Department of Health; the names, home addresses, telephone
 231 numbers, dates of birth, and places of employment of the spouses
 232 and children of such personnel; and the names and locations of

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schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties result in a determination of a person's skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such consultants or their employees; and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such emergency medical technicians or paramedics; and the names and locations of schools and day care facilities attended by the children of such emergency medical technicians or paramedics are

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exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

r. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation, or other activities that could lead to criminal prosecution or administrative discipline; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

s. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility; the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this

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sub-subparagraph, the term "addiction treatment facility" means a county government, or agency thereof, that is licensed pursuant to s. 397.401 and provides substance abuse prevention, intervention, or clinical treatment, including any licensed service component described in s. 397.311(26). This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

t. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets the standards of s. 39.3035(1) and fulfills the screening requirement of s. 39.3035(2), and the members of a child protection team as described in s. 39.303 whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case review team; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such personnel and members are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

u. The home addresses, telephone numbers, dates of birth,

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and photographs of current or former commissioners or commission investigators of the Commission on Offender Review; the names, home addresses, telephone numbers, dates of birth, photographs, and places of employment of the spouses and children of such current or former commissioners and commission investigators; and the names and locations of schools and day care facilities attended by the children of such current or former commissioners and commission investigators are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

v. The home addresses, telephone numbers, and dates of birth of school administrators as described in 1012.01(3)(c), the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of school administrators, and the names and locations of schools and day care facilities attended by the children of school administrators are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

3. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. shall maintain the exempt status of that

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information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written request for maintenance of the exemption to the custodial agency.

4. The exemptions in this paragraph apply to information held by an agency before, on, or after the effective date of the exemption.

Section 2. (1)(a) The Legislature finds that it is a public necessity to exempt from public records requirements the home addresses, telephone numbers, dates of birth, and photographs of current or former commissioners or commission investigators of the Commission on Offender Review; the names, home addresses, telephone numbers, dates of birth, photographs, and places of employment of the spouses and children of such current or former commissioners and commission investigators; and the names and locations of schools and day care facilities attended by the children of such current or former commissioners and commission investigators.

(b) The efforts of commissioners and commission investigators can have a direct effect on which persons are placed on parole or released on conditional medical release; on the terms and conditions of those persons released on parole, conditional release, conditional medical release, or addiction recovery supervision; and on the determination of whether a releasee has violated the terms of his or her parole. The Legislature finds that the release of such personal identifying information and location information might place these personnel of the Commission on Offender Review and their family members in danger of physical and emotional harm by disgruntled individuals

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who react contentiously to actions taken by such personnel. The Legislature further finds that the harm that may result from the release of such personal identifying and location information outweighs any public benefit that may be derived from the disclosure of such information.

(2)(a) The Legislature finds that it is a public necessity to exempt from public records requirements the home addresses, telephone numbers, and dates of birth of school administrators; the places of employment of the spouses and children of school administrators; and the names and locations of schools and day care facilities attended by the children of school administrators.

(b) School administrators are charged with making decisions related to the discipline, suspension, or expulsion of students; reporting the presence of illicit substances on campus; reporting attendance issues that may result in the suspension of a student's driving privileges; or sanctions against the parents of truant students. The efforts of school administrators affect the academic placement of students, their promotion between grades, and their graduation. Such efforts include the reporting of students' absences, incidents of misbehavior, and students' academic achievements to the district superintendent. The efforts of school administrators also affect the employment of school personnel and can result in the transfer or suspension of employees. The Legislature finds that the release of such personal identifying information and location information might place these school administrators and their family members in danger of physical and emotional harm by disgruntled individuals who react contentiously to actions taken by such personnel. The

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407 Legislature further finds that the harm that may result from the
408 release of such personal identifying and location information
409 outweighs any public benefit that may be derived from the
410 disclosure of such information.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

03/25/19

Meeting Date

1796

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Alec Yarger

Job Title Director of Legislative Affairs

Address 4070 Esplanade Way

Phone 850-921-2804

Street

Tallahasee

Florida

32399

Email alecyarger@fcor.state.fl.us

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Commission on Offender Review

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3.25.19

Meeting Date

1796

Bill Number (if applicable)

Topic Public Records/Commissioners & Commission Investigators

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tallahassee

FL

32308

Email barney@barneybishop.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Smart Justice Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/25/19

Meeting Date

1796

Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Michele White

Job Title Associate Executive Director

Address 206 B S. Monroe St.

Phone _____

Street

Tallahassee

City

FL

State

32301

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Criminal Justice Committee

Judge:

Started: 3/25/2019 1:31:39 PM

Ends: 3/25/2019 3:29:57 PM

Length: 01:58:19

1:31:38 PM Meeting called to order
1:32:12 PM Roll call
1:32:15 PM Tab 5- SB 1186 Criminal Judgements by Senator Baxley
1:33:34 PM Amendment Barcode 147294
1:34:35 PM Back on SB 1186 as amended
1:35:34 PM Roll call on SB 1186
1:36:12 PM Tab 6- SB 1612 Prison Industry Programs by Senator Baxley
1:36:54 PM Roll call on SB 1612
1:37:53 PM Tab 3- SB 610 Condominium Associations by Senator Pizzo
1:38:06 PM Amendment Barcode 265374
1:38:58 PM Back on SB 610 as amended
1:41:45 PM Speaker Mark Anderson from CEOs Managment Companies
1:44:33 PM Speaker Jordan Leonard from Miami-Dade County League of Cities
1:46:11 PM Speaker Travis Moore from Community Associations Institute
1:47:17 PM Close on SB 610
1:48:28 PM Roll call on SB 610
1:49:27 PM Tab 4- SB 1002 Motor Vehicles and Railroad Trains by Senator Hutson
1:49:53 PM Roll call SB 1002
1:50:48 PM Tab 7- SB 1796 Public Records by Senator Perry
1:51:18 PM Amendment Barcode 235690
1:51:45 PM Back on SB 1796 as amended
1:52:06 PM Roll call on SB 1796
1:52:43 PM Tab 1- Confirmation of Mark S. Inch to Secretary of Corrections
1:55:13 PM Roll call on the confirmation of Mark S Inch to Secretary of Corrections
1:56:12 PM Tab 2- SPB 7086 Voting Rights Restoration
1:56:25 PM Chair Perry explains the bill
2:05:21 PM Question from Senator Bracy regarding the difference between fines, fees, and restitution
2:07:16 PM Amendment Barcode 703932 by Senator Brandes and Senator Perry
2:09:31 PM Amendment to the Amendment, Barcode 309960 by Senator Brandes
2:10:43 PM Substitute Amendment to the Amendment 631578
2:14:08 PM Back on the Amendment to the Amendment, Barcode 309960
2:15:08 PM Amendment to the Amendment, Barcode 776780
2:16:26 PM Speaker Cecele Scoon from League of Women Voters Florida
2:26:33 PM Amendment to the Amendment, Barcode 783410
2:30:35 PM Back on Amendment Barcode 703932 as amended
2:31:37 PM Close on Amendment Barcode 703932
2:34:53 PM Back on SPB 7086 as amended
2:35:02 PM Speaker Kirk Bailey from the ACLU Florida
2:48:20 PM Speaker Kathleen Clark
2:52:51 PM Speaker Cecele Scoon from League of Women Voters FL
2:53:51 PM Speaker Mark Lazarus
3:02:02 PM Speaker Karen Leicht
3:09:17 PM Speaker Coral Nichols
3:11:45 PM Speaker Janet Wright from Faith in Florida
3:13:35 PM Speaker Ashely Thomas from Fines, Fees, Justice Centre
3:21:17 PM Speaker Shelli Eddie
3:26:51 PM Speakers waive in opposition
3:28:19 PM Roll call on SB 7086