

Tab 1 CS/SB 774 by CF, Bean; (Similar to CS/CS/H 00505) Dependency Proceedings							
875002	A	S	RCS	JU, Bean	Delete L.41 - 651:	02/21	11:28 AM

Tab 2 CS/SB 784 by BI, Brandes; (Similar to CS/CS/H 00465) Insurance							
720998	A	S	RCS	JU, Brandes	Delete L.138 - 149.	02/21	11:28 AM
753400	A	S	RCS	JU, Brandes	Delete L.275:	02/21	11:28 AM

Tab 3 CS/SB 1220 by CJ, Brandes; (Similar to H 00929) Custodial Interrogations							
350282	A	S	RS	JU, Brandes	Delete L.125:	02/21	11:28 AM
640902	SA	S	RCS	JU, Brandes	Delete L.125:	02/21	11:28 AM

Tab 4 CS/SB 1234 by ED, Baxley; (Compare to CS/CS/H 00909) Free Expression on Campus							
697298	D	S	RCS	JU, Baxley	Delete everything after	02/21	11:28 AM

Tab 5 SB 1236 by Baxley (CO-INTRODUCERS) Steube; (Identical to H 00621) School Safety							
338506	D	S		JU, Powell	Delete everything after	02/19	04:11 PM

Tab 6 CS/SB 1678 by CJ, Stargel; (Similar to CS/1ST ENG/H 07071) Criminal Justice							
504816	D	S	RCS	JU, Stargel	Delete everything after	02/21	11:28 AM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

JUDICIARY
Senator Steube, Chair
Senator Benacquisto, Vice Chair

MEETING DATE: Tuesday, February 20, 2018
TIME: 4:00—6:00 p.m.
PLACE: *Toni Jennings Committee Room, 110 Senate Office Building*

MEMBERS: Senator Steube, Chair; Senator Benacquisto, Vice Chair; Senators Bracy, Bradley, Flores, Garcia, Gibson, Mayfield, Powell, and Thurston

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 774 Children, Families, and Elder Affairs / Bean (Similar CS/CS/H 505, Compare CS/CS/H 1079)	Dependency Proceedings; Revising the types of information relating to the identity and location of a child's legal father that fall within the scope of a court inquiry at a shelter hearing or a hearing regarding a petition for termination of parental rights; providing for certain unmarried biological fathers to receive notice of dependency hearings under certain circumstances; requiring notice of a petition for termination of parental rights to be served on an unmarried biological father identified under oath or by a diligent search of the Florida Putative Father Registry under certain circumstances, etc. CF 01/22/2018 Fav/CS JU 02/20/2018 Fav/CS AP	Fav/CS Yeas 10 Nays 0
2	CS/SB 784 Banking and Insurance / Brandes (Similar CS/CS/H 465, Compare CS/CS/CS/H 1073, CS/CS/CS/S 1292)	Insurance; Providing that certain securities valuation limitations do not apply to certain stock of certain foreign insurers' subsidiary corporations or related entities; revising professional designations that exempt all-lines adjuster license applicants from an examination requirement; reducing the tax on surplus lines insurance; revising federal standards applicable to Department of Financial Services and Financial Services Commission rules governing the use of consumer nonpublic personal financial and health information, etc. BI 02/06/2018 Fav/CS JU 02/20/2018 Fav/CS AGG AP	Fav/CS Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Tuesday, February 20, 2018, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/SB 1220 Criminal Justice / Brandes (Similar H 929)	Custodial Interrogations; Requiring that a custodial interrogation at a place of detention be electronically recorded in its entirety in connection with certain offenses; requiring law enforcement officers who do not comply with the electronic recording requirement or who conduct custodial interrogations at a place other than a place of detention to prepare a specified report; providing immunity from civil liability to law enforcement agencies that enforce certain rules, etc. CJ 01/16/2018 Fav/CS JU 02/20/2018 Fav/CS RC	Fav/CS Yeas 10 Nays 0
4	CS/SB 1234 Education / Baxley (Similar CS/H 909)	Free Expression on Campus; Citing this act as the "Campus Free Expression Act"; authorizing a public institution of higher education to create and enforce certain restrictions relating to expressive activities on campus; providing for a cause of action against a public institution of higher education for violations of the act; requiring student government associations to provide specified information to recognized student organizations that request funding, etc. ED 02/06/2018 Fav/CS JU 02/20/2018 Temporarily Postponed	Temporarily Postponed
5	SB 1236 Baxley (Identical H 621)	School Safety; Providing an exception to a prohibition on possessing firearms or other specified devices on school property or other specified areas for authorized concealed weapon or firearm licensees who are designated by school principals or district school superintendents; requiring district school boards to formulate and prescribe policies and procedures for active shooter and hostage situations; requiring a district school superintendent to provide specified agencies with certain strategy and activity recommendations to improve school safety and security, etc. JU 02/20/2018 Temporarily Postponed ED RC	Temporarily Postponed

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Tuesday, February 20, 2018, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	CS/SB 1678 Criminal Justice / Stargel (Similar CS/H 7071, Compare CS/H 547)	Criminal Justice ; Requiring the Department of Corrections to include information in its annual report on inmate admission based on offense type and recidivism rate; requiring each pretrial release program to include in its annual report the types of criminal charges of defendants accepted into a pretrial release program, the number of defendants accepted into a pretrial release program who paid a bail or bond, the number of defendants accepted into a pretrial release program with no prior criminal conviction, and the number of defendants for whom a pretrial risk assessment tool was used or was not used; requiring the Department of Corrections to publish quarterly on its website inmate admissions based on offense type and the recidivism rate and rate of probation revocation within a specified period after release from incarceration, etc.	Fav/CS Yeas 10 Nays 0
		CJ 02/12/2018 Fav/CS JU 02/20/2018 Fav/CS AP	

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/CS/SB 774

INTRODUCER: Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senator Bean

SUBJECT: Dependency Proceedings

DATE: February 21, 2018 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Tulloch</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 774 provides that in private adoptions, the adoption entity conducting the preliminary home study is responsible for determining the counseling and educational needs of the adoptive parents.

The bill clarifies that the training mandated by the Department of Children and Families for foster families applies only when children are being adopted from the DCF and does not apply to private adoptions.

The bill also requires that the DCF provide a copy of its record check from the central abuse registry to the adoption entity that is conducting a preliminary home study for adoptive parents.

II. Present Situation:

Section 63.092(3), F.S., requires prospective adoptive parents in private adoption proceedings to undergo a preliminary home study to determine their suitability as adoptive parents.¹ A DCF-licensed child-placing agency or child-caring agency generally conducts the preliminary home study, which includes, among other things, a records check of the prospective parents in DCF's

¹ Section 63.092(3), F.S.

central abuse registry and counseling and education of the intended adoptive parents on adoptive parenting.²

Currently, the statute does not require the results of DCF's record check to be given directly to the entity conducting the preliminary home study. This provision also does not specify what the counseling and education requirements are for prospective adoptive parents in private proceedings; however, DCF imposes the same training requirements it uses for licensing and training prospective foster care parents and emergency shelter parents pursuant to s. 407.175, F.S.³ This training is designed to prepare prospective foster care parents and emergency shelter parents for the unique difficulties they will have to face when caring for children in dependency proceedings with a history of abuse, neglect, or prior placement disruptions.⁴

III. Effect of Proposed Changes:

The bill requires DCF to give the results of record checks of its central abuse registry of intended adoptive parents directly to the entity conducting the preliminary home study in private adoption proceedings to ensure the integrity of the reports.

The bill also allows the entity conducting the preliminary home study in private adoption proceedings to determine the counseling and education requirements for the intended adoptive parents. The bill exempts adoptive parents in private adoption proceedings from the training requirements of s. 409.175(14), F.S., involving adoptive parents in dependency proceedings.

The bill is effective October 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

² *Id.*

³ Rules 65C-15.028, 65C-16.005(4), and 65C-13.024, F.A.C; and s. 409.175(14), F.S.

⁴ Section 409.175(14), F.S. One of the training requirements for these parents is 21 hours of preservice training to: orient them; explain their role as a treatment team member; prepare them for issues involved in the transition of a child into and out of foster care and emergency shelter care; teach them to manage difficult child behavior intensified by placement, prior abuse or neglect, or prior placement disruptions; prevent placement disruptions; teach them how to care for children at various developmental levels; and educate them on the effects of foster parenting on their families.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Children and Families reports that there should be no fiscal impact to state government.⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends s. 63.092 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Judiciary on February 20, 2018:**

The committee substitute no longer includes sections 1 through 7 of the underlying bill. These sections imported the more expeditious procedures of the adoption act, ch. 63, F.S., into the dependency law, ch. 39, F.S., for identifying prospective parents or unmarried biological fathers prior to terminating all parental rights.

CS by Children, Families, and Elder Affairs on January 22, 2018:

The amendment does the following:

- Makes a number of technical and conforming changes including replacing the term “individually served” with the term “personally served” and replacing the term “alleged parent” with the term “prospective parent.”
- Requires certain records check of the Department of Children and Families’ Central Abuse Registry be provided directly to the entity conducting the home study to ensure

⁵ Dept. of Children & Families, *2018 Agency Legislative Bill Analysis, Senate Bill 774*, (Jan. 29, 2018) (on filed with Senate Judiciary Committee).

the integrity of the results and protect the best interest of children being placed for adoption; and

- Allows licensed adoption agencies to use their professional judgement to determine the appropriate counseling and education, dependent upon the type of adoption and the child being adopted.
- Removes the provision that allows the community-based lead care agencies to receive credit for specified adoptions.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2018	.	
	.	
	.	
	.	

The Committee on Judiciary (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 41 - 651

and insert:

Section 1. Subsection (3) of section 63.092, Florida Statutes, is amended to read:

63.092 Report to the court of intended placement by an adoption entity; at-risk placement; preliminary study.—

(3) PRELIMINARY HOME STUDY.—Before placing the minor in the intended adoptive home, a preliminary home study must be performed by a licensed child-placing agency, a child-caring



875002

12 agency registered under s. 409.176, a licensed professional, or
13 an agency described in s. 61.20(2), unless the adoptee is an
14 adult or the petitioner is a stepparent or a relative. If the
15 adoptee is an adult or the petitioner is a stepparent or a
16 relative, a preliminary home study may be required by the court
17 for good cause shown. The department is required to perform the
18 preliminary home study only if there is no licensed child-
19 placing agency, child-caring agency registered under s. 409.176,
20 licensed professional, or agency described in s. 61.20(2), in
21 the county where the prospective adoptive parents reside. The
22 preliminary home study must be made to determine the suitability
23 of the intended adoptive parents and may be completed prior to
24 identification of a prospective adoptive minor. A favorable
25 preliminary home study is valid for 1 year after the date of its
26 completion. Upon its completion, a signed copy of the home study
27 must be provided to the intended adoptive parents who were the
28 subject of the home study. A minor may not be placed in an
29 intended adoptive home before a favorable preliminary home study
30 is completed unless the adoptive home is also a licensed foster
31 home under s. 409.175. The preliminary home study must include,
32 at a minimum:

- 33 (a) An interview with the intended adoptive parents;
- 34 (b) Records checks of the department's central abuse
35 registry, which the department shall provide to the entity
36 conducting the preliminary home study, and criminal records
37 correspondence checks under s. 39.0138 through the Department of
38 Law Enforcement on the intended adoptive parents;
- 39 (c) An assessment of the physical environment of the home;
- 40 (d) A determination of the financial security of the



875002

41 intended adoptive parents;

42 (e) Documentation of counseling and education of the
43 intended adoptive parents on adoptive parenting as determined by
44 the entity conducting the preliminary home study. The training
45 specified in s. 409.175(14) shall only be required for persons
46 who adopt children from the department;

47
48 ===== T I T L E A M E N D M E N T =====

49 And the title is amended as follows:

50 Delete lines 3 - 36

51 and insert:

52 63.092, F.S.; requiring the Department of Children and
53 Families to provide specified records to entities
54 conducting preliminary home studies; limiting certain
55 training requirements to persons who adopt children
56 from the department; providing an

By the Committee on Children, Families, and Elder Affairs; and
Senator Bean

586-02340A-18

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1 A bill to be entitled
2 An act relating to dependency proceedings; amending s.
3 39.001, F.S.; providing an additional purpose of ch.
4 39, F.S.; amending s. 39.01, F.S.; revising the
5 definition of the term "parent" and defining the term
6 "unmarried biological father"; amending ss. 39.402 and
7 39.803, F.S.; revising the types of information
8 relating to the identity and location of a child's
9 legal father that fall within the scope of a court
10 inquiry at a shelter hearing or a hearing regarding a
11 petition for termination of parental rights; amending
12 s. 39.502, F.S.; providing for certain unmarried
13 biological fathers to receive notice of dependency
14 hearings under certain circumstances; amending s.
15 39.503, F.S.; revising the types of information
16 relating to the identity and location of a child's
17 legal father that fall within the scope of a court
18 inquiry at a dependency or shelter hearing; requiring
19 a court to take certain actions if a person fails to
20 assert parental rights; providing conditions for
21 establishing paternity in a dependency proceeding;
22 authorizing the court to order certain scientific
23 testing to determine maternity or paternity of a
24 child; providing for assessment of costs of
25 litigation; amending s. 39.801, F.S.; requiring notice
26 of a petition for termination of parental rights to be
27 served on an unmarried biological father identified
28 under oath or by a diligent search of the Florida
29 Putative Father Registry under certain circumstances;

Page 1 of 24

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

586-02340A-18

2018774c1

30 providing conditions for contesting the petition;
31 conforming cross-references; amending s. 63.092, F.S.;
32 requiring the Department of Children and Families to
33 release specified records to entities conducting
34 preliminary home studies; providing the Department of
35 Children and Families shall not require specified
36 training for certain home studies; providing an
37 effective date.

38
39 Be It Enacted by the Legislature of the State of Florida:

40
41 Section 1. Paragraphs (n), (o), and (p) of subsection (1)
42 of section 39.001, Florida Statutes, are redesignated as
43 paragraphs (o), (p), and (q), respectively, and a new paragraph
44 (n) is added to that subsection to read:

45 39.001 Purposes and intent; personnel standards and
46 screening.—

47 (1) PURPOSES OF CHAPTER.—The purposes of this chapter are:

48 (n) Whenever possible, to ensure that children have the
49 benefit of loving and caring relationships with both of their
50 parents. To that end, parents should be engaged to the fullest
51 extent possible in the lives of their children and prospective
52 parents should be afforded a prompt, full, and fair opportunity
53 to establish a parental relationship with their children and
54 assume all parental duties. A prospective parent who is an
55 unmarried biological father has the same rights under this
56 chapter as under chapter 63. Accordingly, his interest is
57 inchoate until he demonstrates a timely and full commitment to
58 the responsibilities of parenthood. Because time is of the

Page 2 of 24

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586-02340A-18

2018774c1

59 essence under this chapter, and the time limitations belong to
 60 the child and not to the parent or to any prospective parent,
 61 prospective parents, including unmarried biological parents,
 62 must be aware that failure to comply with the specific
 63 requirements of this chapter may result in permanent elimination
 64 or termination of their rights or interests as actual or
 65 inchoate parents or prospective parents.

66 Section 2. Subsection (50) of section 39.01, Florida
 67 Statutes, is amended, subsection (81) is renumbered as
 68 subsection (82), and a new subsection (81) is added to that
 69 section, to read:

70 39.01 Definitions.—When used in this chapter, unless the
 71 context otherwise requires:

72 (50) "Parent" means a woman who gives birth to a child and
 73 a man whose consent to the adoption of the child would be
 74 required under s. 63.062(1). The term "parent" also means legal
 75 father as defined in this section. If a child has been legally
 76 adopted, the term "parent" means the adoptive mother or father
 77 of the child. For purposes of this chapter only, when the phrase
 78 "parent or legal custodian" is used, it refers to rights or
 79 responsibilities of the parent and, only if there is no living
 80 parent with intact parental rights, to the rights or
 81 responsibilities of the legal custodian who has assumed the role
 82 of the parent. The term does not include an individual whose
 83 parental relationship to the child has been legally terminated,
 84 or an alleged or prospective parent, unless+

85 ~~(a) The parental status falls within the terms of s.~~
 86 ~~39.503(1) or s. 63.062(1); or~~

87 ~~(b) parental status is applied for the purpose of~~

586-02340A-18

2018774c1

88 determining whether the child has been abandoned.

89 (81) "Unmarried biological father" means the child's
 90 biological father who is not married to the child's mother at
 91 the time of conception or on the date of the birth of the child
 92 and who, before the advisory hearing is held on a petition to
 93 terminate parental rights, has not been adjudicated or declared
 94 by a court of competent jurisdiction to be the legal father of
 95 the child or has not executed an affidavit pursuant to s.
 96 382.013(2)(c).

97 Section 3. Paragraph (c) of subsection (8) of section
 98 39.402, Florida Statutes, is amended to read:

99 39.402 Placement in a shelter.—

100 (8)

101 (c) At the shelter hearing, the court shall:

102 1. Appoint a guardian ad litem to represent the best
 103 interest of the child, unless the court finds that such
 104 representation is unnecessary;

105 2. Inform the parents or legal custodians of their right to
 106 counsel to represent them at the shelter hearing and at each
 107 subsequent hearing or proceeding, and the right of the parents
 108 to appointed counsel, pursuant to the procedures set forth in s.
 109 39.013;

110 3. Give the parents or legal custodians an opportunity to
 111 be heard and to present evidence; and

112 4. Inquire of those present at the shelter hearing as to
 113 the identity and location of the legal father. In determining
 114 who the legal father of the child may be, the court shall
 115 inquire under oath of those present at the shelter hearing
 116 whether they have any of the following information regarding the

586-02340A-18

2018774c1

117 identity of any man:

118 a. To whom the mother of the child was married at any time
 119 when conception of the child may have occurred or at the time of
 120 the birth of the child.

121 b. Who has filed an affidavit of paternity pursuant to s.
 122 382.013(2) (c) before an advisory hearing is held on a petition
 123 for termination of parental rights.

124 c. Who has adopted the child.

125 d. Who has been adjudicated by a court of competent
 126 jurisdiction as the father of the child before an advisory
 127 hearing is held on a petition for termination of parental
 128 rights.

129 e. Whom the mother identified as the father under oath to a
 130 representative of the department.

131 ~~a. Whether the mother of the child was married at the~~
 132 ~~probable time of conception of the child or at the time of birth~~
 133 ~~of the child.~~

134 ~~f. b. With whom whether the mother was cohabiting with a~~
 135 ~~male at the probable time of conception of the child.~~

136 ~~g. e. Who claims to be the father and from whom whether the~~
 137 ~~mother has received payments or promises of support with respect~~
 138 ~~to the child or because of her pregnancy from a man who claims~~
 139 ~~to be the father.~~

140 ~~h. d. Whom whether the mother has named any man as the~~
 141 ~~father on the birth certificate of the child or in connection~~
 142 ~~with applying for or receiving public assistance.~~

143 ~~i. e. Who whether any man~~ has acknowledged or claimed
 144 paternity of the child in a jurisdiction in which the mother
 145 resided at the time of or since conception of the child or in

586-02340A-18

2018774c1

146 which the child has resided or resides.

147 ~~j. f. Who whether a man~~ is named on the birth certificate of
 148 the child pursuant to s. 382.013(2).

149 ~~k. g. Who whether a man~~ has been determined by a court order
 150 to be the father of the child.

151 ~~l. h. Who whether a man~~ has been determined to be the father
 152 of the child by the Department of Revenue as provided in s.
 153 409.256.

154 Section 4. Subsections (7) through (19) of section 39.502,
 155 Florida Statutes, are renumbered as subsections (8) through
 156 (20), respectively, subsection (1) and present subsection (9) of
 157 that section are amended, and a new subsection (7) is added to
 158 that section, to read:

159 39.502 Notice, process, and service.—

160 (1) Unless parental rights have been terminated, all
 161 parents must be notified of all proceedings or hearings
 162 involving the child. Notice in cases involving shelter hearings
 163 and hearings resulting from medical emergencies must be that
 164 most likely to result in actual notice to the parents. In all
 165 other dependency proceedings, notice must be provided in
 166 accordance with subsections (4)-(10) ~~(4)-(9)~~, except when a
 167 relative requests notification pursuant to s. 39.301(14)(b), in
 168 which case notice shall be provided pursuant to subsection (20)
 169 ~~(19)~~.

170 (7)(a) If a child does not have a legal father, notice of
 171 the petition for dependency shall be personally served upon any
 172 known and locatable unmarried biological father who is
 173 identified under oath before the court or who is identified by a
 174 diligent search of the Florida Putative Father Registry. Service

586-02340A-18

2018774c1

175 of the notice of the petition for dependency is not required if
 176 the unmarried biological father signs an affidavit of
 177 nonpaternity or a consent to termination of his parental rights
 178 and such affidavit or consent is accepted by the department. The
 179 recipient of the notice may waive service of process by
 180 executing a waiver and acknowledging receipt of the notice.

181 (b) The notice of petition for dependency must specifically
 182 state that if the unmarried biological father desires to assert
 183 his parental rights to acquire standing to contest the
 184 dependency petition he must, within 30 days after service:

185 1. File a claim of paternity with the Florida Putative
 186 Father Registry pursuant to instructions provided for submitting
 187 a claim of paternity form to the Office of Vital Statistics,
 188 including the address to which the claim must be sent.

189 2. Legally establish his parental rights to the child
 190 pursuant to the laws of the state.

191 3. File a verified response with the court which contains a
 192 pledge of commitment to the child, a request for the court to
 193 calculate and order child support, and an agreement to submit to
 194 the court's jurisdiction.

195 4. Provide support for the child as calculated by the court
 196 under s. 61.30.

197 5. Seek to establish a substantial relationship with the
 198 child within the parameters established by court order. An
 199 unmarried biological father must develop a substantial
 200 relationship with the child by taking parental responsibility
 201 for the child and the child's future; providing financial
 202 support to the child in accordance with his ability, if not
 203 prevented from doing so by the person or authorized agency

586-02340A-18

2018774c1

204 having lawful custody of the child; and establishing or
 205 maintaining regular contact with the child in accordance with a
 206 written court order. An order for visitation or other contact
 207 may be entered by the court if the court determines that such
 208 contact will not endanger the safety, well-being, or physical,
 209 mental, or emotional health of the child. The court may consider
 210 the results of any home study in making such determination.

211 (c) The court shall determine whether the unmarried
 212 biological father took the steps necessary to assert his
 213 parental rights to acquire standing to contest the dependency
 214 petition pursuant to paragraph (b) and, if not, the court shall
 215 enter a finding that the unmarried biological father is no
 216 longer a prospective parent or participant, may not contest the
 217 petition for dependency or any subsequent petition for
 218 termination of parental rights, and is no longer entitled to any
 219 further notice of proceedings regarding the child unless
 220 otherwise ordered by the court.

221 (d) If an unmarried biological father is not identified
 222 pursuant to the inquiry under section 39.503, the unmarried
 223 biological father's claim that he did not receive actual notice
 224 of the dependency proceeding is not a defense to a finding that
 225 the child is dependent.

226 (10)-(9) When an affidavit of diligent search has been filed
 227 under subsection (9) ~~(8)~~, the petitioner shall continue to
 228 search for and attempt to serve the person sought until excused
 229 from further search by the court. The petitioner shall report on
 230 the results of the search at each court hearing until the person
 231 is identified or located or further search is excused by the
 232 court.

586-02340A-18

2018774c1

233 Section 5. Section 39.503, Florida Statutes, is amended to
234 read:

235 39.503 Identity or location of parent unknown; special
236 procedures.-

237 (1) If the identity or location of a parent is unknown and
238 a petition for dependency or shelter is filed, the court shall
239 conduct under oath the following inquiry of the parent or legal
240 custodian who is available, or, if no parent or legal custodian
241 is available, of any relative or custodian of the child who is
242 present at the hearing and likely to have any of the following
243 information regarding the identity of any man:

244 (a) To whom the mother of the minor was married at any time
245 when conception of the child may have occurred or at the time of
246 the birth of the child.

247 (b) Who has filed an affidavit of paternity pursuant to s.
248 382.013(2)(c) before an advisory hearing is held on a petition
249 for termination of parental rights.

250 (c) Who has adopted the child.

251 (d) Who has been adjudicated by a court of competent
252 jurisdiction as the father of the child before an advisory
253 hearing is held on a petition for termination of parental
254 rights.

255 (e) Whom the mother identified as the father under oath to
256 a representative of the department.

257 ~~(a) Whether the mother of the child was married at the~~
258 ~~probable time of conception of the child or at the time of birth~~
259 ~~of the child.~~

260 ~~(f)(b) With whom Whether~~ the mother was cohabiting with a
261 male at the probable time of conception of the child.

586-02340A-18

2018774c1

262 ~~(g)(e) Who claims to be the father and from whom Whether~~
263 the mother has received payments or promises of support with
264 respect to the child or because of her pregnancy ~~from a man who~~
265 ~~claims to be the father.~~

266 ~~(h)(d) Who Whether~~ the mother has named ~~any man~~ as the
267 father on the birth certificate of the child or in connection
268 with applying for or receiving public assistance.

269 ~~(i)(e) Who Whether any man~~ has acknowledged or claimed
270 paternity of the child in a jurisdiction in which the mother
271 resided at the time of or since conception of the child, or in
272 which the child has resided or resides.

273 ~~(j)(f) Who Whether a man~~ is named on the birth certificate
274 of the child pursuant to s. 382.013(2).

275 ~~(k)(g) Who Whether a man~~ has been determined by a court
276 order to be the father of the child.

277 ~~(l)(h) Who Whether a man~~ has been determined to be the
278 father of the child by the Department of Revenue as provided in
279 s. 409.256.

280 (2) The information required under ~~in~~ subsection (1) may be
281 supplied to the court or the department in the form of a sworn
282 affidavit by a person having personal knowledge of the facts.

283 (3) If the inquiry under subsection (1) identifies any
284 person as a parent or prospective parent, the court shall
285 require notice of the hearing to be provided to that person.

286 (4) If the inquiry under subsection (1) fails to identify
287 any person as a parent or prospective parent, the court shall so
288 find and may proceed without further notice.

289 (5) If the inquiry under subsection (1) identifies a parent
290 or prospective parent, and that person's location is unknown,

586-02340A-18

2018774c1

291 the court shall direct the petitioner to conduct a diligent
 292 search for that person before scheduling a disposition hearing
 293 regarding the dependency of the child unless the court finds
 294 that the best interest of the child requires proceeding without
 295 notice to the person whose location is unknown.

296 (6) If the inquiry under subsection (1) identifies an
 297 unmarried biological father or an unmarried biological father is
 298 identified by another means and is personally served with a
 299 petition for dependency but fails to assert his parental rights
 300 as specified in s. 39.502(7), the court shall so find and may
 301 proceed without further notice.

302 (7)(6) The diligent search required by subsection (5) must
 303 include, at a minimum, inquiries of all relatives of the parent
 304 or prospective parent made known to the petitioner, inquiries of
 305 all offices of program areas of the department likely to have
 306 information about the parent or prospective parent, inquiries of
 307 other state and federal agencies likely to have information
 308 about the parent or prospective parent, inquiries of appropriate
 309 utility and postal providers, a thorough search of at least one
 310 electronic database specifically designed for locating persons,
 311 a search of the Florida Putative Father Registry, and inquiries
 312 of appropriate law enforcement agencies. Pursuant to s. 453 of
 313 the Social Security Act, 42 U.S.C. s. 653(c)(4), the department,
 314 as the state agency administering Titles IV-B and IV-E of the
 315 act, shall be provided access to the federal and state parent
 316 locator service for diligent search activities.

317 (8)(7) Any agency contacted by a petitioner with a request
 318 for information pursuant to subsection (7) (6) shall release the
 319 requested information to the petitioner without the necessity of

Page 11 of 24

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586-02340A-18

2018774c1

320 a subpoena or court order.

321 (9) (a) (9) If the inquiry and diligent search identifies a
 322 prospective parent, that person must be given the opportunity to
 323 become a party to the proceedings by completing a sworn
 324 affidavit of parenthood and filing it with the court or the
 325 department. A prospective parent who files a sworn affidavit of
 326 parenthood while the child is a dependent child but no later
 327 than at the time of or before the adjudicatory hearing in any
 328 termination of parental rights proceeding for the child shall be
 329 considered a parent for all purposes under this section unless
 330 the other parent contests the determination of parenthood. If
 331 neither the known parent nor the prospective parent objects to a
 332 request to establish parentage under the laws of the state, the
 333 court may enter an agreed order, order the Office of Vital
 334 Statistics to amend the child's birth certificate, and order the
 335 petitioning parent to pay support for the child.

336 (b) If the known parent contests the recognition of the
 337 prospective parent as a parent, the prospective parent may not
 338 be recognized as a parent until proceedings to determine
 339 maternity or paternity under chapter 742 have been concluded.
 340 However, the prospective parent shall continue to receive notice
 341 of hearings as a participant pending results of the chapter 742
 342 proceedings to determine maternity or paternity. The dependency
 343 court may hear the chapter 742 proceeding and establish
 344 parentage in accordance with the procedures in that chapter,
 345 including entry of an order or judgment establishing parentage.

346 (c) A prospective parent may only file a sworn affidavit of
 347 parenthood when the child does not have two legally recognized
 348 parents. If a child has two legally recognized parents, the

Page 12 of 24

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586-02340A-18

2018774c1

349 prospective parent must seek to establish parentage pursuant to
 350 chapter 742.

351 (d) Nothing in this subsection prevents the known parent
 352 and the prospective parent from agreeing to voluntarily submit
 353 to scientific testing to determine the maternity or paternity of
 354 the child if the child does not already have two legally
 355 recognized parents and the court determines it is in the child's
 356 best interest.

357 (e) Test results are admissible in evidence and shall be
 358 weighed along with other evidence of parentage unless the
 359 statistical probability of parentage equals or exceeds 95
 360 percent. A statistical probability of parentage that equals or
 361 exceeds 95 percent creates a rebuttable presumption, as
 362 described in s. 90.304, that the prospective parent is the
 363 biological parent of the child. If a party fails to rebut the
 364 presumption of parentage which arose from the statistical
 365 probability of parentage that equals or exceeds 95 percent, the
 366 court may enter a summary judgment of parentage. If the test
 367 results show the prospective parent is not the biological
 368 parent, the prospective parent is no longer considered a
 369 participant or entitled to notice of the proceedings.

370 (f) The court shall assess the cost of the paternity
 371 determination as a cost of litigation.

372 ~~(10)(9)~~ If the diligent search under subsection (5) fails
 373 to identify and locate a parent or prospective parent, the court
 374 shall so find and may proceed without further notice.

375 Section 6. Subsection (3) of section 39.801, Florida
 376 Statutes, is amended to read:

377 39.801 Procedures and jurisdiction; notice; service of

586-02340A-18

2018774c1

378 process.-

379 (3) Before the court may terminate parental rights, in
 380 addition to the other requirements set forth in this part, the
 381 following requirements must be met:

382 (a) Notice of the date, time, and place of the advisory
 383 hearing for the petition to terminate parental rights and a copy
 384 of the petition must be personally served upon the following
 385 persons, specifically notifying them that a petition has been
 386 filed:

387 1. The parents of the child.

388 2. The legal custodians of the child.

389 3. If the parents who would be entitled to notice are dead
 390 or unknown, a living relative of the child, unless upon diligent
 391 search and inquiry no such relative can be found.

392 4. Any person who has physical custody of the child.

393 5. Any grandparent entitled to priority for adoption under
 394 s. 63.0425.

395 6. Any prospective parent who has been identified under s.
 396 39.503 or s. 39.803, unless a court order has been entered
 397 pursuant to s. 39.503(4), (6), or (10) or s. 39.803(4), (6), or
 398 ~~(10) s. 39.503(4) or (9) or s. 39.803(4) or (9)~~ which indicates
 399 no further notice is required. Except as otherwise provided in
 400 this section, if there is not a legal father, notice of the
 401 petition for termination of parental rights must be provided to
 402 any known prospective father who is identified under oath before
 403 the court or who is identified by a diligent search of the
 404 Florida Putative Father Registry. Service of the notice of the
 405 petition for termination of parental rights is not required if
 406 the prospective father executes an affidavit of nonpaternity or

586-02340A-18

2018774c1

407 a consent to termination of his parental rights which is
 408 accepted by the court after notice and opportunity to be heard
 409 by all parties to address the best interests of the child in
 410 accepting such affidavit.

411 7. The guardian ad litem for the child or the
 412 representative of the guardian ad litem program, if the program
 413 has been appointed.

414
 415 The document containing the notice to respond or appear must
 416 contain, in type at least as large as the type in the balance of
 417 the document, the following or substantially similar language:
 418 "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING
 419 CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF
 420 THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND
 421 TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE
 422 CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS
 423 NOTICE."

424 (b) If a child does not have a legal father, notice of the
 425 petition for termination of parental rights shall be personally
 426 served upon any known and locatable unmarried biological father
 427 who is identified under oath before the court or who is
 428 identified by a diligent search of the Florida Putative Father
 429 Registry. Service of the notice of the petition for termination
 430 of parental rights is not required if the unmarried biological
 431 father signs an affidavit of nonpaternity or a consent to
 432 termination of his parental rights and such affidavit or consent
 433 is accepted by the department. The recipient of the notice may
 434 waive service of process by executing a waiver and acknowledging
 435 receipt of the notice. The notice of petition for termination of

586-02340A-18

2018774c1

436 parental rights must specifically state that if the unmarried
 437 biological father desires to assert his parental rights to
 438 acquire standing to contest the petition he must, within 30 days
 439 after service:

440 1. File a claim of paternity with the Florida Putative
 441 Father Registry pursuant to instructions provided for submitting
 442 a claim of paternity form to the Office of Vital Statistics,
 443 including the address to which the claim must be sent.

444 2. Legally establish his parental rights to the child
 445 pursuant to the laws of the state.

446 3. File a verified response with the court which contains a
 447 pledge of commitment to the child, a request for the court to
 448 calculate and order child support, and an agreement to submit to
 449 the court's jurisdiction.

450 4. Provide support for the child as calculated by the court
 451 under s. 61.30.

452 5. Seek to establish a substantial relationship with the
 453 child within the parameters established by court order. A father
 454 must develop a substantial relationship with the child by taking
 455 parental responsibility for the child and the child's future;
 456 providing financial support to the child in accordance with his
 457 ability, if not prevented from doing so by the person or
 458 authorized agency having lawful custody of the child; and
 459 establishing or maintaining regular contact with the child in
 460 accordance with a written court order. An order for visitation
 461 or other contact may be entered by the court if the court
 462 determines that such contact will not endanger the safety, well-
 463 being, and physical, mental, or emotional health of the child.
 464 The court may consider the results of any home study when making

586-02340A-18

2018774c1

465 such determination.

466 (c) The court shall determine whether the unmarried
 467 biological father took the steps necessary to assert his
 468 parental rights to acquire standing to contest the termination
 469 of parental rights petition pursuant to paragraph (b) and, if
 470 not, the court shall enter a finding that the unmarried
 471 biological father is no longer a prospective parent or
 472 participant, may not contest the petition for termination of
 473 parental rights, and is no longer entitled to any further notice
 474 of proceedings regarding the child unless otherwise ordered by
 475 the court.

476 (d) If an unmarried biological father is not identified
 477 pursuant to the inquiry under section 39.803, the unmarried
 478 biological father's claim that he did not receive actual notice
 479 of the termination proceeding is not a defense to the petition
 480 nor grounds that the proceeding is otherwise defective.

481 (e) ~~(b)~~ If a party required to be served with notice as
 482 prescribed in paragraph (a) cannot be served, notice of hearings
 483 must be given as prescribed by the rules of civil procedure, and
 484 service of process must be made as specified by law or civil
 485 actions.

486 (f) ~~(e)~~ Notice as prescribed by this section may be waived,
 487 in the discretion of the judge, with regard to any person to
 488 whom notice must be given under this subsection if the person
 489 executes, before two witnesses and a notary public or other
 490 officer authorized to take acknowledgments, a written surrender
 491 of the child to a licensed child-placing agency or the
 492 department.

493 (g) ~~(d)~~ If the person served with notice under this section

586-02340A-18

2018774c1

494 fails to personally appear at the advisory hearing, the failure
 495 to personally appear shall constitute consent for termination of
 496 parental rights by the person given notice. If a parent appears
 497 for the advisory hearing and the court orders that parent to
 498 personally appear at the adjudicatory hearing for the petition
 499 for termination of parental rights, stating the date, time, and
 500 location of said hearing, then failure of that parent to
 501 personally appear at the adjudicatory hearing shall constitute
 502 consent for termination of parental rights.

503 Section 7. Section 39.803, Florida Statutes, is amended to
 504 read:

505 39.803 Identity or location of parent unknown after filing
 506 of termination of parental rights petition; special procedures.-

507 (1) If the identity or location of a parent is unknown and
 508 a petition for termination of parental rights is filed, the
 509 court shall conduct under oath the following inquiry of the
 510 parent who is available, or, if no parent is available, of any
 511 relative, caregiver, or legal custodian of the child who is
 512 present at the hearing and likely to have the information
 513 regarding the identity of any man:

514 (a) To whom the mother of the child was married at any time
 515 when conception of the child may have occurred or at the time of
 516 the birth of the child.

517 (b) Who has filed an affidavit of paternity pursuant to s.
 518 382.013(2) (c) before an advisory hearing is held on a petition
 519 for termination of parental rights.

520 (c) Who has adopted the child before an advisory hearing is
 521 held on the petition for termination of parental rights.

522 (d) Who has been adjudicated by a court as the father of

586-02340A-18

2018774c1

523 the child before an advisory hearing is held on a petition for
 524 termination of parental rights.

525 (e) Whom the mother identified as the father under oath to
 526 a representative of the department before an advisory hearing is
 527 held on the petition for termination of parental rights.

528 ~~(a) Whether the mother of the child was married at the~~
 529 ~~probable time of conception of the child or at the time of birth~~
 530 ~~of the child.~~

531 ~~(f)(b) With whom~~ Whether the mother was cohabiting with a
 532 male at the probable time of conception of the child.

533 ~~(g)(e) Who claims to be the father and from whom~~ Whether
 534 the mother has received payments or promises of support with
 535 respect to the child or because of her pregnancy ~~from a man who~~
 536 ~~claims to be the father.~~

537 ~~(h)(d) Who~~ Whether the mother has named ~~any man~~ as the
 538 father on the birth certificate of the child or in connection
 539 with applying for or receiving public assistance before an
 540 advisory hearing is held on the petition for termination of
 541 parental rights.

542 ~~(i)(e) Who~~ Whether ~~any man~~ has acknowledged or claimed
 543 paternity of the child in a jurisdiction in which the mother
 544 resided at the time of or since conception of the child, or in
 545 which the child has resided or resides before an advisory
 546 hearing is held on the petition for termination of parental
 547 rights.

548 ~~(j)(f) Who~~ Whether ~~a man~~ is named on the birth certificate
 549 of the child pursuant to s. 382.013(2).

550 ~~(k)(g) Who~~ Whether ~~a man~~ has been determined by a court
 551 order to be the father of the child.

586-02340A-18

2018774c1

552 (1)(b) Who ~~Whether a man~~ has been determined to be the
 553 father of the child by the Department of Revenue as provided in
 554 s. 409.256.

555 (2) The information required in subsection (1) may be
 556 supplied to the court or the department in the form of a sworn
 557 affidavit by a person having personal knowledge of the facts.

558 (3) If the inquiry under subsection (1) identifies any
 559 person as a parent or prospective parent, the court shall
 560 require notice of the hearing to be provided to that person.

561 (4) If the inquiry under subsection (1) fails to identify
 562 any person as a parent or prospective parent, the court shall so
 563 find and may proceed without further notice.

564 (5) If the inquiry under subsection (1) identifies a parent
 565 or prospective parent, and that person's location is unknown,
 566 the court shall direct the petitioner to conduct a diligent
 567 search for that person before scheduling an adjudicatory hearing
 568 regarding the petition for termination of parental rights to the
 569 child unless the court finds that the best interest of the child
 570 requires proceeding without actual notice to the person whose
 571 location is unknown.

572 (6) If the inquiry under subsection (1) identifies an
 573 unmarried biological father or an unmarried biological father is
 574 identified by another means and is personally served with a
 575 petition for termination of parental rights but fails to assert
 576 his parental rights as specified in s. 39.801(3)(b), the court
 577 shall so find and may proceed without further notice.

578 ~~(7)(6)~~ The diligent search required by subsection (5) must
 579 include, at a minimum, inquiries of all known relatives of the
 580 parent or prospective parent, inquiries of all offices of

586-02340A-18

2018774c1

581 program areas of the department likely to have information about
 582 the parent or prospective parent, inquiries of other state and
 583 federal agencies likely to have information about the parent or
 584 prospective parent, inquiries of appropriate utility and postal
 585 providers, a thorough search of at least one electronic database
 586 specifically designed for locating persons, a search of the
 587 Florida Putative Father Registry, and inquiries of appropriate
 588 law enforcement agencies. Pursuant to s. 453 of the Social
 589 Security Act, 42 U.S.C. s. 653(c)(4), the department, as the
 590 state agency administering Titles IV-B and IV-E of the act,
 591 shall be provided access to the federal and state parent locator
 592 service for diligent search activities.

593 (8)~~(7)~~ Any agency contacted by petitioner with a request
 594 for information pursuant to subsection (7) ~~(6)~~ shall release the
 595 requested information to the petitioner without the necessity of
 596 a subpoena or court order.

597 (9)~~(8)~~ If the inquiry and diligent search identifies a
 598 prospective parent, that person must be given the opportunity to
 599 become a party to the proceedings by completing a sworn
 600 affidavit of parenthood and filing it with the court or the
 601 department. A prospective parent who files a sworn affidavit of
 602 parenthood while the child is a dependent child but no later
 603 than at the time of or before the adjudicatory hearing in the
 604 termination of parental rights proceeding for the child shall be
 605 considered a parent for all purposes under this section.

606 (10)~~(9)~~ If the diligent search under subsection (5) fails
 607 to identify and locate a prospective parent, the court shall so
 608 find and may proceed without further notice.

609 Section 8. Subsection (3) of section 63.092, Florida

Page 21 of 24

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586-02340A-18

2018774c1

610 Statutes, is amended to read:

611 63.092 Report to the court of intended placement by an
 612 adoption entity; at-risk placement; preliminary study.—

613 (3) PRELIMINARY HOME STUDY.—Before placing the minor in the
 614 intended adoptive home, a preliminary home study must be
 615 performed by a licensed child-placing agency, a child-caring
 616 agency registered under s. 409.176, a licensed professional, or
 617 an agency described in s. 61.20(2), unless the adoptee is an
 618 adult or the petitioner is a stepparent or a relative. If the
 619 adoptee is an adult or the petitioner is a stepparent or a
 620 relative, a preliminary home study may be required by the court
 621 for good cause shown. The department is required to perform the
 622 preliminary home study only if there is no licensed child-
 623 placing agency, child-caring agency registered under s. 409.176,
 624 licensed professional, or agency described in s. 61.20(2), in
 625 the county where the prospective adoptive parents reside. The
 626 preliminary home study must be made to determine the suitability
 627 of the intended adoptive parents and may be completed prior to
 628 identification of a prospective adoptive minor. A favorable
 629 preliminary home study is valid for 1 year after the date of its
 630 completion. Upon its completion, a signed copy of the home study
 631 must be provided to the intended adoptive parents who were the
 632 subject of the home study. A minor may not be placed in an
 633 intended adoptive home before a favorable preliminary home study
 634 is completed unless the adoptive home is also a licensed foster
 635 home under s. 409.175. The preliminary home study must include,
 636 at a minimum:

637 (a) An interview with the intended adoptive parents;

638 (b) Records checks of the department's central abuse

Page 22 of 24

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586-02340A-18

2018774c1

639 registry, which the department shall provide to the entity
 640 conducting the preliminary home study, and criminal records
 641 correspondence checks under s. 39.0138 through the Department of
 642 Law Enforcement on the intended adoptive parents;

643 (c) An assessment of the physical environment of the home;

644 (d) A determination of the financial security of the
 645 intended adoptive parents;

646 (e) Documentation of counseling and education of the
 647 intended adoptive parents on adoptive parenting as determined by
 648 the entity conducting the preliminary home study. The department
 649 shall not require training as specified in s. 409.175(14) for
 650 cases involving children placed for adoption that are not in the
 651 custody or control of the department;

652 (f) Documentation that information on adoption and the
 653 adoption process has been provided to the intended adoptive
 654 parents;

655 (g) Documentation that information on support services
 656 available in the community has been provided to the intended
 657 adoptive parents; and

658 (h) A copy of each signed acknowledgment of receipt of
 659 disclosure required by s. 63.085.

660

661 If the preliminary home study is favorable, a minor may be
 662 placed in the home pending entry of the judgment of adoption. A
 663 minor may not be placed in the home if the preliminary home
 664 study is unfavorable. If the preliminary home study is
 665 unfavorable, the adoption entity may, within 20 days after
 666 receipt of a copy of the written recommendation, petition the
 667 court to determine the suitability of the intended adoptive

Page 23 of 24

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586-02340A-18

2018774c1

668 home. A determination as to suitability under this subsection
 669 does not act as a presumption of suitability at the final
 670 hearing. In determining the suitability of the intended adoptive
 671 home, the court must consider the totality of the circumstances
 672 in the home. A minor may not be placed in a home in which there
 673 resides any person determined by the court to be a sexual
 674 predator as defined in s. 775.21 or to have been convicted of an
 675 offense listed in s. 63.089(4)(b)2.

676 Section 9. This act shall take effect October 1, 2018.

Page 24 of 24

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The Florida Senate

Committee Agenda Request

To: Senator Greg Steube, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 22, 2018

I respectfully request that **Senate Bill # 774**, relating to Dependency Proceedings, be placed on the:

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

A handwritten signature in cursive script that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

"Speaker Cards for SB 774 022018" Not Found!!!!

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 Judiciary

BILL: CS/CS/SB 784

INTRODUCER: Judiciary Committee; Banking and Insurance Committee and Senator Brandes

SUBJECT: Insurance

DATE: February 21, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Billmeier</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Stallard</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 784 amends numerous provisions of the Florida Insurance Code. This bill:

- Exempts foreign insurers (insurers domiciled in another state) from certain regulations regarding insurer's investments, including regulations on the valuation of those investments, and sets forth alternative regulations in these areas;
- Adds two categories of persons to the list of individuals who are not required to take the examination to become an all-lines insurance adjuster, namely a person certified as a Claims Adjuster Certified Professional from WebCE, Inc. and a person who has a designation similar to one of those set forth in statute and who meets the other requirements;
- Repeals a requirement that surplus lines insurers request eligibility from the Florida Surplus Lines Service Office;
- Provides a uniform surplus lines tax of 4.936 percent;
- Updates the requirement that the rules of the Department of Financial Services (DFS) and the Financial Services Commission relating to insurers' use of insureds' private information comport with the Gramm-Leach-Bliley Act, specifying that the rules must be consistent with the amended version of the Act;
- Provides that an insurer may issue an insurance policy without it being signed by one of its officers, attorneys in fact, employees, or duly authorized representatives;
- Requires that a notice of policy change sent in advance of a renewal include a summary of the changes;

- Permits a third party, as an assignee of policy benefits, to request mediation, but also permits an insurer to not attend a mediation request by the third party;
- Allows motor vehicle insurers to use the Intelligent Mail barcode, or similar method approved by the United States Postal Service, to document proof of mailing of certain required notices;
- Expands the confidentiality of documents submitted to the OIR under Own-Risk and Solvency Assessment requirements to make them inadmissible as evidence in any private civil action, regardless of from whom they were obtained;
- Revises unearned premium reserve requirements for reciprocal insurers; and
- Allows for electronic posting of certain policy information by health maintenance organizations and motor vehicle service agreement companies.

II. Present Situation:

This bill addresses a number of issues related to insurance.

Foreign Insurers (Sections 1 and 2)

Chapter 625, F.S., regulates the financial affairs of insurers admitted in Florida. Sections 625.151 and 625.325, F.S., govern the valuation of securities other than bonds and limit an insurer's ability to invest in its subsidiaries and related corporations. If the insurer's surplus including investments in subsidiaries does not exceed \$100 million, shall be valued in an amount in which the aggregate does not exceed the lesser of:

- Ten percent of the insurer's admitted assets; or
- Fifty percent of the insurer's surplus in excess of the minimum required surplus.¹

If the surplus of an insurer, including investments in subsidiaries, is \$100 million or more, investments in subsidiaries and related corporations shall be valued in an amount in which the aggregate does not exceed 25 percent of the insurer's admitted assets.²

The investment portfolio of a foreign or alien insurer shall be as permitted by the laws of its domicile if of a quality substantially as high as that required for similar funds of like domestic insurers.³

Insurance Adjuster Licensure Examination (Section 3)

An adjuster is an individual employed by an insurer to evaluate losses and settle policyholder claims.⁴ An adjuster may be licensed as either an "all-lines adjuster" or a "public adjuster."⁵ An all-lines adjuster "is a person who, for money, commission, or any other thing of value, directly or indirectly undertakes on behalf of a public adjuster or an insurer to ascertain and determine the amount of any claim, loss, or damage payable under an insurance contract or undertakes to effect

¹ Sections 625.151(3)(a) and 625.325(2), F.S.

² Section 625.151(3)(b), F.S.

³ Section 625.340, F.S.

⁴ INSURANCE INFORMATION INSTITUTE, GLOSSARY (defining "adjuster"), <https://www.iii.org/resource-center/iii-glossary/A> (last visited Feb. 14, 2018).

⁵ Section 626.864, F.S.

settlement of such claim, loss, or damage.”⁶ Subject to certain exceptions, a public adjuster is someone that is paid by an insured to prepare and file a claim against their insurer.⁷

Among other requirements, an applicant must pass an examination to obtain an adjuster’s license; however, the examination requirement is waived if the applicant has attained certain professional designations that document their successful completion of professional education coursework. An examination is not required for all-lines adjuster applicants with the following professional designations:

- Accredited Claims Adjuster (ACA) from a regionally accredited postsecondary institution in this state;
- Associate in Claims (AIC) from the Insurance Institute of America;
- Professional Claims Adjuster (PCA) from the Professional Career Institute;
- Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training Academy;
- Certified Adjuster (CA) from ALL LINES Training;
- Certified Claims Adjuster (CCA) from AE21 Incorporated; or
- Universal Claims Certification (UCC) from Claims and Litigation Management Alliance (CLM).

DFS must approve the curriculum, which must include comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard department testing for the all-lines adjuster license.⁸ The curriculum must include 40 hours of instruction covering all of the topics in the all-lines adjuster Examination Content Outline adopted by DFS.⁹ DFS only approves curriculum related to adjuster licensing for designations listed in s. 626.221(2)(j), F.S.

WebCE, Inc., is a national provider of professional and continuing educational courses.¹⁰ They provide education related to multiple professions, including: insurance, financial planning, accounting, and tax. Participants can obtain the following professional designations from WebCE: Certified Financial Planner (CFP), Certified Investment Management Analyst (CIMA), Certified Private Wealth Advisor (CPWA), and Certified Fraud Examiner (CFE). WebCE provides continuing education to insurance professionals with courses in subjects of life and health, property and casualty, adjuster, and limited lines.

Surplus Lines Insurance (Sections 4 and 5)

Surplus lines insurance refers to insurance coverage that is not available from insurers licensed in the state, called admitted companies, and must be purchased from a non-admitted carrier. Examples include risks of an unusual nature that require greater flexibility in policy terms and conditions than exist in standard forms or where the highest rates allowed by state regulators are considered inadequate by admitted companies.¹¹ Surplus lines insurance is sold by surplus lines insurance agents.

⁶ Sections 626.015(2) and 626.8548, F.S.

⁷ Section 626.854, F.S.

⁸ Section 626.221(2)(j), F.S.

⁹ Rule 69B-227.320, F.A.C.

¹⁰ See WebCE.com for more information about the continuing education and CPE courses that it offers.

¹¹ INSURANCE INFORMATION INSTITUTE, GLOSSARY (defining “surplus lines”), https://www.iii.org/resource-center/iii-glossary/?glossary_search=surplus+lines (last visited Feb. 14, 2018).

Surplus Lines Insurer Registration

In the past, for a surplus lines insurer to become eligible to underwrite insurance risks in this state, the Florida Surplus Lines Service Office (FSLSO)¹² had file a written request with OIR on the underwriter's behalf. However, subsequent to the adoption of this requirement, Congress passed the Nonadmitted and Reinsurance Reform Act of 2010 (NRRA).¹³ The NRRA requires the eligibility of surplus lines insurers to be determined in compliance with its criteria, unless the state has adopted nationwide uniform eligibility requirements.¹⁴ The OIR has implemented such eligibility determination standards that may be accessed directly by interested surplus lines insurers. Accordingly, surplus lines insurers apply directly to OIR rather than having FSLSO make the written request. The statute requiring such a written request by FSLSO¹⁵ has become superfluous because it conflicts with NRRA and is no longer implemented.

Surplus Lines Premium Tax

Surplus lines policies are taxed at 5 percent of all gross premiums.¹⁶ However, a surplus lines policy written in Florida may cover risks that are only partially located in this state. This is because the insured's business, property, or other risks cross state lines. Because not all states use gross premiums as the taxable base nor use the same tax rate, this can lead to disparities in cost associated with the applicable premium tax law of other states. Florida law provides that, if Florida is the "home" state, as defined the federal Nonadmitted and Reinsurance Reform Act of 2010, the tax is computed on the gross premium to facilitate uniform application of the tax rate to the gross premiums paid on multi-state risks.¹⁷ The law also provides that the surplus lines premium tax is limited to the tax rate in the state where the risk is located. This can result in an effective tax rate on total taxable premiums that is lower than the statutory 5 percent.

Privacy Disclosures (Section 6)

DFS and the Financial Services Commission (Commission) are required to adopt rules governing the use of a consumer's non-public personal financial and health information by regulated entities. The rules must be consistent with and not more restrictive than the requirements of Title V of the Gramm-Leach-Bliley Act of 1999. However, in December 2015, the Gramm-Leach-Bliley Act was amended by the Fixing America's Surface Transportation (FAST) Act, Public Law No. 114-94.

Execution of Policies (Section 7)

Every insurance policy shall be executed in the name of and on behalf of the insurer by its officer, attorney in fact, employee, or representative duly authorized by the insurer. The person executing the policy must sign the policy, either with an original signature or a facsimile

¹² Section 626.921, F.S.

¹³ 15 U.S.C. ss. 8201 *et seq.*

¹⁴ 15 U.S.C. ss. 8204.

¹⁵ Section 626.918(2)(a), F.S.

¹⁶ Section 626.932(1), F.S.

¹⁷ Section 626.932(3), F.S.

signature.¹⁸ However, insurer representatives have suggested it would be more efficient to allow policies to be issued without a signature as long as consumer protections remain in place.

Notice of Change in Policy Terms (Section 8)

An insurer may not change policy terms at renewal unless the insurer issues advance written notice of the change in policy terms.¹⁹ However, the notice may not be used to add optional coverages that increase premium, unless the policyholder affirmatively accepts the optional coverage.²⁰ The notice is required to be titled a “Notice of Change in Policy Terms.” However, there is no explicit requirement for any other specific content of the notice. Therefore, it is arguable that a bare notice with the title “Notice of Change in Policy Terms” and containing no meaningful explanation of the change in policy terms complies with the law.

A change in policy terms includes the modification, addition, or deletion of any term, coverage, duty, or condition from the previous policy, not including typographical or scrivener’s errors or the application of mandated legislative changes.²¹

If the insurer fails to issue the advance written notice, coverage under the old terms continues until the earlier of the next renewal with proper service of notice or replacement coverage is obtained by the policyholder.

Mediation through the DFS (Section 9)

The statutes set forth a mediation program for claims under personal lines and commercial residential property insurance policies. Mediation may be requested only by the policyholder, as a first-party claimant, or the insurer. The insurer must pay the costs of the mediation. If a settlement agreement is reached and is not rescinded, it is binding and acts as a release of all specific claims that were presented in that mediation conference.²²

Issues have arisen over whether an assignee of policy benefits, such as vendor or contractor, is allowed to request mediation through the DFS program.

Proof of Mailing (Section 10)

Current law requires motor vehicle insurers to mail a notice of cancellation or non-renewal to the first named insured on the policy and the applicable insurance agent at least 45 days prior to the effective date of the cancellation or non-renewal. However, in the case of a cancellation or non-renewal based on a non-payment of premium, only a 10-day notice is required. For each of these required notices the insurer must use United States postal proof of mailing, certified mail, or

¹⁸ Section 627.416(1)-(2), F.S.

¹⁹ Section 627.43141(2), F.S.

²⁰ Section 627.43141(3), F.S.

²¹ Section 627.43141(1)(a), F.S.

²² Section 627.7015, F.S.

registered mail.²³ However, current law does not provide for use of the United States Postal Service tracking system known as “intelligent mail barcode.”²⁴

Bonds for Construction Contracts (Sections 11 and 12)

Under Florida law, there are generally two ways a contractor, subcontractor, materialman, or laborer may help secure or guarantee payment for work performed on a construction project. The first is by filing a lien against the owner’s property.

The second way of helping to secure or guarantee payment for work on a construction project is by filing a claim against a payment bond. A “payment bond” is “[a] bond given by a surety to cover any amounts that, because of the general contractor’s default, are not paid to a subcontractor or materials supplier.”²⁵ In Florida, a surety issuing a contract bond, such as a payment bond, is treated as an insurer and regulated by the Insurance Code.²⁶

Surety insurers²⁷ that issue construction bonds are governed by the Insurance Code.²⁸ Under the Code, owners, subcontractors, laborers, or materialmen are deemed insureds or beneficiaries of a construction bond.²⁹ If an insured or beneficiary must bring a lawsuit against a surety insurer to force payment under the construction bond and prevails, the insured or beneficiary is entitled to attorney’s fees under s. 627.428, F.S. However, contractors are not deemed insureds or beneficiaries for purposes of s. 627.756, F.S., and therefore may not recover attorney fees if they file a lawsuit to recover against a payment bond.

Filing Exception for Specialty Insurers (Section 13)

In 2014, the Legislature passed CS/CS/SB 1308,³⁰ which implemented elements of model legislation developed by the National Association of Insurance Commissioners (NAIC) related to risk-based capital, holding company systems, standard valuation, and actuarial opinions and memoranda. This was primarily in response to the financial crisis of 2008. A contributing factor of the financial crisis was common ownership and control of insurance and financial services companies, such that when one company became financially troubled or insolvent, the value and solvency of related companies also became affected. This led regulators to have an interest in knowing and understanding the web of controlling interests among related companies. This

²³ Section 627.728, F.S.

²⁴ Information on the “intelligent mail barcode” can be found here: <https://postalpro.usps.com/node/217> (last visited Feb. 14, 2018).

²⁵ BLACK’S LAW DICTIONARY (10th ed. 2014).

²⁶ See Section 624.606(1)(a), F.S. (“‘Surety insurance’ includes: (a) A contract bond, including a bid, payment, or maintenance bond, or a performance bond, which guarantees the execution of a contract other than a contract of indebtedness or other monetary obligation[.]”). See also BLACK’S LAW DICTIONARY (10th ed. 2014) (“Although a surety is similar to an insurer, one important difference is that a surety often receives no compensation for assuming liability. A surety differs from a guarantor, who is liable to the creditor only if the debtor does not meet the duties owed to the creditor; the surety is directly liable.”).

²⁷ Section 624.606(1)(a), F.S.

²⁸ Section 624.01, F.S. (defining the “Florida Insurance Code” to include ch. 627, F.S.).

²⁹ Section 627.756(1), F.S.

³⁰ Ch. 2014-101, Laws of Fla.

legislation created a presumption of control in certain interests and acquisitions among related companies.

The 2014 bill allowed insurers to overcome the presumption of control by either filing a disclaimer of control on a form prescribed by OIR or by providing a copy of the applicable Schedule 13G on file with the federal Securities and Exchange Commission (SEC).

After a disclaimer is filed, the insurer is relieved of any further duty to register or report under s. 628.461, F.S., unless the OIR disallows the disclaimer. Specialty insurers must meet similar requirements addressing solvency and organizational risk controls as those created for insurers; however, they do not have the option of filing their SEC Schedule 13G to rebut the presumption of control.

Specialty insurers are defined as:³¹

- Motor vehicle service agreement companies;
- Home warranty associations;
- Service warranty associations;
- Prepaid limited health service organizations;
- Authorized health maintenance organizations;
- Authorized prepaid health clinics;
- Legal expense insurance corporations;
- Providers licensed to operate a facility that undertakes to provide continuing care;
- Multiple-employer welfare arrangements;
- Premium finance companies; and
- Corporations authorized to accept donor annuity agreements.

Own-Risk and Solvency Assessment (Section 14)

The Risk Management and Own Risk and Solvency Assessment (ORSA) Model Act by the National Association of Insurance Commissioners requires insurers to conduct their own internal assessment of all reasonably foreseeable and relevant material risks (e.g., underwriting, credit, market) potentially affecting their ability to meet policyholder obligations. This information provides regulators with a more comprehensive view of the ability of an insurer to withstand financial stress. Florida adopted portions of the model act in 2016.³²

Pursuant to these provisions, insurers or insurance groups must:

- Maintain a risk management framework for identifying, assessing, monitoring, managing, and reporting on its material, relevant risks;
- Conduct an ORSA at least annually (and whenever there have been significant changes to the risk profile of the insurer or the insurance group);
- File an ORSA summary report with the appropriate regulator; and
- File a corporate governance annual disclosure with the OIR.³³

³¹ Section 627.4615(1), F.S.

³² Ch. 2016-206, Laws of Fla.

³³ Section 628.8015, F.S.

ORSA documents and corporate governance reports are generally exempt from disclosure as public records.³⁴ In addition, the filings and related documents are privileged such that they may not be produced in response to a subpoena or other discovery directed to the OIR. And if any of these filings and related documents are obtained from the OIR, they are nonetheless inadmissible in evidence in any private civil action.³⁵

Reciprocal Insurance Reserve Requirements (Section 15)

Reciprocal insurance is an alternative to traditional insurance. The fundamental difference between reciprocal and traditional insurance is that in reciprocal insurance arrangements, the “subscribers” bear the risk instead of an insurance company. Subscribers’ premiums are paid into a fund from which claims are drawn. And each subscriber’s liability is limited to its premium.³⁶ There are currently four companies active in Florida and licensed as reciprocal insurers under s. 629.401, F.S.³⁷

The statutes define reciprocal insurance as insurance “resulting from an interexchange among persons, known as ‘subscribers,’ of reciprocal agreements of indemnity, the interexchange being effectuated through an ‘attorney in fact’ common to all such persons.”³⁸ The rights and powers of the attorney in fact are as provided in the power of attorney given to it by the subscribers.³⁹ “In general, the attorney in fact manages the reciprocal’s finances and handles underwriting, claims administration and investments.”⁴⁰

Twenty-five or more persons domiciled in Florida may organize a domestic reciprocal insurer and apply to OIR for authority to transact insurance.⁴¹ Reciprocal insurers may transact any kind of insurance other than life insurance or title insurance.⁴²

Reciprocal insurers offering property insurance are required to maintain an unearned premium reserve consistent with the requirement generally applicable to property insurers under the Insurance Code.⁴³ An unearned premium reserve is a fund comprised of premium money that has been paid by subscribers but is not yet due, or earned, by the insurer. For example, if a subscriber’s policy required him or her to pay \$1,000 in premiums for year 1 of the policy, that sum was paid in full at the beginning of the year, and if he or she was 6 months into the first year, then there would be \$500 in unearned premiums held by the insurer.⁴⁴

³⁴ Section 624.4212(3), F.S.

³⁵ Section 628.8015(4), F.S.

³⁶ See Zacks Investment Research, *What is a Reciprocal Insurance Company?* <https://finance.zacks.com/reciprocal-insurance-company-7135.html> (last visited Feb. 14, 2018).

³⁷ See Florida Office of Insurance Regulation, Active Company Search, <https://www.florir.com/CompanySearch/> (last visited Feb. 14, 2018) for the identity of these reciprocal insurers.

³⁸ Section 629.011, F.S.

³⁹ Sections 629.101, F.S.

⁴⁰ See Kevin Moriarty, *Twenty Things You’d Always Wanted to Know about Reciprocals (But May Not Have Thought to Ask)*, THE RISK RETENTION REPORTER, July 2003.

⁴¹ Section 629.081(1), F.S.

⁴² Section 629.041(1), F.S.

⁴³ See ss. 625.051 and 629.041(6)(b), F.S.

⁴⁴ See INVESTOPEDIA, *Unearned Premium* <https://www.investopedia.com/terms/u/unearned-premium.asp> (last visited Feb. 15, 2018)

This reserve requirement ensures the availability of funds for transfer to loss reserves when losses are incurred during the policy period or refunds that become due before the premium is earned, among other things. Premiums ceded to reinsurers for the purchase of reinsurance may be deducted from unearned premiums.

Section 625.051, F.S., requires property insurers to retain unearned premiums on reserve in the following proportions based upon the length of the policy period, as follows:

Policy Term	Proportion Required to be Reserved	
1 year or less	1/2	
2 years	1 st year	3/4
	2 nd year	1/4
3 years	1 st year	5/6
	2 nd year	1/2
	3 rd year	1/6
4 years	1 st year	7/8
	2 nd year	5/8
	3 rd year	3/8
	4 th year	1/8
5 years	1 st year	9/10
	2 nd year	7/10
	3 rd year	1/2
	4 th year	3/10
	5 th year	1/10
Over 5 years	pro rata	

In the alternative, insurers are allowed to calculate unearned premium reserves on a monthly or more frequent pro rata basis.⁴⁵ Reciprocal insurers must calculate unearned premium reserves on a monthly or more frequent basis.⁴⁶

NAIC has developed a model act for regulation of reciprocals. Section 7, Reserves, of NAIC Model Act 356, Model Indemnity Contracts Act,⁴⁷ provides for an unearned premium reserve, as follows:

There shall at all times be maintained as a reserve a sum in cash or convertible securities equal to fifty percent (50%) of the net annual deposits collected and credited to the accounts of the subscribers on policies having one year or less to run and pro rata on those for longer periods. Net annual deposits shall be construed to mean the advance payments of subscribers after deducting the

⁴⁵ Section 625.051(3), F.S.

⁴⁶ Section 629.401(6)(b)24., F.S.

⁴⁷ National Association of Insurance Commissioners, *Model Indemnity Contracts Act*, <http://www.naic.org/store/free/MDL-356.pdf> (last visited February 7, 2018).

amounts specifically provided in the subscribers' agreements, for expenses. The sum shall at no time be less than \$25,000, and if at any time fifty percent (50%) of the deposits so collected and credited shall not equal that amount, then the subscribers, or their attorney for them, shall make up any deficiency.

Delivery of Policies by Motor Vehicle Service Agreement Companies and Health Maintenance Organizations (Sections 16 and 17)

The law requires most insurance policies⁴⁸ to be mailed or delivered to the insured (policyholder) within 60 days after the insurance takes effect.⁴⁹ Insurance policies are typically only delivered when the policy is issued and are not delivered each time the policy is renewed.

Insurers are allowed to post property or casualty insurance policies not containing policyholder personal identifiable information on the insurer's website instead of mailing or delivering the policy to the insured. Casualty insurance includes automobile policies, workers' compensation policies, liability policies, and malpractice policies, among others.⁵⁰ Property insurance policies include homeowner's, tenant's, condominium unit owner's, mobile home owner's, condominium association, and commercial business property insurance policies.⁵¹

If an insurer opts to post an insurance policy online instead of mailing it, the policy must be easily accessible on the insurer's website and posted in a format that allows the policy to be printed by the policyholder free of charge. Insurers posting policies on their website must notify each policyholder of his or her right to request and obtain a paper or electronic copy of the policy without charge, but policyholder consent is not required for an insurer to post an insurance policy online. Insurers must also notify policyholders of this right if the insurer changes a policy. Furthermore, insurers posting policies online must archive expired policies for 5 years on the insurer's website and archived policies must be available to policyholders at their request.

III. Effect of Proposed Changes:

Foreign Insurers (Sections 1 and 2)

Section 1 provides that the valuation requirements in s. 625.151, F.S., do not apply to stock of a subsidiary corporation or related entity of a foreign insurer if the stock meets the valuation requirements under the laws of that insurer's state of domicile and if that state is a member of the National Association of Insurance Commissioners (NAIC).

Section 2 exempts foreign insurers, under certain circumstances, from the restrictions in s. 625.325, F.S. on insurers' investments in their subsidiaries. Section 625.325, F.S., in general terms, prohibits insurers from investing too heavily in their subsidiaries. The bill exempts a foreign insurer from these restrictions if the insurer is domiciled in a NAIC member state, and the investments are permitted under the laws of the insurer's state of domicile and are:

⁴⁸ Section 627.402, F.S., defines policy to include endorsements, riders, and clauses.

⁴⁹ Section 627.421, F.S.

⁵⁰ Section 624.605, F.S.

⁵¹ Sections 624.604 and 627.4025, F.S.

- Assigned a rating of 1, 2, or 3 by the National Association of Insurance Commissioners' Securities Valuation Office; or
- Qualify for the NAIC's exemption rule and are assigned a rating by a nationally recognized statistical rating organization that would be equivalent to a rating of 1, 2, or 3 by the National Association of Insurance Commissioners' Securities Valuation Office.

The Office of Insurance Regulation's asserts that "[l]owering Florida's investment limitation standards to those of the domiciliary state would reduce protection for Florida policyholders and weaken effective solvency regulation."⁵²

The Securities Valuation Office (SVO) is responsible for the day-to-day credit quality assessment and valuation of securities owned by state regulated insurance companies. The SVO conducts credit analysis on these securities for the purpose of assigning an NAIC designation. These designations are produced for the benefit of NAIC members who may use them as part of the member's monitoring of the financial condition of its domiciliary insurers.⁵³ An NAIC rating of 1 means the obligation should be eligible for the most favorable treatment provided under the NAIC Financial Conditions Framework. An NAIC rating of 2 means that credit risk is low but may increase in the intermediate future and the issuer's credit profile are reasonably stable. It should be eligible for relatively favorable treatment under the NAIC Financial Conditions Framework. A rating of 3 is assigned to obligations of medium quality. Credit risk is intermediate. Ratings of 4, 5, and 6 means the obligations are low quality.⁵⁴

Nationally recognized statistical rating organizations (NRSRO) are credit rating agencies that provide an assessment of the creditworthiness of a company or a financial instrument. In 2006, Congress provided the Securities and Exchange Commission with the authority to establish a registration and oversight program for credit rating agencies registered as NRSROs.⁵⁵ The NRSROs registered with the SEC are:

- A.M. Best Rating Services, Inc.
- DBRS, Inc.
- Egan-Jones Ratings Co.
- Fitch Ratings, Inc.
- HR Ratings de México, S.A. de C.V.
- Japan Credit Rating Agency, Ltd.
- Kroll Bond Rating Agency, Inc.
- Moody's Investors Service, Inc.
- Morningstar Credit Ratings, LLC
- S&P Global Ratings⁵⁶

⁵² Office of Insurance Regulation, *2018 Agency Legislative Bill Analysis [SB 784]* (on file with the Senate Committee on Judiciary).

⁵³ National Association of Insurance Commissioners, Securities Valuation Office, <http://www.naic.org/svo.htm> (last visited Feb. 15, 2018).

⁵⁴ National Association of Insurance Commissioners, *NAIC Publicly Traded Securities Listing Definitions* http://www.naic.org/documents/svo_naic_public_listing.pdf?353 (last visited Feb. 15, 2018).

⁵⁵ U.S. Securities and Exchange Commission, *Learn More About NCSROs*, <https://www.sec.gov/ocr/ocr-learn-nrsros.html> (last visited Feb. 15, 2018).

⁵⁶ *Id.* The chart containing ratings equivalent to SVO ratings is found here: http://www.naic.org/documents/svo_naic_aro.pdf (last visited Feb. 15, 2018).

Insurance Adjuster Licensure Examination (Section 3)

The bill exempts a person who receives a Claims Adjuster Certified Professional (CACP) designation from WebCE, Inc from the all-lines adjuster licensing exam requirement. The bill also authorizes the DFS to accept similar designations from similar entities to those listed in the statute for purposes for the examination exemption.

Surplus Lines Insurance (Sections 4, and 5)

Section 4 repeals s. 626.918(2)(a), F.S., which currently requires an unauthorized insurer that desires to become eligible as a surplus lines insurers to request eligibility from the Florida Surplus Lines Surplus Officer.

Section 5 of the bill lowers the surplus lines premium tax rate to 4.936 percent instead of the current 5 percent. It allows the tax to exceed the tax rate where the risk or exposure is located.

Privacy Disclosures (Section 6)

Current law requires the Department of Financial Services to develop rules governing the use of a consumer's nonpublic personal financial and health information. In addition to other requirements for these rules, they must be consistent with the standards contained in Title V of the Gramm-Leach-Bliley Act of 1999. This act has since been amended, namely in Title LXXV of the Fixing America's Surface Transportation (FAST) Act. The bill specifies that the privacy rules developed by the DFS must be consistent with the amendments made by the FAST Act. Title LXXV of the FAST Act provides that companies that have not made changes to certain privacy policies are not required to send an annual notice of changes. If changes are made, the companies must notify customers.

Execution of Insurance Policies (Section 7)

Section 7 amends s. 627.416, F.S., to provide that an insurer may elect to issue an insurance policy without it being executed by one of its officers, attorneys in fact, employees, or duly authorized representatives. If such a policy is issued, it is not invalid despite not being executed.

Notice of Change in Policy Terms (Section 8)

Under current law, a policy that is being renewed may contain a change in policy terms, in which case the insurer must give the insured advance written "notice" of the change. However, this notice is not explicitly required to contain any summary or explanation of the change. The bill, on the other hand, requires that this notice contain a summary of the changes.

Mediation through the DFS (Section 9)

Under current law, mediation on a claim for insurance benefits may be requested by the policyholder, as a first-party claimant, or the insurer. The bill amends s. 627.7015, F.S., to also permit a third party, as assignee of policy benefits, to request mediation. However, when mediation is requested by a third party, as assignee of policy benefits, the insurer is not required

to participate in the mediation. The bill also replaces the term “insured” with the term “policyholder” in several places in s. 627.7015, F.S.

Proof of Mailing (Section 10)

Section 10 amends s. 627.728, F.S., relating to the sufficient proof that a person has received a notice of cancellation, intention not to renew, or of reasons for cancellation, or of the intention of the insurer to issue a policy by an insurer under the same ownership or management. Under current law, United States postal proof of mailing or certified or registered mailing of these items to the first-named insured at the address shown in the policy is sufficient proof of notice. Under the bill, an insurer may also show proof of notice by using the Intelligent Mail barcode or other similar tracking method used approved by the USPS.

Bonds for Construction Contracts (Sections 11 and 12)

Section 11 amends s. 627.756(1), F.S., of the Insurance Code to extend the ability to collect attorney’s fees against an insurer under s. 627.428(1), F.S., to contractors by also deeming them an insured or beneficiary. This change will apply when a contractor successfully enforces a claim against the bond of a subcontractor that has breached a contract with the contractor. **Section 12** provides that this provision applies to payment or performance bonds issued on or after October 1, 2018.

Specialty Insurers (Section 13)

Section 13 amends s. 628.4615, F.S., to add viatical settlement providers to the list of specialty insurers and allows any specialty insurer to overcome the presumption of control by filing with OIR a disclaimer of control on an OIR form or a copy of their SEC Schedule 13G.

Own-Risk and Solvency Assessment (Section 14)

Section 14 amends s. 628.8015, F.S., to expand the confidentiality of documents submitted to the OIR under ORSA requirements. The bill provides that such documents may not be admitted as evidence in a private civil action regardless of the source of the documents, rather than only when they are obtained from the OIR.

Reciprocal Insurer Reserve Requirements (Section 15)

Section 15 amends s. 629.401, F.S., to revise the unearned premium reserve requirement that must be met by a reciprocal insurer, regardless of the line of insurance underwritten. The reciprocal insurer must retain 50 percent of “net written premiums” on policies having a policy period of 1 year or less. “Net written premiums” means premium payments made or due from subscribers after deducting expenses specified in the subscriber’s agreement, including reinsurance costs and subscriber fees. To take the deduction from “net written premiums” for subscriber fees, the power of attorney agreement must contain an explicit provision to return subscriber fees on a pro rata basis for cancelled policies. The bill requires an unearned premium reserve of \$100,000, at all times, and provides a mechanism to return the reserve to that amount if it is not maintained at the required amount.

Delivery of Policies by Motor Vehicle Service Agreement Companies and Health Maintenance Organizations (Sections 16 and 17)

The bill requires motor vehicle service agreement companies and health maintenance organizations (HMO) to deliver motor vehicle service agreements and HMO contracts in compliance with the standards applicable to insurers. This changes the timeline for delivery of a motor vehicle service agreement from 45 days to 60 days and for HMO contracts from 10 days from enrollment to 60 days. It also allows posting of the non-personal portions of agreements and contracts, as applicable, on a website in the manner allowed for policies by insurers. The personal portions of these documents would be delivered by other allowable means, usually mailing.

Effective Date (Section 18)

The bill takes effect upon becoming a law.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Changes to the mailing requirement in section 10 could result in cost savings to insurers.

C. Government Sector Impact:

The Revenue Estimating Conference does not anticipate a significant impact from the surplus line tax change in section 5 of the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 625.151, 625.325, 626.221, 626.932, 626.9651, 627.416, 627.41341, 627.7015, 627.728, 627.756, 628.4615, 628.8015, 629.401, 634.121, and 641.3107.

The bill repeals paragraph 626.918(2)(a) of the Florida Statutes.

IX. Additional Information:

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

CS by Judiciary on February 20, 2018:

The committee substitute removed a provision from the underlying bill that would have lowered from \$1 million to \$700,000 the threshold for exporting a homeowner's property insurance risk to a surplus lines insurer following a single coverage rejection. Additionally, the committee substitute clarified a provision in the property insurance mediation statute.

CS by Banking and Insurance on February 6, 2018:

The CS removed provisions that:

- Provides that a third-party vendor, as an assignee of policy benefits, is not a consumer for purposes of consumer complaints received by the DFS Division of Consumer Services;
- Provides that complaints from third-party vendors as assignees of policy benefits will not count as complaints for purposes of the complaint ratio calculations;
- Provides that the reporting of certain information used by the Department of Financial Services to prevent insurance fraud is not mandatory;
- Provides that the insurance nonjoinder statute applies to surplus lines insurers;
- Allows the Office of Insurance Regulation (OIR) to waive the requirement that a surplus lines insurer has operated for the previous 3 years before seeking eligibility to operate in Florida if the insurer provides a product or service not readily available to Florida consumers or has operated successfully for a period of at least 1 year next preceding and has capital and surplus of not less than \$30 million;
- Increases the ability of motor vehicle insurers to exclude coverage when drivers are engaged in transportation network company activities; and
- Provides that any person who sells prepaid limited health service contracts that only cover the cost of transportation provided by an air ambulance service is not required to be licensed as a health insurance agent.

The CS adds provisions that:

- Provide if an applicant for licensure as an all-lines adjuster is certified as a Claims Adjuster Certified Professional from WebCE, Inc., the applicant does not have to take the adjuster examination;
- Repeal a requirement that surplus lines insurers request eligibility from the Florida Surplus Lines Service Office;
- Provide a uniform surplus lines tax of 4.936 percent;
- Lower from \$1 million to \$700,000 the threshold for exporting a homeowner's property insurance risk to a surplus lines insurer following a single coverage rejection;
- Provide that an insurer may issue an insurance policy without certain signatures;
- Require that a notice of policy change summarize the changes made to the policy before renewal;
- Revise unearned premium reserve requirements for reciprocal insurers; and
- Allow for electronic posting of certain policy information by health maintenance organizations and motor vehicle service agreement companies and increases the time for delivering such contracts.

B. Amendments:

None.



720998

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2018	.	
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The Committee on Judiciary (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 138 - 149.

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

And the title is amended as follows:

Delete lines 12 - 17

and insert:

an examination requirement; repealing s.

626.918(2)(a), F.S., relating to



753400

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2018	.	
	.	
	.	
	.	

The Committee on Judiciary (Brandes) recommended the following:

Senate Amendment

Delete line 275

and insert:

(6) Mediation under this section is nonbinding; however, if
a written

By the Committee on Banking and Insurance; and Senator Brandes

597-02928-18

2018784c1

1 A bill to be entitled
 2 An act relating to insurance; amending s. 625.151,
 3 F.S.; providing that certain securities valuation
 4 limitations do not apply to certain stock of certain
 5 foreign insurers' subsidiary corporations or related
 6 entities; amending s. 625.325, F.S.; providing that
 7 certain provisions relating to insurer investments in
 8 subsidiaries and related corporations do not apply to
 9 foreign insurers under certain circumstances; amending
 10 s. 626.221, F.S.; revising professional designations
 11 that exempt all-lines adjuster license applicants from
 12 an examination requirement; amending s. 626.914, F.S.;
 13 revising the definition of the term "diligent effort"
 14 to decrease the dwelling replacement cost threshold of
 15 a residential structure to which a different diligent
 16 effort requirement under the Surplus Lines Law
 17 applies; repealing s. 626.918(2)(a), F.S., relating to
 18 a certain condition before an unauthorized insurer may
 19 be or become an eligible surplus lines insurer;
 20 amending s. 626.932, F.S.; reducing the tax on surplus
 21 lines insurance; deleting a limitation on the tax rate
 22 for certain surplus lines policies; amending s.
 23 626.9651, F.S.; revising federal standards applicable
 24 to Department of Financial Services and Financial
 25 Services Commission rules governing the use of
 26 consumer nonpublic personal financial and health
 27 information; amending s. 627.416, F.S.; authorizing
 28 insurers to issue policies that are not executed by
 29 certain authorized persons; amending s. 627.43141,

Page 1 of 46

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597-02928-18

2018784c1

30 F.S.; specifying that a written notice of a change in
 31 policy terms must summarize the change; amending s.
 32 627.7015, F.S.; authorizing a third party, as assignee
 33 of the policy benefits, to request mediation for
 34 disputed property insurance claims; providing that
 35 insurers are not required to participate in such
 36 mediations; making technical changes; amending s.
 37 627.728, F.S.; adding certain proofs of mailing that
 38 an insurer may use to provide certain notices relating
 39 to cancellation and nonrenewals of policies to certain
 40 insureds; amending s. 627.756, F.S.; providing that
 41 certain attorney fee provisions apply to suits brought
 42 by contractors against surety insurers under payment
 43 or performance bonds for building or construction
 44 contracts; providing that contractors are deemed to be
 45 insureds or beneficiaries for the purposes of such
 46 provisions; providing applicability; amending s.
 47 628.4615, F.S.; revising the definition of the term
 48 "specialty insurer" to include viatical settlement
 49 providers; providing that a person may rebut a
 50 presumption of control by filing a specified
 51 disclaimer with the Office of Insurance Regulation;
 52 providing an alternative to a form prescribed by the
 53 commission; providing construction; conforming cross-
 54 references; amending s. 628.8015, F.S.; deleting a
 55 condition that certain filings and documents relating
 56 to insurer own-risk and solvency assessments and
 57 corporate governance annual disclosures must be
 58 obtained from the office to be inadmissible in

Page 2 of 46

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597-02928-18

2018784c1

59 evidence in private civil actions; amending s.
 60 629.401, F.S.; revising unearned premium reserve
 61 requirements for insurance exchanges regulated by the
 62 office; defining the term "net written premiums";
 63 amending s. 634.121, F.S.; revising requirements and
 64 procedures for the delivery of motor vehicle service
 65 agreements and certain forms by motor vehicle service
 66 agreement companies to agreement holders; defining
 67 terms; specifying requirements if a motor vehicle
 68 service agreement company elects to post service
 69 agreements on its website in lieu of mailing or
 70 delivering to agreement holders; amending s. 641.3107,
 71 F.S.; revising requirements and procedures for the
 72 delivery of health maintenance contracts and certain
 73 documents by health maintenance organizations to
 74 subscribers; defining terms; specifying requirements
 75 if a health maintenance organization elects to post
 76 health maintenance contracts on its website in lieu of
 77 mailing or delivering to subscribers or certain
 78 persons; providing an effective date.

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

81
 82 Section 1. Paragraph (c) is added to subsection (3) of
 83 section 625.151, Florida Statutes, to read:

84 625.151 Valuation of other securities.—

85 (3) Stock of a subsidiary corporation of an insurer may
 86 ~~shall~~ not be valued at an amount in excess of the net value
 87 thereof as based upon those assets only of the subsidiary which

Page 3 of 46

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597-02928-18

2018784c1

88 would be eligible under part II for investment of the funds of
 89 the insurer directly.

90 (c) This subsection does not apply to stock of a subsidiary
 91 corporation or related entities of a foreign insurer which is
 92 permissible under the laws of its state of domicile, if the
 93 state of domicile is a member of the National Association of
 94 Insurance Commissioners.

95 Section 2. Subsection (7) is added to section 625.325,
 96 Florida Statutes, to read:

97 625.325 Investments in subsidiaries and related
 98 corporations.—

99 (7) APPLICABILITY.—This section does not apply to a foreign
 100 insurer's investments in its subsidiaries or related
 101 corporations if:

102 (a) The foreign insurer is domiciled in a state that is a
 103 member of the National Association of Insurance Commissioners
 104 (NAIC) .

105 (b) Such investments in the foreign insurer's subsidiaries
 106 or related corporations are:

107 1. Permitted under the laws of the foreign insurer's state
 108 of domicile.

109 2.a. Assigned a rating of 1, 2, or 3 by the NAIC's
 110 Securities Valuation Office (SVO); or

111 b. Qualify for the NAIC's filing exemption rule and
 112 assigned a rating by a nationally recognized statistical rating
 113 organization which would be equivalent to a rating of 1, 2, or 3
 114 by the SVO.

115 Section 3. Paragraph (j) of subsection (2) of section
 116 626.221, Florida Statutes, is amended to read:

Page 4 of 46

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597-02928-18

2018784c1

117 626.221 Examination requirement; exemptions.—

118 (2) However, an examination is not necessary for any of the
119 following:

120 (j) An applicant for license as an all-lines adjuster who
121 has the designation of Accredited Claims Adjuster (ACA) from a
122 regionally accredited postsecondary institution in this state,
123 Associate in Claims (AIC) from the Insurance Institute of
124 America, Professional Claims Adjuster (PCA) from the
125 Professional Career Institute, Professional Property Insurance
126 Adjuster (PPIA) from the HurriClaim Training Academy, Certified
127 Adjuster (CA) from ALL LINES Training, Certified Claims Adjuster
128 (CCA) from AE21 Incorporated, Claims Adjuster Certified
129 Professional (CACP) from WebCE, Inc., or Universal Claims
130 Certification (UCC) from Claims and Litigation Management
131 Alliance (CLM), or any similar designation from a similar entity
132 whose curriculum has been approved by the department and which
133 includes comprehensive analysis of basic property and casualty
134 lines of insurance and testing at least equal to that of
135 standard department testing for the all-lines adjuster license.
136 The department shall adopt rules establishing standards for the
137 approval of curriculum.

138 Section 4. Subsection (4) of section 626.914, Florida
139 Statutes, is amended to read:

140 626.914 Definitions.—As used in this Surplus Lines Law, the
141 term:

142 (4) "Diligent effort" means seeking coverage from and
143 having been rejected by at least three authorized insurers
144 currently writing this type of coverage and documenting these
145 rejections. However, if the residential structure has a dwelling

Page 5 of 46

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597-02928-18

2018784c1

146 replacement cost of \$700,000 ~~\$1 million~~ or more, the term means
147 seeking coverage from and having been rejected by at least one
148 authorized insurer currently writing this type of coverage and
149 documenting this rejection.

150 Section 5. Paragraph (a) of subsection (2) of section
151 626.918, Florida Statutes, is repealed.

152 Section 6. Subsections (1) and (3) of section 626.932,
153 Florida Statutes, are amended to read:

154 626.932 Surplus lines tax.—

155 (1) The premiums charged for surplus lines coverages are
156 subject to a premium receipts tax of 4.936 ~~5~~ percent of all
157 gross premiums charged for such insurance. The surplus lines
158 agent shall collect from the insured the amount of the tax at
159 the time of the delivery of the cover note, certificate of
160 insurance, policy, or other initial confirmation of insurance,
161 in addition to the full amount of the gross premium charged by
162 the insurer for the insurance. The surplus lines agent is
163 prohibited from absorbing such tax or, as an inducement for
164 insurance or for any other reason, rebating all or any part of
165 such tax or of his or her commission.

166 (3) If a surplus lines policy covers risks or exposures
167 only partially in this state and the state is the home state as
168 defined in the federal Nonadmitted and Reinsurance Reform Act of
169 2010 (NRRRA), the tax payable must ~~shall~~ be computed on the gross
170 premium. ~~The tax must not exceed the tax rate where the risk or~~
171 ~~exposure is located.~~

172 Section 7. Section 626.9651, Florida Statutes, is amended
173 to read:

174 626.9651 Privacy.—The department and commission shall each

Page 6 of 46

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597-02928-18

2018784c1

175 adopt rules consistent with other provisions of the Florida
 176 Insurance Code to govern the use of a consumer's nonpublic
 177 personal financial and health information. These rules must be
 178 based on, consistent with, and not more restrictive than the
 179 Privacy of Consumer Financial and Health Information Regulation,
 180 adopted September 26, 2000, by the National Association of
 181 Insurance Commissioners; however, the rules must permit the use
 182 and disclosure of nonpublic personal health information for
 183 scientific, medical, or public policy research, in accordance
 184 with federal law. In addition, these rules must be consistent
 185 with, and not more restrictive than, the standards contained in
 186 Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-
 187 102, as amended in Title LXXV of the Fixing America's Surface
 188 Transportation (FAST) Act, Pub. L. No. 114-94. If the office
 189 determines that a health insurer or health maintenance
 190 organization is in compliance with, or is actively undertaking
 191 compliance with, the consumer privacy protection rules adopted
 192 by the United States Department of Health and Human Services, in
 193 conformance with the Health Insurance Portability and
 194 Affordability Act, that health insurer or health maintenance
 195 organization is in compliance with this section.

196 Section 8. Subsection (1) of section 627.416, Florida
 197 Statutes, is amended, and subsection (4) is added to that
 198 section, to read:

199 627.416 Execution of policies.—

200 (1) Except as set forth in subsection (4), every insurance
 201 policy must ~~shall~~ be executed in the name of and on behalf of
 202 the insurer by its officer, attorney in fact, employee, or
 203 representative duly authorized by the insurer.

Page 7 of 46

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597-02928-18

2018784c1

204 (4) An insurer may elect to issue an insurance policy that
 205 is not executed by an officer, attorney in fact, employee, or
 206 representative, provided that such policy may not be rendered
 207 invalid by reason of the lack of execution thereof.

208 Section 9. Subsection (2) of section 627.43141, Florida
 209 Statutes, is amended to read:

210 627.43141 Notice of change in policy terms.—

211 (2) A renewal policy may contain a change in policy terms.
 212 If such change occurs, the insurer shall give the named insured
 213 advance written notice summarizing ~~of~~ the change, which may be
 214 enclosed along with the written notice of renewal premium
 215 required under ss. 627.4133 and 627.728 or sent separately
 216 within the timeframe required under the Florida Insurance Code
 217 for the provision of a notice of nonrenewal to the named insured
 218 for that line of insurance. The insurer must also provide a
 219 sample copy of the notice to the named insured's insurance agent
 220 before or at the same time that notice is provided to the named
 221 insured. Such notice must ~~shall~~ be entitled "Notice of Change in
 222 Policy Terms."

223 Section 10. Subsections (1), (3), (6), and (9) of section
 224 627.7015, Florida Statutes, are amended to read:

225 627.7015 Alternative procedure for resolution of disputed
 226 property insurance claims.—

227 (1) This section sets forth a nonadversarial alternative
 228 dispute resolution procedure for a mediated claim resolution
 229 conference prompted by the need for effective, fair, and timely
 230 handling of property insurance claims. There is a particular
 231 need for an informal, nonthreatening forum for helping parties
 232 who elect this procedure to resolve their claims disputes

Page 8 of 46

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597-02928-18

2018784c1

233 because most homeowner and commercial residential insurance
 234 policies obligate policyholders to participate in a potentially
 235 expensive and time-consuming adversarial appraisal process
 236 before litigation. The procedure set forth in this section is
 237 designed to bring the parties together for a mediated claims
 238 settlement conference without any of the trappings or drawbacks
 239 of an adversarial process. Before resorting to these procedures,
 240 policyholders and insurers are encouraged to resolve claims as
 241 quickly and fairly as possible. This section is available with
 242 respect to claims under personal lines and commercial
 243 residential policies before commencing the appraisal process, or
 244 before commencing litigation. Mediation may be requested only by
 245 the policyholder, as a first-party claimant; a third party, as
 246 assignee of the policy benefits; or the insurer. However, an
 247 insurer is not required to participate in any mediation
 248 requested by a third party assignee of policy benefits. If
 249 requested by the policyholder, participation by legal counsel is
 250 permitted. Mediation under this section is also available to
 251 litigants referred to the department by a county court or
 252 circuit court. This section does not apply to commercial
 253 coverages, to private passenger motor vehicle insurance
 254 coverages, or to disputes relating to liability coverages in
 255 policies of property insurance.

256 (3) The costs of mediation must ~~shall~~ be reasonable, and
 257 the insurer shall bear all of the cost of conducting mediation
 258 conferences, except as otherwise provided in this section. If
 259 the policyholder an insured fails to appear at the conference,
 260 the conference must ~~shall~~ be rescheduled upon the policyholder's
 261 insured's payment of the costs of a rescheduled conference. If

Page 9 of 46

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597-02928-18

2018784c1

262 the insurer fails to appear at the conference, the insurer must
 263 ~~shall~~ pay the policyholder's insured's actual cash expenses
 264 incurred in attending the conference if the insurer's failure to
 265 attend was not due to a good cause acceptable to the department.
 266 An insurer will be deemed to have failed to appear if the
 267 insurer's representative lacks authority to settle the full
 268 value of the claim. The insurer shall incur an additional fee
 269 for a rescheduled conference necessitated by the insurer's
 270 failure to appear at a scheduled conference. The fees assessed
 271 by the administrator must ~~shall~~ include a charge necessary to
 272 defray the expenses of the department related to its duties
 273 under this section and must ~~shall~~ be deposited in the Insurance
 274 Regulatory Trust Fund.

275 (6) Mediation is nonbinding; however, if a written
 276 settlement is reached, the policyholder insured has 3 business
 277 days within which the policyholder insured may rescind the
 278 settlement unless the policyholder insured has cashed or
 279 deposited any check or draft disbursed to the policyholder
 280 insured for the disputed matters as a result of the conference.
 281 If a settlement agreement is reached and is not rescinded, it is
 282 ~~shall be~~ binding and acts ~~act~~ as a release of all specific
 283 claims that were presented in that mediation conference.

284 (9) For purposes of this section, the term "claim" refers
 285 to any dispute between an insurer and a policyholder relating to
 286 a material issue of fact other than a dispute:

287 (a) With respect to which the insurer has a reasonable
 288 basis to suspect fraud;

289 (b) When ~~Where~~, based on agreed-upon facts as to the cause
 290 of loss, there is no coverage under the policy;

Page 10 of 46

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597-02928-18

2018784c1

291 (c) With respect to which the insurer has a reasonable
 292 basis to believe that the policyholder has intentionally made a
 293 material misrepresentation of fact which is relevant to the
 294 claim, and the entire request for payment of a loss has been
 295 denied on the basis of the material misrepresentation;

296 (d) With respect to which the amount in controversy is less
 297 than \$500, unless the parties agree to mediate a dispute
 298 involving a lesser amount; or

299 (e) With respect to a windstorm or hurricane loss that does
 300 not comply with s. 627.70132.

301 Section 11. Subsection (5) of section 627.728, Florida
 302 Statutes, is amended to read:

303 627.728 Cancellations; nonrenewals.—

304 (5) United States postal proof of mailing, ~~or~~ certified or
 305 registered mailing, or other mailing using the Intelligent Mail
 306 barcode or other similar tracking method used or approved by the
 307 United States Postal Service of notice of cancellation, of
 308 intention not to renew, or of reasons for cancellation, or of
 309 the intention of the insurer to issue a policy by an insurer
 310 under the same ownership or management, to the first-named
 311 insured at the address shown in the policy is ~~shall be~~
 312 sufficient proof of notice.

313 Section 12. Subsection (1) of section 627.756, Florida
 314 Statutes, is amended to read:

315 627.756 Bonds for construction contracts; attorney fees in
 316 case of suit.—

317 (1) Section 627.428 applies to suits brought by owners,
 318 contractors, subcontractors, laborers, and materialmen against a
 319 surety insurer under payment or performance bonds written by the

597-02928-18

2018784c1

320 insurer under the laws of this state to indemnify against
 321 pecuniary loss by breach of a building or construction contract.
 322 Owners, contractors, subcontractors, laborers, and materialmen
 323 are shall be deemed to be insureds or beneficiaries for the
 324 purposes of this section.

325 Section 13. The amendment made by this act to s. 627.756,
 326 Florida Statutes, applies only to payment or performance bonds
 327 issued on or after October 1, 2018.

328 Section 14. Subsections (1) and (7) of section 628.4615,
 329 Florida Statutes, are amended, present subsections (11) through
 330 (14) of that section are redesignated as subsections (12)
 331 through (15), respectively, and a new subsection (11) is added
 332 to that section, to read:

333 628.4615 Specialty insurers; acquisition of controlling
 334 stock, ownership interest, assets, or control; merger or
 335 consolidation.—

336 (1) For the purposes of this section, the term "specialty
 337 insurer" means any person holding a license or certificate of
 338 authority as:

339 (a) A motor vehicle service agreement company authorized to
 340 issue motor vehicle service agreements as those terms are
 341 defined in s. 634.011;

342 (b) A home warranty association authorized to issue "home
 343 warranties" as those terms are defined in s. 634.301;

344 (c) A service warranty association authorized to issue
 345 "service warranties" as those terms are defined in s.
 346 634.401(13) and (14);

347 (d) A prepaid limited health service organization
 348 authorized to issue prepaid limited health service contracts, as

597-02928-18 2018784c1

349 those terms are defined in chapter 636;

350 (e) An authorized health maintenance organization operating
351 pursuant to s. 641.21;

352 (f) An authorized prepaid health clinic operating pursuant
353 to s. 641.405;

354 (g) A legal expense insurance corporation authorized to
355 engage in a legal expense insurance business pursuant to s.
356 642.021;

357 (h) A provider that is licensed to operate a facility that
358 undertakes to provide continuing care as those terms are defined
359 in s. 651.011;

360 (i) A multiple-employer welfare arrangement operating
361 pursuant to ss. 624.436-624.446;

362 (j) A premium finance company authorized to finance
363 insurance premiums pursuant to s. 627.828; ~~or~~

364 (k) A corporation authorized to accept donor annuity
365 agreements pursuant to s. 627.481; or

366 (l) A viatical settlement provider authorized to do
367 business in this state under part X of chapter 626.

368 (7) The office may disapprove any acquisition subject to
369 ~~the provisions of~~ this section by any person or any affiliated
370 person of such person who:

371 (a) Willfully violates this section;

372 (b) In violation of an order of the office issued pursuant
373 to subsection (12) ~~(11)~~, fails to divest himself or herself of
374 any stock or ownership interest obtained in violation of this
375 section or fails to divest himself or herself of any direct or
376 indirect control of such stock or ownership interest, within 25
377 days after such order; or

Page 13 of 46

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597-02928-18 2018784c1

378 (c) In violation of an order issued by the office pursuant
379 to subsection (12) ~~(11)~~, acquires an additional stock or
380 ownership interest in a specialty insurer or controlling company
381 or direct or indirect control of such stock or ownership
382 interest, without complying with this section.

383 (11) A person may rebut a presumption of control by filing
384 a disclaimer of control with the office on a form prescribed by
385 the commission. The disclaimer must fully disclose all material
386 relationships and bases for affiliation between the person and
387 the specialty insurer as well as the basis for disclaiming the
388 affiliation. In lieu of such form, a person or acquiring party
389 may file with the office a copy of a Schedule 13G filed with the
390 Securities and Exchange Commission pursuant to Rule 13d-1(b) or
391 (c), 17 C.F.R. s. 240.13d-1, under the Securities Exchange Act
392 of 1934, as amended. After a disclaimer has been filed, the
393 specialty insurer is relieved of any duty to register or report
394 under this section which may arise out of the specialty
395 insurer's relationship with the person unless the office
396 disallows the disclaimer.

397 Section 15. Subsection (4) of section 628.8015, Florida
398 Statutes, is amended to read:

399 628.8015 Own-risk and solvency assessment; corporate
400 governance annual disclosure.-

401 (4) CONFIDENTIALITY.-The required filings and related
402 documents submitted pursuant to subsections (2) and (3) are
403 privileged such that they may not be produced in response to a
404 subpoena or other discovery directed to the office, and any such
405 filings and related documents, ~~if obtained from the office,~~ are
406 not admissible in evidence in any private civil action. However,

Page 14 of 46

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597-02928-18

2018784c1

407 the department or office may use these filings and related
 408 documents in the furtherance of any regulatory or legal action
 409 brought against an insurer as part of the official duties of the
 410 department or office. A waiver of any applicable claim of
 411 privilege in these filings and related documents may not occur
 412 because of a disclosure to the office under this section,
 413 because of any other provision of the Insurance Code, or because
 414 of sharing under s. 624.4212. The office or a person receiving
 415 these filings and related documents, while acting under the
 416 authority of the office, or with whom such filings and related
 417 documents are shared pursuant to s. 624.4212, is not permitted
 418 or required to testify in any private civil action concerning
 419 any such filings or related documents.

420 Section 16. Paragraph (b) of subsection (6) of section
 421 629.401, Florida Statutes, is amended to read:

422 629.401 Insurance exchange.—

423 (6)

424 (b) In addition to the insurance laws specified in
 425 paragraph (a), the office shall regulate the exchange pursuant
 426 to the following powers, rights, and duties:

427 1. General examination powers.—The office shall examine the
 428 affairs, transactions, accounts, records, and assets of any
 429 security fund, exchange, members, and associate brokers as often
 430 as it deems advisable. The examination may be conducted by the
 431 accredited examiners of the office at the offices of the entity
 432 or person being examined. The office shall examine in like
 433 manner each prospective member or associate broker applying for
 434 membership in an exchange.

435 2. Office approval and applications of underwriting

Page 15 of 46

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597-02928-18

2018784c1

436 members.—No underwriting member shall commence operation without
 437 the approval of the office. Before commencing operation, an
 438 underwriting member shall provide a written application
 439 containing:

440 a. Name, type, and purpose of the underwriting member.

441 b. Name, residence address, business background, and
 442 qualifications of each person associated or to be associated in
 443 the formation or financing of the underwriting member.

444 c. Full disclosure of the terms of all understandings and
 445 agreements existing or proposed among persons so associated
 446 relative to the underwriting member, or the formation or
 447 financing thereof, accompanied by a copy of each such agreement
 448 or understanding.

449 d. Full disclosure of the terms of all understandings and
 450 agreements existing or proposed for management or exclusive
 451 agency contracts.

452 3. Investigation of underwriting member applications.—In
 453 connection with any proposal to establish an underwriting
 454 member, the office shall make an investigation of:

455 a. The character, reputation, financial standing, and
 456 motives of the organizers, incorporators, or subscribers
 457 organizing the proposed underwriting member.

458 b. The character, financial responsibility, insurance
 459 experience, and business qualifications of its proposed
 460 officers.

461 c. The character, financial responsibility, business
 462 experience, and standing of the proposed stockholders and
 463 directors, or owners.

464 4. Notice of management changes.—An underwriting member

Page 16 of 46

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597-02928-18

2018784c1

465 shall promptly give the office written notice of any change
 466 among the directors or principal officers of the underwriting
 467 member within 30 days after such change. The office shall
 468 investigate the new directors or principal officers of the
 469 underwriting member. The office's investigation shall include an
 470 investigation of the character, financial responsibility,
 471 insurance experience, and business qualifications of any new
 472 directors or principal officers. As a result of the
 473 investigation, the office may require the underwriting member to
 474 replace any new directors or principal officers.

475 5. Alternate financial statement.—In lieu of any financial
 476 examination, the office may accept an audited financial
 477 statement.

478 6. Correction and reconstruction of records.—If the office
 479 finds any accounts or records to be inadequate, or inadequately
 480 kept or posted, it may employ experts to reconstruct, rewrite,
 481 post, or balance them at the expense of the person or entity
 482 being examined if such person or entity has failed to maintain,
 483 complete, or correct such records or accounts after the office
 484 has given him or her or it notice and reasonable opportunity to
 485 do so.

486 7. Obstruction of examinations.—Any person or entity who or
 487 which willfully obstructs the office or its examiner in an
 488 examination is guilty of a misdemeanor of the second degree,
 489 punishable as provided in s. 775.082 or s. 775.083.

490 8. Filing of annual statement.—Each underwriting member
 491 shall file with the office a full and true statement of its
 492 financial condition, transactions, and affairs. The statement
 493 shall be filed on or before March 1 of each year, or within such

597-02928-18

2018784c1

494 extension of time as the office for good cause grants, and shall
 495 be for the preceding calendar year. The statement shall contain
 496 information generally included in insurer financial statements
 497 prepared in accordance with generally accepted insurance
 498 accounting principles and practices and in a form generally
 499 utilized by insurers for financial statements, sworn to by at
 500 least two executive officers of the underwriting member. The
 501 form of the financial statements shall be the approved form of
 502 the National Association of Insurance Commissioners or its
 503 successor organization. The commission may by rule require each
 504 insurer to submit any part of the information contained in the
 505 financial statement in a computer-readable form compatible with
 506 the office's electronic data processing system. In addition to
 507 information furnished in connection with its annual statement,
 508 an underwriting member must furnish to the office as soon as
 509 reasonably possible such information about its transactions or
 510 affairs as the office requests in writing. All information
 511 furnished pursuant to the office's request must be verified by
 512 the oath of two executive officers of the underwriting member.

513 9. Record maintenance.—Each underwriting member shall have
 514 and maintain its principal place of business in this state and
 515 shall keep therein complete records of its assets, transactions,
 516 and affairs in accordance with such methods and systems as are
 517 customary for or suitable to the kind or kinds of insurance
 518 transacted.

519 10. Examination of agents.—If the department has reason to
 520 believe that any agent, as defined in s. 626.015 or s. 626.914,
 521 has violated or is violating any provision of the insurance law,
 522 or upon receipt of a written complaint signed by any interested

597-02928-18 2018784c1

523 person indicating that any such violation may exist, the
 524 department shall conduct such examination as it deems necessary
 525 of the accounts, records, documents, and transactions pertaining
 526 to or affecting the insurance affairs of such agent.

527 11. Written reports of office.—The office or its examiner
 528 shall make a full and true written report of any examination.
 529 The report shall contain only information obtained from
 530 examination of the records, accounts, files, and documents of or
 531 relative to the person or entity examined or from testimony of
 532 individuals under oath, together with relevant conclusions and
 533 recommendations of the examiner based thereon. The office shall
 534 furnish a copy of the report to the person or entity examined
 535 not less than 30 days prior to filing the report in its office.
 536 If such person or entity so requests in writing within such 30-
 537 day period, the office shall grant a hearing with respect to the
 538 report and shall not file the report until after the hearing and
 539 after such modifications have been made therein as the office
 540 deems proper.

541 12. Admissibility of reports.—The report of an examination
 542 when filed shall be admissible in evidence in any action or
 543 proceeding brought by the office against the person or entity
 544 examined, or against his or her or its officers, employees, or
 545 agents. The office or its examiners may at any time testify and
 546 offer other proper evidence as to information secured or matters
 547 discovered during the course of an examination, whether or not a
 548 written report of the examination has been either made,
 549 furnished, or filed in the office.

550 13. Publication of reports.—After an examination report has
 551 been filed, the office may publish the results of any such

597-02928-18 2018784c1

552 examination in one or more newspapers published in this state
 553 whenever it deems it to be in the public interest.

554 14. Consideration of examination reports by entity
 555 examined.—After the examination report of an underwriting member
 556 has been filed, an affidavit shall be filed with the office, not
 557 more than 30 days after the report has been filed, on a form
 558 furnished by the office and signed by the person or a
 559 representative of any entity examined, stating that the report
 560 has been read and that the recommendations made in the report
 561 will be considered within a reasonable time.

562 15. Examination costs.—Each person or entity examined by
 563 the office shall pay to the office the expenses incurred in such
 564 examination.

565 16. Exchange costs.—An exchange shall reimburse the office
 566 for any expenses incurred by it relating to the regulation of
 567 the exchange and its members, except as specified in
 568 subparagraph 15.

569 17. Powers of examiners.—Any examiner appointed by the
 570 office, as to the subject of any examination, investigation, or
 571 hearing being conducted by him or her, may administer oaths,
 572 examine and cross-examine witnesses, and receive oral and
 573 documentary evidence, and shall have the power to subpoena
 574 witnesses, compel their attendance and testimony, and require by
 575 subpoena the production of books, papers, records, files,
 576 correspondence, documents, or other evidence which the examiner
 577 deems relevant to the inquiry. If any person refuses to comply
 578 with any such subpoena or to testify as to any matter concerning
 579 which he or she may be lawfully interrogated, the Circuit Court
 580 of Leon County or the circuit court of the county wherein such

597-02928-18 2018784c1
 581 examination, investigation, or hearing is being conducted, or of
 582 the county wherein such person resides, on the office's
 583 application may issue an order requiring such person to comply
 584 with the subpoena and to testify; and any failure to obey such
 585 an order of the court may be punished by the court as a contempt
 586 thereof. Subpoenas shall be served, and proof of such service
 587 made, in the same manner as if issued by a circuit court.
 588 Witness fees and mileage, if claimed, shall be allowed the same
 589 as for testimony in a circuit court.

590 18. False testimony.—Any person willfully testifying
 591 falsely under oath as to any matter material to any examination,
 592 investigation, or hearing shall upon conviction thereof be
 593 guilty of perjury and shall be punished accordingly.

594 19. Self-incrimination.—

595 a. If any person asks to be excused from attending or
 596 testifying or from producing any books, papers, records,
 597 contracts, documents, or other evidence in connection with any
 598 examination, hearing, or investigation being conducted by the
 599 office or its examiner, on the ground that the testimony or
 600 evidence required of the person may tend to incriminate him or
 601 her or subject him or her to a penalty or forfeiture, and the
 602 person notwithstanding is directed to give such testimony or
 603 produce such evidence, he or she shall, if so directed by the
 604 office and the Department of Legal Affairs, nonetheless comply
 605 with such direction; but the person shall not thereafter be
 606 prosecuted or subjected to any penalty or forfeiture for or on
 607 account of any transaction, matter, or thing concerning which he
 608 or she may have so testified or produced evidence, and no
 609 testimony so given or evidence so produced shall be received

597-02928-18 2018784c1
 610 against him or her upon any criminal action, investigation, or
 611 proceeding; except that no such person so testifying shall be
 612 exempt from prosecution or punishment for any perjury committed
 613 by him or her in such testimony, and the testimony or evidence
 614 so given or produced shall be admissible against him or her upon
 615 any criminal action, investigation, or proceeding concerning
 616 such perjury, nor shall he or she be exempt from the refusal,
 617 suspension, or revocation of any license, permission, or
 618 authority conferred, or to be conferred, pursuant to the
 619 insurance law.

620 b. Any such individual may execute, acknowledge, and file
 621 with the office a statement expressly waiving such immunity or
 622 privilege in respect to any transaction, matter, or thing
 623 specified in such statement, and thereupon the testimony of such
 624 individual or such evidence in relation to such transaction,
 625 matter, or thing may be received or produced before any judge or
 626 justice, court, tribunal, grand jury, or otherwise; and if such
 627 testimony or evidence is so received or produced, such
 628 individual shall not be entitled to any immunity or privileges
 629 on account of any testimony so given or evidence so produced.

630 20. Penalty for failure to testify.—Any person who refuses
 631 or fails, without lawful cause, to testify relative to the
 632 affairs of any member, associate broker, or other person when
 633 subpoenaed and requested by the office to so testify, as
 634 provided in subparagraph 17., shall, in addition to the penalty
 635 provided in subparagraph 17., be guilty of a misdemeanor of the
 636 second degree, punishable as provided in s. 775.082 or s.
 637 775.083.

638 21. Name selection.—No underwriting member shall be formed

597-02928-18

2018784c1

639 or authorized to transact insurance in this state under a name
 640 which is the same as that of any authorized insurer or is so
 641 nearly similar thereto as to cause or tend to cause confusion or
 642 under a name which would tend to mislead as to the type of
 643 organization of the insurer. Before incorporating under or using
 644 any name, the underwriting syndicate or proposed underwriting
 645 syndicate shall submit its name or proposed name to the office
 646 for the approval of the office.

647 22. Capitalization.—An underwriting member approved on or
 648 after July 2, 1987, shall provide an initial paid-in capital and
 649 surplus of \$3 million and thereafter shall maintain a minimum
 650 policyholder surplus of \$2 million in order to be permitted to
 651 write insurance. Underwriting members approved prior to July 2,
 652 1987, shall maintain a minimum policyholder surplus of \$1
 653 million. After June 29, 1988, underwriting members approved
 654 prior to July 2, 1987, must maintain a minimum policyholder
 655 surplus of \$1.5 million to write insurance. After June 29, 1989,
 656 underwriting members approved prior to July 2, 1987, must
 657 maintain a minimum policyholder surplus of \$1.75 million to
 658 write insurance. After December 30, 1989, all underwriting
 659 members, regardless of the date they were approved, must
 660 maintain a minimum policyholder surplus of \$2 million to write
 661 insurance. Except for that portion of the paid-in capital and
 662 surplus which shall be maintained in a security fund of an
 663 exchange, the paid-in capital and surplus shall be invested by
 664 an underwriting member in a manner consistent with ss. 625.301-
 665 625.340. The portion of the paid-in capital and surplus in any
 666 security fund of an exchange shall be invested in a manner
 667 limited to investments for life insurance companies under the

597-02928-18

2018784c1

668 Florida insurance laws.

669 23. Limitations on coverage written.—

670 a. Limit of risk.—No underwriting member shall expose
 671 itself to any loss on any one risk in an amount exceeding 10
 672 percent of its surplus to policyholders. Any risk or portion of
 673 any risk which shall have been reinsured in an assuming
 674 reinsurer authorized or approved to do such business in this
 675 state shall be deducted in determining the limitation of risk
 676 prescribed in this section.

677 b. Restrictions on premiums written.—If the office has
 678 reason to believe that the underwriting member's ratio of actual
 679 or projected annual gross written premiums to policyholder
 680 surplus exceeds 8 to 1 or the underwriting member's ratio of
 681 actual or projected annual net premiums to policyholder surplus
 682 exceeds 4 to 1, the office may establish maximum gross or net
 683 annual premiums to be written by the underwriting member
 684 consistent with maintaining the ratios specified in this sub-
 685 subparagraph.

686 (I) Projected annual net or gross premiums shall be based
 687 on the actual writings to date for the underwriting member's
 688 current calendar year, its writings for the previous calendar
 689 year, or both. Ratios shall be computed on an annualized basis.

690 (II) For purposes of this sub-subparagraph, the term "gross
 691 written premiums" means direct premiums written and reinsurance
 692 assumed.

693 c. Surplus as to policyholders.—For the purpose of
 694 determining the limitation on coverage written, surplus as to
 695 policyholders shall be deemed to include any voluntary reserves,
 696 or any part thereof, which are not required by or pursuant to

597-02928-18

2018784c1

697 law and shall be determined from the last sworn statement of
698 such underwriting member with the office, or by the last report
699 or examination filed by the office, whichever is more recent at
700 the time of assumption of such risk.

701 24. Unearned premium reserves.—An underwriting member must
702 at all times maintain an unearned premium reserve equal to 50
703 percent of the net written premiums of the subscribers on
704 policies having 1 year or less to run, and pro rata on those for
705 longer periods, All unearned premium reserves for business
706 written on the exchange shall be calculated on a monthly or more
707 frequent basis or on such other basis as determined by the
708 office, except that all premiums on any marine or transportation
709 insurance trip risk shall be deemed unearned until the trip is
710 terminated. For the purpose of this subparagraph, the term "net
711 written premiums" means the premium payments made by subscribers
712 plus the premiums due from subscribers, after deducting the
713 amounts specifically provided in the subscribers' agreements for
714 expenses, including reinsurance costs and fees paid to the
715 attorney in fact, provided that the power of attorney agreement
716 contains an explicit provision requiring the attorney in fact to
717 refund any unearned subscribers fees on a pro-rata basis for
718 cancelled policies. If there is no such provision, the unearned
719 premium reserves must be calculated without any adjustment for
720 fees paid to the attorney in fact. If the unearned premium
721 reserves at any time do not amount to \$100,000, there must be
722 maintained on deposit at the exchange at all times additional
723 funds in cash or eligible securities, which, together with the
724 unearned premium reserves, equal \$100,000. In calculating the
725 foregoing reserves, the amount of the attorney's bond, as filed

Page 25 of 46

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597-02928-18

2018784c1

726 with the office and as required by s. 629.121, must be included
727 in such reserves. If at any time the unearned premium reserves
728 are less than the foregoing requirements, the subscribers or the
729 attorney in fact shall advance funds to make up the deficiency.
730 Such advances must be repaid only out of the surplus of the
731 exchange and only after receiving written approval from the
732 office.

733 25. Loss reserves.—All underwriting members of an exchange
734 shall maintain loss reserves, including a reserve for incurred
735 but not reported claims. The reserves shall be subject to review
736 by the office, and, if loss experience shows that an
737 underwriting member's loss reserves are inadequate, the office
738 shall require the underwriting member to maintain loss reserves
739 in such additional amount as is needed to make them adequate.

740 26. Distribution of profits.—An underwriting member shall
741 not distribute any profits in the form of cash or other assets
742 to owners except out of that part of its available and
743 accumulated surplus funds which is derived from realized net
744 operating profits on its business and realized capital gains. In
745 any one year such payments to owners shall not exceed 30 percent
746 of such surplus as of December 31 of the immediately preceding
747 year, unless otherwise approved by the office. No distribution
748 of profits shall be made that would render an underwriting
749 member either impaired or insolvent.

750 27. Stock dividends.—A stock dividend may be paid by an
751 underwriting member out of any available surplus funds in excess
752 of the aggregate amount of surplus advanced to the underwriting
753 member under subparagraph 29.

754 28. Dividends from earned surplus.—A dividend otherwise

Page 26 of 46

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597-02928-18 2018784c1

755 lawful may be payable out of an underwriting member's earned
756 surplus even though the total surplus of the underwriting member
757 is then less than the aggregate of its past contributed surplus
758 resulting from issuance of its capital stock at a price in
759 excess of the par value thereof.

760 29. Borrowing of money by underwriting members.—

761 a. An underwriting member may borrow money to defray the
762 expenses of its organization, provide it with surplus funds, or
763 for any purpose of its business, upon a written agreement that
764 such money is required to be repaid only out of the underwriting
765 member's surplus in excess of that stipulated in such agreement.
766 The agreement may provide for interest not exceeding 15 percent
767 simple interest per annum. The interest shall or shall not
768 constitute a liability of the underwriting member as to its
769 funds other than such excess of surplus, as stipulated in the
770 agreement. No commission or promotion expense shall be paid in
771 connection with any such loan. The use of any surplus note and
772 any repayments thereof shall be subject to the approval of the
773 office.

774 b. Money so borrowed, together with any interest thereon if
775 so stipulated in the agreement, shall not form a part of the
776 underwriting member's legal liabilities except as to its surplus
777 in excess of the amount thereof stipulated in the agreement, nor
778 be the basis of any setoff; but until repayment, financial
779 statements filed or published by an underwriting member shall
780 show as a footnote thereto the amount thereof then unpaid,
781 together with any interest thereon accrued but unpaid.

782 30. Liquidation, rehabilitation, and restrictions.—The
783 office, upon a showing that a member or associate broker of an

597-02928-18 2018784c1

784 exchange has met one or more of the grounds contained in part I
785 of chapter 631, may restrict sales by type of risk, policy or
786 contract limits, premium levels, or policy or contract
787 provisions; increase surplus or capital requirements of
788 underwriting members; issue cease and desist orders; suspend or
789 restrict a member's or associate broker's right to transact
790 business; place an underwriting member under conservatorship or
791 rehabilitation; or seek an order of liquidation as authorized by
792 part I of chapter 631.

793 31. Prohibited conduct.—The following acts by a member,
794 associate broker, or affiliated person shall constitute
795 prohibited conduct:

796 a. Fraud.

797 b. Fraudulent or dishonest acts committed by a member or
798 associate broker prior to admission to an exchange, if the facts
799 and circumstances were not disclosed to the office upon
800 application to become a member or associate broker.

801 c. Conduct detrimental to the welfare of an exchange.

802 d. Unethical or improper practices or conduct, inconsistent
803 with just and equitable principles of trade as set forth in, but
804 not limited to, ss. 626.951-626.9641 and 626.973.

805 e. Failure to use due diligence to ascertain the insurance
806 needs of a client or a principal.

807 f. Misstatements made under oath or upon an application for
808 membership on an exchange.

809 g. Failure to testify or produce documents when requested
810 by the office.

811 h. Willful violation of any law of this state.

812 i. Failure of an officer or principal to testify under oath

597-02928-18 2018784c1

813 concerning a member, associate broker, or other person's affairs
814 as they relate to the operation of an exchange.

815 j. Violation of the constitution and bylaws of the
816 exchange.

817 32. Penalties for participating in prohibited conduct.—

818 a. The office may order the suspension of further
819 transaction of business on the exchange of any member or
820 associate broker found to have engaged in prohibited conduct. In
821 addition, any member or associate broker found to have engaged
822 in prohibited conduct may be subject to reprimand, censure,
823 and/or a fine not exceeding \$25,000 imposed by the office.

824 b. Any member which has an affiliated person who is found
825 to have engaged in prohibited conduct shall be subject to
826 involuntary withdrawal or in addition thereto may be subject to
827 suspension, reprimand, censure, and/or a fine not exceeding
828 \$25,000.

829 33. Reduction of penalties.—Any suspension, reprimand,
830 censure, or fine may be remitted or reduced by the office on
831 such terms and conditions as are deemed fair and equitable.

832 34. Other offenses.—Any member or associate broker that is
833 suspended shall be deprived, during the period of suspension, of
834 all rights and privileges of a member or of an associate broker
835 and may be proceeded against by the office for any offense
836 committed either before or after the date of suspension.

837 35. Reinstatement.—Any member or associate broker that is
838 suspended may be reinstated at any time on such terms and
839 conditions as the office may specify.

840 36. Remittance of fines.—Fines imposed under this section
841 shall be remitted to the office and shall be paid into the

597-02928-18 2018784c1

842 Insurance Regulatory Trust Fund.

843 37. Failure to pay fines.—When a member or associate broker
844 has failed to pay a fine for 15 days after it becomes payable,
845 such member or associate broker shall be suspended, unless the
846 office has granted an extension of time to pay such fine.

847 38. Changes in ownership or assets.—In the event of a major
848 change in the ownership or a major change in the assets of an
849 underwriting member, the underwriting member shall report such
850 change in writing to the office within 30 days of the effective
851 date thereof. The report shall set forth the details of the
852 change. Any change in ownership or assets of more than 5 percent
853 shall be considered a major change.

854 39. Retaliation.—

855 a. When by or pursuant to the laws of any other state or
856 foreign country any taxes, licenses, or other fees, in the
857 aggregate, and any fines, penalties, deposit requirements, or
858 other material obligations, prohibitions, or restrictions are or
859 would be imposed upon an exchange or upon the agents or
860 representatives of such exchange which are in excess of such
861 taxes, licenses, and other fees, in the aggregate, or which are
862 in excess of such fines, penalties, deposit requirements, or
863 other obligations, prohibitions, or restrictions directly
864 imposed upon similar exchanges or upon the agents or
865 representatives of such exchanges of such other state or country
866 under the statutes of this state, so long as such laws of such
867 other state or country continue in force or are so applied, the
868 same taxes, licenses, and other fees, in the aggregate, or
869 fines, penalties, deposit requirements, or other material
870 obligations, prohibitions, or restrictions of whatever kind

597-02928-18

2018784c1

871 shall be imposed by the office upon the exchanges, or upon the
872 agents or representatives of such exchanges, of such other state
873 or country doing business or seeking to do business in this
874 state.

875 b. Any tax, license, or other obligation imposed by any
876 city, county, or other political subdivision or agency of a
877 state, jurisdiction, or foreign country on an exchange, or on
878 the agents or representatives on an exchange, shall be deemed to
879 be imposed by such state, jurisdiction, or foreign country
880 within the meaning of sub-subparagraph a.

881 40. Agents.—

882 a. Agents as defined in ss. 626.015 and 626.914 who are
883 broker members or associate broker members of an exchange shall
884 be allowed only to place on an exchange the same kind or kinds
885 of business that the agent is licensed to place pursuant to
886 Florida law. Direct Florida business as defined in s. 626.916 or
887 s. 626.917 shall be written through a broker member who is a
888 surplus lines agent as defined in s. 626.914. The activities of
889 each broker member or associate broker with regard to an
890 exchange shall be subject to all applicable provisions of the
891 insurance laws of this state, and all such activities shall
892 constitute transactions under his or her license as an insurance
893 agent for purposes of the Florida insurance law.

894 b. Premium payments and other requirements.—If an
895 underwriting member has assumed the risk as to a surplus lines
896 coverage and if the premium therefor has been received by the
897 surplus lines agent who placed such insurance, then in all
898 questions thereafter arising under the coverage as between the
899 underwriting member and the insured, the underwriting member

Page 31 of 46

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597-02928-18

2018784c1

900 shall be deemed to have received the premium due to it for such
901 coverage; and the underwriting member shall be liable to the
902 insured as to losses covered by such insurance, and for unearned
903 premiums which may become payable to the insured upon
904 cancellation of such insurance, whether or not in fact the
905 surplus lines agent is indebted to the underwriting member with
906 respect to such insurance or for any other cause.

907 41. Improperly issued contracts, riders, and endorsements.—

908 a. Any insurance policy, rider, or endorsement issued by an
909 underwriting member and otherwise valid which contains any
910 condition or provision not in compliance with the requirements
911 of this section shall not be thereby rendered invalid, except as
912 provided in s. 627.415, but shall be construed and applied in
913 accordance with such conditions and provisions as would have
914 applied had such policy, rider, or endorsement been in full
915 compliance with this section. In the event an underwriting
916 member issues or delivers any policy for an amount which exceeds
917 any limitations otherwise provided in this section, the
918 underwriting member shall be liable to the insured or his or her
919 beneficiary for the full amount stated in the policy in addition
920 to any other penalties that may be imposed.

921 b. Any insurance contract delivered or issued for delivery
922 in this state governing a subject or subjects of insurance
923 resident, located, or to be performed in this state which,
924 pursuant to the provisions of this section, the underwriting
925 member may not lawfully insure under such a contract shall be
926 cancelable at any time by the underwriting member, any provision
927 of the contract to the contrary notwithstanding; and the
928 underwriting member shall promptly cancel the contract in

Page 32 of 46

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597-02928-18

2018784c1

929 accordance with the request of the office therefor. No such
 930 illegality or cancellation shall be deemed to relieve the
 931 underwriting syndicate of any liability incurred by it under the
 932 contract while in force or to prohibit the underwriting
 933 syndicate from retaining the pro rata earned premium thereon.
 934 This provision does not relieve the underwriting syndicate from
 935 any penalty otherwise incurred by the underwriting syndicate.

936 42. Satisfaction of judgments.—

937 a. Every judgment or decree for the recovery of money
 938 heretofore or hereafter entered in any court of competent
 939 jurisdiction against any underwriting member shall be fully
 940 satisfied within 60 days from and after the entry thereof or, in
 941 the case of an appeal from such judgment or decree, within 60
 942 days from and after the affirmance of the judgment or decree by
 943 the appellate court.

944 b. If the judgment or decree is not satisfied as required
 945 under sub-subparagraph a., and proof of such failure to satisfy
 946 is made by filing with the office a certified transcript of the
 947 docket of the judgment or the decree together with a certificate
 948 by the clerk of the court wherein the judgment or decree remains
 949 unsatisfied, in whole or in part, after the time provided in
 950 sub-subparagraph a., the office shall forthwith prohibit the
 951 underwriting member from transacting business. The office shall
 952 not permit such underwriting member to write any new business
 953 until the judgment or decree is wholly paid and satisfied and
 954 proof thereof is filed with the office under the official
 955 certificate of the clerk of the court wherein the judgment was
 956 recovered, showing that the judgment or decree is satisfied of
 957 record, and until the expenses and fees incurred in the case are

Page 33 of 46

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597-02928-18

2018784c1

958 also paid by the underwriting syndicate.

959 43. Tender and exchange offers.—No person shall conclude a
 960 tender offer or an exchange offer or otherwise acquire 5 percent
 961 or more of the outstanding voting securities of an underwriting
 962 member or controlling company or purchase 5 percent or more of
 963 the ownership of an underwriting member or controlling company
 964 unless such person has filed with, and obtained the approval of,
 965 the office and sent to such underwriting member a statement
 966 setting forth:

967 a. The identity of, and background information on, each
 968 person by whom, or on whose behalf, the acquisition is to be
 969 made; and, if the acquisition is to be made by or on behalf of a
 970 corporation, association, or trust, the identity of and
 971 background information on each director, officer, trustee, or
 972 other natural person performing duties similar to those of a
 973 director, officer, or trustee for the corporation, association,
 974 or trust.

975 b. The source and amount of the funds or other
 976 consideration used, or to be used, in making the acquisition.

977 c. Any plans or proposals which such person may have to
 978 liquidate such member, to sell its assets, or to merge or
 979 consolidate it.

980 d. The percentage of ownership which such person proposes
 981 to acquire and the terms of the offer or exchange, as the case
 982 may be.

983 e. Information as to any contracts, arrangements, or
 984 understandings with any party with respect to any securities of
 985 such member or controlling company, including, but not limited
 986 to, information relating to the transfer of any securities,

Page 34 of 46

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597-02928-18 2018784c1

987 option arrangements, or puts or calls or the giving or
 988 withholding of proxies, naming the party with whom such
 989 contract, arrangements, or understandings have been entered and
 990 giving the details thereof.

991 f. The office may disapprove any acquisition subject to the
 992 provisions of this subparagraph by any person or any affiliated
 993 person of such person who:

994 (I) Willfully violates this subparagraph;
 995 (II) In violation of an order of the office issued pursuant
 996 to sub-subparagraph j., fails to divest himself or herself of
 997 any stock obtained in violation of this subparagraph, or fails
 998 to divest himself or herself of any direct or indirect control
 999 of such stock, within 25 days after such order; or

1000 (III) In violation of an order issued by the office
 1001 pursuant to sub-subparagraph j., acquires additional stock of
 1002 the underwriting member or controlling company, or direct or
 1003 indirect control of such stock, without complying with this
 1004 subparagraph.

1005 g. The person or persons filing the statement required by
 1006 this subparagraph have the burden of proof. The office shall
 1007 approve any such acquisition if it finds, on the basis of the
 1008 record made during any proceeding or on the basis of the filed
 1009 statement if no proceeding is conducted, that:

1010 (I) Upon completion of the acquisition, the underwriting
 1011 member will be able to satisfy the requirements for the approval
 1012 to write the line or lines of insurance for which it is
 1013 presently approved;

1014 (II) The financial condition of the acquiring person or
 1015 persons will not jeopardize the financial stability of the

597-02928-18 2018784c1

1016 underwriting member or prejudice the interests of its
 1017 policyholders or the public;

1018 (III) Any plan or proposal which the acquiring person has,
 1019 or acquiring persons have, made:

1020 (A) To liquidate the insurer, sell its assets, or merge or
 1021 consolidate it with any person, or to make any other major
 1022 change in its business or corporate structure or management; or
 1023 (B) To liquidate any controlling company, sell its assets,
 1024 or merge or consolidate it with any person, or to make any major
 1025 change in its business or corporate structure or management
 1026 which would have an effect upon the underwriting member

1027
 1028 is fair and free of prejudice to the policyholders of the
 1029 underwriting member or to the public;

1030 (IV) The competence, experience, and integrity of those
 1031 persons who will control directly or indirectly the operation of
 1032 the underwriting member indicate that the acquisition is in the
 1033 best interest of the policyholders of the underwriting member
 1034 and in the public interest;

1035 (V) The natural persons for whom background information is
 1036 required to be furnished pursuant to this subparagraph have such
 1037 backgrounds as to indicate that it is in the best interests of
 1038 the policyholders of the underwriting member, and in the public
 1039 interest, to permit such persons to exercise control over such
 1040 underwriting member;

1041 (VI) The officers and directors to be employed after the
 1042 acquisition have sufficient insurance experience and ability to
 1043 assure reasonable promise of successful operation;

1044 (VII) The management of the underwriting member after the

597-02928-18

2018784c1

1045 acquisition will be competent and trustworthy and will possess
 1046 sufficient managerial experience so as to make the proposed
 1047 operation of the underwriting member not hazardous to the
 1048 insurance-buying public;

1049 (VIII) The management of the underwriting member after the
 1050 acquisition will not include any person who has directly or
 1051 indirectly through ownership, control, reinsurance transactions,
 1052 or other insurance or business relations unlawfully manipulated
 1053 the assets, accounts, finances, or books of any insurer or
 1054 underwriting member or otherwise acted in bad faith with respect
 1055 thereto;

1056 (IX) The acquisition is not likely to be hazardous or
 1057 prejudicial to the underwriting member's policyholders or the
 1058 public; and

1059 (X) The effect of the acquisition of control would not
 1060 substantially lessen competition in insurance in this state or
 1061 would not tend to create a monopoly therein.

1062 h. No vote by the stockholder of record, or by any other
 1063 person, of any security acquired in contravention of the
 1064 provisions of this subparagraph is valid. Any acquisition of any
 1065 security contrary to the provisions of this subparagraph is
 1066 void. Upon the petition of the underwriting member or
 1067 controlling company, the circuit court for the county in which
 1068 the principal office of such underwriting member is located may,
 1069 without limiting the generality of its authority, order the
 1070 issuance or entry of an injunction or other order to enforce the
 1071 provisions of this subparagraph. There shall be a private right
 1072 of action in favor of the underwriting member or controlling
 1073 company to enforce the provisions of this subparagraph. No

Page 37 of 46

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597-02928-18

2018784c1

1074 demand upon the office that it perform its functions shall be
 1075 required as a prerequisite to any suit by the underwriting
 1076 member or controlling company against any other person, and in
 1077 no case shall the office be deemed a necessary party to any
 1078 action by such underwriting member or controlling company to
 1079 enforce the provisions of this subparagraph. Any person who
 1080 makes or proposes an acquisition requiring the filing of a
 1081 statement pursuant to this subparagraph, or who files such a
 1082 statement, shall be deemed to have thereby designated the Chief
 1083 Financial Officer as such person's agent for service of process
 1084 under this subparagraph and shall thereby be deemed to have
 1085 submitted himself or herself to the administrative jurisdiction
 1086 of the office and to the jurisdiction of the circuit court.

1087 i. Any approval by the office under this subparagraph does
 1088 not constitute a recommendation by the office for an
 1089 acquisition, tender offer, or exchange offer. It is unlawful for
 1090 a person to represent that the office's approval constitutes a
 1091 recommendation. A person who violates the provisions of this
 1092 sub-subparagraph is guilty of a felony of the third degree,
 1093 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 1094 The statute-of-limitations period for the prosecution of an
 1095 offense committed under this sub-subparagraph is 5 years.

1096 j. Upon notification to the office by the underwriting
 1097 member or a controlling company that any person or any
 1098 affiliated person of such person has acquired 5 percent or more
 1099 of the outstanding voting securities of the underwriting member
 1100 or controlling company without complying with the provisions of
 1101 this subparagraph, the office shall order that the person and
 1102 any affiliated person of such person cease acquisition of any

Page 38 of 46

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597-02928-18

2018784c1

1103 further securities of the underwriting member or controlling
 1104 company; however, the person or any affiliated person of such
 1105 person may request a proceeding, which proceeding shall be
 1106 convened within 7 days after the rendering of the order for the
 1107 sole purpose of determining whether the person, individually or
 1108 in connection with any affiliated person of such person, has
 1109 acquired 5 percent or more of the outstanding voting securities
 1110 of an underwriting member or controlling company. Upon the
 1111 failure of the person or affiliated person to request a hearing
 1112 within 7 days, or upon a determination at a hearing convened
 1113 pursuant to this sub-subparagraph that the person or affiliated
 1114 person has acquired voting securities of an underwriting member
 1115 or controlling company in violation of this subparagraph, the
 1116 office may order the person and affiliated person to divest
 1117 themselves of any voting securities so acquired.

1118 k.(I) The office shall, if necessary to protect the public
 1119 interest, suspend or revoke the certificate of authority of any
 1120 underwriting member or controlling company:

1121 (A) The control of which is acquired in violation of this
 1122 subparagraph;

1123 (B) That is controlled, directly or indirectly, by any
 1124 person or any affiliated person of such person who, in violation
 1125 of this subparagraph, has obtained control of an underwriting
 1126 member or controlling company; or

1127 (C) That is controlled, directly or indirectly, by any
 1128 person who, directly or indirectly, controls any other person
 1129 who, in violation of this subparagraph, acquires control of an
 1130 underwriting member or controlling company.

1131 (II) If any underwriting member is subject to suspension or

597-02928-18

2018784c1

1132 revocation pursuant to sub-sub-subparagraph (I), the
 1133 underwriting member shall be deemed to be in such condition, or
 1134 to be using or to have been subject to such methods or practices
 1135 in the conduct of its business, as to render its further
 1136 transaction of insurance presently or prospectively hazardous to
 1137 its policyholders, creditors, or stockholders or to the public.

1138 l.(I) For the purpose of this sub-sub-subparagraph, the
 1139 term "affiliated person" of another person means:

1140 (A) The spouse of such other person;

1141 (B) The parents of such other person and their lineal
 1142 descendants and the parents of such other person's spouse and
 1143 their lineal descendants;

1144 (C) Any person who directly or indirectly owns or controls,
 1145 or holds with power to vote, 5 percent or more of the
 1146 outstanding voting securities of such other person;

1147 (D) Any person 5 percent or more of the outstanding voting
 1148 securities of which are directly or indirectly owned or
 1149 controlled, or held with power to vote, by such other person;

1150 (E) Any person or group of persons who directly or
 1151 indirectly control, are controlled by, or are under common
 1152 control with such other person; or any officer, director,
 1153 partner, copartner, or employee of such other person;

1154 (F) If such other person is an investment company, any
 1155 investment adviser of such company or any member of an advisory
 1156 board of such company;

1157 (G) If such other person is an unincorporated investment
 1158 company not having a board of directors, the depositor of such
 1159 company; or

1160 (H) Any person who has entered into an agreement, written

597-02928-18

2018784c1

1161 or unwritten, to act in concert with such other person in
 1162 acquiring or limiting the disposition of securities of an
 1163 underwriting member or controlling company.

1164 (II) For the purposes of this section, the term
 1165 "controlling company" means any corporation, trust, or
 1166 association owning, directly or indirectly, 25 percent or more
 1167 of the voting securities of one or more underwriting members.

1168 m. The commission may adopt, amend, or repeal rules that
 1169 are necessary to implement the provisions of this subparagraph,
 1170 pursuant to chapter 120.

1171 44. Background information.—The information as to the
 1172 background and identity of each person about whom information is
 1173 required to be furnished pursuant to sub-subparagraph 43.a.
 1174 shall include, but shall not be limited to:

1175 a. Such person's occupations, positions of employment, and
 1176 offices held during the past 10 years.

1177 b. The principal business and address of any business,
 1178 corporation, or other organization in which each such office was
 1179 held or in which such occupation or position of employment was
 1180 carried on.

1181 c. Whether, at any time during such 10-year period, such
 1182 person was convicted of any crime other than a traffic
 1183 violation.

1184 d. Whether, during such 10-year period, such person has
 1185 been the subject of any proceeding for the revocation of any
 1186 license and, if so, the nature of such proceeding and the
 1187 disposition thereof.

1188 e. Whether, during such 10-year period, such person has
 1189 been the subject of any proceeding under the federal Bankruptcy

597-02928-18

2018784c1

1190 Act or whether, during such 10-year period, any corporation,
 1191 partnership, firm, trust, or association in which such person
 1192 was a director, officer, trustee, partner, or other official has
 1193 been subject to any such proceeding, either during the time in
 1194 which such person was a director, officer, trustee, partner, or
 1195 other official, or within 12 months thereafter.

1196 f. Whether, during such 10-year period, such person has
 1197 been enjoined, either temporarily or permanently, by a court of
 1198 competent jurisdiction from violating any federal or state law
 1199 regulating the business of insurance, securities, or banking, or
 1200 from carrying out any particular practice or practices in the
 1201 course of the business of insurance, securities, or banking,
 1202 together with details of any such event.

1203 45. Security fund.—All underwriting members shall be
 1204 members of the security fund of any exchange.

1205 46. Underwriting member defined.—Whenever the term
 1206 "underwriting member" is used in this subsection, it shall be
 1207 construed to mean "underwriting syndicate."

1208 47. Offsets.—Any action, requirement, or constraint imposed
 1209 by the office shall reduce or offset similar actions,
 1210 requirements, or constraints of any exchange.

1211 48. Restriction on member ownership.—

1212 a. Investments existing prior to July 2, 1987.—The
 1213 investment in any member by brokers, agents, and intermediaries
 1214 transacting business on the exchange, and the investment in any
 1215 such broker, agent, or intermediary by any member, directly or
 1216 indirectly, shall in each case be limited in the aggregate to
 1217 less than 20 percent of the total investment in such member,
 1218 broker, agent, or intermediary, as the case may be. After

597-02928-18

2018784c1

1219 December 31, 1987, the aggregate percent of the total investment
 1220 in such member by any broker, agent, or intermediary and the
 1221 aggregate percent of the total investment in any such broker,
 1222 agent, or intermediary by any member, directly or indirectly,
 1223 shall not exceed 15 percent. After June 30, 1988, such aggregate
 1224 percent shall not exceed 10 percent and after December 31, 1988,
 1225 such aggregate percent shall not exceed 5 percent.

1226 b. Investments arising on or after July 2, 1987.—The
 1227 investment in any underwriting member by brokers, agents, or
 1228 intermediaries transacting business on the exchange, and the
 1229 investment in any such broker, agent, or intermediary by any
 1230 underwriting member, directly or indirectly, shall in each case
 1231 be limited in the aggregate to less than 5 percent of the total
 1232 investment in such underwriting member, broker, agent, or
 1233 intermediary.

1234 49. "Underwriting manager" defined.—"Underwriting manager"
 1235 as used in this subparagraph includes any person, partnership,
 1236 corporation, or organization providing any of the following
 1237 services to underwriting members of the exchange:

1238 a. Office management and allied services, including
 1239 correspondence and secretarial services.

1240 b. Accounting services, including bookkeeping and financial
 1241 report preparation.

1242 c. Investment and banking consultations and services.

1243 d. Underwriting functions and services including the
 1244 acceptance, rejection, placement, and marketing of risk.

1245 50. Prohibition of underwriting manager investment.—Any
 1246 direct or indirect investment in any underwriting manager by a
 1247 broker member or any affiliated person of a broker member or any

597-02928-18

2018784c1

1248 direct or indirect investment in a broker member by an
 1249 underwriting manager or any affiliated person of an underwriting
 1250 manager is prohibited. "Affiliated person" for purposes of this
 1251 subparagraph is defined in subparagraph 43.

1252 51. An underwriting member may not accept reinsurance on an
 1253 assumed basis from an affiliate or a controlling company, nor
 1254 may a broker member or management company place reinsurance from
 1255 an affiliate or controlling company of theirs with an
 1256 underwriting member. "Affiliate and controlling company" for
 1257 purposes of this subparagraph is defined in subparagraph 43.

1258 52. Premium defined.—"Premium" is the consideration for
 1259 insurance, by whatever name called. Any "assessment" or any
 1260 "membership," "policy," "survey," "inspection," "service" fee or
 1261 charge or similar fee or charge in consideration for an
 1262 insurance contract is deemed part of the premium.

1263 53. Rules.—The commission shall adopt rules necessary for
 1264 or as an aid to the effectuation of any provision of this
 1265 section.

1266 Section 17. Subsection (6) of section 634.121, Florida
 1267 Statutes, is amended to read:

1268 634.121 Forms, required procedures, provisions; delivery
 1269 and definitions.—

1270 (6) (a) Each service agreement, which includes a copy of the
 1271 application form, must be mailed, delivered, or otherwise
 1272 provided electronically ~~transmitted~~ to the agreement holder as
 1273 provided in s. 627.421. As used in s. 627.421, the term:

1274 1. "Insurance policies and endorsements," "policy and
 1275 endorsement," "policy," or "policy form and endorsement form"
 1276 includes a motor vehicle service agreement and related

597-02928-18

2018784c1

1277 endorsement forms.1278 2. "Insured" includes a motor vehicle service agreement
1279 holder.1280 3. "Insurer" includes a motor vehicle service agreement
1281 company.1282 (b) Section 627.421(4) applies if the motor vehicle service
1283 agreement company elects to post motor vehicle service
1284 agreements on its Internet website in lieu of mailing or
1285 delivery to agreement holders within 45 days after the date of
1286 purchase. Electronic transmission of a service agreement
1287 constitutes delivery to the agreement holder. The electronic
1288 transmission must notify the agreement holder of his or her
1289 right to receive the service agreement via United States mail
1290 rather than electronic transmission. If the agreement holder
1291 communicates to the service agreement company electronically or
1292 in writing that he or she does not agree to receipt by
1293 electronic transmission, a paper copy of the service agreement
1294 shall be provided to the agreement holder.1295 Section 18. Section 641.3107, Florida Statutes, is amended
1296 to read:1297 641.3107 Delivery of contract and certain documents;
1298 definitions.-1299 (1) Unless delivered upon execution or issuance, A health
1300 maintenance contract, certificate of coverage, endorsements and
1301 riders, or member handbook must shall be mailed, ~~or~~ delivered,
1302 or otherwise provided to the subscriber or, in the case of a
1303 group health maintenance contract, to the employer or other
1304 person who will hold the contract on behalf of the subscriber
1305 group, as provided in s. 627.421.

Page 45 of 46

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597-02928-18

2018784c1

1306 (2) As used in s. 627.421, the term:1307 (a) "Insurance policies and endorsements," "policy and
1308 endorsement," "policy," or "policy form and endorsement form"
1309 includes the health maintenance contract, endorsement and
1310 riders, certificate of coverage, or member handbook.1311 (b) "Insured" includes a subscriber or, in the case of a
1312 group health maintenance contract, to the employer or other
1313 person who will hold the contract on behalf of the subscriber
1314 group.1315 (c) "Insurer" includes a health maintenance organization.1316 (3) Section 627.421(4) applies if the health maintenance
1317 organization elects to post health maintenance contracts on its
1318 Internet website in lieu of mailing or delivery to subscribers
1319 or the person who will hold the contract on behalf of a
1320 subscriber group within 10 working days from approval of the
1321 enrollment form by the health maintenance organization or by the
1322 effective date of coverage, whichever occurs first. However, if
1323 the employer or other person who will hold the contract on
1324 behalf of the subscriber group requires retroactive enrollment
1325 of a subscriber, the organization shall deliver the contract,
1326 certificate, or member handbook to the subscriber within 10 days
1327 after receiving notice from the employer of the retroactive
1328 enrollment. This section does not apply to the delivery of those
1329 contracts specified in s. 641.31(13).

1330 Section 19. This act shall take effect upon becoming a law.

Page 46 of 46

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The Florida Senate

Committee Agenda Request

To: Senator Greg Steube
Committee on Judiciary

Subject: Committee Agenda Request

Date: February 8, 2018

I respectfully request that **Senate Bill #784**, relating to **Insurance**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/20/18

Meeting Date

784

Bill Number (if applicable)

Topic Insurance

Amendment Barcode (if applicable)

Name Beth Vecchiodi (pronounced Vetch-ee-o-lee)

Job Title Sr. Director, Gov't. Consulting

Address 215 S. Monroe St., Ste 500

Phone 850-425-3393

Street

Tallahassee, FL 32301

Email vecchidi@cartenfields.com

City

State

Zip

Speaking: ~~For~~ For Against Information

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

Representing Privilege Underwriters Reciprocal Exchange

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 1220

INTRODUCER: Judiciary Committee; Criminal Justice Committee; and Senator Brandes

SUBJECT: Detention Facilities

DATE: February 22, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Cibula</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1220 requires a law enforcement officer to electronically record the entirety of custodial interrogation if it:

- Takes place at a place of detention; and
- Relates to a covered offense.

A place of detention is defined to mean a police station, sheriff's office, correctional facility, prisoner holding facility, or other governmental facility where an individual may be held in connection with a criminal charge that has been or may be filed against the individual.

The covered offenses specified by the bill include arson, sexual battery, robbery, kidnapping, aggravated child abuse, aggravated abuse of an elderly person or disabled adult, aggravated assault with a deadly weapon, murder, manslaughter, aggravated manslaughter of an elderly person or disabled adult, aggravated manslaughter of a child, the unlawful throwing, placing, or discharging of a destructive device or bomb, armed burglary, aggravated battery, aggravated stalking, home invasion robbery, and carjacking.

Other provisions of the bill:

- Define terms;
- Provide exceptions to the recording requirement;
- Require a court to consider an officer's failure to record all or part of the custodial interrogation as a factor in determining the admissibility of a statement;

- Require a law enforcement officer to write a report explaining why he or she did not record the custodial interrogation;
- Require a law enforcement officer to write a report explaining why a custodial interrogation was conducted at a place *other than a place of detention*;
- Allow a defendant to request and receive a cautionary jury instruction when a non-recorded statement from a custodial interrogation is admitted into evidence;
- Make a law enforcement agency immune from civil liability for a violation of requirement to record an interrogation if the agency enforces rules that are reasonably designed to insure compliance with the requirement;
- Specify that the bill does not create a cause of action against a law enforcement officer;
- Add cellular telephones and portable communications devices to the list of articles that are declared to be contraband at a county detention facility; and
- Reduce the penalty for attempting to smuggle less serious types of contraband articles into or out of a county detention facility.

The bill is effective July 1, 2018.

II. Present Situation:

Constitutional Protections and Court Decisions Interpreting and Applying Those Protections

The Fifth Amendment of the United States Constitution states that “No person . . . shall be compelled in any criminal case to be a witness against himself.”¹ Likewise, the Florida Constitution extends the same protection.² The voluntariness of a defendant’s statement and the admissibility of the statement against him or her in court is a creature of both case law and statutory law in Florida.

Custodial Interrogation

Whether a person is in custody and under interrogation is the threshold question that determines the need for a law enforcement officer to advise the person of his or her *Miranda* rights.³ In *Traylor v. State*, the Supreme Court of Florida found that “[T]o ensure the voluntariness of confessions, the Self-Incrimination Clause of Article I, Section 9, Florida Constitution, requires that prior to custodial interrogation in Florida suspects must be told that they have a right to remain silent, that anything they say will be used against them in court”⁴

The test to determine if a person is in custody for the purposes of one’s *Miranda* rights, is whether “a reasonable person placed in the same position would believe that his or her freedom of action was curtailed to a degree associated with actual arrest.”⁵

¹ U.S. Const. amend. V.

² “No person shall be . . . compelled in any criminal matter to be a witness against himself.” FLA. CONST. article I, s. 9.

³ In *Miranda v. Arizona*, 384 U.S. 436 (1966), the Court established procedural safeguards to ensure the voluntariness of statements rendered during custodial interrogation.

⁴ 596 So. 2d 957, 965-966 (Fla. 1992).

⁵ *Traylor*, 596 So.2d 957, 966 at n. 16.

An interrogation occurs “when a person is subjected to express questions, or other words or actions, by a state agent that a reasonable person would conclude are designed to lead to an incriminating response.”⁶

Waiver of the Right to Remain Silent

A person subjected to a custodial interrogation is entitled to the protections of *Miranda*.⁷ The warning must include the right to remain silent as well as the explanation that anything a person says can be used against them in court. The warning includes both parts because it is important for a person to be aware of his or her right and the consequences of waving such a right.⁸

Admissibility of a Defendant’s Statement as Evidence

The admissibility of a defendant’s statement is a mixed question of fact and law decided by the court during a pretrial hearing or during the trial outside the presence of the jury.⁹ For a defendant’s statement to become evidence in a criminal case, the judge must first determine whether the statement was freely and voluntarily given where the statement was obtained by law enforcement officer during the custodial interrogation of the defendant. The court looks to the totality of the circumstances of the statement to determine if it was voluntarily given.¹⁰

The facts considered by the court come from testimony by the defendant and by the law enforcement officers involved, their reports, and any additional evidence such as audio or video recordings of the custodial interrogation.

As discussed above, the courts use a “reasonable person” standard in making the determination of whether the defendant was in custody at the time he or she made a statement.¹¹ The court considers, given the totality of the circumstances, whether a reasonable person in the defendant’s position would have believed he or she was free to terminate the encounter with law enforcement and, therefore, was not in custody.¹² Among the circumstances or factors the courts have considered are:

- The manner in which the police summon the suspect for questioning;
- The purpose, place, and manner of the interrogation;
- The extent to which the suspect is confronted with evidence of his or her guilt; and
- Whether the suspect is informed that he or she is free to leave the place of questioning.¹³

The court will also determine whether the defendant was made aware of his or her *Miranda* rights and whether he or she knowingly, voluntarily, and intelligently elected to waive those rights and give a statement.¹⁴

⁶ *Id.* at 966 at n. 17.

⁷ See *Miranda v. Arizona*, 384 U.S. 436, 444 (1966).

⁸ *Sliney v. State*, 699 So. 2d 662, 669 (Fla. 1997), *cert. denied*, 522 U.S. 1129 (1998).

⁹ *Nickels v. State*, 90 Fla. 659, 668 (1925).

¹⁰ *Supra* n. 8 at 667.

¹¹ *Supra* n. 5.

¹² *Voorhees v. State*, 699 So. 2d 602, 608 (Fla. 1997).

¹³ *Ramirez v. State*, 739 So. 2d 568, 574 (Fla. 1999).

¹⁴ *Supra* n. 8 at 668.

Even if the court deems the statement admissible and the jury hears the evidence, defense counsel will be able to cross-examine any witnesses who testify and have knowledge of the circumstances surrounding the defendant's statement. Additionally, counsel may argue to the jury in closing argument that the statement was coerced in some way by a law enforcement officer.

Interrogation Recording in Florida

Law enforcement agencies in Florida are not currently required to record the custodial interrogation of a crime suspect, either by audio, video, or a combination of means. Fifty-seven agencies in Florida are reported to voluntarily record custodial interrogations, at least to some extent.¹⁵

Other States

Currently twenty-three states and the District of Columbia record custodial interrogations statewide.¹⁶ These states have statutes, court rules, or court cases that require law enforcement officers to make the recordings or allow the court to consider the failure to record a statement in determining the admissibility of a statement.¹⁷

Contraband Articles at County Detention Facilities

Existing law declares that a number of items are contraband when a person smuggles or attempts to smuggle them into or out of a county detention facility.¹⁸ These articles include: written or recorded communications, currency and coins, food and clothing, tobacco products, including cigarettes and cigars, intoxicating beverages, various drugs and controlled substances, firearms and dangerous weapons, and items that may aid escape attempts. A person who smuggles or attempts to smuggle any article of contraband into or out of a county detention facility commits a third degree felony.¹⁹

¹⁵ *Compendium: Electronic Recording of Custodial Interrogations*, Thomas P. Sullivan, pp. 36-37, August 2016, National Association of Criminal Defense Lawyers, <https://www.nacdl.org/electronicrecordingproject>; see also *Electronic Recording of Suspect Interrogations*, Interim Report 2004-123, Florida Senate Committee on Criminal Justice, http://archive.flsenate.gov/data/Publications/2004/Senate/reports/interim_reports/pdf/2004-123cj.pdf.

¹⁶ *Compendium: Electronic Recording of Custodial Interrogations*, Thomas P. Sullivan, pp. 7-8, August 2016, National Association of Criminal Defense Lawyers, <https://www.nacdl.org/electronicrecordingproject>.

¹⁷ See *Stephan v. State*, 711 P.2d 1156 (AK 1985); Ark. R. Crim. P. Rule 4.7 (2012); Cal Pen Code s. 859.5 (2016) and Cal Wel & Inst Code s. 626.8 (2014); C.R.S. 16-3-601 (2016); CT Gen. Stat. s. 54-1o (2011); D.C. Code s. 5-116.01 (2005); Hawaii was verified by the four departments that govern law enforcement in the state; 705 ILCS 405/5-401.5 (2016), 725 ILCS 5/103-2.1 (2017); Ind. R. Evid. 617 (2014); 25 M.R.S. s. 2803-B(1)(K) (2015); Md. CRIMINAL PROCEDURE Code Ann. ss. 2-401 – 2-402 (2008); MCLS ss. 763.7 – 763.9 (2013); *State v. Scales*, 518 N.W.2d 587 (MN 1994); MO Rev. Stat. s. 590.700 (2017); MT Code Ann. ss. 46-4-406 – 46-4-411 (2009); NE Rev. Stat. Ann. ss. 29-4501 – 29-4508 (2008); NJ Court Rules, R. 3:17 (2006); N.M. Stat. Ann. s. 29-1-16 (2006); N.C. Gen. Stat. s. 15A-211 (2011); OR Rev. Stat. s. 133.400 (2009); RIPAC, Accreditation Standards Manual, ch. 8, s. 8.10 (Rev. 2015); Utah R. Evid. Rule 616 (2016); 13 V.S.A. s. 5585 (2015); *State v. Jerrell C.J.*, 699 N.W.2d 110 (WI 2005); Wis. Stat. ss. 968.073 and 972.115 (2005); *Compendium: Electronic Recording of Custodial Interrogations*, Thomas P. Sullivan, August, 2016, National Association of Criminal Defense Lawyers, available at <https://www.nacdl.org/electronicrecordingproject>.

¹⁸ Section 951.22, F.S.

¹⁹ A person who commits a third degree felony may be imprisoned for up to 5 years and fined up to \$5,000. Sections 775.082(3)(e) and 775.083(1)(c), F.S.

III. Effect of Proposed Changes:

Custodial Interrogations

The bill creates a statutory requirement, and exceptions to the requirement, that a law enforcement officer conducting a custodial interrogation must record the interrogation in its entirety.

The bill provides definitions for terms used in the bill. These are:

- “Custodial interrogation” which means questioning or other conduct by a law enforcement officer which is reasonably likely to elicit an incriminating response from an individual and which occurs under circumstances in which a reasonable individual in the same circumstances would consider himself or herself to be in the custody of a law enforcement agency;
- “Electronic recording” which means an audio recording or an audio and video recording that accurately records a custodial interrogation;
- “Covered offense” which lists the following criminal offenses:
 - Arson.
 - Sexual battery.
 - Robbery.
 - Kidnapping.
 - Aggravated child abuse.
 - Aggravated abuse of an elderly person or disabled adult.
 - Aggravated assault with a deadly weapon.
 - Murder.
 - Manslaughter.
 - Aggravated manslaughter of an elderly person or disabled adult.
 - Aggravated manslaughter of a child.
 - The unlawful throwing, placing, or discharging of a destructive device or bomb.
 - Armed burglary.
 - Aggravated battery.
 - Aggravated stalking.
 - Home-invasion robbery.
 - Carjacking.
- “Place of detention” which means a police station, sheriff’s office, correctional facility, prisoner holding facility, or other governmental facility where an individual may be held in connection with a criminal charge that has been or may be filed against the individual; and
- “Statement” which means a communication that is oral, written, electronic, nonverbal, or in sign language.

The bill requires that a custodial interrogation related to a covered offense and conducted at a place of detention must be electronically recorded in its entirety. The recording must include:

- The giving of a required warning;
- The advisement of rights; and
- The waiver of rights by the individual being questioned.

If the custodial interrogation at the place of detention is not recorded by the law enforcement officer, he or she must prepare a written report explaining the reason for the noncompliance. Additionally, the report must summarize the custodial interrogation process and the individual's statements.

If a law enforcement officer conducts a custodial interrogation at a place other than a place of detention, the officer must prepare a written report as soon as practicable. The report must explain the officer's decision to conduct the interrogation in that place and the report must summarize the custodial interrogation process and the individual's statements made at that place.

The general recording requirement does not apply under the following circumstances:

- If there is an unforeseen equipment malfunction that prevents recording the custodial interrogation in its entirety;
- If a suspect refuses to participate in a custodial interrogation if his or her statements are electronically recorded;
- Due to equipment operator error;
- If the statement is made spontaneously and not in response to a custodial interrogation question;
- If a statement is made after questioning that is routinely asked during the processing of the arrest of a suspect;
- If the custodial interrogation occurs when no law enforcement officer participating in the interrogation has knowledge of facts and circumstances that would lead an officer to reasonably believe that the individual being interrogated may have committed a covered offense;
- If the law enforcement officer conducting the custodial interrogation reasonably believes that electronic recording would jeopardize the safety of the officer, individual being interrogated, or others; or
- If the custodial interrogation is conducted outside of the state.

Unless a court finds that one or more of the enumerated exceptions applies, the court must consider the officer's failure to record all or part of the custodial interrogation as a factor in determining the admissibility of a defendant's statement made during the interrogation. If the court decides to admit the statement, the defendant may request and the court must give a cautionary jury instruction regarding the officer's failure to comply with the recording requirement.

Finally, if a law enforcement agency has enforced rules that are adopted pursuant to the bill and that are reasonably designed to comply with the bill's requirements, the agency is not subject to civil liability for damages arising from a violation of the bill's requirements. The bill does not create a cause of action against a law enforcement officer.

Contraband Articles at County Detention Facilities

Currently, a person who smuggles or attempts to smuggle any article of contraband into or out of a county detention facility commits a felony of the third degree. The amendment adds cellular phones and portable communications devices to the list of articles declared by statute to be contraband.

The amendment, however, reduces the penalty for smuggling or attempting to smuggle some of the less dangerous types of contraband articles to a first degree misdemeanor.²⁰ Accordingly, smuggling or attempts to smuggle the following articles is a first degree misdemeanor: written or recorded communications, currency and coins, food and clothing, tobacco products, including cigarettes and cigars, and intoxicating beverages.

Effective Date

The bill is effective July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

It is possible that the requirements of the bill related to electronic recording could result in local fund expenditures for equipment, maintenance, and operation. However, because any such local funding resulting from the requirements of the bill will directly relate to the defense and prosecution of criminal offenses, under article VII, subsection 18(d) of the Florida Constitution, it appears there is no unfunded mandate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Although local law enforcement agencies may incur costs related to the electronic recording requirement in the bill, that cost is indeterminate.

The Criminal Justice Impact Conference met on January 29, 2018, and determined that the provisions of this bill, which were then included in SB 1886, relating to contraband

²⁰ A person who commits a first degree misdemeanor may be imprisoned for up to 1 year and fined up to \$1,000. Sections 775.082(4)(a) and 775.083(1)(d), F.S.

will result in a positive indeterminate prison bed impact (i.e. an unquantifiable increase in prison beds).

The Florida Department of Law Enforcement anticipates no fiscal impact to the department resulting from the provisions of the bill relating to custodial interrogations.²¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 900.05, Florida Statutes.

This bill substantially amends section 951.22, Florida Statutes.

IX. Additional Information:

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

CS by Judiciary on February 20, 2018

The committee substitute differs from the underlying bill in that it also addresses contraband in county detention facilities. The effective date of the bill is also delayed until July 1, 2019.

CS by Criminal Justice on January 16, 2018:

The Committee Substitute:

- Corrects a scrivener’s error in the wording of “Home-invasion robbery” to be consistent with the way the offense is listed in s. 812.135(1), F.S.
- Changes the definition of “place of detention” by removing language about a “fixed location under the control of law enforcement” and listing the locations instead. It also eliminates the language about the definition excluding a police vehicle from the definition of “place of detention” since all places of detention are now specified.

- B. **Amendments:**

None.

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

²¹ Florida Department of Law Enforcement, *2018 Legislative Bill Analysis, SB 1220* (December 14, 2017) (on file with the Senate Committee on Judiciary).



350282

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/21/2018	.	
	.	
	.	
	.	

The Committee on Judiciary (Brandes) recommended the following:

Senate Amendment

Delete line 125

and insert:

Section 2. This act shall take effect January 1, 2019.



640902

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2018	.	
	.	
	.	
	.	

The Committee on Judiciary (Brandes) recommended the following:

1 **Senate Substitute for Amendment (350282) (with title**
2 **amendment)**

3
4 Delete line 125

5 and insert:

6 Section 2. Section 951.22, Florida Statutes, is amended to
7 read:

8 951.22 County detention facilities; contraband articles.-

9 (1) It is unlawful, except through regular channels as duly
10 authorized by the sheriff or officer in charge, to introduce
11 into or possess upon the grounds of any county detention



640902

12 facility as defined in s. 951.23 or to give to or receive from
13 any inmate of any such facility wherever said inmate is located
14 at the time or to take or to attempt to take or send therefrom
15 any of the following articles which are hereby declared to be
16 contraband:

17 ~~(a) for the purposes of this act, to wit: Any written or~~
18 ~~recorded communication.~~

19 ~~(b) Any currency or coin.~~

20 ~~(c) Any article of food or clothing.~~

21 ~~(d) Any tobacco products as defined in s. 210.25(12).~~

22 ~~(e) Any cigarette as defined in s. 210.01(1).~~

23 ~~(f) Any cigar.~~

24 ~~(g) Any intoxicating beverage or beverage which causes or~~
25 ~~may cause an intoxicating effect.~~

26 ~~(h) Any narcotic, hypnotic, or excitative drug or drug of~~
27 ~~any kind or nature, including nasal inhalators, sleeping pills,~~
28 ~~barbiturates, and controlled substances as defined in s.~~
29 ~~893.02(4).~~

30 ~~(i) Any firearm or any instrumentality customarily used or~~
31 ~~which is intended to be used as a dangerous weapon.~~

32 ~~(j) Any instrumentality of any nature that may be or is~~
33 ~~intended to be used as an aid in effecting or attempting to~~
34 ~~effect an escape from a county facility.~~

35 ~~(k) Any cellular telephone or other portable communication~~
36 ~~device intentionally and unlawfully introduced inside the secure~~
37 ~~perimeter of any county detention facility without prior~~
38 ~~authorization or consent from the sheriff or officer in charge~~
39 ~~of such detention facility. As used in this paragraph, the term~~
40 ~~"portable communication device" means any device carried, worn,~~



640902

41 or stored which is designed or intended to receive or transmit
42 verbal or written messages, access or store data, or connect
43 electronically to the Internet or any other electronic device
44 and which allows communications in any form. Such devices
45 include, but are not limited to, portable two-way pagers,
46 handheld radios, cellular telephones, Blackberry-type devices,
47 personal digital assistants or PDAs, laptop computers, or any
48 components of these devices which are intended to be used to
49 assemble such devices. The term also includes any new technology
50 that is developed for similar purposes. Excluded from this
51 definition is any device having communication capabilities which
52 has been approved or issued by the sheriff or officer in charge
53 for investigative or institutional security purposes or for
54 conducting other official business.

55 (2) A person who ~~Whoever~~ violates paragraph (1)(a), (b),
56 (c), (d), (e), (f), or (g) commits a misdemeanor of the first
57 degree, punishable as provided in s. 775.082 or s. 775.083. A
58 person who violates paragraph (1)(h), (i), (j), or (k) commits
59 subsection (1) shall be guilty of a felony of the third degree,
60 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

61 Section 3. Paragraph (f) of subsection (3) of section
62 921.0022, Florida Statutes, is amended to read:

63 921.0022 Criminal Punishment Code; offense severity ranking
64 chart.-

65 (3) OFFENSE SEVERITY RANKING CHART

66 (f) LEVEL 6

67

Florida	Felony	Description
Statute	Degree	



640902

68	316.027 (2) (b)	2nd	Leaving the scene of a crash involving serious bodily injury.
69	316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent conviction.
70	400.9935 (4) (c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
71	499.0051 (2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
72	499.0051 (3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
73	499.0051 (4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
74	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
75	784.021 (1) (a)	3rd	Aggravated assault; deadly



640902

			weapon without intent to kill.
76			
	784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
77			
	784.041	3rd	Felony battery; domestic battery by strangulation.
78			
	784.048(3)	3rd	Aggravated stalking; credible threat.
79			
	784.048(5)	3rd	Aggravated stalking of person under 16.
80			
	784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
81			
	784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
82			
	784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
83			
	784.081(2)	2nd	Aggravated assault on specified official or employee.
84			
	784.082(2)	2nd	Aggravated assault by detained person on visitor or other



640902

			detainee.
85	784.083 (2)	2nd	Aggravated assault on code inspector.
86	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
87	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
88	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
89	790.164 (1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.
90	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
91	794.011 (8) (a)	3rd	Solicitation of minor to



92			participate in sexual activity by custodial adult.
93	794.05 (1)	2nd	Unlawful sexual activity with specified minor.
94	800.04 (5) (d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.
95	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
96	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
97	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
98	810.145 (8) (b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.



640902

99	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
100	812.015 (9) (a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
101	812.015 (9) (b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
102	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
103	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
104	817.505 (4) (b)	2nd	Patient brokering; 10 or more patients.
105	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.
106	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.
107			



640902

108	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
109	825.103 (3) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
110	827.03 (2) (c)	3rd	Abuse of a child.
111	827.03 (2) (d)	3rd	Neglect of a child.
112	827.071 (2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
113	836.05	2nd	Threats; extortion.
114	836.10	2nd	Written threats to kill or do bodily injury.
115	843.12	3rd	Aids or assists person to escape.
116	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.



640902

117	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
118	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
119	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
120	944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
121	944.40	2nd	Escapes.
122	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
123	944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
	951.22(1)	3rd	<u>Introduction of contraband into</u>



640902

county detention facility
~~Intoxicating drug, firearm, or~~
~~weapon introduced into county~~
~~facility.~~

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Section 4. This act shall take effect January 1, 2019.

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

And the title is amended as follows:

Delete lines 2 - 21

and insert:

An act relating to detention facilities; creating s.
900.05, F.S.; defining terms and specifying covered
offenses; requiring that a custodial interrogation at
a place of detention be electronically recorded in its
entirety in connection with certain offenses;
requiring law enforcement officers who do not comply
with the electronic recording requirement or who
conduct custodial interrogations at a place other than
a place of detention to prepare a specified report;
providing exceptions to the electronic recording
requirement; requiring a court to consider a law
enforcement officer's failure to comply with the
electronic recording requirements in determining the
admissibility of a statement unless an exception
applies; requiring a court, upon the request of a
defendant, to give cautionary instructions to a jury
under certain circumstances; providing immunity from



640902

149 civil liability to law enforcement agencies that
150 enforce certain rules; providing that no cause of
151 action is created against a law enforcement officer;
152 amending s. 951.22, F.S.; prohibiting introduction
153 into or possession on the grounds of any county
154 detention facility of any cellular telephone or other
155 portable communication device; defining the term
156 "portable communication device"; providing criminal
157 penalties; amending s. 921.0022, F.S.; conforming
158 provisions to changes made by the act;

By the Committee on Criminal Justice; and Senator Brandes

591-02131-18

20181220c1

A bill to be entitled

An act relating to custodial interrogations; creating s. 900.05, F.S.; defining terms and specifying covered offenses; requiring that a custodial interrogation at a place of detention be electronically recorded in its entirety in connection with certain offenses; requiring law enforcement officers who do not comply with the electronic recording requirement or who conduct custodial interrogations at a place other than a place of detention to prepare a specified report; providing exceptions to the electronic recording requirement; requiring a court to consider a law enforcement officer's failure to comply with the electronic recording requirements in determining the admissibility of a statement unless an exception applies; requiring a court, upon the request of a defendant, to give cautionary instructions to a jury under certain circumstances; providing immunity from civil liability to law enforcement agencies that enforce certain rules; providing that no cause of action is created against a law enforcement officer; providing an effective date.

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

Section 1. Section 900.05, Florida Statutes, is created to read:
900.05 Recording of custodial interrogations for certain offenses.

Page 1 of 5

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

591-02131-18

20181220c1

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

(a) "Custodial interrogation" means questioning or other conduct by a law enforcement officer which is reasonably likely to elicit an incriminating response from an individual and which occurs under circumstances in which a reasonable individual in the same circumstances would consider himself or herself to be in the custody of a law enforcement agency.

(b) "Electronic recording" means an audio recording or an audio and video recording that accurately records a custodial interrogation.

(c) "Covered offense" includes:

1. Arson.
2. Sexual battery.
3. Robbery.
4. Kidnapping.
5. Aggravated child abuse.
6. Aggravated abuse of an elderly person or disabled adult.
7. Aggravated assault with a deadly weapon.
8. Murder.
9. Manslaughter.
10. Aggravated manslaughter of an elderly person or disabled adult.
11. Aggravated manslaughter of a child.
12. The unlawful throwing, placing, or discharging of a destructive device or bomb.
13. Armed burglary.
14. Aggravated battery.
15. Aggravated stalking.
16. Home-invasion robbery.

Page 2 of 5

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

591-02131-18

20181220c1

17. Carjacking.

(d) "Place of detention" means a police station, sheriff's office, correctional facility, prisoner holding facility, or other governmental facility where an individual may be held in connection with a criminal charge that has been or may be filed against the individual.

(e) "Statement" means a communication that is oral, written, electronic, nonverbal, or in sign language.

(2) (a) A custodial interrogation at a place of detention, including the giving of a required warning, the advisement of the rights of the individual being questioned, and the waiver of any rights by the individual, must be electronically recorded in its entirety if the interrogation is related to a covered offense.

(b) If a law enforcement officer conducts a custodial interrogation at a place of detention without electronically recording the interrogation, the officer shall prepare a written report explaining the reason for his or her noncompliance with this section and summarizing the custodial interrogation process and the individual's statements.

(c) As soon as practicable, a law enforcement officer who conducts a custodial interrogation at a place other than a place of detention shall prepare a written report explaining the decision to interrogate at that place and summarizing the custodial interrogation process and the individual's statements made at that place.

(d) Paragraph (a) does not apply:

1. If an unforeseen equipment malfunction prevents recording the custodial interrogation in its entirety;

591-02131-18

20181220c1

2. If a suspect refuses to participate in a custodial interrogation if his or her statements are electronically recorded;

3. Due to equipment operator error;

4. If the statement is made spontaneously and not in response to a custodial interrogation question;

5. If a statement is made after questioning that is routinely asked during the processing of the arrest of a suspect;

6. If the custodial interrogation occurs when no law enforcement officer participating in the interrogation has knowledge of facts and circumstances that would lead an officer to reasonably believe that the individual being interrogated may have committed a covered offense;

7. If the law enforcement officer conducting the custodial interrogation reasonably believes that electronic recording would jeopardize the safety of the officer, individual being interrogated, or others; or

8. If the custodial interrogation is conducted outside of the state.

(3) Unless a court finds that one or more of the circumstances specified in paragraph (2) (d) apply, the court shall consider a law enforcement officer's failure to make an electronic recording of all or part of a custodial interrogation in determining whether a statement made during the interrogation is admissible. If the court admits into evidence a statement made during a custodial interrogation that was not electronically recorded as required under paragraph (2) (a), the court must, upon request of the defendant, give cautionary

591-02131-18

20181220c1

117 instructions to the jury regarding the law enforcement officer's
118 failure to comply.

119 (4) A law enforcement agency in this state which has
120 enforced rules adopted pursuant to this section which are
121 reasonably designed to ensure compliance with the requirements
122 of this section is not subject to civil liability for damages
123 arising from a violation of this section. This section does not
124 create a cause of action against a law enforcement officer.

125 Section 2. This act shall take effect July 1, 2018.



The Florida Senate

Committee Agenda Request

To: Senator Greg Steube
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 16, 2018

I respectfully request that **Senate Bill #1220**, relating to **Custodial Interrogations**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/20/18

Meeting Date

1220

Bill Number (if applicable)

Topic Custodial Interrogations

Name Jorge Chamizo

Job Title Attorney

Address 108 South Monroe Street

Street

Tallahassee FL 32301

City

State

Zip

Phone (850) 681-0024

Email jorge@flapartners.com

Speaking: For Against Information

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

Representing Fla Assoc. of Criminal Defense Lawyers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE APPEARANCE RECORD

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

2/20/18

Meeting Date

1220

Bill Number (if applicable)

Topic Recording of Interrogations

Amendment Barcode (if applicable)

Name Seth Miller

Job Title Executive Director, Innocence Project of Florida

Address 1100 E. Park Ave

Phone 850-561-6767

Street

Tallahassee

FL

32301

City

State

Zip

Email Smiller@innocence.org

Speaking: For Against Information

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

Representing Innocence Project 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

THE FLORIDA SENATE APPEARANCE RECORD

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

Feb 20, 2018

Meeting Date

1220

Bill Number (if applicable)

Topic Custodial Interrogations

Amendment Barcode (if applicable)

Name Nancy Daniels

Job Title Legislative Consultant

Address 103 N. Gadsden St.

Phone 850-488-6850

Street

Tallahassee

FL

32301

Email nancyann daniels@gmail.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Public Defender Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/SB 1234

INTRODUCER: Education Committee and Senator Baxley

SUBJECT: Free Expression on Campus

DATE: February 19, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Androff</u>	<u>Graf</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Tulloch</u>	<u>Cibula</u>	<u>JU</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1234 establishes the “Campus Free Expression Act,” (the Act) to authorize individuals to engage in expressive activity on public institutions of higher education campuses, within reasonable limits enforced by such institutions. Specifically, the bill:

- Authorizes a person who wishes to engage in an expressive activity in the outdoor areas of campus of a public institution of higher education to do so freely, spontaneously, and contemporaneously as long as the person’s conduct is lawful and does not materially and substantially disrupt the functioning of the public institution.
- Designates the outdoor areas of campus of a public institution of higher education that accepts federal funding as traditional public forums and specifies that such public institution may create and enforce restrictions that are:
 - Reasonable and content-neutral on time, place, and manner of expression.
 - Narrowly tailored to a significant institutional interest.
- Prohibits a public institution of higher education from designating a specific area as a free speech zone or otherwise restricting expressive activities to a particular area of campus.
- Establishes a *state* cause of action for a violation of the Act and specifies available damages and a statute of limitations associated with such action.
- Requires a state university student government organization to provide a written explanation regarding the funding determination to a recognized student organization that submits a request for activity and service fee funding.
- Requires each student government association to maintain on its website an organized record of the funding requests it receives and disburses.

The bill takes effect July 1, 2018.

II. Present Situation:

Constitutional Guarantees of Free Speech and Expression

Freedom of speech is the right to engage in expression without censorship or interference from government or its agencies.¹ This right is guaranteed by both the constitutions of both the United States and the State of Florida.

The First Amendment of the United States Constitution provides that,

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Article I, section 4 of the Florida Constitution provides that,

Every person may speak, write and publish sentiments on all subjects but shall be responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions and civil actions for defamation the truth may be given in evidence. If the matter charged as defamatory is true and was published with good motives, the party shall be acquitted or exonerated.

A person's constitutional right to free speech is only be violated only if an infringement is "fairly attributable"² to the state or a state entity, such as the enforcement of a city ordinance or enforcement of a policy by a public college or university that affects speech.³ Generally, private organizations, such as private universities, are not state actors for purposes of the First Amendment.⁴

Violations and Permissible Regulations of Free Speech and Expression

The government or another state actor, such as a public university, violates a person's right of free speech and expression when the person's speech is punished or restricted based on its **content**. Even offensive content is constitutionally protected and subject to the highest level of

¹ See *Perry Education Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37 (1983).

² *Wickersham v. City of Columbia*, 481 F.3d 591, 597 (8th Cir. 2007).

³ See *id.* (concerning plaintiff who previously won an injunction where first amendment rights were violated by city police who prohibited plaintiff from handing out anti-war fliers at an air show; the air show unsuccessfully countered that its first amendment rights were being violated by the injunction).

⁴ But see *id.* ("The Supreme Court has recognized a number of circumstances in which a private party may be characterized as a state actor, such as where the state has delegated to a private party a power 'traditionally exclusively reserved to the State,' see *Jackson v. Metro. Edison Co.*, 419 U.S. 345, 352, 95 S.Ct. 449, 42 L.Ed.2d 477 (1974), where a private actor is a 'willful participant in joint activity with the State or its agents,' see *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 151, 90 S.Ct. 1598, 26 L.Ed.2d 142 (1970), and where there is 'pervasive entwinement' between the private entity and the state, see *Brentwood*, 531 U.S. at 291, 121 S.Ct. 924.").

constitutional scrutiny so long as it does not constitute a threat or incite violence,⁵ is not fraudulent or falsely defamatory,⁶ or is not grossly obscene, as in the case of child pornography.⁷ For example, in *Cohen v. California*, the United States Supreme Court reversed the conviction of a man arrested for wearing a jacket that said “F**k The Draft” while walking through the corridor of a courthouse, where the conviction was based solely on the contents of the jacket’s message.⁸ As noted by the Supreme Court, “so long as there is no showing of an intent to incite disobedience to or disruption of the draft, Cohen could not, consistently with the First and Fourteenth Amendments, be punished for asserting the evident position on the inutility or immorality of the draft his jacket reflected.”⁹

However, the government or a public actor may limit or regulate an individual’s freedom of speech or expression if the speech or expression occurs on government-owned property, such as at a public elementary, middle, or high school, or at public universities.¹⁰ Such limitations are determined by the characterization of the type of public forum created on government property.¹¹

Public Forums on Government Property

There are three types of public forums:¹²

- A “traditional” or “open public forum”¹³ is a place with a longstanding tradition of freedom of expression, such as a public park, sidewalk, or street corner. In an open public forum, the government may only impose ***content-neutral***, logistical restrictions on the time, place, and manner of speech and expression.¹⁴ Such content-neutral restrictions must be narrowly tailored to serve a significant governmental interest and leave open alternative channels for communication.¹⁵
- “Designated” public forums and “limited public forums”¹⁶ are places with a more limited history of expressive activity. Examples may include a community theater or a university meeting hall.¹⁷ However, a designated public forum usually refers to a place opened up for and designated to function like a traditional public forum, meaning the rules of a traditional public forum apply.¹⁸ On the other hand, a limited public forum is usually opened only for certain groups or topics, and thus, the government may also restrict the use of the forum to

⁵ See *Cohen v. California*, 403 U.S. 15, 18 (1981) (noting the message on defendant’s jacket did not incite violence or disruption of the draft).

⁶ See *U.S. v. Alvarez*, 567 U.S. 709, 723 (2012) (“Where false claims are made to effect a fraud or secure moneys or other valuable considerations, say offers of employment, it is well established that the Government may restrict speech without affronting the First Amendment.”).

⁷ *New York v. Ferber*, 458 U.S. 747, 764 (1982).

⁸ 403 U.S. 15, 18 (1981).

⁹ *Id.*

¹⁰ *International Society for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672, 678 (1992).

¹¹ *Id.* at 678-79.

¹² *Id.*

¹³ First Amendment Schools, *What is a public forum?* <http://www.firstamendmentschools.org/freedoms/faq.aspx?id=13012>, (last visited Feb. 18, 2018); see *Perry Education Association v. Perry Local Educators Association*, 460 U.S. 37, 45-46 (1992).

¹⁴ *Perry*, 460 U.S. at 45-46.

¹⁵ *Id.*

¹⁶ First Amendment Schools, *What is a public forum?* <http://www.firstamendmentschools.org/freedoms/faq.aspx?id=13012>, (last visited Feb. 18, 2018); see *Perry*, 460 U.S. at 45-46.

¹⁷ *Perry*, 460 U.S. at 45-46.

¹⁸ *Pleasant Grove City, Utah v. Summum*, 555 U.S. 460, 469-70 (2009).

the purposes for which the forum was opened in addition to time, place, and manner restrictions.¹⁹ For example, when a public school permits outside groups to use its building after hours for certain types of meetings, a limited public forum has been opened.²⁰ Once a limited forum is open, however, any limitation must be reasonable and viewpoint-neutral.²¹

- A “closed public forum” is a place that is not traditionally open to public expression, such as the teacher’s school mailroom at issue in *Perry* or a military base.²²

Speech and religious expression by students and teachers or professors is protected by the First Amendment of the U.S. Constitution.²³ However, such rights may be limited.²⁴ A student’s right to free speech and expression is protected to the extent it does not “materially and substantially interfere with the requirements of appropriate discipline in the operation of the school and without colliding with the rights of others.”²⁵ On the other hand, “[i]n order for the State in the person of school officials to justify prohibition of a particular expression of opinion, it must be able to show that its action was caused by something more than *a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint.*”²⁶

Thus, in *Tinker v. Des Moines Independent Community School District*, where several high school students expressed opposition to the Vietnam war by wearing black armbands to school that did not cause disruption or interfere with the rights of others, the students’ suspension by school administration was deemed a violation of the students’ first amendment rights.²⁷ On the other hand, in *Morse v. Frederick*, a high school principal did not violate a student’s first amendment rights by confiscating a flag the student was waving at a school event that advocated the use of illegal drugs.²⁸

Notably, there is a distinction between the public expression of adults, which includes most college students, and the public expression of minors, which includes most high school students. As explained by the United States Supreme Court in *Bethel School District No. 403 v. Fraser*, adults have wider latitude in expressing themselves in public places than minors have in public schools:

The First Amendment guarantees wide freedom in matters of adult public discourse. A sharply divided Court upheld the right to express an antidraft

¹⁹ *Id.* at 46.

²⁰ *Good News Club v. Milford Central School*, 533 U.S. 98, 106–07 (2001) (holding school’s exclusion of Christian children’s club from meeting after hours based on its religious nature was unconstitutional viewpoint discrimination given the public school had opened on limited public forum).

²¹ *Sumnum*, 555 U.S. at 470.

²² *Id.*

²³ *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 506, 513-514 (1969) (“First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gates.”); see *Mergens*, 496 U.S. at 230, 250 (1990) and *Chandler v. Siegelman*, 230 F.3d 1313, 1316-1317 (11th Cir. 2001) *cert. denied*, 533 U.S. 916 (2001).

²⁴ *Id.* at 506, 512-13.

²⁵ *Id.* at 513.

²⁶ *Id.* at 509.

²⁷ *Id.*

²⁸ 551 U.S. 393 (2007).

viewpoint in a public place, albeit in terms highly offensive to most citizens [“F**k The Draft”]. See *Cohen v. California*, 403 U.S. 15, 91 S.Ct. 1780, 29 L.Ed.2d 284 (1971). It does not follow, however, that simply because the use of an offensive form of expression may not be prohibited to adults making what the speaker considers a political point, the same latitude must be permitted to children in a public school. In *New Jersey v. T.L.O.*, 469 U.S. 325, 340–342, 105 S.Ct. 733, 742–743, 83 L.Ed.2d 720 (1985), we reaffirmed that the constitutional rights of students in public school are not automatically coextensive with the rights of adults in other settings. As cogently expressed by Judge Newman, “the First Amendment gives a high school student the classroom right to wear Tinker’s armband, but not Cohen’s jacket.” *Thomas v. Board of Education, Granville Central School Dist.*, 607 F.2d 1043, 1057 (CA2 1979) (opinion concurring in result).²⁹

Free Speech on Public University and College Campuses

The United States Supreme Court has recognized that “the college classroom with its surrounding environs is peculiarly the ‘marketplace of ideas.’”³⁰ “The vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools[,]’ . . . and we break no new constitutional ground in reaffirming this Nation’s dedication to safeguarding academic freedom.”³¹ In *Rosenberger v. Rector & Visitors of the University of Virginia*, the Supreme Court explained that portions of university campuses have traditionally been opened to speech:

Th[e] danger [of chilling speech] is especially real in the University setting, where the State acts against a background and tradition of thought and experiment that is at the center of our intellectual and philosophic tradition. . . . [U]niversities began as voluntary and spontaneous assemblages or concourses for students to speak and to write and to learn. The quality and creative power of student intellectual life to this day remains a vital measure of a school’s influence and attainment.³²

The Supreme Court has characterized public universities and college campuses generally as limited public fora for purposes of regulating speech, meaning that once the forum is created and opened, the university or college is forbidden from exercising any type of viewpoint or content

²⁹ 478 U.S. 682-83.

³⁰ *Healy v. James*, 408 U.S. 169, 180, 187 (1972) (holding that college could not deny student political group recognition no matter how abhorrent the group’s views).

³¹ *Id.* at 180-81 (quoting *Shelton v. Tucker*, 364 U.S. 479, 487 (1960)).

³² 515 U.S. 819, 835–36 (1995) (citations omitted).

discrimination.³³ However, reasonable time, place, and manner restrictions have frequently been upheld.³⁴

For example, on the college campus in *Healey v. James*, the United States Supreme Court held that a political student group with views the college president found “abhorrent” could not be excluded as an official student organization based solely on the group’s views and the “undifferentiated fear or apprehension of disturbance [which] is not enough to overcome the right to freedom of expression.”³⁵ However, the Supreme Court held that the college could require the group to comply with reasonable time, place, and manner restrictions:

[T]he critical line for First Amendment purposes must be drawn between advocacy, which is entitled to full protection, and action, which is not. Petitioners may, if they so choose, preach the propriety of amending or even doing away with any or all campus regulations. They may not, however, undertake to flout these rules.

....

Just as in the community at large, reasonable regulations with respect to the time, the place, and the manner in which student groups conduct their speech-related activities must be respected. A college administration may impose a requirement, such as may have been imposed in this case, that a group seeking official recognition affirm in advance its willingness to adhere to reasonable campus law. Such a requirement does not impose an impermissible condition on the students’ associational rights. Their freedom to speak out, to assemble, or to petition for changes in school rules is in no sense infringed. It merely constitutes an agreement to conform with reasonable standards respecting conduct. This is a minimal requirement, in the interest of the entire academic community, of any group seeking the privilege of official recognition.³⁶

Free Speech Zones on College Campuses

Some public universities and colleges set up areas of campus known as “free speech zones” and restrict all free speech activities, such as picketing and demonstrating, to that area.³⁷ Many

³³ *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995) (holding that denial of funds by student government to Christian student group for costs of printing newspaper when funds given to all other organizations for same purpose was unconstitutional viewpoint discrimination violating the first amendment); *Lamb’s Chapel v. Ctr. Moriches Union Free Sch. Dist.*, 508 U.S. 384, 390 (1993) (holding that church’s first amendment rights to show a film to the public in a school facility were violated where school voluntarily opened a limited public forum for after school programs; stating “the First Amendment forbids the government to regulate speech in ways that favor some viewpoints or ideas at the expense of others.”) (quoting *City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 804 (1984)).

³⁴ *See Healy*, 408 U.S. at 192 (noting that college may require a student organization to agree to abide by school rules before officially recognizing organization); *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675, 683 (1986) (finding that a high school could restrict a student’s lewd speech at a school assembly where the manner of speech was inconsistent with the forum’s purpose); *see also Morse v. Frederick*, 551 U.S. 393, 409 (2007) (finding a student held banner with the words “BONG HiTS 4 JESUS” during a nationally televised event was an inappropriate method of communicating a political idea that disrupted the purpose of the forum).

³⁵ *Healy* at 191 (quoting *Tinker*) (internal quotation marks omitted).

³⁶ *Healy* at 192-93.

³⁷ *See, e.g.*, Thomas J. Davis, *Assessing Constitutional Challenges to University Free Speech Zones under Public Forum Doctrine*, 79 Ind. L. J. 267, 267-68 (2004) (“In September 2000, a student at New Mexico State University was arrested after

schools also require prior notice and an application for a permit before engaging in first amendment activities.³⁸

One such school, the University of Cincinnati, adopted a very restrictive policy requiring notice and a permit before permitting free speech activities, such as allowing a student group to ask other students to sign a petition. Additionally, the university restricted all free speech activities to a free speech zone, an area approximately one-tenth the size of a football field, which had very little pedestrian traffic.³⁹ One student group brought suit claiming the university's restrictive policies on free speech were unconstitutionally overbroad under the First Amendment. The university responded that it has a right to regulate all expressive activity on campus, and it unilaterally declared the campus to be a limited public forum.⁴⁰

A federal district court in Ohio agreed with the students and enjoined the university from enforcing its policy. In so doing, the district court quoted the Supreme Court's decision in *Watchtower Bible*: "It is offensive—not only to the values protected by the First Amendment, but to the very notion of a free society—that in the context of everyday public discourse a citizen must first inform the government of her desire to speak to her neighbors and then obtain a permit to do so."⁴¹

State University Student Activity Fees

Florida law authorizes postsecondary education institutions to charge tuition⁴² and specified fees to students enrolled in a college credit program, unless as otherwise provided.⁴³ Specifically, each university board of trustees must establish a student activity and service fee on the main campus of the university and is permitted to establish such fee on any branch campus or center.⁴⁴ The law prescribes requirements for an activity and service fee committee and processes for increasing such fee.⁴⁵

disobeying a police officer's request to stop leafleting outside the student union because it was not an 'open forum area.' At the University of Mississippi in the same year, a student was arrested for protesting the student newspaper outside the school's only designated speech area. In November 2001, police ejected a West Virginia University student from a Disney on-campus recruiting seminar because the student had previously handed out anti-Disney flyers outside of the designated zone. And in 2002, twelve Florida State University students were arrested for trespassing after refusing to move their protest from in front of the administration building to a less visible 'demonstration zone.' Incidents such as these, involving university policies that limit student expression to defined areas of campus, have caused an outcry among students, university officials, and civil liberties groups, who have derided such zones as incompatible with the constitutional guarantee of free speech." (footnotes omitted).

³⁸ See, e.g., *Bowman v. White*, 444 F.3d 967 (8th Cir. 2006) (upholding University of Arkansas's permit requirement but holding preacher's first amendment rights violated under university's policy cap on five visits to campus per month).

³⁹ *Univ. of Cincinnati Chapter of Young Americans for Liberty v. Williams*, 2012 WL 2160969, *1 (Ohio S.D. June 12, 2012) (not reported in federal reporter).

⁴⁰ *Id.* at *1-*2. See also Monica Scott, *GVSU reaches settlement with student group alleging it restricted free speech*, GRAND RAPID NEWS, Mar. 2, 2017, http://www.mlive.com/news/grand-rapids/index.ssf/2017/03/gvsu_reaches_settlement_with_s.html (last visited Feb. 19, 2018) (article notes Grand Valley State University agreed to abolish its free speech zone).

⁴¹ *Id.* (quoting *Watchtower Bible and Tract Soc'y of NY, Inc. v. Vill. of Stratton*, 536 U.S. 150, 165–66 (2002)).

⁴² Tuition means the basic fee charged to a student for instruction provided by a public postsecondary educational institution in this state. A charge for any other purpose is not included in this fee. Section 1009.01(1), F.S.

⁴³ Sections 1009.23(2) and 1009.24(2), F.S.

⁴⁴ Section 1009.24(10)(a), F.S.

⁴⁵ *Id.*

Student activity and service fees must be expended for lawful purposes to benefit the student body in general.⁴⁶ This must include, but is not limited to, student publications and grants to duly recognized student organizations, the membership of which is open to all students at the university without regard to race, sex, or religion.⁴⁷ The fund may not benefit activities for which an admission fee is charged to students, except for concerts sponsored by student government associations.⁴⁸

The student government association of the university must determine the allocation and expenditure of the student activity and service fee, except that the president of the university may veto any line item or portion thereof within the budget when submitted by the student government association legislative body.⁴⁹ Any unexpended and undispersed funds remaining at the end of a fiscal year must be carried over and remain in the student activity and service fund and be available for allocation and expenditure during the next fiscal year.⁵⁰

The United States Supreme Court has that a university may be held liable for violating the first amendment rights of student organizations where its student government associations engages in viewpoint discrimination when awarding fees.⁵¹

Cause of Action for Violating a Person's Right to Free Speech

Federal law, section 1983,⁵² authorizes a cause of action (a constitutional tort claim⁵³) against a person "acting under the color of law" for violating a person's civil rights, including a person's first amendment right to free speech. Section 1983 provides in applicable part:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, *shall be liable* to the party injured in an action at law, suit in equity, or other proper proceeding for redress[.]⁵⁴

"To state a claim under § 1983, a plaintiff must allege the violation of a right secured by the Constitution and laws of the United States, and must show that the alleged deprivation was

⁴⁶ *Id.* at (10)(b).

⁴⁷ *Id.*

⁴⁸ Section 1009.24(10)(b), F.S.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ See *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. at 829 (holding that denial of funds by student government to Christian student group for costs of printing newspaper when funds given to all other organizations for same purpose was unconstitutional viewpoint discrimination violating the first amendment).

⁵² 42 U.S.C. § 1983.

⁵³ See *Memphis Cmty. Sch. Dist. v. Stachura*, 477 U.S. 299, 305–06 (1986) ("We have repeatedly noted that 42 U.S.C. § 1983⁸ creates a species of tort liability in favor of persons who are deprived of rights, privileges, or immunities secured to them by the Constitution.") (internal quotation marks and citations omitted).

⁵⁴ *Id.* (emphasis added).

committed by a person acting under color of state law.”⁵⁵

As explained by the federal Eleventh Circuit Court of Appeals, section 1983 has been held by the United States Supreme Court *not* to be a congressional abrogation of the states’ sovereign immunity from damages suits.⁵⁶ “The Eleventh Amendment to the United States Constitution bars claims for damages against a state, its agencies, and its employees in their *official* capacities unless a state has waived its immunity.”⁵⁷ Only the Florida Legislature can waive sovereign immunity and consent for the State to be sued.⁵⁸

Although the state of Florida has waived immunity for purposes of traditional tort claims, it has *not* waived sovereign immunity under section 768.28(6), F.S., for purposes of raising constitutional torts under section 1983, nor consented to be sued in federal court.⁵⁹ Likewise, suits against the Board of Regents for the State University System enjoys limited immunity from section 1983 actions.⁶⁰

But a state official or employee acting in his or her *individual* capacity enjoys only qualified immunity and may be sued under section 1983 in his or her individual capacity when acting under the color of law.⁶¹ This is particularly true for claims involving individual retaliation based on the exercise of First Amendment rights.⁶² The test for whether qualified immunity applies was stated recently by the Third District Court of Appeal in the 2016 case of *Harris v. G.K.*, involving a section 1983 action against several DCF employees involving the substantive due process rights of several foster children to be free from abuse:

Qualified immunity shields a government actor from personal liability when his conduct does not violate clearly established rights. *See Anderson v. Creighton*, 483 U.S. 635, 638 [(1987)]. A two-part test is used to determine whether qualified immunity applies. First, the defendant must show that he performed the acts as part of a discretionary government function. *See Harlow v. Fitzgerald*, 457 U.S. 800, 818 [(1982)]. The burden then shifts to the plaintiff to prove that the defendant’s conduct violated clearly established statutory or constitutional rights. *Harlow*, 457 U.S. at 818[;] *Becker v. Clark*, 722 So.2d 232, 233 (Fla. 2d DCA 1998).

⁵⁵ *West v. Atkins*, 487 U.S. 42, 48 (1988).

⁵⁶ *Gamble v. Florida Dept. of Health & Rehab. Services*, 779 F.2d 1509, 1512 (11th Cir. 1986).

⁵⁷ *Chaffins v. Lindamood*, 1:17-CV-00061, 2017 WL 3130558, at *2 (M.D. Tenn. July 24, 2017) (citing *Quern v. Jordan*, 440 U.S. 332, 337 (1979), *overruled on other grounds by Hafer v. Melo*, 502 U.S. 21, 27 (1991)).

⁵⁸ FLA. CONST. art. X, s. 13 (“Provision may be made by general law for bringing suit against the state as to all liabilities now existing or hereafter originating.”); *Circuit Court of Twelfth Judicial Circuit v. Dep’t of Nat. Res.*, 339 So. 2d 1113, 1116–17 (Fla. 1976) (“Yet the plaintiffs are not wholly without remedy, for, as the Department suggests, they may file in the Legislature a claims bill to compensate them for the loss which they have suffered. Absent legislation waiving the state’s sovereign immunity on August 16, 1973, this Court cannot authorize relief through the judicial process.”). The Legislature has also waived sovereign immunity when the State files suit, thereby permitting the other party to bring a countersuit.

⁵⁹ *Gamble v. Florida Dept. of Health & Rehab. Services*, 779 F.2d 1509, 1515 (11th Cir. 1986) (stating “[section] 768.28, when viewed alone, was intended to render the state and its agencies liable for damages for traditional torts under state law, but to exclude such liability for ‘constitutional torts.’”) (citations omitted).

⁶⁰ *Bd. of Regents of State v. Snyder*, 826 So. 2d 382, 387 (Fla. 2d DCA 2002).

⁶¹ *Majette v. Butterworth*, 699 F. Supp. 882, 884 (S.D. Fla. 1988) (citing *Fitzgerald v. McDaniel*, 833 F.2d 1516, 1520 (11th Cir. 1987)). *See West*, 487 U.S. at 49-50.

⁶² *Bd. of Regents of State v. Snyder*, 826 So. 2d at 388.

...
 . . . Individual liability in such cases must be based on intentional violations of, or deliberate indifference to, the clearly established rights of the foster child. Mere negligence or carelessness does not establish personal liability as to the individual state employee.⁶³

The applicable statute of limitations for cases brought under 42 U.S.C. § 1983, is the forum state’s statute of limitations period for personal injury actions; or, where a state provides multiple limitation periods for personal injury, “section 1983 claims borrow the general or residual statute for personal injury actions.”⁶⁴ In Florida, the statute of limitations is four years.⁶⁵ “Under federal law, the statute of limitations does not begin to run until the facts that would support a cause of action are apparent, or should be apparent to a person with a reasonably prudent regard for his rights.”⁶⁶

Additionally, a suit at law under section 1983 permits the recovery of money damages from a person under the principles applicable to common law tort cases.⁶⁷ These damages are usually limited to concrete, compensatory damages rather than an abstract value placed on a constitutional violation.⁶⁸ Punitive damages are also permitted for a violation of constitutional rights with the requisite showing of malicious intent.⁶⁹

Currently, it appears many first amendment cases settle at between \$25,000 and \$50,000,⁷⁰ or for the requested action (such as eliminating a free speech zone) plus legal fees and costs.⁷¹ However, the most egregious cases have settled at as much as \$100,000 or more and typically involve the wrongful termination of professors and compensation for lost wages.⁷²

⁶³ 187 So. 3d 871, 874 (Fla. 3d DCA 2016) (alleging the failure of DCF employees to properly investigate and due their jobs resulted in years of abuse of children in a particular home going unnoticed).

⁶⁴ *Owens v. Okure*, 488 U.S. 235, 249 (1989); *Ruiz-Sulsona v. Univ. of Puerto Rico*, 334 F.3d 157, 159 (1st Cir. 2003). See also *Ali v. Higgs*, 892 F.2d 438, 439 (5th Cir. 1990) (“It is well established that federal courts borrow the forum state’s general personal injury limitations period.”).

⁶⁵ Section 95.11(3)(o), F.S.; *Israel on behalf of A.I. v. City of N. Miami*, 17-10040-A, 2017 WL 6887789, at *2 (11th Cir. Oct. 24, 2017) (not reported in federal reporter) (citing *Chappell v. Rich*, 340 F.3d 1279, 1283 (11th Cir. 2003)).

⁶⁶ *Israel on behalf of A.I.*, 17-10040-A, 2017 WL 6887789, at *2 (citing *Rozar v. Mullis*, 85 F.3d 556, 561 (11th Cir. 1996)).

⁶⁷ See *Stachura*, 477 U.S. at 306.

⁶⁸ *Id.* at 309.

⁶⁹ *Id.* at 306, n. 9, citing *Smith v. Wade*, 461 U.S. 30, 103 (1983)).

⁷⁰ See, e.g., Press Release, Foundation for Individual Rights in Education, *Dixie State University Settlement Agreement*, (Sep. 17, 2015) <https://www.thefire.org/dixie-state-university-settlement-agreement/> (last visited Feb. 19, 2018) (settling case for \$50,000).

⁷¹ Monica Scott, *GVSU reaches settlement with student group alleging it restricted free speech*, GRAND RAPID NEWS, Mar. 2, 2017, http://www.mlive.com/news/grand-rapids/index.ssf/2017/03/gvsu_reaches_settlement_with_s.html (last visited Feb. 19, 2018) (article notes Grand Valley State University agreed to abolish its free speech zone and agreed to pay legal fees of \$11,025). Press Release, ECU News Service *Difference in Philosophy, ECU, former media advisor issue joint statement*, (Apr. 20, 2012), <http://www.ecu.edu/news/isomstatement.cfm#.Worp2ainE2w> (last visited Feb. 19, 2018) (noting settlement between East Carolina University and former director of student media in amount of \$31,200).

⁷² See, e.g., Press Release, ACLU of Colorado, *ACLU Wins \$100K Settlement for Former Adams State Professor Who Was Banned from Campus after Criticizing the University* (2016) <https://aclu-co.org/aclu-wins-100k-settlement-former-adams-state-professor-banned-campus-criticizing-university/> (last visited Feb. 19, 2018); Press Release, Foundation for Individual Rights in Education, *Victory for Academic Freedom: ‘Human Heredity’ Professor Receives \$100,000 Settlement*, (Jul. 26, 2010), <https://www.thefire.org/victory-for-academic-freedom-human-heredity-professor-receives-100000-settlement/> (last visited Feb. 19, 2018).

Suits by individual students or by student groups concerning individual instances of civil rights violations against an individual acting “under the color of law” on behalf of a college or university, are often dismissed as moot when the student has a change of status; i.e., the student has graduated.⁷³

III. Effect of Proposed Changes:

CS/SB 1234 establishes the “Campus Free Expression Act,” (the Act) to authorize individuals to engage in expressive activity on public institutions of higher education campuses, within reasonable limits enforced by such institutions. Specifically, the bill:

- Authorizes a person who wishes to engage in an expressive activity in the outdoor areas of campus of a public institution of higher education to do so freely, spontaneously, and contemporaneously as long as the person’s conduct is lawful and does not materially and substantially disrupt the functioning of the public institution.
- Designates the outdoor areas of campus of a public institution of higher education that accepts federal funding as traditional public forums and specifies that such public institution may create and enforce restrictions that are:
 - Reasonable and content-neutral on time, place, and manner of expression.
 - Narrowly tailored to a significant institutional interest.
- Prohibits a public institution of higher education from designating a specific area as a free speech zone or otherwise restricting expressive activities to a particular area of campus.
- Establishes a *state* cause of action for a violation of the Act and specifies available damages and a statute of limitations associated with such action.
- Requires a state university student government organization to provide a written explanation regarding the funding determination to a recognized student organization that submits a request for activity and service fee funding.
- Requires each student government association to maintain on its website an organized record of the funding requests it receives and disburses.

Definitions

The bill defines:

- A public institution of higher education to mean any public technical center, state university, law school, medical school, dental school, or Florida College System institution as defined in law.⁷⁴
- A free speech zone to mean a designated area on a public institution of higher education’s campus for the purpose of political protesting.
- Outdoor area of campus to mean a generally accessible area of the campus where members of the campus community are commonly allowed, including grassy areas, walkways, or other similar common areas. The bill specifies that the term does not include outdoor areas where access is restricted.

⁷³ See, e.g., *Ford v. Reynolds*, 167 Fed. Appx. 248, 249 (2d Cir. 2006) (not reported in federal reporter) (dismissing students’ pleading alleging civil rights violation by school that implemented a ban on certain speakers as moot on the basis that students had all graduated and were not expelled or suspended, as threatened by the school).

⁷⁴ The bill references the definition of Florida College System institution under section 1000.21, F.S.

Right to Free Speech Activities

The bill provides that the Act protects expressive activities which include, but are not limited to, any lawful verbal or written means by which an individual may communicate ideas to others, including:

- All forms of peaceful assembly, protests, speeches, and guest speakers;
- Distributing literature;
- Carrying signs;
- Circulating petitions; and
- The recording and publication, including Internet publication, of video or audio recorded in outdoor areas of campus of public institutions of higher education.

The bill also specifies that a person who wishes to engage in an expressive activity in the outdoor areas of campus of a public institution of higher education may do so freely, spontaneously, and contemporaneously as long as the person's conduct is lawful and does not materially and substantially disrupt the functioning of the public institution of higher education.

The bill identifies the outdoor areas of campus of a public institution of higher education that accept federal funding as traditional public forums and authorizes a public institution of higher education to create and enforce restrictions that are:

- Reasonable and content-neutral on time, place, and manner of expression.
- Narrowly tailored to a significant institutional interest.

The bill states that any such restrictions must be clear, be published, and provide for ample alternative means of expression.

Additionally, the bill prohibits:

- A public institution of higher education from designating any area of campus as a free speech zone or otherwise creating policies that restrict expressive activities to a particular area of campus.
- Students, faculty, and staff of a public institution of higher education from "materially and substantially disrupt[ing]" previously scheduled or reserved activities on campus that occur at the same time as the free expression.

The provisions of the bill appear to be consistent with the federal and state constitutions. The bill provides that the outdoor areas of campus of a public institution of higher education are traditional public forums. Additionally, the words a "materially and substantially disrupt" appear to come from the United States Supreme Court's *Tinker* decision:

A student's rights, therefore, do not embrace merely the classroom hours. When he is in the cafeteria, or on the playing field, or on the campus during the authorized hours, he may express his opinions, even on controversial subjects like the conflict in Vietnam, if he does so without '**materially and substantially interfer(ing)** with the requirements of appropriate discipline in the operation of the school' and without colliding with the rights of others. *Burnside v. Byars*, supra, 363 F.2d at 749. But conduct by the student, in class or out of it, which for

any reason—whether it stems from time, place, or type of behavior—**materially disrupts** classwork or involves substantial disorder or invasion of the rights of others is, of course, not immunized by the constitutional guarantee of freedom of speech.⁷⁵

State University Student Activity Fees

The bill requires a student government organization that receives a funding request for activity and service fee funding from a recognized student organization to provide a written explanation to the recognized student organization regarding the funding determination. Additionally, the bill requires each student government association requires each student government association to maintain on its website an organized record of the funding requests and awards it receives and disburses. The bill provides that this record must contain the:

- Name of each organization that requested funds,
- Amount the organization requested,
- Amount the organization received, and
- Written explanation regarding the funding determination.

The bill specifies that this organized record must be displayed prominently on the student government association's website. Accordingly, the bill may provide the public with data regarding state university student government associations' funding determinations.

Cause of Action

The bill creates a *state* cause of action, whereby if a public institution of higher education or an individual acting on behalf of a public institution of higher education willfully violates a person's expressive rights by an action prohibited under the Act, the Florida Attorney General or a person whose expressive rights are violated may bring an action in court of competent jurisdiction to recover compensatory damages, reasonable court costs, and attorney fees. This effectively operates as a limited waiver of sovereign immunity for constitutional tort cases, and caps liability at \$100,000.

The bill provides that if the court finds that a violation of the Act occurred, the court must award the aggrieved party at least \$500 for each violation or award compensatory damages, e.g. costs of printing literature or paying a speaker. The bill limits the total compensatory damages available to a plaintiff in a case arising from a single violation of the Act to \$100,000, excluding reasonable court costs and attorney fees. The bill specifies that in the event of multiple plaintiffs, the court must divide the damages equally among the plaintiffs until the maximum award is exhausted.

Additionally, the bill provides a one-year statute of limitations for a cause of action. Accordingly, the Attorney General or a person aggrieved by a violation of this section must bring suit against the institution no later than 1 year after the date the cause of action accrues. The bill specifies that for purposes of the one-year statute of limitations, each day that a violation of the

⁷⁵ 393 U.S. 503, 512–13 (1969).

Act persists or each day that a policy in violation of the Act remains in effect constitutes a new violation of, and therefore, a new day that the cause of action accrues.

Accordingly, the bill provides a specific remedy in law for an individual whose expressive rights have been violated by a public institution of higher education.

The bill takes effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Constitutional Issue:

The “federal funding” language could be problematic as an argument could be made that the statute applies to private universities accepting federal funding. By accepting federal funding, a person may argue that a private university is transformed into a public actor for purposes of the first amendment.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

It is likely there will be some future fiscal impact as the state would be waiving its sovereign immunity for the purpose of recognizing constitutional tort claims. The range of damages is limited to a \$500 fee (which is really a fine) where there are no compensatory damages, or to compensatory damages, whichever is greater, not to exceed \$100,000. However, the risk of such constitutional tort claims may be reduced by the elimination of free speech zones and the opening of outdoor spaces on public college and university campuses as traditional public forums.

VI. Technical Deficiencies:

None.

VII. Related Issues:**VIII. Statutes Affected:**

This bill substantially amends section 1009.24, Florida Statutes.

This bill creates section 1004.097, 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 Education on February 6, 2018.

The committee substitute retains the substance of the bill with the following modifications:

- Adds to the bill a provision related to state university student fees to:
 - Require a student government organization to provide a written explanation regarding the funding determination to a recognized student organization that submits a request for activity and service fee funding.
 - Require each student government association to maintain on its website an organized record of the funding requests and awards it receives and requests.
- Revises the bill provision related to compensatory damages associated with the cause of action to provide the aggrieved party at least \$500 per violation and removes from the bill the \$50 limit for additional violations.
- Clarifies the definition of a public institution of higher education in the bill to remove state college from that definition and maintains in the definition the reference to Florida College System institution as defined in law.

- B. **Amendments:**

None.



697298

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2018	.	
	.	
	.	
	.	

The Committee on Judiciary (Baxley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. This act may be cited as the "Campus Free
Expression Act."

Section 2. Section 1004.097, Florida Statutes, is created
to read:

1004.097 Free expression on campus.—

(1) DEFINITIONS.—

(a) "Commercial speech" means speech where the individual



697298

12 is engaged in commerce, where the intended audience is
13 commercial or actual or potential consumers, and where the
14 content of the message is commercial.

15 (b) "Free speech zone" means a designated area on a public
16 institution of higher education's campus which is designated for
17 the purpose of engaging in expressive activities.

18 (c) "Material and substantial disruption" means any conduct
19 that intentionally and significantly hinders another person's or
20 group's expressive rights. It does not include conduct that is
21 protected under the First Amendment to the United States
22 Constitution and Art. I of the State Constitution, including,
23 but not limited to, lawful protests and counter-protests in the
24 outdoor areas of campus or minor, brief, or fleeting nonviolent
25 disruptions that are isolated or short in duration.

26 (d) "Outdoor areas of campus" means generally accessible
27 areas of the campus of a public institution of higher education
28 where members of the campus community are commonly allowed,
29 including grassy areas, walkways, or other similar common areas.
30 The term does not include outdoor areas where access is
31 restricted.

32 (e) "Public institution of higher education" means any
33 public technical center, state university, law school, medical
34 school, dental school, or other Florida College System
35 institution as defined in s. 1000.21.

36 (2) RIGHT TO FREE SPEECH ACTIVITIES.-

37 (a) Expressive activities protected under the First
38 Amendment to the United States Constitution and Art. I of the
39 State Constitution include, but are not limited to, any lawful
40 oral or written communication of ideas, including all forms of



697298

41 peaceful assembly, protests, and speeches; distributing
42 literature; carrying signs; circulating petitions; and the
43 recording and publication, including Internet publication, of
44 video or audio recorded in outdoor areas of campus of public
45 institutions of higher education. Expressive activities
46 protected by this section do not include commercial speech.

47 (b) A person who wishes to engage in an expressive activity
48 in the outdoor areas of campus may do so freely, spontaneously,
49 and contemporaneously as long as the person's conduct is lawful
50 and is not a material and substantial disruption of the
51 functioning of the public institution of higher education or
52 does not infringe upon the rights of other individuals or
53 organizations to engage in expressive activities.

54 (c) The outdoor areas of campus are considered traditional
55 public forums for individuals, organizations, and guest
56 speakers. A public institution of higher education may create
57 and enforce restrictions that are reasonable and content-neutral
58 on time, place, and manner of expression and that are narrowly
59 tailored to a significant institutional interest. Restrictions
60 must be clear, published, and provide for ample alternative
61 means of expression.

62 (d) A public institution of higher education may not
63 designate any area of campus as a free speech zone or otherwise
64 create policies restricting expressive activities to particular
65 outdoor areas of campus, except as provided in paragraph (c).

66 (e) Students, faculty, or staff of a public institution of
67 higher education may not cause a material and substantial
68 disruption of a previously scheduled or reserved activity on
69 campus occurring at the same time.



697298

70 (3) CAUSE OF ACTION.—Any person whose expressive rights are
71 violated by an action prohibited under this section may bring an
72 action in a court of competent jurisdiction to obtain
73 declaratory and injunctive relief, reasonable court costs and
74 attorneys' fees.

75 Section 3. Subsection (10) of section 1009.24, Florida
76 Statutes, is amended to read:

77 1009.24 State university student fees.—

78 (10) (a) Each university board of trustees shall establish a
79 student activity and service fee on the main campus of the
80 university. The university board may also establish a student
81 activity and service fee on any branch campus or center. Any
82 subsequent increase in the activity and service fee must be
83 recommended by an activity and service fee committee, at least
84 one-half of whom are students appointed by the student body
85 president. The remainder of the committee shall be appointed by
86 the university president. A chairperson, appointed jointly by
87 the university president and the student body president, shall
88 vote only in the case of a tie. The recommendations of the
89 committee shall take effect only after approval by the
90 university president, after consultation with the student body
91 president, with final approval by the university board of
92 trustees. An increase in the activity and service fee may occur
93 only once each fiscal year and must be implemented beginning
94 with the fall term. The Board of Governors is responsible for
95 adopting the regulations and timetables necessary to implement
96 this fee.

97 (b) The student activity and service fees shall be expended
98 for lawful purposes to benefit the student body in general. This



697298

99 shall include, but shall not be limited to, student publications
100 and grants to duly recognized student organizations, the
101 membership of which is open to all students at the university
102 without regard to race, sex, or religion. The fund may not
103 benefit activities for which an admission fee is charged to
104 students, except for student-government-association-sponsored
105 concerts. The allocation and expenditure of the fund shall be
106 determined by the student government association of the
107 university, except that the president of the university may veto
108 any line item or portion thereof within the budget when
109 submitted by the student government association legislative
110 body. The university president shall have 15 school days from
111 the date of presentation of the budget to act on the allocation
112 and expenditure recommendations, which shall be deemed approved
113 if no action is taken within the 15 school days. If any line
114 item or portion thereof within the budget is vetoed, the student
115 government association legislative body shall within 15 school
116 days make new budget recommendations for expenditure of the
117 vetoed portion of the fund. If the university president vetoes
118 any line item or portion thereof within the new budget
119 revisions, the university president may reallocate by line item
120 that vetoed portion to bond obligations guaranteed by activity
121 and service fees. Unexpended funds and undisbursed funds
122 remaining at the end of a fiscal year shall be carried over and
123 remain in the student activity and service fund and be available
124 for allocation and expenditure during the next fiscal year.

125 (c) To preserve viewpoint neutrality in the allocation of
126 activity and service fees, any recognized student organization
127 that submits an activity and service fee funding request to the



697298

128 student government association that disburses such funds shall
129 be provided a written justification for the amount of funds
130 awarded to the requesting organization.

131
132 Each student government association shall maintain on its
133 website an organized record of funding requests and awards. The
134 record shall contain the name of each organization that
135 requested funds, the amount the organization requested, the
136 amount the organization received, and the written explanation
137 that was provided pursuant to paragraph (c) to the requesting
138 organization. The record shall be displayed in an easy-to-find
139 place on the student government association's website.

140 Section 4. This act shall take effect July 1, 2018.

141
142 ===== T I T L E A M E N D M E N T =====

143 And the title is amended as follows:

144 Delete everything before the enacting clause
145 and insert:

146 A bill to be entitled
147 An act relating to free expression on campus;
148 providing a short title; creating s. 1004.097, F.S.;
149 defining terms; providing applicability; authorizing a
150 public institution of higher education to create and
151 enforce certain restrictions relating to expressive
152 activities on campus; providing requirements for such
153 restrictions; prohibiting the students, faculty, and
154 staff of a public institution of higher education from
155 causing certain disruptions; providing a cause of
156 action; amending s. 1009.24, F.S.; providing



697298

157 disclosure requirements when allocating activity and
158 service fees; requiring student government
159 associations to maintain and display certain records
160 in their websites; providing requirements for such
161 records; providing an effective date.

By the Committee on Education; and Senator Baxley

581-02905-18

20181234c1

1 A bill to be entitled
 2 An act relating to free expression on campus;
 3 providing a short title; creating s. 1004.097, F.S.;
 4 defining terms; providing applicability; authorizing a
 5 public institution of higher education to create and
 6 enforce certain restrictions relating to expressive
 7 activities on campus; providing for a cause of action
 8 against a public institution of higher education for
 9 violations of the act; providing for damages;
 10 providing a statute of limitations; amending s.
 11 1009.24, F.S.; requiring student government
 12 associations to provide specified information to
 13 recognized student organizations that request funding;
 14 requiring the organizations to maintain and
 15 prominently display on their websites certain
 16 information regarding such funding requests; providing
 17 an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. This act may be cited as the "Campus Free
 22 Expression Act."

23 Section 2. Section 1004.097, Florida Statutes, is created
 24 to read:

25 1004.097 Free expression on campus.-

26 (1) DEFINITIONS.-

27 (a) "Free speech zone" means a designated area on a public
 28 institution of higher education's campus for the purpose of
 29 political protesting.

Page 1 of 4

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

581-02905-18

20181234c1

30 (b) "Outdoor areas of campus" means generally accessible
 31 areas of the campus where members of the campus community are
 32 commonly allowed, including grassy areas, walkways, or other
 33 similar common areas. The term does not include outdoor areas
 34 where access is restricted.

35 (c) "Public institution of higher education" means any
 36 public technical center, state university, law school, medical
 37 school, dental school, or Florida College System institution as
 38 defined in s. 1000.21.

39 (2) RIGHT TO FREE SPEECH ACTIVITIES.-

40 (a) Expressive activities protected under this section
 41 include, but are not limited to, any lawful verbal or written
 42 means by which an individual may communicate ideas to others,
 43 including all forms of peaceful assembly, protests, speeches,
 44 and guest speakers; distributing literature; carrying signs;
 45 circulating petitions; and the recording and publication,
 46 including Internet publication, of video or audio recorded in
 47 outdoor areas of campus of public institutions of higher
 48 education.

49 (b) A person who wishes to engage in an expressive activity
 50 in the outdoor areas of campus of a public institution of higher
 51 education may do so freely, spontaneously, and contemporaneously
 52 as long as the person's conduct is lawful and does not
 53 materially and substantially disrupt the functioning of the
 54 public institution of higher education.

55 (c) The outdoor areas of campus of a public institution of
 56 higher education that accept federal funding are considered
 57 traditional public forums. A public institution of higher
 58 education may create and enforce restrictions that are

Page 2 of 4

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

581-02905-18 20181234c1

59 reasonable and content-neutral on time, place, and manner of
 60 expression and that are narrowly tailored to a significant
 61 institutional interest. Restrictions must be clear, be
 62 published, and provide for ample alternative means of
 63 expression.

64 (d) A public institution of higher education may not
 65 designate any area of campus as a free speech zone or otherwise
 66 create policies restricting expressive activities to a
 67 particular area of campus.

68 (e) Students, faculty, or staff of a public institution of
 69 higher education may not materially disrupt previously scheduled
 70 or reserved activities on campus occurring at the same time.

71 (3) CAUSE OF ACTION; DAMAGES.—

72 (a) If a public institution of higher education or an
 73 individual acting on behalf of a public institution of higher
 74 education willfully violates a person's expressive rights by an
 75 action prohibited under this section, the Attorney General or
 76 the person may bring an action in a court of competent
 77 jurisdiction against the public institution of higher education
 78 to recover compensatory damages plus court costs and a
 79 reasonable attorney fee. If the court finds that a violation of
 80 this section occurred, the court shall award the aggrieved party
 81 at least \$500 for each violation or shall award compensatory
 82 damages.

83 (b) Excluding reasonable court costs and attorney fees, the
 84 total compensatory damages available to a plaintiff in a case
 85 arising from a single violation of this section may not exceed
 86 \$100,000. If there are multiple plaintiffs, the court shall
 87 divide the damages equally among the plaintiffs until the

581-02905-18 20181234c1

88 maximum award is exhausted.

89 (4) STATUTE OF LIMITATIONS.—A person aggrieved by a
 90 violation of this section must bring suit no later than 1 year
 91 after the date the cause of action accrues. For the purpose of
 92 calculating the 1-year limitation period, each day that a
 93 violation of this section persists or each day that a policy in
 94 violation of this section remains in effect constitutes a new
 95 violation and, therefore, a new day that the cause of action
 96 accrues.

97 Section 3. Paragraphs (c) and (d) are added to subsection
 98 (10) of section 1009.24, Florida Statutes, to read:

99 1009.24 State university student fees.—

100 (10)

101 (c) In the interest of preserving viewpoint neutrality in
 102 the allocation of activity and service fees, a student
 103 government organization that receives a request for activity and
 104 service fee funding from a recognized student organization must
 105 provide a written explanation to the recognized student
 106 organization regarding its funding determination.

107 (d) Each student government association shall maintain on
 108 its website an organized record of the funding requests and
 109 awards it receives and disburses. The record must contain the
 110 name of each organization that requested funds, the amount the
 111 organization requested, the amount the organization received,
 112 and the written explanation required in paragraph (c). The
 113 record must be displayed prominently on the student government
 114 association's website.

115 Section 4. This act shall take effect July 1, 2018.

THE FLORIDA SENATE



SENATOR DENNIS BAXLEY
12th District

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Criminal Justice, *Vice Chair*
Appropriations
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Health and
Human Services
Agriculture
Transportation

SELECT COMMITTEE:
Joint Select Committee on Collective Bargaining

JOINT COMMITTEE:
Joint Legislative Auditing Committee

January 12, 2018

The Honorable Senator Greg Steube
326 Senate Office Building
Tallahassee, Florida 32399

Dear Senator Steube,

I respectfully request that you place SB 1234 School Safety on your next available agenda.

It is the intent of the Legislature to prevent violent crimes from occurring on school grounds. The Legislature acknowledges that the safekeeping of our students, teachers, and campuses is imperative. In addition, the Legislature's intent is not to mandate that a school or administration building have one or more designees, but to allow the school principal or district school superintendent the opportunity to designate one or more such designees.

The term "school" means any preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic. A person who exhibits any sword, sword cane, firearm, electric weapon or device, destructive device, or other weapon, including a razor blade, box cutter, or common pocketknife, in the presence of one or more persons in a rude, careless, angry, or threatening manner and not in lawful self-defense, at a school-sponsored event or on the grounds or facilities of any school, school bus, or school bus stop, or within 1,000 feet of the real property that comprises a school, during school hours or during the time of a sanctioned school activity, commits a felony of a third degree. This does not apply to a school employee or volunteer who has been designated by his or her school principal, or, for an administration building, a district employee or volunteer who has been designated by his or her district school superintendent, as authorized to carry a concealed weapon or firearm on school property.

Onward & Upward,

A handwritten signature in cursive script that reads "Dennis K. Baxley".

Senator Dennis Baxley
Senate District 12

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012
Email: baxley.dennis@flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/20/2018

Meeting Date

SB 1254

Bill Number (if applicable)

Topic Freedom of Speech on College Campuses

Name Aashutosh Pyakuryal

Job Title Statewide Organizer

Address 3202 Hazenridge Way

Street

Orlando

City

State

Zip

Phone (330) 573 5777

Email pyakutosh@gmail.com

Speaking: For Against Information

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

Representing Florida Student Power Network

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

02/20/2018

Meeting Date

SB1234

Bill Number (if applicable)

Topic SB1234 - Free Speech

Name Demetrius Platts

Amendment Barcode (if applicable)

Job Title Bethune-Cookman University Campus lead - Student

Address 640 Dr Mary McLeod Bethune Blvd

Phone 904-405-3466

Street

Daytona Beach Florida

City

State

Zip

Email demetrius.platts53@gmail.com

Speaking: For Against Information

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

Representing Florida Student Power Network / Bethune-Cookman Univ.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

02-20-18

Meeting Date

SB1234

Bill Number (if applicable)

Topic SB 1234 - Free Speech Bill

Amendment Barcode (if applicable)

Name Michaela Daniel

Job Title Student - Wildcats for Liberty - Community Involvement Planner Captain

Address (410) Dr. Mary McLeod Bethune Blvd

Phone _____

Street

Daytona Beach

City

FL

State

32114

Zip

Email _____

Speaking: For Against Information

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

Representing Florida Student Power Network / Wildcats for Liberty

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)

02/20/2018

Meeting Date

SB1234

Bill Number (if applicable)

Topic SB1234 - Free Speech

Amendment Barcode (if applicable)

Name Allie Jacobs

Job Title Fellow for Florida Student Power Network

Address 4345 TREN COURT #204
Street

Phone 681-561-9928

Lake Worth FL 33467
City State Zip

Email alliejobs@gmail.com

Speaking: For Against Information

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

Representing Florida Student Power Network / Florida Atlantic University

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/20/18

Meeting Date

1234

Bill Number (if applicable)

Topic Anti Free Speech Bill

Amendment Barcode (if applicable)

Name Phillip Agnew

Job Title Co Director / Dream Defenders

Address 270 NW 46th St

Phone

Street

City Miami, FL State FL Zip 33127

Email

Speaking: For [] Against [x] Information []

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

Representing Dream Defenders

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

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

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/20/18

Meeting Date

SB 1234

Bill Number (if applicable)

Topic SB 1234 - FREE SPEECH

Amendment Barcode (if applicable)

Name REBECCA GARCIA

Job Title ADVISOR ; FLORIDA STUDENT POWER NETWORK

Address 18948 NW 77TH PL

Phone 305 934 9524

City MIAMI State FL Zip 33015

Email REBECCA.GARCIA.2015@GMAIL.COM

Speaking: For Against Information

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

Representing FLORIDA STUDENT POWER NETWORK

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

02/20/18

Meeting Date

SB 1234

Bill Number (if applicable)

Topic HB 909/SB 1234

Amendment Barcode (if applicable)

Name Alexis Dameron

Job Title President of Wildcats For Liberty - Student

Address 640 Dr Mary McLeod

Phone 702 846 8125

Street

Boulevard FL 32114

City

State

Zip

Email alexis.d.dameron@students.cookman.edu

Speaking: For Against Information

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

Representing Bethune-Cookman University - Wildcats For Liberty

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE APPEARANCE RECORD

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

02/20/18
Meeting Date

SB1234
Bill Number (if applicable)

Topic SB1234

Amendment Barcode (if applicable)

Name La'Tyana Coleman-Harrison

Job Title Student

Address 6410 Dr. Mary McLeod Bethune
Street

Phone (310) 484-9004

Daytona Beach FL 32114
City State Zip

Email lscolemanharrison@gmail.com

Speaking: For Against Information

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

Representing Student power network - Bethune Cookman university - wildcat for liberty

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

00/20/18

Meeting Date

SB 1234

Bill Number (if applicable)

Topic SB 1234 (Free Speech)

Amendment Barcode (if applicable)

Name Leon Bright Jr

Job Title Student - wildcard for libertt

Address 610 Dr mart mcLeod Bethune - vice president

Phone 386-868-7181

Street

Davtona

City

FL

State

32114

Zip

Email LeonBright32@iCloud.com

Speaking: [] For [x] Against [] Information

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

Representing Florida Student power network / wildcats for libertt (Bethune - Cooney)

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

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

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

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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.

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

Representing

FL Student

Florida

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

Speaking: For Against Information
Waive Speaking: In Support Against

City

State

Zip

Street

FL 32124

Address

Phone

N/A

Email

N/A

Job Title

FBI

Name

Adonis Casanova

Topic

SB 1239

Meeting Date

02/01/18

Amendment Barcode (if applicable)

Bill Number (if applicable)

SB 1239

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

APPEARANCE RECORD

THE FLORIDA SENATE

THE FLORIDA SENATE

APPEARANCE RECORD

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

02/20/2018

Meeting Date

SB1234

Bill Number (if applicable)

Topic Judiciary Committee hearing for SB1234

Amendment Barcode (if applicable)

Name Ana Alvarez

Job Title State Coordinator

Address 4834 Wainest, Lake

Phone (561) 215-1062

Street

Lake Worth

FL

33416

City

State

Zip

Email

Speaking: For Against Information

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

Representing Florida Students Power Network

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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APPEARANCE RECORD

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

2-20-18

Meeting Date

1234

Bill Number (if applicable)

Topic Freedom of Speech

Amendment Barcode (if applicable)

Name Barbara Marie Devane

Job Title US

Address 625 E. Brevard St

Phone 251-4280

City Tallahassee FL 32308

Email barbadevane@yahoo.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.

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THE FLORIDA SENATE
APPEARANCE RECORD

2-20-2018

Meeting Date

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

SB1234

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Reem Zaitoon

Job Title Student

Address 242 Jackson Bluff Rd.

Phone _____

Street

Tallahassee FL 32304

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Students for Justice in Palestine

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)

02/20/18
Meeting Date

SB1234
Bill Number (if applicable)

Topic SB1234 hearing

Amendment Barcode (if applicable)

Name Leonardo Gonzalez

Job Title

Address 6304 NW 26th St
Street

Phone

Sunrise FL 33313
City State Zip

Email

Speaking: For Against Information

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

Representing Student Power

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)

2/26/21

Meeting Date

SB 1234

Bill Number (if applicable)

Topic SB 1234 - Campus Free Speech

Amendment Barcode (if applicable)

Name Lakey Love

Job Title Ph.D Candidate + Graduate Teacher at FSU

Address 1571 Melvin St

Phone 850-345-0018

Street

Tallahassee FL 32301

City

State

Zip

Email bustard@lakeylove.com

Speaking: For Against Information

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

Representing Student Power Network

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)

2/20/2018

Meeting Date

~~SB~~ SB 1234

Bill Number (if applicable)

Topic SB 1234 ^{isan} ↓ ~~AAI~~ Free Speech on Campus

Amendment Barcode (if applicable)

Name David Carcebo

Job Title Director

Address 134 F Colonial Drive

Phone 347-868-9002

Street

Orlando FL 32801

City

State

Zip

Email David@organizeflorida.org

Speaking: For Against Information

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

Representing Florida Student Power Network

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)

2-20-18

Meeting Date

1234

Bill Number (if applicable)

Topic "Campus Free Expression Act"

Amendment Barcode (if applicable)

Name Marshall Ogletree

Job Title Executive Director

Address 115 N. Calhoun St., Suite 6

Phone 850-224-8220

Street

Tallahassee

FL

32301

Email marshall.ogletree@floridaea.org

City

State

Zip

Speaking: For Against Information

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

Representing United Faculty of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

2/20/2018

Meeting Date

SB1234

Bill Number (if applicable)

Topic Infringe on 1st Amendment Rights of students

Amendment Barcode (if applicable)

Name Kacey Johnson

Job Title student

Address 322 Conradi St Apt. 2

Street

Phone 754 234 3141

Tallahassee

FL

32304

City

State

Zip

Email kj146@my.fsu.edu

Speaking: [] For [X] Against [] Information

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

Representing

Appearing at request of Chair: [] Yes [X] 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)

2/20/18

Meeting Date

CS for SB 1234

Bill Number (if applicable)

Topic Campus Free Speech

Amendment Barcode (if applicable)

Name Kara Gross

Job Title Legislative Counsel

Address PO Box 10788

Phone 850-347-6994

Street

Tallahassee

FL

32302

Email kgross@aclufl.org

City

State

Zip

Speaking: For Against Information

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

Representing ACLU of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

02-20-18

Meeting Date

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

SB 1234

Bill Number (if applicable)

Topic ~~TSU~~ Free Expression

Amendment Barcode (if applicable)

Name Cynthia Colais

Job Title TSU NAACP Political Action Chair

Address 501 Chapel Dr apt 1412

Phone 561-654-7102

Tallahassee FL 32304

Email

Speaking: For Against Information

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

Representing TSU 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.

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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)

2/10  
Meeting Date

SB1234  
Bill Number (if applicable)

Topic SB1234

Amendment Barcode (if applicable)

Name Tyler Crown

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

Address 600 Dixie Dr.  
Street

Phone 861-602-9115

Tallahassee FL 32304  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing FSU Students for Justice in Palestine and FSU 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.

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THE FLORIDA SENATE

APPEARANCE RECORD

2/20/18  
Meeting Date

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

SB 1234  
Bill Number (if applicable)

Topic Free Speech

Amendment Barcode (if applicable)

Name Gabriel Pérez

Job Title Student / Makeup Artist

Address 519 Pope St Apt AA

Phone (786) 353-8934

Street Tallahassee State FL Zip \_\_\_\_\_

Email gap13b@my.fsu.edu

Speaking:  For  Against  Information

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

Representing FSU Advocates for Immigrant Refugee 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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THE FLORIDA SENATE

APPEARANCE RECORD

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

02-20-18

Meeting Date

SB1234

Bill Number (if applicable)

Topic Free Speech

Amendment Barcode (if applicable)

Name Patrick Ariel Sorbello

Job Title Student

Address 0201 Island Shores Drive

Phone 561 300 9676

Greenacres FL 33413  
City State Zip

Email pas16c@my.fsu.edu

Speaking:  For  Against  Information

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

Representing Advocates for Immigrant Refugee Rights <sup>FSU</sup>

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)

02/20/19 Meeting Date

SB1234 Bill Number (if applicable)

Topic SB1234

Amendment Barcode (if applicable)

Name Blake Amner

Job Title

Address 75 W Woodward Ave

Phone

Tallahassee FL 32313

Email bma16@my.fsu.edu

Speaking: For Against Information

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

Representing FSU 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.

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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)

2/20/18

Meeting Date

SB 1234

Bill Number (if applicable)

Topic SB 1234 Anti Free Speech Bill

Amendment Barcode (if applicable)

Name Cameron Chisolm

Job Title FSU NAACP Press & Publicity Chair

Address 75 N Woodward Ave # 6134 S

Phone 803-664-2603

Street

Tallahassee

City

FL

State

32313-1345

Zip

Email cc17c@my.fsu.edu

Speaking:  For  Against  Information

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

Representing FSU 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.

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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)

2/20/18  
Meeting Date

SB1234  
Bill Number (if applicable)

Topic SB1234

Amendment Barcode (if applicable)

Name Monte'Kis Jones

Job Title Student

Address 75 N Woodward  
Street

Phone \_\_\_\_\_

Tallahassee FL 32313  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing FSU 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.

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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)

2-20-18

Meeting Date

1234

Bill Number (if applicable)

Topic Free Expression

Amendment Barcode (if applicable)

Name Andrew Hosek

Job Title Analyst

Address 200 W College

Phone \_\_\_\_\_

Street

Tallahassee

FL

Zip

City

State

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Americans for Prosperity

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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)

2/20/18

Meeting Date

1234

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Amber Kelly

Job Title Director of Policy & Communications

Address 4853 S. Orange Avenue, Suite C

Phone (407) 418-0250

Street

Orlando

FL

32806

City

State

Zip

Email

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against

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

Representing FL Family Action

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

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

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

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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)

2/19/18

Meeting Date

1234

Bill Number (if applicable)

Topic Free Speech

Amendment Barcode (if applicable)

Name Donald Sizemore

Job Title Student

Address 2636 W Mission Rd

Phone 3212468484

Street

Tallahassee

Email drs17c@my.fsu.edu

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information

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

Representing Self

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

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

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

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# THE FLORIDA SENATE APPEARANCE RECORD

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

2/19/18  
Meeting Date

1234  
Bill Number (if applicable)

Topic Free Speech

Amendment Barcode (if applicable)

Name Naomi Chouhagh

Job Title Student

Address 2636 W Mission Rd

Phone 8506025542

Tallahassee FL

32304

Email naomiec@gmail.com

City State

Zip

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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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2.20.18

Meeting Date

1234

Bill Number (if applicable)

Topic FREE EXPRESSION ON CAMPUS

Amendment Barcode (if applicable)

Name BILL BUNKLEY

Job Title PRESIDENT

Address PO BOX 341649

Phone 813.264.2977

Street

TAMPA

City

FL

State

33694

Zip

Email

Speaking:  For  Against  Information

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

Representing FLORIDA ETHICS AND RELIGIOUS LIBERTY COMMISSION

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)

2/20/18  
Meeting Date

SB 1234  
Bill Number (if applicable)

Topic Free speech on campus

Amendment Barcode (if applicable)

Name Keatin Cecrle

Job Title Full time student

Address 909 Chestwood ave

Phone (904)-214-5155

Tallahassee FL 32303  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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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)

2-19-12

Meeting Date

1234

Bill Number (if applicable)

Topic Free speech

Amendment Barcode (if applicable)

Name Genesis Sanchez

Job Title student

Address 1505 W. Thurgood St

Phone \_\_\_\_\_

Street

Tallahassee

State

32305

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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# THE FLORIDA SENATE APPEARANCE RECORD

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

2/19/18

Meeting Date

909-1234

Bill Number (if applicable)

Topic Free Speech

Amendment Barcode (if applicable)

Name Caitlin Dexter

Job Title Student

Address 2636 W Mission Rd

Phone 321-305-1004

Street

Tallahassee

FL

State

32304

Zip

Email Caitdexter@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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# THE FLORIDA SENATE APPEARANCE RECORD

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

2/20/19

Meeting Date

SB1234

Bill Number (if applicable)

Topic SB1234

Amendment Barcode (if applicable)

Name Stefan Pabin

Job Title student

Address 2751 Oval Hollow Rd. E

Phone 727-278-7670

Street

Clearwater

FL

33761

City

State

Zip

Email sbabin2014@yahoo.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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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

02/20/2018  
Meeting Date

SB 1234  
Bill Number (if applicable)

Topic FREE SPEECH

Amendment Barcode (if applicable)

Name CESAR GRASALES

Job Title COALITIONS DIRECTOR

Address 200 W. COLLEGE AVE

Phone 786.260.9283

Street

TALLAHASSEE

FL.

City

State

Zip

Email cgrasales@libre.org

Speaking:  For  Against  Information

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

Representing THE LIBRE INITIATIVE

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)

2/20/18

Meeting Date

SB 1234

Bill Number (if applicable)

Topic Free Speech

Amendment Barcode (if applicable)

Name Demetrius Minor

Job Title Director of Coalitions - Generation Opportunity

Address 300 West College Ave

Phone 727-270-1407

Street

Tallahassee

City

FL

State

Zip

Email dminor@genopp.org

Speaking:  For  Against  Information

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

Representing Generation Opportunity

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

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

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

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: SB 1236

INTRODUCER: Senators Baxley and Steube

SUBJECT: School Safety

DATE: February 19, 2018

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

|    | ANALYST  | STAFF DIRECTOR | REFERENCE | ACTION             |
|----|----------|----------------|-----------|--------------------|
| 1. | Stallard | Cibula         | JU        | <b>Pre-meeting</b> |
| 2. |          |                | ED        |                    |
| 3. |          |                | RC        |                    |

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**I. Summary:**

SB 1236 authorizes school principals to designate one or more persons who meet the qualifications in the bill to carry a concealed weapon or firearm in school buildings; school district superintendents may make the same designation as to administrative buildings. Additionally, the bill increases the safety and security measures that school districts must take, which include consulting with law enforcement agencies every three years and establishing emergency procedures for active-shooter and hostage situations.

Under current law, as a general matter, only law enforcement officers are exempt from the ban on possessing a weapon or firearm on the property of a school. This includes public and private schools from preschool to the postsecondary level, as well as career centers. The bill authorizes school authorities to designate one or more persons to carry a concealed weapon or firearm on school property. But to qualify as a designee a person must:

- Be a former or current law enforcement officer or specified member of the military who did not have a firearms-related discipline incident while serving;
- Be licensed to carry a concealed weapon or firearm;
- Complete extensive training, and undergo continuing annual training, as specified in the bill; and
- Pass a level 2 background screening, which involves a search of state and federal databases for evidence of whether a person has committed any of a long list of serious crimes, including those involving violence and sexual misconduct.

**II. Present Situation:**

**Overview**

The law broadly bans the possession of a weapon or firearm on the property of a school. For the purpose of this ban, schools include public or private schools from preschool to the

postsecondary level, and also include career centers. Although this prohibition applies even to persons who have a concealed weapon or firearms license, it does not apply to full-time or part-time law enforcement officers.

Also, school districts must prescribe policies and procedures for emergency drills and actual emergencies, and they must establish model emergency management and preparedness procedures related to weapon-use and hostage situations.

### **Prohibited Possession of a Weapon or Firearm at a School or Related Location**

In general, s. 790.115, F.S., prohibits a person other than a law enforcement officer from knowingly and willfully possessing any firearm, electric weapon or device, destructive device, or other weapon on the property of any school. This statute expressly defines the term “school” as any preschool through postsecondary school, whether public or private, including a career center.<sup>1</sup> The penalty for violating the ban on weapons and firearms varies depending on whether the violator has a license to carry a concealed weapon or firearm.<sup>2</sup>

Where the statute exempts “law enforcement officers” from the ban on possessing a weapon or firearm on school property, it specifies that this term includes the following persons, as they are defined in s. 943.10, F.S.:

- Law enforcement officer;
- Correctional officer;
- Correctional probation officer;
- Part-time law enforcement officer;
- Part-time correctional officer;
- Auxiliary law enforcement officer; and
- Auxiliary correctional officer.<sup>3</sup>

Another statute authorizes school district boards to commission one or more school safety officers, who must be certified law enforcement officers, as defined in s. 943.10(1), F.S.<sup>4</sup>

Beyond the exemption of law enforcement officers from the ban, the statute permits persons to possess a weapon or firearm “as authorized in support of school-sanctioned activities,” or to “carry” a firearm in:<sup>5</sup>

- A case to a firearms program, class, or function, if approved by school authorities;
- A case to a career center having a firearms training range; or
- A vehicle if the firearm is not accessible for immediate use.<sup>6</sup>

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<sup>1</sup> Section 790.115(2)(a), F.S.

<sup>2</sup> A non-licensee possessing a firearm or other weapon commits a third degree felony, which is generally punishable by up to 5 years in prison and a fine not to exceed \$5,000. *See* ss. 790.115(b)-(c), 775.082(9)(a)3.d. and 775.083(1)(c), F.S. However, a licensee who commits this crime is guilty of a lesser crime, a second degree misdemeanor, punishable by up to 60 days in jail and a fine not to exceed \$500. *See*, ss. 790.115(2)(e), 790.06(12)(d), 775.082(4)(b), and 775.083(1)(e), F.S.

<sup>3</sup> Section 790.115(3), F.S.

<sup>4</sup> *See* s. 1006.12, F.S.

<sup>5</sup> Section 790.115(2)(a)1.-3., F.S.

<sup>6</sup> However, a school district may opt out of permitting firearms that are stored in vehicles.



## School Safety Policies and Procedures

School district boards must “provide for the proper accounting for all students, for the attendance and control of all students at school, and for proper attention to health, safety, and other matters relating to the welfare of students . . . .”<sup>7</sup> This includes creating various rules, procedures, and codes related to student safety, discipline, and welfare. As part of these requirements, school district boards must formulate and prescribe policies and procedures for emergency drills and actual emergencies, including fires, natural disasters, and bomb threats for all K-12 public schools. Moreover, school district boards must establish model emergency management and emergency preparedness procedures for a variety of life-threatening emergencies, including emergencies involving weapon-use and hostage situations.<sup>8</sup>

## Lawful Concealed Carry of Weapons or Firearms

Although carrying a concealed weapon or firearm is generally illegal in this state, the prohibition is subject to several exceptions.<sup>9</sup>

The most significant exception to the prohibition on the carrying of concealed weapons and firearms may be the licensed carrying of these items. The license authorizes a licensee to carry a concealed weapon or firearm in most places in the state. To obtain a license, one must submit an application to the Department of Agriculture and Consumer Services, and the Department must grant the license to each applicant who:<sup>10</sup>

- Is a resident of the United States and a citizen of the United States or a permanent resident alien of the United States, as determined by the United States Bureau of Citizenship and Immigration Services, or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity that prevents the safe handling of a weapon or firearm;
- Is not ineligible to possess a firearm by virtue of having been convicted of a felony;
- Has not been committed for the abuse of a controlled substance;
- Has not been found guilty of a crime relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired;
- Desires a legal means to carry a concealed weapon or firearm for lawful self-defense;
- Demonstrates competency in the use of a firearm;<sup>11</sup>

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<sup>7</sup> Section 1006.07, F.S.

<sup>8</sup> Section 1006.07(4), F.S.

<sup>9</sup> Many of these exceptions are set forth in s. 790.25, F.S.

<sup>10</sup> Section 790.06(2), F.S. However, the Department must *deny* a license to an applicant who meets any criterion set forth in s. 790.06(3), F.S, which also sets forth criteria for the mandatory revocation of a license.

<sup>11</sup> See s. 790.06(2)(h), F.S., for the list of courses and other means of demonstrating competency, and for the required documentation that one must present to the state relative to this provision.

- Has not been, or is deemed not to have been, adjudicated an incapacitated person in a guardianship proceeding;
- Has not been, or is deemed not to have been, committed to a mental institution;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony, or any misdemeanor crime of domestic violence, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or expunction has occurred;
- Has not been issued an injunction that is currently in force and effect which restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.

Although the license generally authorizes a person to carry a concealed weapon or firearm throughout the state, it does not authorize a person to carry a concealed firearm into several places, including any college or university facility, any career center, or any elementary or secondary school facility or administration building. A license also does not authorize a person to carry a concealed firearm into any school, college, or professional athletic event not related to firearms.<sup>12</sup> As used in the licensing statute, the terms referring to schools, colleges, and universities are not defined. As such, the statute makes no distinction between public and private schools.

Additional exceptions to the prohibition against carrying a concealed firearm or openly carrying a firearm are created by s. 790.25(3), F.S. This statute authorizes an *unlicensed* individual to openly possess a firearm or to carry a concealed firearm in any of the manners described in the statute. The statute, for example, authorizes law enforcement officers to carry firearms while on duty. Additionally, the statute authorizes a person to carry a firearm while engaged in hunting, fishing, or camping or while traveling to and from these activities. A person may also possess a firearm at his or her home or place of business or in any of the other circumstances set forth in statute.

### **Federal Law**

The federal Gun-Free School Zones Act prohibits the possession of a firearm that has moved in or otherwise affects interstate or foreign commerce at a place the individual knows, or has reasonable cause to believe, is a school or is within 1,000 feet of a school.<sup>13</sup> However, this prohibition is subject to several exceptions, including that it does not apply to possession of a firearm:

- By a law enforcement officer acting in his or her official capacity;
- By a person who is licensed to carry a concealed weapon or firearm;
- That is unloaded and in a locked container or rack in a motor vehicle; or
- By an individual for use in a program approved by a school.<sup>14</sup>

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<sup>12</sup> See s. 790.06(12), F.S., for the list of the places that a license does not authorize a licensee to carry into.

<sup>13</sup> 18 U.S.C. § 922(q)(2)(A).

<sup>14</sup> See 18 U.S.C. § 922(q)(2)(B).

Another federal law, the Gun-Free Schools Act, is more-narrowly focused on prohibiting *students* from possessing firearms at or near schools. This prohibition is also subject to exceptions.<sup>15</sup> The act expressly states that it does not apply to a firearm “that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the local educational agency and the local educational agency adopts appropriate safeguards to ensure student safety.”<sup>16</sup>

### **Other States’ Authorization of Firearms and Weapons on School Property**

Laws regarding weapons and firearms at schools in other states vary widely, including in terms of who may carry and at what educational level. Texas is one state that authorizes certain school employees to carry a concealed handgun on school property. There, a school district or charter school may appoint one or more “school marshals,” who may carry a concealed handgun. The law specifies that the marshal must be an employee of the school district or charter school, have completed 80 hours of training, have passed a mental health screening, and be authorized by the governing authority of a school district or charter school.<sup>17</sup> The marshal must carry his or her concealed handgun in accordance with regulations promulgated by the authorities. However, if the marshal has “regular, direct” contact with students, he or she must keep his or her gun locked up until there is a situation in which deadly force would be justified.<sup>18</sup>

Meanwhile, several states permit general licensed carry on college and university campuses, according to the National Conference of State Legislatures (NCSL). These states include Arkansas, Colorado, Georgia, Idaho, Kansas, Mississippi, Oregon, Texas, Utah, and Wisconsin.<sup>19</sup>

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

### **Overview**

The bill authorizes school principals to designate one or more persons who meet the qualifications in the bill to carry a concealed weapon or firearm in school buildings; school district superintendents may make the same designation as to administrative buildings. Additionally, the bill increases the safety and security measures that school districts must take. Particularly, schools must consult with law enforcement agencies every three years and develop emergency notification and preparedness policies and procedures for active-shooter and hostage situations.

### **Armed Security Designees**

Under the bill, qualified persons who are designated by school authorities are not subject to the general ban on possession of weapons and firearms on the property of any public or private preschool, elementary school, secondary school, postsecondary school, or career center.

<sup>15</sup> See 20 U.S.C. § 7961.

<sup>16</sup> 20 U.S.C. § 7961(g).

<sup>17</sup> TEX. OCCUPATIONS CODE § 1701.260.

<sup>18</sup> See TEX. EDUC. CODE § 37.0811, regarding school marshals in general.

<sup>19</sup> NCSL, *Guns on Campus: Overview* (May 5, 2017) <http://www.ncsl.org/research/education/guns-on-campus-overview.aspx#2> (last visited Feb. 16, 2018).

There are three components to qualification as a designee who is exempt from the ban. First, a person must be a current or honorably discharged law enforcement officer or military member, or he or she must have a valid license to carry a concealed weapon or firearm. More specifically, the person must be:

- An honorably discharged veteran of the U.S. Armed Forces;
- An active duty member of the U.S. Armed Forces, the Florida National Guard, or the U.S. Reserves;
- A current or former law enforcement officer; or
- A person licensed to carry a concealed weapon or firearm under this state's licensing statute.

However, in order to qualify under the bill, a current or former law enforcement officer or member of the armed forces must not have been found to have committed a firearms-related disciplinary infraction during his or her time of service.

The second requirement for qualification as a designee under the bill is adequate training. The bill specifies that a school principal or district superintendent may only designate a person who "provides proof of completion of training as created by the Criminal Justice Standards and Training Commission and administered and certified by the Criminal Justice Training Center." Moreover, a designee must submit proof that he or she completed 40 hours of a school safety program and must annually complete 8 hours of active shooter training and 4 hours of firearm training as these trainings and programs are defined by the Department of Law Enforcement.

The third requirement to qualify as a designee under the bill is passing a level 2 background screening pursuant to s. 435.04, F.S. This screening involves using a person's fingerprints to search various databases to ensure that a person has not been found guilty of, pled nolo contendere or guilty to, or been adjudicated delinquent of any of a long list of serious crimes involving violence, sexual misconduct, and other especially bad acts.

### **Security Policies and Procedures**

The bill requires school districts to formulate and prescribe policies and procedures for drills and actual emergencies related to active shooter and hostage situations. Finally, the bill requires district school boards or private school principals or governing boards to allow law enforcement agencies or first responders to tour each school campus every 3 years. The school district or private school principal must document safety and emergency issues recommended by law enforcement based on these tours.

## **IV. Constitutional Issues:**

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

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

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

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 790.115, 1006.07, and 1006.12.

This bill makes conforming changes to the following sections of the Florida Statutes: 435.04, 790.251, 921.0022, and 1012.315.

**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.



338506

LEGISLATIVE ACTION

Senate

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House

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The Committee on Judiciary (Powell) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 790.30, Florida Statutes, is created to  
read:

790.30 Assault weapons.—

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

(a) "Assault weapon" means:

1. A selective-fire firearm capable of fully automatic,  
semiautomatic, or burst fire at the option of the user or any of



338506

- 12 the following specified semiautomatic firearms:
- 13 a. Algimec AGM1.
- 14 b. All AK series, including, but not limited to, the  
15 following: AK, AK-47, AK-74, AKM, AKS, ARM, MAK90, MISR, NHM90,  
16 NHM91, Rock River Arms LAR-47, SA 85, SA 93, Vector Arms AK-47,  
17 VEPR, WASR-10, and WUM.
- 18 c. All AR series, including, but not limited to, the  
19 following: AR-10, AR-15, Armalite AR-180, Armalite M-15, AR-70,  
20 Bushmaster XM15, Colt AR-15, DoubleStar AR rifles, DPMS tactical  
21 rifles, Olympic Arms, Rock River Arms LAR-15, and Smith & Wesson  
22 M&P15 rifles.
- 23 d. Barrett 82A1 and REC7.
- 24 e. Beretta AR-70 and Beretta Storm.
- 25 f. Bushmaster automatic rifle.
- 26 g. Calico Liberty series rifles.
- 27 h. Chartered Industries of Singapore SR-88.
- 28 i. Colt Sporter.
- 29 j. Daewoo K-1, K-2, Max-1, and Max-2.
- 30 k. FAMAS MAS .223.
- 31 l. Federal XC-900 and SC-450.
- 32 m. FN FAL (or FN LAR) and FN FNC.
- 33 n. FN FS2000, FN PS90, and FN SCAR.
- 34 o. Galil and UZI Sporter, Galil sniper rifle (Galatz),  
35 Galil Sporter, UZI, or Vector Arms UZI.
- 36 p. Goncz High-Tech carbine.
- 37 q. Hi-Point carbine.
- 38 r. HK-91, HK-93, HK-94, HK-PSG-1, and SP-89.
- 39 s. Kel-Tec RFB, Sub-2000, and SU series.
- 40 t. M1 carbine.



338506

- 41 u. M2HB and TNW M230.
- 42 v. Ruger Mini-14 with folding stock.
- 43 w. SAR-8, SAR-4800, and SR9.
- 44 x. SIG 57 AMT and 500 Series.
- 45 y. Sig Sauer MCX rifle.
- 46 z. SKS capable of accepting a detachable magazine.
- 47 aa. SLG 95.
- 48 bb. SLR 95 and 96.
- 49 cc. Spectre automatic carbine.
- 50 dd. Springfield Armory BM59, G-3, and SAR-48.
- 51 ee. Sterling MK-6 and MK-7.
- 52 ff. Steyr AUG.
- 53 gg. Thompson series, including Thompson T5.
- 54 hh. Weaver Arms Nighthawk.
- 55 2. All of the following handguns, copies, duplicates, or
- 56 altered facsimiles with the capability of any such weapon
- 57 thereof:
  - 58 a. AK-47 pistol and Mini AK-47 pistol.
  - 59 b. AR-15 pistol.
  - 60 c. Australian Automatic Arms SAP pistol.
  - 61 d. Bushmaster automatic pistol.
  - 62 e. Calico Liberty series pistols.
  - 63 f. Chiappa Firearms Mfour-22.
  - 64 g. Colefire Magnum.
  - 65 h. DSA SA58 PKP FAL.
  - 66 i. Encom MK-IV, MP-9, and MP-45.
  - 67 j. Feather AT-9 and Mini-AT.
  - 68 k. German Sport 522 PK.
  - 69 l. Goncz High-Tech Long pistol.





338506

- 70 m. Holmes MP-83.
- 71 n. Intratec AB-10, TEC-9, TEC-22 Scorpion, and TEC-DC9.
- 72 o. I.O. Inc. PPS-43C.
- 73 p. Iver Johnson Enforcer.
- 74 q. Kel-Tec PLR-16 pistol.
- 75 r. MAC-10, MAC-11, Masterpiece Arms MPA pistol series, and
- 76 Velocity Arms VMA series.
- 77 s. Scarab Skorpion.
- 78 t. Sig Sauer P556 pistol.
- 79 u. Spectre automatic pistol.
- 80 v. Thompson TA5 series pistols.
- 81 w. UZI pistol and Micro-UZI pistol.
- 82 x. Wilkinson "Linda" pistol.
- 83 3. All of the following shotguns, copies, duplicates, or
- 84 altered facsimiles with the capability of any such weapon
- 85 thereof:
- 86 a. Armscor 30 BG.
- 87 b. Franchi LAW-12 and SPAS-12.
- 88 c. Kel-Tec KSG.
- 89 d. Remington TAC-2 and TACB3 FS.
- 90 e. Saiga.
- 91 f. Streetsweeper.
- 92 g. Striker 12.
- 93 h. USAS-12.
- 94 4. A part or combination of parts that convert a firearm
- 95 into an assault weapon, or any combination of parts from which
- 96 an assault weapon may be assembled if those parts are in the
- 97 possession or under the control of the same person.
- 98 5. A semiautomatic firearm not listed in this paragraph



338506

99 which meets the criteria of one of the following sub-  
100 subparagraphs:  
101 a. A semiautomatic rifle that has an ability to accept a  
102 detachable magazine and that has one or more of the following:  
103 (I) A folding or telescoping stock.  
104 (II) A pistol grip that protrudes conspicuously beneath the  
105 action of the weapon or any feature functioning as a protruding  
106 grip that can be held by the nontrigger hand, or a thumbhole  
107 stock.  
108 (III) A bayonet mount.  
109 (IV) A flash suppressor or threaded barrel designed to  
110 accommodate a flash suppressor.  
111 (V) A grenade launcher.  
112 (VI) A shroud that is attached to the barrel, or that  
113 partially or completely encircles the barrel and allows the  
114 bearer to hold the firearm with the nontrigger hand without  
115 being burned, but excluding a slide that encloses the barrel.  
116 b. A semiautomatic pistol that has an ability to accept a  
117 detachable magazine and that has one or more of the following:  
118 (I) The capacity to accept an ammunition magazine that  
119 attaches to the pistol at any location outside the pistol grip.  
120 (II) A threaded barrel capable of accepting a barrel  
121 extender, flash suppressor, forward handgrip, or silencer.  
122 (III) A slide that encloses the barrel and that allows the  
123 shooter to hold the firearm with the nontrigger hand without  
124 being burned.  
125 (IV) A manufactured weight of 50 ounces or more when the  
126 pistol is unloaded.  
127 (V) A semiautomatic version of an automatic firearm.



338506

128       (VI) Any feature capable of functioning as a protruding  
129 grip that can be held by the nontrigger hand.

130       (VII) A folding, telescoping, or thumbhole stock.

131       c. A semiautomatic shotgun that has one or more of the  
132 following:

133       (I) A folding or telescoping stock.

134       (II) A pistol grip that protrudes conspicuously beneath the  
135 action of the weapon.

136       (III) A thumbhole stock.

137       (IV) A fixed-magazine capacity in excess of 5 rounds.

138       (V) An ability to accept a detachable magazine.

139       d. A semiautomatic pistol or a semiautomatic, centerfire,  
140 or rimfire rifle with a fixed magazine that has the capacity to  
141 accept more than 10 rounds of ammunition.

142       e. A part or combination of parts designed or intended to  
143 convert a firearm into an assault weapon, or any combination of  
144 parts from which an assault weapon may be assembled if those  
145 parts are in the possession or under the control of the same  
146 person.

147       (b) "Detachable magazine" means an ammunition feeding  
148 device that can be removed from a firearm without disassembly of  
149 the firearm action.

150       (c) "Fixed magazine" means an ammunition feeding device  
151 contained in, or permanently attached to, a firearm in such a  
152 manner that the device cannot be removed without disassembly of  
153 the firearm action.

154       (d) "Large-capacity magazine" means any ammunition feeding  
155 device with the capacity to accept more than 7 rounds, or any  
156 conversion kit, part, or combination of parts from which such a



338506

157 device can be assembled if those parts are in the possession or  
158 under the control of the same person, but does not include any  
159 of the following:

160 1. A feeding device that has been permanently altered so  
161 that it cannot accommodate more than 7 rounds;

162 2. A .22 caliber tube ammunition feeding device; or

163 3. A tubular magazine that is contained in a lever-action  
164 firearm.

165 (e) "Licensed gun dealer" means a person who has a federal  
166 firearms license.

167 (2) SALE OR TRANSFER.—

168 (a) A person may not import into the state or, within this  
169 state, distribute, transport, sell, keep for sale, offer or  
170 expose for sale, or give an assault weapon or large-capacity  
171 magazine. Except as provided in paragraph (b), any person who  
172 violates this paragraph commits a felony of the third degree,  
173 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
174 with a mandatory minimum term of imprisonment of 2 years.

175 (b) A person may not transfer, sell, or give an assault  
176 weapon or large-capacity magazine to a person under 18 years of  
177 age. Any person who violates this paragraph commits a felony of  
178 the second degree, punishable as provided in s. 775.082, s.  
179 775.083, or s. 775.084, with a mandatory minimum term of  
180 imprisonment of 6 years.

181 (c) Paragraph (a) does not apply to:

182 1. The sale of assault weapons or large-capacity magazines  
183 to the Department of Law Enforcement, to a law enforcement  
184 agency, as defined in s. 934.02, to the Department of  
185 Corrections, or to the military, air, or naval forces of this



338506

186 state or the United States for use in the discharge of their  
187 official duties.

188 2. A person who is the executor or administrator of an  
189 estate that includes an assault weapon or large-capacity  
190 magazine for which a certificate of possession has been issued  
191 under subsection (4) which is disposed of as authorized by the  
192 probate court, if the disposition is otherwise authorized under  
193 this section.

194 3. The transfer by bequest or intestate succession of an  
195 assault weapon or large-capacity magazine for which a  
196 certificate of possession has been issued under subsection (4).

197 (3) POSSESSION.—

198 (a) Except as provided in subsection (5) or otherwise  
199 provided in this section or authorized by any other law, a  
200 person may not, within this state, possess an assault weapon or  
201 large-capacity magazine. Any person who violates this paragraph  
202 commits a felony of the third degree, punishable as provided in  
203 s. 775.082, s. 775.083, or s. 775.084, with a mandatory minimum  
204 term of imprisonment of 1 year.

205 (b) Paragraph (a) does not apply to the possession of an  
206 assault weapon or large-capacity magazine by a member or  
207 employee of the Department of Law Enforcement, a law enforcement  
208 agency, as defined in s. 934.02, the Department of Corrections,  
209 or the military, air, or naval forces of this state or of the  
210 United States for use in the discharge of his or her official  
211 duties; nor does this section prohibit the possession or use of  
212 an assault weapon or large-capacity magazine by a sworn member  
213 of one of these agencies when on duty and the use is within the  
214 scope of his or her duties.



338506

215 (c) Paragraph (a) does not apply to the possession of an  
216 assault weapon or large-capacity magazine by any person before  
217 July 1, 2019, if all of the following are applicable:

218 1. The person is eligible to apply for a certificate of  
219 possession for the assault weapon or large-capacity magazine by  
220 July 1, 2019;

221 2. The person lawfully possessed the assault weapon or  
222 large-capacity magazine before October 1, 2018; and

223 3. The person is otherwise in compliance with this section  
224 and the applicable requirements of this chapter for possession  
225 of a firearm.

226 (d) Paragraph (a) does not apply to a person who is the  
227 executor or administrator of an estate that includes an assault  
228 weapon or large-capacity magazine for which a certificate of  
229 possession has been issued under subsection (4), if the assault  
230 weapon or large-capacity magazine is possessed at a place set  
231 forth in subparagraph (4)(c)1. or as authorized by the probate  
232 court.

233 (4) CERTIFICATE OF POSSESSION.—

234 (a) Any person who lawfully possesses an assault weapon or  
235 large-capacity magazine before October 1, 2018, shall apply by  
236 October 1, 2019, or, if such person is a member of the military  
237 or naval forces of this state or of the United States and cannot  
238 apply by October 1, 2019, because he or she is or was on  
239 official duty outside this state, shall apply within 90 days  
240 after returning to the state, to the Department of Law  
241 Enforcement for a certificate of possession with respect to such  
242 assault weapon or large-capacity magazine. The certificate must  
243 contain a description of the assault weapon or large-capacity



338506

244 magazine which identifies the assault weapon or large-capacity  
245 magazine uniquely, including all identification marks; the full  
246 name, address, date of birth, and thumbprint of the owner; and  
247 any other information as the department may deem appropriate.  
248 The department shall adopt rules no later than January 1, 2019,  
249 to establish procedures with respect to the application for, and  
250 issuance of, certificates of possession under this section.

251 (b)1. An assault weapon or large-capacity magazine lawfully  
252 possessed in accordance with this section may not be sold or  
253 transferred on or after January 1, 2019, to any person within  
254 this state other than to a licensed gun dealer, as provided in  
255 subsection (5); or by a bequest or intestate succession.

256 2. A person who obtains title to an assault weapon or  
257 large-capacity magazine for which a certificate of possession  
258 has been issued under this subsection shall, within 90 days  
259 after obtaining title, apply to the Department of Law  
260 Enforcement for a certificate of possession, render the assault  
261 weapon or large-capacity magazine permanently inoperable, sell  
262 the assault weapon or large-capacity magazine to a licensed gun  
263 dealer, or remove the assault weapon or large-capacity magazine  
264 from the state.

265 3. A person who moves into the state and who is in lawful  
266 possession of an assault weapon or large-capacity magazine,  
267 shall, within 90 days, either render the assault weapon or  
268 large-capacity magazine permanently inoperable, sell the assault  
269 weapon or large-capacity magazine to a licensed gun dealer, or  
270 remove the assault weapon or large-capacity magazine from this  
271 state, unless the person is a member of the military, air, or  
272 naval forces of this state or of the United States, is in lawful



338506

273 possession of an assault weapon or large-capacity magazine, and  
274 has been transferred into the state after October 1, 2019.

275 (c) A person who has been issued a certificate of  
276 possession for an assault weapon or large-capacity magazine  
277 under this subsection may possess it only if the person is:

278 1. At the residence, the place of business, or any other  
279 property owned by that person, or on a property owned by another  
280 person with the owner's express permission;

281 2. On the premises of a target range of a public or private  
282 club or organization organized for the purpose of practicing  
283 shooting at targets;

284 3. On a target range that holds a regulatory or business  
285 license for the purpose of practicing shooting at that target  
286 range;

287 4. On the premises of a licensed shooting club;

288 5. Attending an exhibition, display, or educational project  
289 on firearms which is sponsored by, conducted under the auspices  
290 of, or approved by a law enforcement agency or a nationally or  
291 state-recognized entity that fosters proficiency in, or promotes  
292 education about, firearms; or

293 6. Transporting the assault weapon or large-capacity  
294 magazine between any of the places mentioned in this paragraph,  
295 or from or to any licensed gun dealer for servicing or repair  
296 pursuant to paragraph (7) (b), provided the assault weapon or  
297 large-capacity magazine is transported as required by subsection  
298 (7).

299 (5) CERTIFICATE OF TRANSFER.—If an owner of an assault  
300 weapon or large-capacity magazine sells or transfers the weapon  
301 or magazine to a licensed gun dealer, he or she shall, at the





338506

302 time of delivery of the weapon, execute a certificate of  
303 transfer and cause the certificate to be mailed or delivered to  
304 the Department of Law Enforcement. The certificate must contain:

305 (a) The date of sale or transfer.

306 (b) The name and address of the seller or transferor and  
307 the licensed gun dealer and their social security numbers or  
308 driver license numbers.

309 (c) The licensed gun dealer's federal firearms license  
310 number.

311 (d) A description of the weapon, including the caliber of  
312 the weapon and its make, model, and serial number.

313 (e) Any other information the Department of Law Enforcement  
314 prescribes.

315  
316 The licensed gun dealer shall present his or her driver license  
317 or social security card and federal firearms license to the  
318 seller or transferor for inspection at the time of purchase or  
319 transfer. The Department of Law Enforcement shall maintain a  
320 file of all certificates of transfer at its headquarters.

321 (6) RELINQUISHMENT.—An individual may arrange in advance to  
322 relinquish an assault weapon or large-capacity magazine to a law  
323 enforcement agency, as defined in s. 934.02, or the Department  
324 of Law Enforcement. The assault weapon or large-capacity  
325 magazine shall be transported in accordance with subsection (7).

326 (7) TRANSPORTATION.—

327 (a) A licensed gun dealer who lawfully purchases for resale  
328 an assault weapon or large-capacity magazine pursuant to  
329 subsection (2) may transport the assault weapon or large-  
330 capacity magazine between licensed gun dealers or out of this



338506

331 state, but no person shall carry a loaded assault weapon  
332 concealed from public view, or knowingly have in any motor  
333 vehicle owned, operated, or occupied by him or her a loaded or  
334 unloaded assault weapon, unless such weapon is kept in the trunk  
335 of such vehicle or in a case or other container that is  
336 inaccessible to the operator of or any passenger in such  
337 vehicle. Any person who violates this paragraph commits a  
338 misdemeanor of the second degree, punishable as provided in s.  
339 775.082 or s. 775.083. Any licensed gun dealer may display the  
340 assault weapon or large-capacity magazine at any gun show or  
341 sell it to a resident outside this state.

342 (b) Any licensed gun dealer may transfer possession of any  
343 assault weapon or large-capacity magazine received pursuant to  
344 paragraph (a) to a gunsmith for purposes of accomplishing  
345 service or repair of the same. Transfers are permissible only to  
346 a gunsmith who is:

- 347 1. In the licensed gun dealer's employ; or  
348 2. Contracted by the licensed gun dealer for gunsmithing  
349 services, provided the gunsmith holds a dealer's license issued  
350 pursuant to chapter 44 of Title 18 the United States Code, 18  
351 U.S.C. ss. 921 et seq., and the regulations issued pursuant  
352 thereto.

353 (8) CIRCUMSTANCES IN WHICH MANUFACTURE OR TRANSPORTATION  
354 NOT PROHIBITED.—This section does not prohibit any person, firm,  
355 or corporation engaged in the business of manufacturing assault  
356 weapons or large-capacity magazines in this state from  
357 manufacturing or transporting assault weapons or large-capacity  
358 magazines in this state for sale within this state in accordance  
359 with subparagraph (2)(c)1. or for sale outside this state.



338506

360       (9) EXCEPTION.—This section does not apply to any firearm  
361 modified to render it permanently inoperable.

362       Section 2. Paragraph (a) of subsection (3) of section  
363 775.087, Florida Statutes, is amended to read:

364       775.087 Possession or use of weapon; aggravated battery;  
365 felony reclassification; minimum sentence.—

366       (3) (a) 1. Any person who is convicted of a felony or an  
367 attempt to commit a felony, regardless of whether the use of a  
368 firearm is an element of the felony, and the conviction was for:

- 369       a. Murder;
- 370       b. Sexual battery;
- 371       c. Robbery;
- 372       d. Burglary;
- 373       e. Arson;
- 374       f. Aggravated battery;
- 375       g. Kidnapping;
- 376       h. Escape;
- 377       i. Sale, manufacture, delivery, or intent to sell,  
378 manufacture, or deliver any controlled substance;
- 379       j. Aircraft piracy;
- 380       k. Aggravated child abuse;
- 381       l. Aggravated abuse of an elderly person or disabled adult;
- 382       m. Unlawful throwing, placing, or discharging of a  
383 destructive device or bomb;
- 384       n. Carjacking;
- 385       o. Home-invasion robbery;
- 386       p. Aggravated stalking; or
- 387       q. Trafficking in cannabis, trafficking in cocaine, capital  
388 importation of cocaine, trafficking in illegal drugs, capital



338506

389 importation of illegal drugs, trafficking in phencyclidine,  
390 capital importation of phencyclidine, trafficking in  
391 methaqualone, capital importation of methaqualone, trafficking  
392 in amphetamine, capital importation of amphetamine, trafficking  
393 in flunitrazepam, trafficking in gamma-hydroxybutyric acid  
394 (GHB), trafficking in 1,4-Butanediol, trafficking in  
395 Phenethylamines, or other violation of s. 893.135(1);  
396

397 and during the commission of the offense, such person possessed  
398 a semiautomatic firearm and its high-capacity detachable box  
399 magazine, an assault weapon or large-capacity magazine as  
400 defined in s. 790.30, or a machine gun as defined in s. 790.001,  
401 shall be sentenced to a minimum term of imprisonment of 15  
402 years.

403 2. Any person who is convicted of a felony or an attempt to  
404 commit a felony listed in subparagraph (a)1., regardless of  
405 whether the use of a weapon is an element of the felony, and  
406 during the course of the commission of the felony such person  
407 discharged a semiautomatic firearm and its high-capacity box  
408 magazine, an assault weapon or large-capacity magazine as  
409 defined in s. 790.30, or a "machine gun" as defined in s.  
410 790.001 shall be sentenced to a minimum term of imprisonment of  
411 20 years.

412 3. Any person who is convicted of a felony or an attempt to  
413 commit a felony listed in subparagraph (a)1., regardless of  
414 whether the use of a weapon is an element of the felony, and  
415 during the course of the commission of the felony such person  
416 discharged a semiautomatic firearm and its high-capacity box  
417 magazine, an assault weapon or large-capacity magazine as



338506

418 defined in s. 790.30, or a "machine gun" as defined in s.  
419 790.001 and, as the result of the discharge, death or great  
420 bodily harm was inflicted upon any person, the convicted person  
421 shall be sentenced to a minimum term of imprisonment of not less  
422 than 25 years and not more than a term of imprisonment of life  
423 in prison.

424 Section 3. For the purpose of incorporating the amendment  
425 made by this act to section 775.087, Florida Statutes, in a  
426 reference thereto, section 27.366, Florida Statutes, is  
427 reenacted to read:

428 27.366 Legislative intent and policy in cases meeting  
429 criteria of s. 775.087(2) and (3).—It is the intent of the  
430 Legislature that convicted criminal offenders who meet the  
431 criteria in s. 775.087(2) and (3) be sentenced to the minimum  
432 mandatory prison terms provided therein. It is the intent of the  
433 Legislature to establish zero tolerance of criminals who use,  
434 threaten to use, or avail themselves of firearms in order to  
435 commit crimes and thereby demonstrate their lack of value for  
436 human life. It is also the intent of the Legislature that  
437 prosecutors should appropriately exercise their discretion in  
438 those cases in which the offenders' possession of the firearm is  
439 incidental to the commission of a crime and not used in  
440 furtherance of the crime, used in order to commit the crime, or  
441 used in preparation to commit the crime. For every case in which  
442 the offender meets the criteria in this act and does not receive  
443 the mandatory minimum prison sentence, the state attorney must  
444 explain the sentencing deviation in writing and place such  
445 explanation in the case file maintained by the state attorney.

446 Section 4. For the purpose of incorporating the amendment



338506

447 made by this act to section 775.087, Florida Statutes, in a  
448 reference thereto, paragraph (b) of subsection (1) of section  
449 921.0024, Florida Statutes, is reenacted to read:

450 921.0024 Criminal Punishment Code; worksheet computations;  
451 scoresheets.—

452 (1)

453 (b) WORKSHEET KEY:

454

455 Legal status points are assessed when any form of legal status  
456 existed at the time the offender committed an offense before the  
457 court for sentencing. Four (4) sentence points are assessed for  
458 an offender's legal status.

459

460 Community sanction violation points are assessed when a  
461 community sanction violation is before the court for sentencing.  
462 Six (6) sentence points are assessed for each community sanction  
463 violation and each successive community sanction violation,  
464 unless any of the following apply:

465 1. If the community sanction violation includes a new  
466 felony conviction before the sentencing court, twelve (12)  
467 community sanction violation points are assessed for the  
468 violation, and for each successive community sanction violation  
469 involving a new felony conviction.

470 2. If the community sanction violation is committed by a  
471 violent felony offender of special concern as defined in s.  
472 948.06:

473 a. Twelve (12) community sanction violation points are  
474 assessed for the violation and for each successive violation of  
475 felony probation or community control where:



338506

476 I. The violation does not include a new felony conviction;  
477 and  
478 II. The community sanction violation is not based solely on  
479 the probationer or offender's failure to pay costs or fines or  
480 make restitution payments.  
481 b. Twenty-four (24) community sanction violation points are  
482 assessed for the violation and for each successive violation of  
483 felony probation or community control where the violation  
484 includes a new felony conviction.  
485  
486 Multiple counts of community sanction violations before the  
487 sentencing court shall not be a basis for multiplying the  
488 assessment of community sanction violation points.  
489  
490 Prior serious felony points: If the offender has a primary  
491 offense or any additional offense ranked in level 8, level 9, or  
492 level 10, and one or more prior serious felonies, a single  
493 assessment of thirty (30) points shall be added. For purposes of  
494 this section, a prior serious felony is an offense in the  
495 offender's prior record that is ranked in level 8, level 9, or  
496 level 10 under s. 921.0022 or s. 921.0023 and for which the  
497 offender is serving a sentence of confinement, supervision, or  
498 other sanction or for which the offender's date of release from  
499 confinement, supervision, or other sanction, whichever is later,  
500 is within 3 years before the date the primary offense or any  
501 additional offense was committed.  
502  
503 Prior capital felony points: If the offender has one or more  
504 prior capital felonies in the offender's criminal record, points



338506

505 shall be added to the subtotal sentence points of the offender  
506 equal to twice the number of points the offender receives for  
507 the primary offense and any additional offense. A prior capital  
508 felony in the offender's criminal record is a previous capital  
509 felony offense for which the offender has entered a plea of nolo  
510 contendere or guilty or has been found guilty; or a felony in  
511 another jurisdiction which is a capital felony in that  
512 jurisdiction, or would be a capital felony if the offense were  
513 committed in this state.

514

515 Possession of a firearm, semiautomatic firearm, or machine gun:  
516 If the offender is convicted of committing or attempting to  
517 commit any felony other than those enumerated in s. 775.087(2)  
518 while having in his or her possession: a firearm as defined in  
519 s. 790.001(6), an additional eighteen (18) sentence points are  
520 assessed; or if the offender is convicted of committing or  
521 attempting to commit any felony other than those enumerated in  
522 s. 775.087(3) while having in his or her possession a  
523 semiautomatic firearm as defined in s. 775.087(3) or a machine  
524 gun as defined in s. 790.001(9), an additional twenty-five (25)  
525 sentence points are assessed.

526

527 Sentencing multipliers:

528

529 Drug trafficking: If the primary offense is drug trafficking  
530 under s. 893.135, the subtotal sentence points are multiplied,  
531 at the discretion of the court, for a level 7 or level 8  
532 offense, by 1.5. The state attorney may move the sentencing  
533 court to reduce or suspend the sentence of a person convicted of





338506

534 a level 7 or level 8 offense, if the offender provides  
535 substantial assistance as described in s. 893.135(4).  
536  
537 Law enforcement protection: If the primary offense is a  
538 violation of the Law Enforcement Protection Act under s.  
539 775.0823(2), (3), or (4), the subtotal sentence points are  
540 multiplied by 2.5. If the primary offense is a violation of s.  
541 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points  
542 are multiplied by 2.0. If the primary offense is a violation of  
543 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement  
544 Protection Act under s. 775.0823(10) or (11), the subtotal  
545 sentence points are multiplied by 1.5.  
546  
547 Grand theft of a motor vehicle: If the primary offense is grand  
548 theft of the third degree involving a motor vehicle and in the  
549 offender's prior record, there are three or more grand thefts of  
550 the third degree involving a motor vehicle, the subtotal  
551 sentence points are multiplied by 1.5.  
552  
553 Offense related to a criminal gang: If the offender is convicted  
554 of the primary offense and committed that offense for the  
555 purpose of benefiting, promoting, or furthering the interests of  
556 a criminal gang as defined in s. 874.03, the subtotal sentence  
557 points are multiplied by 1.5. If applying the multiplier results  
558 in the lowest permissible sentence exceeding the statutory  
559 maximum sentence for the primary offense under chapter 775, the  
560 court may not apply the multiplier and must sentence the  
561 defendant to the statutory maximum sentence.  
562



338506

563 Domestic violence in the presence of a child: If the offender is  
564 convicted of the primary offense and the primary offense is a  
565 crime of domestic violence, as defined in s. 741.28, which was  
566 committed in the presence of a child under 16 years of age who  
567 is a family or household member as defined in s. 741.28(3) with  
568 the victim or perpetrator, the subtotal sentence points are  
569 multiplied by 1.5.

570

571 Adult-on-minor sex offense: If the offender was 18 years of age  
572 or older and the victim was younger than 18 years of age at the  
573 time the offender committed the primary offense, and if the  
574 primary offense was an offense committed on or after October 1,  
575 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the  
576 violation involved a victim who was a minor and, in the course  
577 of committing that violation, the defendant committed a sexual  
578 battery under chapter 794 or a lewd act under s. 800.04 or s.  
579 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.  
580 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.  
581 800.04; or s. 847.0135(5), the subtotal sentence points are  
582 multiplied by 2.0. If applying the multiplier results in the  
583 lowest permissible sentence exceeding the statutory maximum  
584 sentence for the primary offense under chapter 775, the court  
585 may not apply the multiplier and must sentence the defendant to  
586 the statutory maximum sentence.

587 Section 5. For the purpose of incorporating the amendment  
588 made by this act to section 775.087, Florida Statutes, in a  
589 reference thereto, paragraph (b) of subsection (3) of section  
590 947.146, Florida Statutes, is reenacted to read:

591 947.146 Control Release Authority.—



338506

592           (3) Within 120 days prior to the date the state  
593 correctional system is projected pursuant to s. 216.136 to  
594 exceed 99 percent of total capacity, the authority shall  
595 determine eligibility for and establish a control release date  
596 for an appropriate number of parole ineligible inmates committed  
597 to the department and incarcerated within the state who have  
598 been determined by the authority to be eligible for  
599 discretionary early release pursuant to this section. In  
600 establishing control release dates, it is the intent of the  
601 Legislature that the authority prioritize consideration of  
602 eligible inmates closest to their tentative release date. The  
603 authority shall rely upon commitment data on the offender  
604 information system maintained by the department to initially  
605 identify inmates who are to be reviewed for control release  
606 consideration. The authority may use a method of objective risk  
607 assessment in determining if an eligible inmate should be  
608 released. Such assessment shall be a part of the department's  
609 management information system. However, the authority shall have  
610 sole responsibility for determining control release eligibility,  
611 establishing a control release date, and effectuating the  
612 release of a sufficient number of inmates to maintain the inmate  
613 population between 99 percent and 100 percent of total capacity.  
614 Inmates who are ineligible for control release are inmates who  
615 are parole eligible or inmates who:

616           (b) Are serving the mandatory minimum portion of a sentence  
617 enhanced under s. 775.087(2) or (3), or s. 784.07(3);

618

619 In making control release eligibility determinations under this  
620 subsection, the authority may rely on any document leading to or



338506

621 generated during the course of the criminal proceedings,  
622 including, but not limited to, any presentence or postsentence  
623 investigation or any information contained in arrest reports  
624 relating to circumstances of the offense.

625 Section 6. This act shall take effect October 1, 2018.

626

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

628 And the title is amended as follows:

629 Delete everything before the enacting clause  
630 and insert:

631 A bill to be entitled  
632 An act relating to gun safety; creating s. 790.30,  
633 F.S.; defining terms; prohibiting the sale or transfer  
634 of an assault weapon or large-capacity magazine;  
635 providing exceptions; providing criminal penalties;  
636 prohibiting possession of an assault weapon or large-  
637 capacity magazine; providing criminal penalties;  
638 providing exceptions; requiring certificates of  
639 possession for assault weapons or large-capacity  
640 magazines lawfully possessed before a specified date;  
641 requiring the Department of Law Enforcement to adopt  
642 rules by a certain date; limiting transfers of assault  
643 weapons or large-capacity magazines represented by  
644 such certificates; providing conditions for continued  
645 possession of such weapons or large-capacity  
646 magazines; requiring certificates of transfer for  
647 transfers of assault weapons or large-capacity  
648 magazines; providing for relinquishment of assault  
649 weapons or large-capacity magazines; providing



338506

650 requirements for transportation of assault weapons or  
651 large-capacity magazines; providing criminal  
652 penalties; specifying circumstances in which the  
653 manufacture or transportation of assault weapons or  
654 large-capacity magazines is not prohibited; exempting  
655 permanently inoperable firearms from provisions;  
656 amending s. 775.087, F.S.; providing enhanced criminal  
657 penalties for certain offenses when committed with an  
658 assault weapon or large-capacity magazine; reenacting  
659 ss. 27.366, 921.0024(1)(b), and 947.146(3)(b), F.S.,  
660 relating to legislative intent and policy in certain  
661 cases, the Criminal Punishment Code worksheet key, and  
662 the Control Release Authority, respectively, to  
663 incorporate the amendment made to s. 775.087, F.S., in  
664 references thereto; providing an effective date.

By Senator Baxley

12-01147-18

20181236\_\_

1 A bill to be entitled  
 2 An act relating to school safety; providing  
 3 legislative intent; amending s. 790.115, F.S.;  
 4 providing an exception to a prohibition on possessing  
 5 firearms or other specified devices on school property  
 6 or other specified areas for authorized concealed  
 7 weapon or firearm licensees who are designated by  
 8 school principals or district school superintendents;  
 9 providing requirements for designees; amending s.  
 10 1006.07, F.S.; requiring district school boards to  
 11 formulate and prescribe policies and procedures for  
 12 active shooter and hostage situations; requiring that  
 13 active shooter situation training for each school be  
 14 conducted by the law enforcement agency or agencies  
 15 that are designated as first responders to the  
 16 school's campus; requiring a district school  
 17 superintendent to provide specified agencies with  
 18 certain strategy and activity recommendations to  
 19 improve school safety and security; requiring that  
 20 district school boards and private school principals  
 21 or governing boards allow campus tours by such law  
 22 enforcement agency or agencies for specified purposes;  
 23 requiring that certain recommendations be documented  
 24 by such board or principal; amending s. 1006.12, F.S.;  
 25 authorizing district school boards to commission one  
 26 or more school safety officers on each school campus;  
 27 authorizing district school superintendents to provide  
 28 recommendations concerning school safety and security  
 29 to certain law enforcement agencies; amending ss.

Page 1 of 25

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

12-01147-18

20181236\_\_

30 435.04, 790.251, 921.0022, and 1012.315, F.S.;  
 31 conforming cross-references; providing an effective  
 32 date.  
 33

34 Be It Enacted by the Legislature of the State of Florida:  
 35

36 Section 1. It is the intent of the Legislature to prevent  
 37 violent crimes from occurring on school grounds. The Legislature  
 38 acknowledges that the safekeeping of our students, teachers, and  
 39 campuses is imperative. In addition, the Legislature's intent is  
 40 not to mandate that a school or administration building have one  
 41 or more designees as described in the amendments made by this  
 42 act to s. 790.115, Florida Statutes, but to allow the school  
 43 principal or district school superintendent the opportunity to  
 44 designate one or more such designees.

45 Section 2. Section 790.115, Florida Statutes, is amended to  
 46 read:

47 790.115 Possessing or discharging weapons or firearms at a  
 48 school-sponsored event or on school property prohibited;  
 49 penalties; exceptions.—

50 (1) As used in this section, the term "school" means any  
 51 preschool, elementary school, middle school, junior high school,  
 52 secondary school, career center, or postsecondary school,  
 53 whether public or nonpublic.

54 (2)(1) A person who exhibits any sword, sword cane,  
 55 firearm, electric weapon or device, destructive device, or other  
 56 weapon as defined in s. 790.001(13), including a razor blade,  
 57 box cutter, or common pocketknife, except as authorized in  
 58 support of school-sanctioned activities, in the presence of one

Page 2 of 25

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

12-01147-18 20181236\_\_  
 59 or more persons in a rude, careless, angry, or threatening  
 60 manner and not in lawful self-defense, at a school-sponsored  
 61 event or on the grounds or facilities of any school, school bus,  
 62 or school bus stop, or within 1,000 feet of the real property  
 63 that comprises a ~~public or private elementary school, middle~~  
 64 ~~school, or secondary~~ school, during school hours or during the  
 65 time of a sanctioned school activity, commits a felony of the  
 66 third degree, punishable as provided in s. 775.082, s. 775.083,  
 67 or s. 775.084. This subsection does not apply to the exhibition  
 68 of a firearm or weapon on private real property within 1,000  
 69 feet of a school by the owner of such property or by a person  
 70 whose presence on such property has been authorized, licensed,  
 71 or invited by the owner.

72 (3) Subsection (4) does not apply to a school employee or  
 73 volunteer who has been designated by his or her school  
 74 principal, or, for an administration building, a district  
 75 employee or volunteer who has been designated by his or her  
 76 district school superintendent, as authorized to carry a  
 77 concealed weapon or firearm on school property.

78 (a)1. A designee authorized to carry a concealed weapon or  
 79 firearm on such school property under this subsection may only  
 80 carry such weapon or firearm in a concealed manner. The weapon  
 81 or firearm must be carried on the designee's person at all times  
 82 while the designee is performing his or her official school  
 83 duties.

84 2. The designee must submit to the authorizing school  
 85 principal or district school superintendent proof of completion  
 86 of a minimum of 40 hours of a school safety program and annually  
 87 complete 8 hours of active shooter training and 4 hours of

12-01147-18 20181236\_\_  
 88 firearm proficiency training as the program and these trainings  
 89 are defined and administered by the Department of Law  
 90 Enforcement. For purposes of this subsection, a designee is an  
 91 individual who is:  
 92 a. A veteran of the United States Armed Forces who was  
 93 honorably discharged and who has not been found to have  
 94 committed a firearms-related disciplinary infraction during his  
 95 or her military service;  
 96 b. An active duty member of the United States Armed Forces,  
 97 the Florida National Guard, or the United States Reserve Forces  
 98 who has not been found to have committed a firearms-related  
 99 disciplinary infraction during his or her military service;  
 100 c. A current or former law enforcement officer who has not  
 101 been found to have committed a firearms-related disciplinary  
 102 infraction during his or her law enforcement service; or  
 103 d. In possession of a valid permit under s. 790.06.  
 104 (b) School principals and district school superintendents  
 105 may create a school safety program for school employees or  
 106 volunteers. Each school principal, or, for an administration  
 107 building, the district school superintendent, may designate one  
 108 or more designees who have provided proof of completion of  
 109 training as created by the Criminal Justice Standards and  
 110 Training Commission and administered and certified by the  
 111 Criminal Justice Training Center. The school principal or  
 112 district school superintendent must require volunteers to  
 113 undergo level 2 background screening pursuant to s. 435.04  
 114 before being designated and every 5 years thereafter and may  
 115 require additional screening for all designees.  
 116 (4) (a) (2) (a) A person shall not possess any firearm,

12-01147-18

20181236\_\_

117 electric weapon or device, destructive device, or other weapon  
 118 as defined in s. 790.001(13), including a razor blade or box  
 119 cutter, except as authorized in support of school-sanctioned  
 120 activities, at a school-sponsored event or on the property of  
 121 any school, school bus, or school bus stop; however, a person  
 122 may carry a firearm:

123 1. In a case to a firearms program, class, or function  
 124 which has been approved in advance by the principal or chief  
 125 administrative officer of the school as a program or class to  
 126 which firearms could be carried;

127 2. In a case to a career center having a firearms training  
 128 range; or

129 3. In a vehicle pursuant to s. 790.25(5); except that  
 130 school districts may adopt written and published policies that  
 131 waive the exception in this subparagraph for purposes of student  
 132 and campus parking privileges.

133 ~~For the purposes of this section, "school" means any preschool,~~  
 134 ~~elementary school, middle school, junior high school, secondary~~  
 135 ~~school, career center, or postsecondary school, whether public~~  
 136 ~~or nonpublic.~~

138 (b) A person who willfully and knowingly possesses any  
 139 electric weapon or device, destructive device, or other weapon  
 140 as defined in s. 790.001(13), including a razor blade or box  
 141 cutter, except as authorized in support of school-sanctioned  
 142 activities, in violation of this subsection commits a felony of  
 143 the third degree, punishable as provided in s. 775.082, s.  
 144 775.083, or s. 775.084.

145 (c)1. A person who willfully and knowingly possesses any

12-01147-18

20181236\_\_

146 firearm in violation of this subsection commits a felony of the  
 147 third degree, punishable as provided in s. 775.082, s. 775.083,  
 148 or s. 775.084.

149 2. A person who stores or leaves a loaded firearm within  
 150 the reach or easy access of a minor who obtains the firearm and  
 151 commits a violation of subparagraph 1. commits a misdemeanor of  
 152 the second degree, punishable as provided in s. 775.082 or s.  
 153 775.083; except that this subparagraph does not apply if the  
 154 firearm was stored or left in a securely locked box or container  
 155 or in a location which a reasonable person would have believed  
 156 to be secure, or was securely locked with a firearm-mounted  
 157 push-button combination lock or a trigger lock; if the minor  
 158 obtains the firearm as a result of an unlawful entry by any  
 159 person; or to members of the United States Armed Forces, the  
 160 Florida National Guard, ~~or~~ state militia, or the United States  
 161 Reserve Forces, or to police or other law enforcement officers,  
 162 with respect to firearm possession by a minor which occurs  
 163 during or incidental to the performance of their official  
 164 duties.

165 (d) A person who discharges any weapon or firearm while in  
 166 violation of paragraph (a), unless discharged for lawful defense  
 167 of himself or herself or another or for a lawful purpose,  
 168 commits a felony of the second degree, punishable as provided in  
 169 s. 775.082, s. 775.083, or s. 775.084.

170 (e) The penalties of this subsection shall not apply to  
 171 persons licensed under s. 790.06. Persons licensed under s.  
 172 790.06 shall be punished as provided in s. 790.06(12), except  
 173 that a licenseholder who unlawfully discharges a weapon or  
 174 firearm on school property as prohibited by this subsection



12-01147-18 20181236\_\_

175 commits a felony of the second degree, punishable as provided in  
176 s. 775.082, s. 775.083, or s. 775.084.

177 ~~(5)(3)~~ This section does not apply to any law enforcement  
178 officer as defined in s. 943.10(1), (2), (3), (4), (6), (7),  
179 (8), (9), or (14).

180 ~~(6)(4)~~ Notwithstanding s. 985.24, s. 985.245, or s.  
181 985.25(1), any minor under 18 years of age who is charged under  
182 this section with possessing or discharging a firearm on school  
183 property shall be detained in secure detention, unless the state  
184 attorney authorizes the release of the minor, and shall be given  
185 a probable cause hearing within 24 hours after being taken into  
186 custody. At the hearing, the court may order that the minor  
187 continue to be held in secure detention for a period of 21 days,  
188 during which time the minor shall receive medical, psychiatric,  
189 psychological, or substance abuse examinations pursuant to s.  
190 985.18, and a written report shall be completed.

191 Section 3. Subsections (4) and (6) of section 1006.07,  
192 Florida Statutes, are amended, and subsection (7) is added to  
193 that section, to read:

194 1006.07 District school board duties relating to student  
195 discipline and school safety.—The district school board shall  
196 provide for the proper accounting for all students, for the  
197 attendance and control of students at school, and for proper  
198 attention to health, safety, and other matters relating to the  
199 welfare of students, including:

200 (4) EMERGENCY DRILLS; EMERGENCY PROCEDURES.—

201 (a) Formulate and prescribe policies and procedures for  
202 emergency drills and for actual emergencies, including, but not  
203 limited to, fires, natural disasters, active shooter and hostage

12-01147-18 20181236\_\_

204 situations, and bomb threats, for all the public schools of the  
205 district which comprise grades K-12. District school board  
206 policies shall include commonly used alarm system responses for  
207 specific types of emergencies and verification by each school  
208 that drills have been provided as required by law and fire  
209 protection codes. The emergency response agency that is  
210 responsible for notifying the school district for each type of  
211 emergency must be listed in the district's emergency response  
212 policy.

213 (b) Establish model emergency management and emergency  
214 preparedness procedures, including emergency notification  
215 procedures pursuant to paragraph (a), for the following life-  
216 threatening emergencies:

217 1. Weapon-use, and hostage, and active shooter situations.  
218 The active shooter situation training for each school must be  
219 conducted by the law enforcement agency or agencies that are  
220 designated as first responders to the school's campus.

221 2. Hazardous materials or toxic chemical spills.

222 3. Weather emergencies, including hurricanes, tornadoes,  
223 and severe storms.

224 4. Exposure as a result of a manmade emergency.

225 (6) SAFETY AND SECURITY BEST PRACTICES.—Use the Safety and  
226 Security Best Practices developed by the Office of Program  
227 Policy Analysis and Government Accountability to conduct a self-  
228 assessment of the school districts' current safety and security  
229 practices. Based on these self-assessment findings, the district  
230 school superintendent shall provide recommendations to the  
231 district school board and the law enforcement agency or agencies  
232 that are designated as first responders to the district's campus

12-01147-18

20181236\_\_

233 which identify strategies and activities that the district  
 234 school board should implement in order to improve school safety  
 235 and security. Annually each district school board must receive  
 236 the self-assessment results at a publicly noticed district  
 237 school board meeting to provide the public an opportunity to  
 238 hear the district school board members discuss and take action  
 239 on the report findings. Each district school superintendent  
 240 shall report the self-assessment results and school board action  
 241 to the commissioner within 30 days after the district school  
 242 board meeting.

243 (7) SAFETY IN CONSTRUCTION AND PLANNING.—A district school  
 244 board or private school principal or governing board must allow  
 245 the law enforcement agency or agencies that are designated as  
 246 first responders to the school's or district's campus to tour  
 247 such campus once every 3 years. Any changes related to school  
 248 safety and emergency issues recommended by a law enforcement  
 249 agency based on a campus tour must be documented by the district  
 250 school board or private school principal or governing board.

251 Section 4. Paragraph (b) of subsection (2) of section  
 252 1006.12, Florida Statutes, is amended to read:

253 1006.12 School resource officers and school safety  
 254 officers.—

255 (2)

256 (b) A district school board may commission one or more  
 257 school safety officers for the protection and safety of school  
 258 personnel, property, and students on each school campus within  
 259 the school district. The district school superintendent may  
 260 recommend and the district school board may appoint the ~~one or~~  
 261 ~~more~~ school safety officers.

Page 9 of 25

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12-01147-18

20181236\_\_

262 Section 5. Paragraphs (q) and (r) of subsection (2) of  
 263 section 435.04, Florida Statutes, are amended to read:

264 435.04 Level 2 screening standards.—

265 (2) The security background investigations under this  
 266 section must ensure that no persons subject to the provisions of  
 267 this section have been arrested for and are awaiting final  
 268 disposition of, have been found guilty of, regardless of  
 269 adjudication, or entered a plea of nolo contendere or guilty to,  
 270 or have been adjudicated delinquent and the record has not been  
 271 sealed or expunged for, any offense prohibited under any of the  
 272 following provisions of state law or similar law of another  
 273 jurisdiction:

274 (q) Section 790.115(2) ~~790.115(1)~~, relating to exhibiting  
 275 firearms or weapons within 1,000 feet of a school.

276 (r) Section 790.115(4)(b) ~~790.115(2)(b)~~, relating to  
 277 possessing an electric weapon or device, destructive device, or  
 278 other weapon on school property.

279 Section 6. Paragraph (a) of subsection (7) of section  
 280 790.251, Florida Statutes, is amended to read:

281 790.251 Protection of the right to keep and bear arms in  
 282 motor vehicles for self-defense and other lawful purposes;  
 283 prohibited acts; duty of public and private employers; immunity  
 284 from liability; enforcement.—

285 (7) EXCEPTIONS.—The prohibitions in subsection (4) do not  
 286 apply to:

287 (a) Any school property as defined in s. 790.115(1) and  
 288 regulated under that section ~~s. 790.115~~.

289 Section 7. Paragraphs (d) and (f) of subsection (3) of  
 290 section 921.0022, Florida Statutes, are amended to read:

Page 10 of 25

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12-01147-18 20181236\_\_

291 921.0022 Criminal Punishment Code; offense severity ranking  
 292 chart.-  
 293 (3) OFFENSE SEVERITY RANKING CHART  
 294 (d) LEVEL 4  
 295  
 296

| Florida Statute | Felony Degree | Description                                                                                                                                                                        |
|-----------------|---------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 316.1935(3) (a) | 2nd           | Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated. |
| 499.0051(1)     | 3rd           | Failure to maintain or deliver transaction history, transaction information, or transaction statements.                                                                            |
| 499.0051(5)     | 2nd           | Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.                                                                                        |
| 517.07(1)       | 3rd           | Failure to register securities.                                                                                                                                                    |
| 517.12(1)       | 3rd           | Failure of dealer, associated person, or issuer of securities                                                                                                                      |

12-01147-18 20181236\_\_

|     |                |                                                                                                  |
|-----|----------------|--------------------------------------------------------------------------------------------------|
|     |                | to register.                                                                                     |
| 302 | 784.07(2) (b)  | 3rd Battery of law enforcement officer, firefighter, etc.                                        |
| 303 | 784.074(1) (c) | 3rd Battery of sexually violent predators facility staff.                                        |
| 304 | 784.075        | 3rd Battery on detention or commitment facility staff.                                           |
| 305 | 784.078        | 3rd Battery of facility employee by throwing, tossing, or expelling certain fluids or materials. |
| 306 | 784.08(2) (c)  | 3rd Battery on a person 65 years of age or older.                                                |
| 307 | 784.081(3)     | 3rd Battery on specified official or employee.                                                   |
| 308 | 784.082(3)     | 3rd Battery by detained person on visitor or other detainee.                                     |
| 309 | 784.083(3)     | 3rd Battery on code inspector.                                                                   |
| 310 | 784.085        | 3rd Battery of child by throwing, tossing, projecting, or expelling certain fluids or            |

12-01147-18 20181236\_\_

materials.

311 787.03(1) 3rd Interference with custody;  
wrongly takes minor from  
appointed guardian.

312 787.04(2) 3rd Take, entice, or remove child  
beyond state limits with  
criminal intent pending custody  
proceedings.

313 787.04(3) 3rd Carrying child beyond state  
lines with criminal intent to  
avoid producing child at  
custody hearing or delivering  
to designated person.

314 787.07 3rd Human smuggling.

315 790.115(2) 3rd Exhibiting firearm or weapon  
~~790.115(1)~~ within 1,000 feet of a school.

316 790.115(4)(b) 3rd Possessing electric weapon or  
~~790.115(2)(b)~~ device, destructive device, or  
other weapon on school  
property.

317 790.115(4)(c) 3rd Possessing firearm on school  
~~790.115(2)(c)~~ property.

12-01147-18 20181236\_\_

318 800.04(7)(c) 3rd Lewd or lascivious exhibition;  
offender less than 18 years.

319 810.02(4)(a) 3rd Burglary, or attempted  
burglary, of an unoccupied  
structure; unarmed; no assault  
or battery.

320 810.02(4)(b) 3rd Burglary, or attempted  
burglary, of an unoccupied  
conveyance; unarmed; no assault  
or battery.

321 810.06 3rd Burglary; possession of tools.

322 810.08(2)(c) 3rd Trespass on property, armed  
with firearm or dangerous  
weapon.

323 812.014(2)(c)3. 3rd Grand theft, 3rd degree \$10,000  
or more but less than \$20,000.

324 812.014 3rd Grand theft, 3rd degree, a  
(2)(c)4.-10. will, firearm, motor vehicle,  
livestock, etc.

325 812.0195(2) 3rd Dealing in stolen property by  
use of the Internet; property

|     |               |     |            |                                                                                                            |
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|     | 12-01147-18   |     | 20181236__ |                                                                                                            |
|     |               |     |            | stolen \$300 or more.                                                                                      |
| 326 |               |     |            |                                                                                                            |
|     | 817.505(4)(a) | 3rd |            | Patient brokering.                                                                                         |
| 327 |               |     |            |                                                                                                            |
|     | 817.563(1)    | 3rd |            | Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.       |
| 328 |               |     |            |                                                                                                            |
|     | 817.568(2)(a) | 3rd |            | Fraudulent use of personal identification information.                                                     |
| 329 |               |     |            |                                                                                                            |
|     | 817.625(2)(a) | 3rd |            | Fraudulent use of scanning device, skimming device, or reencoder.                                          |
| 330 |               |     |            |                                                                                                            |
|     | 817.625(2)(c) | 3rd |            | Possess, sell, or deliver skimming device.                                                                 |
| 331 |               |     |            |                                                                                                            |
|     | 828.125(1)    | 2nd |            | Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle. |
| 332 |               |     |            |                                                                                                            |
|     | 837.02(1)     | 3rd |            | Perjury in official proceedings.                                                                           |
| 333 |               |     |            |                                                                                                            |
|     | 837.021(1)    | 3rd |            | Make contradictory statements in official proceedings.                                                     |

Page 15 of 25

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|-----|----------------|-----|------------|-------------------------------------------------------------------------------------------------------------------|
|     | 12-01147-18    |     | 20181236__ |                                                                                                                   |
| 334 |                |     |            |                                                                                                                   |
|     | 838.022        | 3rd |            | Official misconduct.                                                                                              |
| 335 |                |     |            |                                                                                                                   |
|     | 839.13(2)(a)   | 3rd |            | Falsifying records of an individual in the care and custody of a state agency.                                    |
| 336 |                |     |            |                                                                                                                   |
|     | 839.13(2)(c)   | 3rd |            | Falsifying records of the Department of Children and Families.                                                    |
| 337 |                |     |            |                                                                                                                   |
|     | 843.021        | 3rd |            | Possession of a concealed handcuff key by a person in custody.                                                    |
| 338 |                |     |            |                                                                                                                   |
|     | 843.025        | 3rd |            | Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication. |
| 339 |                |     |            |                                                                                                                   |
|     | 843.15(1)(a)   | 3rd |            | Failure to appear while on bail for felony (bond estreature or bond jumping).                                     |
| 340 |                |     |            |                                                                                                                   |
|     | 847.0135(5)(c) | 3rd |            | Lewd or lascivious exhibition using computer; offender less than 18 years.                                        |
| 341 |                |     |            |                                                                                                                   |
|     | 874.05(1)(a)   | 3rd |            | Encouraging or recruiting                                                                                         |

Page 16 of 25

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|     |                 |               |            |                                                                                                 |
|-----|-----------------|---------------|------------|-------------------------------------------------------------------------------------------------|
| 342 | 12-01147-18     |               | 20181236__ | another to join a criminal gang.                                                                |
| 343 | 893.13(2)(a)1.  | 2nd           |            | Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4. drugs). |
| 344 | 914.14(2)       | 3rd           |            | Witnesses accepting bribes.                                                                     |
| 345 | 914.22(1)       | 3rd           |            | Force, threaten, etc., witness, victim, or informant.                                           |
| 346 | 914.23(2)       | 3rd           |            | Retaliation against a witness, victim, or informant, no bodily injury.                          |
| 347 | 918.12          | 3rd           |            | Tampering with jurors.                                                                          |
| 348 | 934.215         | 3rd           |            | Use of two-way communications device to facilitate commission of a crime.                       |
| 349 | (f) LEVEL 6     |               |            |                                                                                                 |
| 350 |                 |               |            |                                                                                                 |
| 351 | Florida Statute | Felony Degree |            | Description                                                                                     |
| 352 |                 |               |            |                                                                                                 |

|     |                |     |            |                                                                                            |
|-----|----------------|-----|------------|--------------------------------------------------------------------------------------------|
| 353 | 12-01147-18    |     | 20181236__ |                                                                                            |
| 354 | 316.027(2)(b)  | 2nd |            | Leaving the scene of a crash involving serious bodily injury.                              |
| 355 | 316.193(2)(b)  | 3rd |            | Felony DUI, 4th or subsequent conviction.                                                  |
| 356 | 400.9935(4)(c) | 2nd |            | Operating a clinic, or offering services requiring licensure, without a license.           |
| 357 | 499.0051(2)    | 2nd |            | Knowing forgery of transaction history, transaction information, or transaction statement. |
| 358 | 499.0051(3)    | 2nd |            | Knowing purchase or receipt of prescription drug from unauthorized person.                 |
| 359 | 499.0051(4)    | 2nd |            | Knowing sale or transfer of prescription drug to unauthorized person.                      |
| 359 | 775.0875(1)    | 3rd |            | Taking firearm from law enforcement officer.                                               |
| 359 | 784.021(1)(a)  | 3rd |            | Aggravated assault; deadly weapon without intent to kill.                                  |

|     |               |     |                                                                     |
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|     | 12-01147-18   |     | 20181236__                                                          |
| 360 | 784.021(1)(b) | 3rd | Aggravated assault; intent to commit felony.                        |
| 361 | 784.041       | 3rd | Felony battery; domestic battery by strangulation.                  |
| 362 | 784.048(3)    | 3rd | Aggravated stalking; credible threat.                               |
| 363 | 784.048(5)    | 3rd | Aggravated stalking of person under 16.                             |
| 364 | 784.07(2)(c)  | 2nd | Aggravated assault on law enforcement officer.                      |
| 365 | 784.074(1)(b) | 2nd | Aggravated assault on sexually violent predators facility staff.    |
| 366 | 784.08(2)(b)  | 2nd | Aggravated assault on a person 65 years of age or older.            |
| 367 | 784.081(2)    | 2nd | Aggravated assault on specified official or employee.               |
| 368 | 784.082(2)    | 2nd | Aggravated assault by detained person on visitor or other detainee. |

Page 19 of 25

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|     | 12-01147-18                                      |     | 20181236__                                                                                                                                             |
| 369 | 784.083(2)                                       | 2nd | Aggravated assault on code inspector.                                                                                                                  |
| 370 | 787.02(2)                                        | 3rd | False imprisonment; restraining with purpose other than those in s. 787.01.                                                                            |
| 371 | <u>790.115(4)(d)</u><br><del>790.115(2)(d)</del> | 2nd | Discharging firearm or weapon on school property.                                                                                                      |
| 372 | 790.161(2)                                       | 2nd | Make, possess, or throw destructive device with intent to do bodily harm or damage property.                                                           |
| 373 | 790.164(1)                                       | 2nd | False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner. |
| 374 | 790.19                                           | 2nd | Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.                                                                             |
| 375 | 794.011(8)(a)                                    | 3rd | Solicitation of minor to participate in sexual activity                                                                                                |

Page 20 of 25

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|-----|-----------------|-----|------------|-----------------------------------------------------------------------------------------------------------------------------|
|     | 12-01147-18     |     | 20181236__ |                                                                                                                             |
|     |                 |     |            | by custodial adult.                                                                                                         |
| 376 | 794.05(1)       | 2nd |            | Unlawful sexual activity with specified minor.                                                                              |
| 377 | 800.04(5)(d)    | 3rd |            | Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years. |
| 378 | 800.04(6)(b)    | 2nd |            | Lewd or lascivious conduct; offender 18 years of age or older.                                                              |
| 379 | 806.031(2)      | 2nd |            | Arson resulting in great bodily harm to firefighter or any other person.                                                    |
| 380 | 810.02(3)(c)    | 2nd |            | Burglary of occupied structure; unarmed; no assault or battery.                                                             |
| 381 | 810.145(8)(b)   | 2nd |            | Video voyeurism; certain minor victims; 2nd or subsequent offense.                                                          |
| 382 | 812.014(2)(b)1. | 2nd |            | Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.                                       |
| 383 |                 |     |            |                                                                                                                             |

Page 21 of 25

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|     | 12-01147-18   |     | 20181236__ |                                                                                 |
|     | 812.014(6)    | 2nd |            | Theft; property stolen \$3,000 or more; coordination of others.                 |
| 384 | 812.015(9)(a) | 2nd |            | Retail theft; property stolen \$300 or more; second or subsequent conviction.   |
| 385 | 812.015(9)(b) | 2nd |            | Retail theft; property stolen \$3,000 or more; coordination of others.          |
| 386 | 812.13(2)(c)  | 2nd |            | Robbery, no firearm or other weapon (strong-arm robbery).                       |
| 387 | 817.4821(5)   | 2nd |            | Possess cloning paraphernalia with intent to create cloned cellular telephones. |
| 388 | 817.505(4)(b) | 2nd |            | Patient brokering; 10 or more patients.                                         |
| 389 | 825.102(1)    | 3rd |            | Abuse of an elderly person or disabled adult.                                   |
| 390 | 825.102(3)(c) | 3rd |            | Neglect of an elderly person or disabled adult.                                 |
| 391 | 825.1025(3)   | 3rd |            | Lewd or lascivious molestation                                                  |

Page 22 of 25

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|     | 12-01147-18      |     | 20181236__ |                                                                                                                   |
|     |                  |     |            | of an elderly person or disabled adult.                                                                           |
| 392 | 825.103(3)(c)    | 3rd |            | Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.                      |
| 393 | 827.03(2)(c)     | 3rd |            | Abuse of a child.                                                                                                 |
| 394 | 827.03(2)(d)     | 3rd |            | Neglect of a child.                                                                                               |
| 395 | 827.071(2) & (3) | 2nd |            | Use or induce a child in a sexual performance, or promote or direct such performance.                             |
| 396 | 836.05           | 2nd |            | Threats; extortion.                                                                                               |
| 397 | 836.10           | 2nd |            | Written threats to kill or do bodily injury.                                                                      |
| 398 | 843.12           | 3rd |            | Aids or assists person to escape.                                                                                 |
| 399 | 847.011          | 3rd |            | Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors. |
| 400 | 847.012          | 3rd |            | Knowingly using a minor in the                                                                                    |

|     |                |     |            |                                                                                                                                                               |
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|     | 12-01147-18    |     | 20181236__ |                                                                                                                                                               |
|     |                |     |            | production of materials harmful to minors.                                                                                                                    |
| 401 | 847.0135(2)    | 3rd |            | Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.                                                                        |
| 402 | 914.23         | 2nd |            | Retaliation against a witness, victim, or informant, with bodily injury.                                                                                      |
| 403 | 944.35(3)(a)2. | 3rd |            | Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm. |
| 404 | 944.40         | 2nd |            | Escapes.                                                                                                                                                      |
| 405 | 944.46         | 3rd |            | Harboring, concealing, aiding escaped prisoners.                                                                                                              |
| 406 | 944.47(1)(a)5. | 2nd |            | Introduction of contraband (firearm, weapon, or explosive) into correctional facility.                                                                        |
| 407 | 951.22(1)      | 3rd |            | Intoxicating drug, firearm, or weapon introduced into county                                                                                                  |

12-01147-18

20181236\_\_

facility.

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Section 8. Paragraphs (n) and (o) of subsection (1) of section 1012.315, Florida Statutes, are amended to read:

1012.315 Disqualification from employment.—A person is ineligible for educator certification, and instructional personnel and school administrators, as defined in s. 1012.01, are ineligible for employment in any position that requires direct contact with students in a district school system, charter school, or private school that accepts scholarship students under s. 1002.39 or s. 1002.395, if the person, instructional personnel, or school administrator has been convicted of:

(1) Any felony offense prohibited under any of the following statutes:

(n) Section 790.115(2) ~~790.115(1)~~, relating to exhibiting firearms or weapons at a school-sponsored event, on school property, or within 1,000 feet of a school.

(o) Section 790.115(4) (b) ~~790.115(2)(b)~~, relating to possessing an electric weapon or device, destructive device, or other weapon at a school-sponsored event or on school property.

Section 9. This act shall take effect July 1, 2018.

# THE FLORIDA SENATE

**COMMITTEES:**  
Governmental Oversight and Accountability, *Chair*  
Criminal Justice, *Vice Chair*  
*Appropriations*  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Appropriations Subcommittee on Health and  
Human Services  
Agriculture  
Transportation

**SENATOR DENNIS BAXLEY**  
12th District

**SELECT COMMITTEE:**  
Joint Select Committee on Collective Bargaining

**JOINT COMMITTEE:**  
Joint Legislative Auditing Committee

January 12, 2018

The Honorable Senator Greg Steube  
326 Senate Office Building  
Tallahassee, Florida 32399

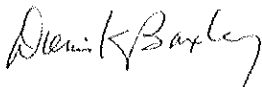
Dear Senator Steube,

I respectfully request that you place SB 1236 School Safety on your next available agenda.

It is the intent of the Legislature to prevent violent crimes from occurring on school grounds. The Legislature acknowledges that the safekeeping of our students, teachers, and campuses is imperative. In addition, the Legislature's intent is not to mandate that a school or administration building have one or more designees, but to allow the school principal or district school superintendent the opportunity to designate one or more such designees.

The term "school" means any preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic. A person who exhibits any sword, sword cane, firearm, electric weapon or device, destructive device, or other weapon, including a razor blade, box cutter, or common pocketknife, in the presence of one or more persons in a rude, careless, angry, or threatening manner and not in lawful self-defense, at a school-sponsored event or on the grounds or facilities of any school, school bus, or school bus stop, or within 1,000 feet of the real property that comprises a school, during school hours or during the time of a sanctioned school activity, commits a felony of a third degree. This does not apply to a school employee or volunteer who has been designated by his or her school principal, or, for an administration building, a district employee or volunteer who has been designated by his or her district school superintendent, as authorized to carry a concealed weapon or firearm on school property.

Onward & Upward,



Senator Dennis Baxley  
Senate District 12

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012

Email: [baxley.dennis@flsenate.gov](mailto:baxley.dennis@flsenate.gov)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2.20.18

Meeting Date

1236

Bill Number (if applicable)

Topic SCHOOL SAFETY

Amendment Barcode (if applicable)

Name BILL BUNKLEY

Job Title PRESIDENT

Address PO BOX 341644

Phone 813.264.2977

Street

TAMPA FL 33694

City

State

Zip

Email

Speaking:  For  Against  Information

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

Representing FLORIDA ETHICS AND RELIGIOUS LIBERTY COMMISSION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

# THE FLORIDA SENATE APPEARANCE RECORD

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

2/20/18

Meeting Date

1236

Bill Number (if applicable)

338506

Amendment Barcode (if applicable)

Topic Assault Weapons

Name Jamie Ito

Job Title Volunteer

Address 411 Wilson Ave

Street

Tallahassee

City

FL

State

32303

Zip

Phone 850 284 9517

Email jamie.ito@gmail.com

Speaking:  For  Against  Information

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

Representing Moms Demand Action For Gun Sense in America

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

# THE FLORIDA SENATE APPEARANCE RECORD

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

2/20/18  
Meeting Date

1236  
Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Jamie Ito

Job Title Volunteer

Address 411 Wilson Ave

Phone 850 284 9517

Tallahassee FL 32303  
City State Zip

Email jamie.ito@gmail.com

Speaking:  For  Against  Information

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

Representing Moms Demand Action For Gun Sense in America

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-20-18

Meeting Date

1236

Bill Number (if applicable)

Topic SB 1236

Amendment Barcode (if applicable)

Name KEITH D FLAUGH

Job Title Florida Citizens Alliance

Address 1390 Quiver Ct

Phone 239-250-3320

Street

City Meco Island

State

Zip

Email KdFlaugh@me.com

Speaking:  For  Against  Information

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

Representing Florida Citizens 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**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: CS/CS/SB 1678

INTRODUCER: Judiciary Committee; Criminal Justice Committee; and Senator Stargel

SUBJECT: Reports Concerning Seized or Forfeited Property

DATE: February 21, 2018

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

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Storch  | Jones          | CJ        | Fav/CS |
| 2. | Farach  | Cibula         | JU        | Fav/CS |
| 3. |         |                | RC        |        |

---

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

PLEASE MAKE SELECTION

---

**I. Summary:**

CS/CS/SB 1678 changes the deadline for the annual submission of reports concerning seized or forfeited property by law enforcement agencies pursuant to the Florida Contraband Forfeiture Act from October 10 to December 1.

The bill is effective July 1, 2018.

**II. Present Situation:**

**Florida Contraband Forfeiture Act**

The Florida Contraband Forfeiture Act (act), ss. 932.701-932.7062, F.S., provides for the seizure and civil forfeiture of property related to criminal and non-criminal violations of law.<sup>1</sup>

Contraband and other property may be seized when used during a violation of, or for the purpose of violating, the act. Property constituting a “contraband article” includes, but is not limited to, a controlled substance as defined in ch. 893, F.S., any gambling paraphernalia being used or attempted to be used in violation of the state’s gambling laws, and any motor fuel upon which the motor fuel tax has not been paid as required by law.<sup>2</sup>

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<sup>1</sup> Section 932.701(1), F.S.

<sup>2</sup> See s. 932.701(2)(a)1.-12., F.S.



Currently, any contraband article, vessel, motor vehicle, aircraft, other personal property, or real property used in violation of any provision of the act, or in, upon, or by means of which any violation of the act has taken or is taking place, may be seized and forfeited subject to the act.<sup>3</sup> If the court finds that the seizure occurred lawfully<sup>4</sup> and that probable cause exists for the seizure, the forfeiture may proceed as set forth in the act.<sup>5</sup>

When a seizing agency obtains a final judgment granting forfeiture of real or personal property, it may elect to:

- Retain the property for the agency's use;
- Sell the property at public auction or by sealed bid to the highest bidder;<sup>6</sup> or
- Salvage, trade, or transfer the property to any public or nonprofit organization.<sup>7</sup>

### ***Reports Concerning Seized or Forfeited Property***

Section 932.7061, F.S., requires every law enforcement agency to submit an annual report by October 10 indicating whether the agency has seized or forfeited property under the act.<sup>8</sup> In the event that a law enforcement agency received or expended forfeited property or proceeds from the sale of forfeited property in accordance with the act, the annual report must document such receipts and expenditures.

The report must be submitted in electronic form to the FDLE and the entity that has budgetary authority over the law enforcement agency. The report must specify, at a minimum, the type, approximate value, court case number, type of offense, disposition of property received, and amount of any proceeds received or expended. The report must be maintained by the FDLE in consultation with the Office of Program Policy Analysis and Government Accountability (OPPAGA).<sup>9</sup>

The FDLE must submit an annual report to the OPPAGA that compiles the information and data in the annual reports. The FDLE must also include a list of law enforcement agencies that failed to meet the reporting requirements and a summary of any action taken against such noncomplying agency by the office of Chief Financial Officer (CFO).<sup>10</sup>

### ***Penalty for Noncompliance with Reporting Requirements***

An agency that is in noncompliance with the reporting requirements in s. 932.7061, F.S., must be notified by the FDLE. Such agency has 60 days within receipt of the notification of noncompliance to comply with the reporting requirements. An agency that fails to comply within

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<sup>3</sup> Section 932.703(1)(a), F.S.

<sup>4</sup> Section 932.703(1)(a), F.S., sets forth the circumstances that permit for a lawful seizure of property.

<sup>5</sup> Section 932.703(2)(c), F.S.

<sup>6</sup> Real property should be listed on the market and sold in a commercially reasonable manner after appraisal. Section 932.7055(1)(b), F.S.

<sup>7</sup> Section 932.7055(1)(a)-(c), F.S.

<sup>8</sup> Section 932.7061(1), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> Section 932.7061(2), F.S.

60 days is subject to a civil fine of \$5,000. The fine is determined by the CFO and payable to the General Revenue Fund.<sup>11</sup>

The FDLE must submit any substantial noncompliance to the office of the CFO, which will then be responsible for the enforcement of the fine.<sup>12</sup>

The fiscal year for sheriff departments runs from October 1-September 30, making it difficult to gather all required information and submit it by October 10 to comply with the statutory mandate. An agency that does not meet the deadline for submission of the annual report is subject to negative implications associated with a noncompliance status.<sup>13</sup>

### III. Effect of Proposed Changes:

#### Reports Concerning Seized or Forfeited Property (amending s. 932.7061, F.S.)

Current law requires agencies having seized or forfeited property pursuant to the Florida Contraband Forfeiture Act to submit an annual report by October 10 documenting the receipts and expenditures of forfeited property or proceeds from the sale of forfeited property pursuant to the act. The bill changes the deadline for the submission of the reports to December 1.

The bill is effective July 1, 2018.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

---

<sup>11</sup> Section 932.7062, F.S.

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

<sup>13</sup> Polk County Sheriff's Office, *Proposal for the 2018 FSA Legislative Summit*, (on file with the Senate Criminal Justice Committee).

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:****Reports Concerning Seized or Forfeited Property**

The bill will likely have no fiscal impact with regards to the reports. While law enforcement agencies are subject to a fine if they are in noncompliance with the reporting requirements pursuant to s. 932.7061, F.S., the agencies have 60 days after receiving notification of noncompliance to comply. Sections 932.7061 and 932.7062, F.S., went into effect July 1, 2016.<sup>14</sup> Since the law has gone into effect, no law enforcement agencies have been in noncompliance after the passage of the 60 days.<sup>15</sup> No fines have been collected pursuant to s. 932.7062, F.S., to date,<sup>16</sup> and the modification to the submission deadline will enable law enforcement agencies a greater opportunity to achieve initial compliant status.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends section 932.7061 of the Florida Statutes.

The bill reenacts section 932.7062 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Judiciary on February 20, 2018:**

The Committee Substitute includes only sections 5, 8, and 11 of the underlying bill. The removed provisions related to the collection and reporting of criminal justice data.

---

<sup>14</sup> Chapter 2016-179, Laws of Fla.

<sup>15</sup> Conversation with Tabitha Krol, Government Affairs Coordinator, Florida Sheriffs Association (February 8, 2018).

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

**CS by Criminal Justice on February 12, 2018:**

The Committee Substitute:

- Creates a model of uniform criminal justice data collection;
- Defines terms used in the bill as they relate to data collection;
- Requires the clerks of the circuit court, state attorneys, public defenders, county jail operators, and the Department of Corrections (DOC) to collect certain data and transmit it to the Florida Department of Law Enforcement (FDLE) on a weekly basis;
- Requires the FDLE to publish the data on the FDLE's website and make it searchable and accessible to the public;
- Digitizes the Criminal Punishment Code sentencing scoresheet;
- Requires additional information to be reported in the annual report for pretrial release programs;
- Authorizes a pilot project in the Sixth Judicial Circuit for the purposes of implementing the bill; and
- Appropriates \$1,750,000 in nonrecurring funds to the FDLE for the hiring of nine full-time employees for purposes of implementing the requirements of the bill and to assist in the transition to incident-based crime reporting to meet the requirements of the FBI under the National Incident-Based Reporting System.

**B. Amendments:**

None.



504816

LEGISLATIVE ACTION

| Senate     | . | House |
|------------|---|-------|
| Comm: RCS  | . |       |
| 02/21/2018 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

---

The Committee on Judiciary (Stargel) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (1) of section 932.7061, Florida  
Statutes, is amended to read:

932.7061 Reporting seized property for forfeiture.—

(1) Every law enforcement agency shall submit an annual  
report to the Department of Law Enforcement indicating whether  
the agency has seized or forfeited property under the Florida  
Contraband Forfeiture Act. A law enforcement agency receiving or



504816

12 expending forfeited property or proceeds from the sale of  
13 forfeited property in accordance with the Florida Contraband  
14 Forfeiture Act shall submit a completed annual report by  
15 December 1 ~~October 10~~ documenting the receipts and expenditures.  
16 The report shall be submitted in an electronic form, maintained  
17 by the Department of Law Enforcement in consultation with the  
18 Office of Program Policy Analysis and Government Accountability,  
19 to the entity that has budgetary authority over such agency and  
20 to the Department of Law Enforcement. The annual report must, at  
21 a minimum, specify the type, approximate value, court case  
22 number, type of offense, disposition of property received, and  
23 amount of any proceeds received or expended.

24 Section 2. For the purpose of incorporating the amendment  
25 made by this act to section 932.7061, Florida Statutes, in a  
26 reference thereto, section 932.7062, Florida Statutes, is  
27 reenacted to read:

28 932.7062 Penalty for noncompliance with reporting  
29 requirements.—A seizing agency that fails to comply with the  
30 reporting requirements in s. 932.7061 is subject to a civil fine  
31 of \$5,000, to be determined by the Chief Financial Officer and  
32 payable to the General Revenue Fund. However, such agency is not  
33 subject to the fine if, within 60 days after receipt of written  
34 notification from the Department of Law Enforcement of  
35 noncompliance with the reporting requirements of the Florida  
36 Contraband Forfeiture Act, the agency substantially complies  
37 with those requirements. The Department of Law Enforcement shall  
38 submit any substantial noncompliance to the office of Chief  
39 Financial Officer, which shall be responsible for the  
40 enforcement of this section.



504816

41           Section 3. This act shall take effect July 1, 2018.

42

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

44 And the title is amended as follows:

45           Delete everything before the enacting clause  
46 and insert:

47                           A bill to be entitled  
48           An act relating to reports concerning seized or  
49           forfeited property; amending s. 932.7061, F.S.;  
50           revising the deadline for submitting an annual report  
51           by law enforcement agencies concerning property seized  
52           or forfeited under the Florida Contraband Forfeiture  
53           Act; reenacting s. 932.7062, F.S., relating to a  
54           penalty for noncompliance with reporting requirements,  
55           to incorporate the amendment made to s. 932.7061,  
56           F.S., in a reference thereto; providing an effective  
57           date.

By the Committee on Criminal Justice; and Senator Stargel

591-03111-18

20181678c1

1 A bill to be entitled  
 2 An act relating to criminal justice; amending s.  
 3 20.315, F.S.; requiring the Department of Corrections  
 4 to include information in its annual report on inmate  
 5 admission based on offense type and recidivism rate;  
 6 creating s. 900.05, F.S.; providing legislative  
 7 intent; providing definitions; requiring specified  
 8 entities to collect and transmit specific data weekly  
 9 beginning on a certain date to the Department of Law  
 10 Enforcement; requiring the Department of Law  
 11 Enforcement to compile, maintain, and make publicly  
 12 accessible such data beginning on a certain date;  
 13 amending s. 907.043, F.S.; requiring each pretrial  
 14 release program to include in its annual report the  
 15 types of criminal charges of defendants accepted into  
 16 a pretrial release program, the number of defendants  
 17 accepted into a pretrial release program who paid a  
 18 bail or bond, the number of defendants accepted into a  
 19 pretrial release program with no prior criminal  
 20 conviction, and the number of defendants for whom a  
 21 pretrial risk assessment tool was used or was not  
 22 used; amending s. 921.0024, F.S.; requiring  
 23 scoresheets prepared for all criminal defendants to be  
 24 digitized; requiring the Department of Corrections to  
 25 develop and submit revised digitized scoresheets to  
 26 the Supreme Court for approval; requiring digitized  
 27 scoresheets to include individual data cells for each  
 28 field on the scoresheet; requiring the clerk of court  
 29 to electronically transmit the digitized scoresheet

Page 1 of 27

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

591-03111-18

20181678c1

30 used in each sentencing proceeding to the Department  
 31 of Corrections; amending s. 932.7061, F.S.; revising  
 32 the deadline for submitting an annual report by law  
 33 enforcement agencies concerning property seized or  
 34 forfeited under the Florida Contraband Forfeiture Act;  
 35 creating s. 943.687, F.S.; requiring the Department of  
 36 Law Enforcement to collect, compile, maintain, and  
 37 manage data collected pursuant to s. 900.05, F.S.;  
 38 requiring the Department of Law Enforcement to make  
 39 data comparable, transferable, and readily usable;  
 40 requiring the department to create a unique identifier  
 41 for each criminal case received from the clerks of  
 42 court; requiring the department to create and maintain  
 43 a certain Internet-based database; providing  
 44 requirements for data searchability and sharing;  
 45 requiring the department to establish certain rules;  
 46 requiring the department to monitor data collection  
 47 procedures and test data quality; providing for data  
 48 archiving, editing, retrieval, and verification;  
 49 creating s. 945.041, F.S.; requiring the Department of  
 50 Corrections to publish quarterly on its website inmate  
 51 admissions based on offense type and the recidivism  
 52 rate and rate of probation revocation within a  
 53 specified period after release from incarceration;  
 54 reenacting s. 932.7062, F.S., relating to a penalty  
 55 for noncompliance with reporting requirements, to  
 56 incorporate the amendment made to s. 932.7061, F.S.,  
 57 in a reference thereto; creating a pilot project in a  
 58 specified judicial circuit to improve criminal justice

Page 2 of 27

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



591-03111-18

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59 data transparency and ensure data submitted under s.  
 60 900.05, F.S., is accurate, valid, reliable, and  
 61 structured; authorizing certain persons to enter into  
 62 a memorandum of understanding with a national,  
 63 nonpartisan, not-for-profit entity meeting certain  
 64 criteria for the purpose of embedding a data fellow in  
 65 the office or agency; establishing data fellow duties  
 66 and responsibilities; providing for the expiration of  
 67 the pilot project; providing an appropriation;  
 68 providing an effective date.

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

71  
 72 Section 1. Subsection (5) of section 20.315, Florida  
 73 Statutes, is amended to read:

74 20.315 Department of Corrections.—There is created a  
 75 Department of Corrections.

76 (5) ANNUAL REPORTING.—The department shall report annually  
 77 to the Governor, the President of the Senate, and the Speaker of  
 78 the House of Representatives recounting its activities and  
 79 making recommendations for improvements to the performance of  
 80 the department. The annual report must include information  
 81 published under s. 945.041.

82 Section 2. Section 900.05, Florida Statutes, is created to  
 83 read:

84 900.05 Criminal justice data collection.—It is the intent  
 85 of the Legislature to create a model of uniform criminal justice  
 86 data collection by requiring local and state criminal justice  
 87 agencies to report complete, accurate, and timely data, and to

591-03111-18

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88 make such data available to the public.

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

90 (a) "Admission date" means the date a defendant was  
 91 admitted to the Department of Corrections.

92 (b) "Admission type" means the underlying reason for which  
 93 a defendant is admitted to the Department of Corrections,  
 94 including a new conviction, probation violation, probation  
 95 violation based on a new offense, parole violation, or parole  
 96 violation based on a new offense.

97 (c) "Annual felony caseload" means the yearly adult  
 98 criminal felony caseload of each full-time state attorney and  
 99 assistant state attorney or public defender and assistant public  
 100 defender, based on the number of felony cases reported to the  
 101 Supreme Court under s. 25.075. The term does not include the  
 102 appellate caseload of a public defender or assistant public  
 103 defender.

104 (d) "Annual misdemeanor caseload" means the yearly adult  
 105 criminal misdemeanor caseload of each full-time state attorney  
 106 and assistant state attorney or public defender and assistant  
 107 public defender, based on the number of misdemeanor cases  
 108 reported to the Supreme Court under s. 25.075. The term does not  
 109 include the appellate caseload of a public defender or assistant  
 110 public defender.

111 (e) "Arrest date or initial appearance" means the date  
 112 a defendant first appears before a judge to enter a plea.

113 (f) "Arrest date" means the date a defendant is taken into  
 114 physical custody by a law enforcement agency on a criminal  
 115 charge or is issued a notice to appear, or the date that a  
 116 charging document is filed by the state attorney's office.

591-03111-18

20181678c1

117 (g) "Attorney assignment date" means the date a court-  
 118 appointed attorney is assigned to the case or, if privately  
 119 retained, the date an attorney files a notice of appearance with  
 120 the clerk of court.

121 (h) "Attorney withdrawal date" means the date the court  
 122 removes court-appointed counsel from a case or, for a privately  
 123 retained attorney, the date a motion to withdraw is granted by  
 124 the court.

125 (i) "Bail or bond hearing date" means the date a defendant  
 126 appears in court for bailor bond determination.

127 (j) "Bail or bond modification date" means the date a  
 128 hearing is held to consider a defendant's bail or bond  
 129 conditions and the conditions are modified.

130 (k) "Bail or bond posting date" means the date a defendant  
 131 posts bail or bond.

132 (l) "Bail or bond revocation" means the date a court  
 133 revokes a defendant's bail or bond.

134 (m) "Bail or bond setting date" means the date a court  
 135 confirms or orders bail or bond in a criminal case.

136 (n) "Booking date and reason" means the date that a  
 137 defendant is booked into a jail facility on a new charge or for  
 138 a probation violation pursuant to a bench warrant for a pretrial  
 139 release violation or pursuant to a warrant from another  
 140 jurisdiction.

141 (o) "Case number" means the identification number assigned  
 142 by the clerk of court to a criminal case.

143 (p) "Case status" means whether a case is open, closed,  
 144 reopened due to a probation violation, or inactive.

145 (q) "Cash bail or bond amount" means the monetary amount of

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20181678c1

146 bail or bond imposed by a court.

147 (r) "Cash bail or bond payment" means whether or not a  
 148 defendant posted bail or bond.

149 (s) "Charge class severity" means the degree misdemeanor or  
 150 felony for each charged offense.

151 (t) "Charge description" means the statement of the charge  
 152 matched to the statutory section establishing the conduct as  
 153 criminal.

154 (u) "Charge disposition date" means the date of final  
 155 judgment, adjudication, adjudication withheld, dismissal, or  
 156 nonle prosequi of each charge.

157 (v) "Charge modifier" means an aggravating circumstance of  
 158 an alleged crime that enhances or modifies a charge to a more  
 159 serious offense level.

160 (w) "Charge sequence number" means the unique numerical  
 161 identifier for each charge in a case with multiple charges.

162 (x) "Charge statute" means the statute for each charge  
 163 which establishes the conduct as criminal.

164 (y) "Charge type" means whether the charge is a misdemeanor  
 165 or felony.

166 (z) "Committing county" means the county from which a  
 167 defendant was transported to the Department of Corrections.

168 (aa) "Concurrent or consecutive sentence flag" means an  
 169 indication that a defendant is serving another sentence  
 170 concurrently or consecutively in addition to the current  
 171 sentence.

172 (bb) "Court fees amount" means the amount of fees owed to  
 173 the clerk of court at disposition of the case.

174 (cc) "Court fees amount balance or payment to date" means

591-03111-18 20181678c1

175 the amount a defendant paid toward outstanding court fees and  
 176 the remaining balance owed.

177 (dd) "Current institution and institution security level"  
 178 means the name of the institution where a defendant is currently  
 179 incarcerated and the institution's security level.

180 (ee) "Daily cost of a jail bed" means the per diem cost,  
 181 based on all sources of funding and costs associated with  
 182 operations, for each inmate in a jail facility.

183 (ff) "Daily cost of a prison bed" means the per diem cost,  
 184 based on all sources of funding and costs associated with  
 185 operations, for each inmate in a state correctional institution.

186 (gg) "Daily cost per probationer" means the per diem cost  
 187 for each individual serving probation with the Department of  
 188 Corrections.

189 (hh) "Daily jail population" means the number of inmates  
 190 incarcerated within a jail facility on each day.

191 (ii) "Daily jail postsentence population" means the number  
 192 of inmates incarcerated within a jail facility on each day who  
 193 have been sentenced and are either serving the sentence in jail  
 194 or awaiting transportation to the Department of Corrections.

195 (jj) "Daily jail presentence population" means the number  
 196 of inmates incarcerated within a jail facility on each day who  
 197 entered a plea to charges or were found guilty at trial and are  
 198 awaiting sentencing.

199 (kk) "Daily jail pretrial population" means the number of  
 200 inmates incarcerated within a jail facility on each day awaiting  
 201 case disposition.

202 (ll) "Daily number of correctional officers" means the  
 203 number of full-time, part-time, and auxiliary correctional

591-03111-18 20181678c1

204 officers who are actively providing supervision, protection,  
 205 care, custody, and control of inmates in a state correctional  
 206 institution or jail facility each day.

207 (mm) "Daily number of federal and state inmates held in  
 208 jail" means the number of inmates who are temporarily  
 209 incarcerated within a jail facility each day.

210 (nn) "Daily prison population" means the number of inmates  
 211 incarcerated in a state correctional institution on each day.

212 (oo) "Date of court appearance" means each date that a  
 213 criminal case is considered by a court.

214 (pp) "Date of failure to appear in court" means each date  
 215 that a criminal case was set to be heard by a court with  
 216 required appearance by a defendant and he or she failed to  
 217 appear.

218 (qq) "Defense attorney type" means whether the attorney is  
 219 court-appointed to or privately retained by a defendant, or that  
 220 the defendant is represented pro se.

221 (rr) "Deferred prosecution or pretrial diversion hearing  
 222 date or agreement date" means each date that a hearing is held  
 223 or a contract is signed by the parties regarding a defendant's  
 224 admission into a deferred prosecution or pretrial diversion  
 225 program.

226 (ss) "Disciplinary violation and action" means any inmate  
 227 disciplinary conduct and the consequences of such conduct.

228 (tt) "Discovery motion date" means the date that a  
 229 defendant files a notice to participate in discovery.

230 (uu) "Dismissal motion date" means the date that a  
 231 defendant files a motion to dismiss charges.

232 (vv) "Dismissal motion hearing date" means the date a court

591-03111-18 20181678c1

232 considers a defendant's motion to dismiss charges.  
 233  
 234 (ww) "Disposition date" means the date on which all case  
 235 activity is final.  
 236 (xx) "Domestic violence flag" means an indication that a  
 237 charge involves domestic violence as defined in s. 741.28.  
 238 (yy) "Drug type for drug charge" mean the type of drug  
 239 specified in each drug charge against a defendant.  
 240 (zz) "Ethnicity" means a person's identification as  
 241 Hispanic or Latino, not Hispanic or Latino, or Haitian.  
 242 (aaa) "Filing date" means the date that a formal charge is  
 243 filed against a defendant.  
 244 (bbb) "Fine amount" means the total amount of fines imposed  
 245 at case disposition.  
 246 (ccc) "Fine amount balance or payment to date" means the  
 247 amount a defendant paid toward outstanding fines and the  
 248 remaining balance owed.  
 249 (ddd) "Gang affiliation flag" means an indication that a  
 250 defendant is involved in or associated with a criminal gang as  
 251 defined in s. 874.03.  
 252 (eee) "Good conduct credit earned" means the time that an  
 253 inmate earned for good behavior in a jail facility or state  
 254 correctional institution and had credited toward his or her  
 255 sentence.  
 256 (fff) "Habitual offender flag" means an indication that a  
 257 defendant is a habitual felony offender as defined in s. 775.084  
 258 or a habitual misdemeanor offender as defined in s. 775.0837.  
 259 (ggg) "Jail capacity" means the maximum number of inmates  
 260 who can be incarcerated in a jail facility.  
 261 (hhh) "Judicial transfer date" means a date on which a

591-03111-18 20181678c1

262 defendant's case is transferred to another court or presiding  
 263 judge.  
 264 (iii) "Length of probation sentence imposed" means the  
 265 duration of probation ordered by a court.  
 266 (jjj) "Length of probation sentence served" means the  
 267 amount of time on probation which a defendant has served to  
 268 date.  
 269 (kkk) "Nonmonetary condition of release" means a condition  
 270 of a defendant's pretrial release imposed by the court which is  
 271 not based on payment of bail or bond.  
 272 (lll) "Number of contract attorneys representing indigent  
 273 defendants for the office of the public defender" means the  
 274 number of attorneys hired on a temporary basis, by contract, to  
 275 represent indigent clients who were appointed a public defender.  
 276 (mmm) "Offense date" means the date that the alleged crime  
 277 occurred.  
 278 (nnn) "Plea date" means the date that a defendant enters a  
 279 plea to a pending charge.  
 280 (ooo) "Presentence jail population at year-end" means the  
 281 number of inmates incarcerated within a jail facility at the end  
 282 of a calendar year who entered pleas or who were found guilty at  
 283 trial and are awaiting sentencing.  
 284 (ppp) "Pretrial release decision" means the date that the  
 285 court decides the issue of a defendant's pretrial release from  
 286 incarceration.  
 287 (qqq) "Pretrial release offender flag" means an indication  
 288 that the defendant has violated the terms of his or her pretrial  
 289 release.  
 290 (rrr) "Prior incarceration within the state" means any

591-03111-18 20181678c1

291 prior history of a defendant being incarcerated in a jail  
 292 facility or state correctional institution.  
 293 (sss) "Postsentence jail population at year-end" means the  
 294 number of inmates incarcerated within a jail facility at the end  
 295 of a calendar year who have been sentenced and are either  
 296 serving that sentence in the facility or awaiting transportation  
 297 to the Department of Corrections.  
 298 (ttt) "Probation revocation" means any instance where a  
 299 defendant's probation was revoked.  
 300 (uuu) "Projected discharge date" means the anticipated date  
 301 that an inmate will be released from incarceration.  
 302 (vvv) "Race" means a person's identification as American  
 303 Indian or Alaskan Native, African American or Black, Asian,  
 304 Hawaiian or other Pacific Islander, White, or Other, which  
 305 includes multi-racial individuals.  
 306 (www) "Restitution amount ordered" means the amount of  
 307 money imposed by the court to compensate a victim of a  
 308 defendant's criminal activity.  
 309 (xxx) "Sentence condition" means any requirement imposed by  
 310 a court in addition to incarceration.  
 311 (yyy) "Sentence date" means the date that a court enters a  
 312 sentence against a defendant.  
 313 (zzz) "Sentence length" means the total duration of jail  
 314 time, prison time, and probation that a defendant is ordered to  
 315 serve.  
 316 (aaaa) "Sentence type" means capital punishment,  
 317 incarceration, probation, or a combination thereof.  
 318 (bbbb) "Sentencing scoresheet" means the digitized  
 319 worksheet created under s. 921.0024 to compute the defendant's

Page 11 of 27

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591-03111-18 20181678c1

320 minimum sentence that may be imposed by the trial court.  
 321 (cccc) "Speedy trial motion date" means the date that a  
 322 defendant files a demand for speedy trial.  
 323 (dddd) "Speedy trial motion hearing date" means the date  
 324 that a court hears a defendant's demand for speedy trial.  
 325 (eeee) "Sexual offender flag" means an indication that a  
 326 defendant is a sexual offender as defined in s. 943.0435.  
 327 (ffff) "Time served credit and length" means the amount of  
 328 prior incarceration credited to an inmate's current sentence to  
 329 reduce the amount of time remaining in the sentence.  
 330 (gggg) "Total jail population at year-end" means the number  
 331 of inmates incarcerated within a jail facility at the end of a  
 332 calendar year.  
 333 (hhhh) "Trial date" means the date that a defendant's case  
 334 is set for trial, beginning with jury selection.  
 335 (2) DATA COLLECTION AND REPORTING.—Beginning January 1,  
 336 2019, the following entities shall collect and transmit data  
 337 weekly to the Department of Law Enforcement:  
 338 (a) Each clerk of court shall collect the following data  
 339 for each criminal case:  
 340 1. Case number.  
 341 2. Offense date.  
 342 3. County in which the offense was committed.  
 343 4. Arrest date.  
 344 5. Filing date.  
 345 6. Arraignment date or initial appearance.  
 346 7. Attorney assignment date.  
 347 8. Attorney withdrawal date.  
 348 9. Case status.

Page 12 of 27

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591-03111-18

20181678c1

349 10. Disposition date.  
 350 11. For each defendant:  
 351 a. Name.  
 352 b. Date of birth.  
 353 c. Age.  
 354 d. Zip code of primary residence.  
 355 e. Primary language.  
 356 f. Race and ethnicity.  
 357 g. Gender.  
 358 h. Citizenship.  
 359 i. Immigration status, if applicable.  
 360 j. Whether the defendant is indigent under s. 27.52.  
 361 12. Any charge referred to the state attorney by law  
 362 enforcement.  
 363 13. The following information on a formal charge filed  
 364 against the defendant:  
 365 a. Charge sequence number.  
 366 b. Charge description.  
 367 c. Charge statute.  
 368 d. Charge type.  
 369 e. Charge class severity.  
 370 f. Charge modifier, if any.  
 371 g. Charge disposition.  
 372 h. Charge disposition date.  
 373 i. Drug type for drug charge, if known.  
 374 j. Domestic violence flag.  
 375 k. Gang affiliation flag.  
 376 l. Sexual offender flag.  
 377 m. Habitual offender flag.

Page 13 of 27

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591-03111-18

20181678c1

378 14. Plea date.  
 379 15. The following information on bail or bond and pretrial  
 380 release:  
 381 a. Pretrial release decision.  
 382 b. Nonmonetary condition of release.  
 383 c. Cash bail or bond amount.  
 384 d. Cash bail or bond payment.  
 385 e. Booking date and reason.  
 386 f. Date defendant is released on bail, bond, or pretrial  
 387 release.  
 388 g. Bail or bond revocation due to a new offense, a failure  
 389 to appear, or a violation of the terms of bail or bond.  
 390 h. Pretrial release offender flag.  
 391 16. The following pretrial dates:  
 392 a. Bail or bond hearing date.  
 393 b. Bail or bond setting date.  
 394 c. Bail or bond modification date.  
 395 d. Bail or bond posting date.  
 396 e. Deferred prosecution or pretrial diversion hearing date  
 397 or agreement date.  
 398 17. The following court dates and dates of motions and  
 399 appearances:  
 400 a. Date of court appearance.  
 401 b. Date of failure to appear in court.  
 402 c. Judicial transfer date.  
 403 d. Trial date.  
 404 e. Bail or bond motion date.  
 405 f. Discovery motion date.  
 406 g. Speedy trial motion date.

Page 14 of 27

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591-03111-18

20181678c1

407 h. Speedy trial motion hearing date.  
 408 i. Dismissal motion date.  
 409 j. Dismissal motion hearing date.  
 410 18. Defense attorney type.  
 411 19. The following information related to sentencing:  
 412 a. Sentence date.  
 413 b. Sentence type.  
 414 c. Sentence length.  
 415 d. Sentence condition.  
 416 e. Time served credit and length.  
 417 f. Court fees amount.  
 418 g. Court fees amount balance or payment to date.  
 419 h. Fine amount.  
 420 i. Fine amount balance or payment to date.  
 421 j. Restitution amount ordered.  
 422 k. If restitution is ordered, the amount collected by the  
 423 court and the amount paid to the victim.  
 424 20. The number of judges, magistrates, court commissioners,  
 425 or their equivalents hearing nonappellant, adult criminal cases  
 426 in the circuit.  
 427 (b) Each state attorney shall collect the following data:  
 428 1. For a human victim of a criminal offense:  
 429 a. Race and ethnicity.  
 430 b. Gender.  
 431 c. Age.  
 432 d. Relationship to the offender.  
 433 2. Number of full-time prosecutors.  
 434 3. Number of part-time prosecutors.  
 435 4. Annual felony caseload.

Page 15 of 27

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591-03111-18

20181678c1

436 5. Annual misdemeanor caseload.  
 437 6. For each defendant:  
 438 a. Each charge referred to the office of the state attorney  
 439 by law enforcement.  
 440 b. Drug type for each drug charge.  
 441 7. Number of cases in which no information was filed.  
 442 (c) Each public defender shall collect the following data  
 443 for each criminal case:  
 444 1. Number of full-time public defenders.  
 445 2. Number of part-time public defenders.  
 446 3. Number of contract attorneys representing indigent  
 447 defendants for the office of the public defender.  
 448 4. Annual felony caseload.  
 449 5. Annual misdemeanor caseload.  
 450 (d) The administrator of each county detention facility  
 451 shall collect the following data:  
 452 1. Jail capacity.  
 453 2. Weekly admissions to jail for probation revocation.  
 454 3. Daily jail population.  
 455 4. Daily jail pretrial population.  
 456 5. Daily jail presentence population.  
 457 6. Daily jail postsentence population.  
 458 7. Daily number of federal and state inmates held in jail.  
 459 8. Total jail population at year-end.  
 460 9. Pretrial jail population at year-end.  
 461 10. Presentence jail population at year-end.  
 462 11. Postsentence jail population at year-end.  
 463 12. Number of federal and state inmates held in jail at  
 464 year-end.

Page 16 of 27

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591-03111-18

20181678c1

465 13. Daily cost of a jail bed.  
 466 14. Daily number of correctional officers.  
 467 15. Annual jail budget.  
 468 16. Revenue generated from the temporary incarceration of  
 469 federal defendants or inmates.  
 470 17. For each inmate:  
 471 a. Booking date and reason.  
 472 b. Domestic violence flag.  
 473 c. Gang affiliation flag.  
 474 d. Habitual offender flag.  
 475 e. Pretrial release offender flag.  
 476 f. Sexual offender flag.  
 477 (e) The Department of Corrections shall collect:  
 478 1. For each prisoner:  
 479 a. The following data:  
 480 (I) Name.  
 481 (II) DOC number.  
 482 (III) Date of birth.  
 483 (IV) Race and ethnicity.  
 484 (V) Number of children.  
 485 (VI) Education level.  
 486 (VII) Admission date.  
 487 (VIII) Admission type.  
 488 (IX) Current institution and institution security level.  
 489 (X) Sexual offender flag.  
 490 (XI) Habitual offender flag.  
 491 (XII) Gang affiliation flag.  
 492 (XIII) Sentencing scoresheet.  
 493 (XIV) Committing county.

Page 17 of 27

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591-03111-18

20181678c1

494 (XV) Whether the reason for admission to the department is  
 495 for a new conviction or a probation violation. For an admission  
 496 for a probation violation, the department shall report whether  
 497 the violation was technical, based on a new offense, or based on  
 498 another term of probation.  
 499 b. Specific offense codes, including, for an inmate  
 500 convicted of drug trafficking under s. 893.135, the offense code  
 501 for each specific drug trafficked.  
 502 c. Concurrent or consecutive sentence flag.  
 503 d. Length of sentence or concurrent or consecutive  
 504 sentences served.  
 505 e. Projected discharge date.  
 506 f. Time served, in days.  
 507 g. Good conduct credit earned.  
 508 h. Prior incarceration within the state.  
 509 i. Disciplinary violation and action.  
 510 j. Participation in rehabilitative or educational  
 511 correctional programs.  
 512 2. The following information about each correctional  
 513 facility:  
 514 a. Budget for each correctional institution.  
 515 b. Daily prison population.  
 516 c. Daily number of correctional officers.  
 517 d. Daily cost of a prison bed.  
 518 3. For probation and probationary services:  
 519 a. For each probationer:  
 520 (I) Name.  
 521 (II) Date of birth.  
 522 (III) Race and ethnicity.

Page 18 of 27

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591-03111-18 20181678c1

523 (IV) Sex.  
 524 (V) Department-assigned case number.  
 525 b. Length of probation sentence imposed and length of  
 526 probation sentence served.  
 527 c. Probation release date or projected release date.  
 528 d. Probation revocation due to a violation.  
 529 e. Probation revocation due to a new offense.  
 530 f. Daily cost per probationer.  
 531 (3) DATA PUBLICLY AVAILABLE.-Beginning January 1, 2019, the  
 532 Department of Law Enforcement shall publish datasets in its  
 533 possession in a modern, open, electronic format that is machine-  
 534 readable and readily accessible by the public on the  
 535 department's website. The published data must be searchable, at  
 536 a minimum, by each data element, county, circuit, and unique  
 537 identifier. Beginning March 1, 2019, the department shall begin  
 538 publishing the data received under subsection (2) in the same  
 539 modern, open, electronic format that is machine-readable and  
 540 readily accessible to the public on the department's website.  
 541 The department shall publish all data received under subsection  
 542 (2) no later than July 1, 2019.  
 543 Section 3. Paragraph (b) of subsection (4) of section  
 544 907.043, Florida Statutes, is amended to read:  
 545 907.043 Pretrial release; citizens' right to know.-  
 546 (4)  
 547 (b) The annual report must contain, but need not be limited  
 548 to:  
 549 1. The name, location, and funding sources of the pretrial  
 550 release program, including the amount of public funds, if any,  
 551 received by the pretrial release program.

Page 19 of 27

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591-03111-18 20181678c1

552 2. The operating and capital budget of each pretrial  
 553 release program receiving public funds.  
 554 3.a. The percentage of the pretrial release program's total  
 555 budget representing receipt of public funds.  
 556 b. The percentage of the total budget which is allocated to  
 557 assisting defendants obtain release through a nonpublicly funded  
 558 program.  
 559 c. The amount of fees paid by defendants to the pretrial  
 560 release program.  
 561 4. The number of persons employed by the pretrial release  
 562 program.  
 563 5. The number of defendants assessed and interviewed for  
 564 pretrial release.  
 565 6. The number of defendants recommended for pretrial  
 566 release.  
 567 7. The number of defendants for whom the pretrial release  
 568 program recommended against nonsecured release.  
 569 8. The number of defendants granted nonsecured release  
 570 after the pretrial release program recommended nonsecured  
 571 release.  
 572 9. The number of defendants assessed and interviewed for  
 573 pretrial release who were declared indigent by the court.  
 574 10. The number of defendants accepted into a pretrial  
 575 release program who paid a surety or cash bail or bond.  
 576 11. The number of defendants for whom a risk assessment  
 577 tool was used in determining whether the defendant should be  
 578 released pending the disposition of the case and the number of  
 579 defendants for whom a risk assessment tool was not used.  
 580 12. The type of each criminal charge of a defendant

Page 20 of 27

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591-03111-18 20181678c1

581 accepted into a pretrial release program, including, at a  
 582 minimum, the number of defendants charged with:  
 583 a. Dangerous crimes as defined in s. 907.041.  
 584 b. Nonviolent felonies.  
 585 c. Misdemeanors only.  
 586 13. The number of defendants accepted into a pretrial  
 587 release program with no prior criminal conviction.  
 588 ~~14.10.~~ The name and case number of each person granted  
 589 nonsecured release who:  
 590 a. Failed to attend a scheduled court appearance.  
 591 b. Was issued a warrant for failing to appear.  
 592 c. Was arrested for any offense while on release through  
 593 the pretrial release program.  
 594 ~~15.11.~~ Any additional information deemed necessary by the  
 595 governing body to assess the performance and cost efficiency of  
 596 the pretrial release program.  
 597 Section 4. Subsections (3) through (7) of section 921.0024,  
 598 Florida Statutes, are amended to read:  
 599 921.0024 Criminal Punishment Code; worksheet computations;  
 600 scoresheets.—  
 601 (3) A single digitized scoresheet shall be prepared for  
 602 each defendant to determine the permissible range for the  
 603 sentence that the court may impose, except that if the defendant  
 604 is before the court for sentencing for more than one felony and  
 605 the felonies were committed under more than one version or  
 606 revision of the guidelines or the code, separate digitized  
 607 scoresheets must be prepared. The scoresheet or scoresheets must  
 608 cover all the defendant's offenses pending before the court for  
 609 sentencing. The state attorney shall prepare the digitized

591-03111-18 20181678c1

610 scoresheet or scoresheets, which must be presented to the  
 611 defense counsel for review for accuracy in all cases unless the  
 612 judge directs otherwise. The defendant's scoresheet or  
 613 scoresheets must be approved and signed by the sentencing judge.  
 614 (4) The Department of Corrections, in consultation with the  
 615 Office of the State Courts Administrator, state attorneys, and  
 616 public defenders, must develop and submit the revised digitized  
 617 Criminal Punishment Code scoresheet to the Supreme Court for  
 618 approval by June 15 of each year, as necessary. The digitized  
 619 scoresheet shall have individual, structured data cells for each  
 620 data field on the scoresheet. Upon the Supreme Court's approval  
 621 of the revised digitized scoresheet, the Department of  
 622 Corrections shall produce and provide ~~sufficient copies of the~~  
 623 revised digitized scoresheets by September 30 of each year, as  
 624 necessary. Digitized scoresheets must include individual data  
 625 cells to indicate item entries for the scoresheet preparer's use  
 626 ~~in indicating~~ whether any prison sentence imposed includes a  
 627 mandatory minimum sentence or the sentence imposed was a  
 628 downward departure from the lowest permissible sentence under  
 629 the Criminal Punishment Code.  
 630 (5) The Department of Corrections shall make available  
 631 ~~distribute sufficient copies of the~~ digitized Criminal  
 632 Punishment Code scoresheets to those persons charged with the  
 633 responsibility for preparing scoresheets.  
 634 (6) The clerk of the circuit court shall transmit a  
 635 complete, and accurate digitized, and legible copy of the  
 636 Criminal Punishment Code scoresheet used in each sentencing  
 637 proceeding to the Department of Corrections. Scoresheets must be  
 638 electronically transmitted no less frequently than weekly

591-03111-18 20181678c1

639 ~~monthly~~, by the first of each month, and may be sent  
640 collectively.

641 (7) A digitized sentencing scoresheet must be prepared for  
642 every defendant who is sentenced for a felony offense. ~~A copy of~~  
643 The individual offender's digitized Criminal Punishment Code  
644 scoresheet and any attachments thereto prepared pursuant to Rule  
645 3.701, Rule 3.702, or Rule 3.703, Florida Rules of Criminal  
646 Procedure, or any other rule pertaining to the preparation and  
647 submission of felony sentencing scoresheets, must be included  
648 ~~with attached to the copy of~~ the uniform judgment and sentence  
649 form provided to the Department of Corrections.

650 Section 5. Subsection (1) of section 932.7061, Florida  
651 Statutes, is amended to read:

652 932.7061 Reporting seized property for forfeiture.—

653 (1) Every law enforcement agency shall submit an annual  
654 report to the Department of Law Enforcement indicating whether  
655 the agency has seized or forfeited property under the Florida  
656 Contraband Forfeiture Act. A law enforcement agency receiving or  
657 expending forfeited property or proceeds from the sale of  
658 forfeited property in accordance with the Florida Contraband  
659 Forfeiture Act shall submit a completed annual report by  
660 ~~December 1 October 10~~ documenting the receipts and expenditures.  
661 The report shall be submitted in an electronic form, maintained  
662 by the Department of Law Enforcement in consultation with the  
663 Office of Program Policy Analysis and Government Accountability,  
664 to the entity that has budgetary authority over such agency and  
665 to the Department of Law Enforcement. The annual report must, at  
666 a minimum, specify the type, approximate value, court case  
667 number, type of offense, disposition of property received, and

591-03111-18 20181678c1

668 amount of any proceeds received or expended.

669 Section 6. Section 943.687, Florida Statutes, is created to  
670 read:

671 943.687 Criminal justice data transparency.—In order to  
672 facilitate the availability of comparable and uniform criminal  
673 justice data, the department shall:

674 (1) Collect, compile, maintain, and manage the data  
675 submitted by local and state entities pursuant to s. 900.05 and  
676 coordinate related activities to collect and submit data. The  
677 department shall create a unique identifier for each criminal  
678 case received from the clerks of court which identifies the  
679 person who is the subject of the criminal case. The unique  
680 identifier must be the same for that person in any court case  
681 and used across local and state entities for all information  
682 related to that person at any time. The unique identifier shall  
683 be randomly created and may not include any portion of the  
684 person's social security number or date of birth.

685 (2) Promote criminal justice data sharing by making such  
686 data received under s. 900.05 comparable, transferable, and  
687 readily usable.

688 (3) Create and maintain an Internet-based database of  
689 criminal justice data received under s. 900.05 in a modern,  
690 open, electronic format that is machine-readable and readily  
691 accessible through an application program interface. The  
692 database must allow the public to search, at a minimum, by each  
693 data element, county, judicial circuit, or unique identifier.  
694 The department may not require a license or charge a fee to  
695 access or receive information from the database.

696 (4) Develop written agreements with local, state, and

591-03111-18 20181678c1

697 federal agencies to facilitate criminal justice data sharing.  
 698 (5) Establish by rule:  
 699 (a) Requirements for the entities subject to the  
 700 requirements of s. 900.05 to submit data through an application  
 701 program interface.  
 702 (b) A data catalog defining data objects, describing data  
 703 fields, and detailing the meaning of and options for each data  
 704 element reported pursuant to s. 900.05.  
 705 (c) How data collected pursuant to s. 900.05 is compiled,  
 706 processed, structured, used, or shared. The rule shall provide  
 707 for the tagging of all information associated with each case  
 708 number and unique identifier.  
 709 (d) Requirements for implementing and monitoring the  
 710 Internet-based database established under subsection (3).  
 711 (e) How information contained in the Internet-based  
 712 database established under subsection (3) is accessed by the  
 713 public.  
 714 (6) Consult with local, state, and federal criminal justice  
 715 agencies and other public and private users of the database  
 716 established under subsection (3) on the data elements collected  
 717 under s. 900.05, the use of such data, and adding data elements  
 718 to be collected.  
 719 (7) Monitor data collection procedures and test data  
 720 quality to facilitate the dissemination of accurate, valid,  
 721 reliable, and complete criminal justice data.  
 722 (8) Develop methods for archiving data, retrieving archived  
 723 data, and data editing and verification.  
 724 Section 7. Section 945.041, Florida Statutes, is created to  
 725 read:

Page 25 of 27

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

591-03111-18 20181678c1

726 945.041 Department of Corrections reports.—The department  
 727 shall publish on its website and make available to the public  
 728 the following information, updated on a quarterly basis:  
 729 (1) Inmate admissions by offense type. Burglary of dwelling  
 730 offenses under s. 810.02(2), (3)(a), and (3)(b) must be reported  
 731 as a separate category from all other property crimes.  
 732 (2) The recidivism rate, defined as rearrest, reconviction,  
 733 reincarceration, and probation revocation in the state within a  
 734 3-year time period following release from incarceration.  
 735 Section 8. For the purpose of incorporating the amendment  
 736 made by this act to section 932.7061, Florida Statutes, in a  
 737 reference thereto, section 932.7062, Florida Statutes, is  
 738 reenacted to read:  
 739 932.7062 Penalty for noncompliance with reporting  
 740 requirements.—A seizing agency that fails to comply with the  
 741 reporting requirements in s. 932.7061 is subject to a civil fine  
 742 of \$5,000, to be determined by the Chief Financial Officer and  
 743 payable to the General Revenue Fund. However, such agency is not  
 744 subject to the fine if, within 60 days after receipt of written  
 745 notification from the Department of Law Enforcement of  
 746 noncompliance with the reporting requirements of the Florida  
 747 Contraband Forfeiture Act, the agency substantially complies  
 748 with those requirements. The Department of Law Enforcement shall  
 749 submit any substantial noncompliance to the office of Chief  
 750 Financial Officer, which shall be responsible for the  
 751 enforcement of this section.  
 752 Section 9. A pilot project is established in the Sixth  
 753 Judicial Circuit for the purpose of improving criminal justice  
 754 data transparency and ensuring that data submitted under s.

Page 26 of 27

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

591-03111-18

20181678c1

755 900.05, Florida Statutes, is accurate, valid, reliable, and  
756 structured. The clerk of court, the state attorney, the public  
757 defender, or a sheriff in the circuit may enter into a  
758 memorandum of understanding with a national, nonpartisan, not-  
759 for-profit entity which provides data and measurement for  
760 county-level criminal justice systems to establish the duties  
761 and responsibilities of a data fellow, completely funded by the  
762 entity, to be embedded with the office or agency. The data  
763 fellow shall assist with data extraction, validation, and  
764 quality and shall publish such data consistent with the terms of  
765 the memorandum. The data fellow shall assist the office or  
766 agency in compiling and reporting data pursuant to s. 900.05,  
767 Florida Statutes, in compliance with rules established by the  
768 Department of Law Enforcement. The pilot project shall expire as  
769 provided in the memorandum.

770 Section 10. For the 2018-2019 fiscal year, nine full-time  
771 equivalent positions with an associated total salary rate of  
772 \$665,884 are authorized, and the sum of \$1,750,000 in  
773 nonrecurring funds from General Revenue is appropriated to the  
774 Department of Law Enforcement for the purposes of implementing  
775 ss. 900.05(3) and 943.687, Florida Statutes, transitioning to  
776 incident-based crime reporting, and collecting and submitting  
777 crime statistics that meet the requirements of the Federal  
778 Bureau of Investigation under the National Incident-Based  
779 Reporting System.

780 Section 11. This act shall take effect July 1, 2018.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Appropriations Subcommittee on Finance and Tax, *Chair*  
Appropriations Subcommittee on Health and Human Services, *Vice Chair*  
Appropriations  
Appropriations Subcommittee on Transportation, Tourism, and Economic Development  
Children, Families, and Elder Affairs  
Communications, Energy, and Public Utilities  
Governmental Oversight and Accountability  
Military and Veterans Affairs, Space, and Domestic Security

### SENATOR KELLI STARGEL

*Deputy Majority Leader*  
22nd District

February 16, 2018

The Honorable Greg Steube  
Senate Judiciary Committee, Chair  
515 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Dear Chair Steube:

I respectfully request that SB 1678, related to *Reports Concerning Seized or Forfeited Property*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kelli Stargel".

Kelli Stargel  
State Senator, District 22

Cc: Tom Cibula/ Staff Director  
Joyce Butler/ AA

#### REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803 (863) 668-3028
- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

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

**JOE NEGRON**  
President of the Senate

**ANITERE FLORES**  
President Pro Tempore

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/20/18  
Meeting Date

1678  
Bill Number (if applicable)

Topic Forfeiture Reports

Amendment Barcode (if applicable)

Name David Shepp

Job Title Lobbyist

Address P.O. Box 3739  
Street

Phone 863 581-4250

Lakeland FL 33802  
City State Zip

Email sheppesostrategy.com

Speaking:  For  Against  Information

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

Representing Polk County Sheriff's Office

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2.20.18

Meeting Date

1678

Bill Number (if applicable)

Topic Forfeiture

Amendment Barcode (if applicable)

Name Jim Magill

Job Title Lobbyist

Address 101 N. Monroe St Suite 1090

Phone 850-681-0411

Street

City

TALLAHASSEE

FL

State

32301

Zip

Email JAMES.MAGILL@BIPC.COM

Speaking: [X] For [ ] Against [ ] Information

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

Representing FLA POLICE CHIEFS ASSOC

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

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

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

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



# CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Judiciary Committee

Judge:

Started: 2/20/2018 4:08:54 PM

Ends: 2/20/2018 6:00:16 PM Length: 01:51:23

4:08:54 PM Meeting called to order by Chair Steube  
4:08:56 PM Roll call by Administrative Assistant Joyce Butler  
4:09:14 PM Quorum present  
4:09:40 PM Temporarily postponed 1236 by Senator Benacquisto  
4:09:51 PM TAB 6 CS/SB 1678 presented by Senator Stargel  
4:10:18 PM Amendment barcode 504816 presented  
4:10:30 PM Question by Senator Gibson  
4:11:01 PM Response by Senator Stargel  
4:11:26 PM Amendment adopted  
4:11:35 PM Question by Senator Thurston  
4:11:55 PM Response by Senator Stargel  
4:12:20 PM Question by Senator Bracy  
4:12:28 PM Response by Senator Stargel  
4:12:35 PM Question by Senator Powell  
4:12:45 PM Response by Senator Stargel  
4:13:07 PM Dave Shepp waives in support  
4:13:17 PM Jim Magill waives in support  
4:13:25 PM Senator Stargel closes  
4:13:55 PM CS/CS/SB 1678 Reported Favorably  
4:14:13 PM TAB 1 CS/SB 774 presented by Senator Bean  
4:14:58 PM Amendment 875002 presented  
4:15:51 PM Amendment adopted  
4:15:58 PM Question by Senator Gibson  
4:16:31 PM Roy Miller waives in support  
4:16:40 PM Madonna Finney waives in support  
4:16:46 PM Senator Bean waives close  
4:17:06 PM CS/CS/SB 774 Reported Favorably  
4:17:18 PM Recess  
4:17:21 PM Recording Paused  
4:27:05 PM Recording Resumed  
4:27:19 PM TAB 2 CS/SB 784 presented by Senator Brandes  
4:27:50 PM Amendment Barcode 720998 presented  
4:28:12 PM Amendment adopted  
4:28:17 PM Amendment Barcode 753400 presented  
4:28:35 PM Amendment adopted

4:28:58 PM Beth Vecchioli waives in support  
4:29:05 PM Senator Brandes waives close  
4:29:25 PM CS/CS/SB 784 Reported Favorably  
4:29:42 PM TAB 3 CS/SB 1220 presented by Senator Brandes  
4:30:56 PM Substitute Amendment Barcode 640902 presented  
4:31:32 PM Amendment adopted  
4:31:43 PM Seth Miller waives in support  
4:31:49 PM Nancy Daniels waives in support  
4:31:55 PM Jorge Chamizo waives in support  
4:32:02 PM Senator Brandes closes  
4:32:58 PM CS/CS/SB 1220 Reported Favorably  
4:33:13 PM TAB 4 CS/SB 1234 presented by Senator Baxley  
4:33:58 PM Amendment Barcode 697298 presented  
4:35:10 PM Question by Senator Powell  
4:35:32 PM Response by Senator Baxley  
4:36:29 PM Follow-up by Senator Powell  
4:37:27 PM Response by Senator Baxley  
4:39:33 PM Question by Senator Bradley  
4:40:55 PM Response by Senator Baxley  
4:41:21 PM Follow-up by Senator Bradley  
4:42:13 PM Response by Senator Baxley  
4:43:23 PM Follow-up by Senator Bradley  
4:44:15 PM Response by Senator Baxley  
4:44:56 PM Question by Senator Gibson  
4:45:25 PM Response by Senator Baxley  
4:46:14 PM Follow-up by Senator Gibson  
4:47:53 PM Response by Senator Baxley  
4:49:15 PM Follow-up by Senator Gibson  
4:50:05 PM Response by Senator Baxley  
4:51:31 PM Follow-up by Senator Gibson  
4:51:52 PM Response by Senator Baxley  
4:52:27 PM Follow-up by Senator Gibson  
4:52:46 PM Response by Senator Baxley  
4:53:52 PM Follow-up by Senator Gibson  
4:54:12 PM Response by Senator Baxley  
4:55:39 PM Amendment adopted  
4:55:46 PM Question by Senator Garcia  
4:56:00 PM Response by Senator Baxley  
4:56:17 PM Follow-up by Senator Garcia  
4:56:58 PM Response by Senator Baxley  
4:58:02 PM Question by Senator Thurston  
4:58:33 PM Response by Senator Baxley  
4:58:53 PM Follow-up by Senator Thurston  
4:59:02 PM Response by Senator Baxley

4:59:20 PM Follow-up by Senator Thurston  
4:59:38 PM Response by Senator Baxley  
5:00:50 PM Follow-up by Senator Thurston  
5:01:16 PM Response by Senator Baxley  
5:02:21 PM Speaker Ashtash  
5:05:45 PM Question by Senator Thurston  
5:06:03 PM Response by Speaker Aashutosh  
5:06:19 PM Follow-up  
5:06:26 PM Response by Speaker Aashutosh  
5:07:39 PM Question by Senator Garcia  
5:08:11 PM Response by Speaker Aashutosh Pyakuryal  
5:08:34 PM Follow-up  
5:08:55 PM Question by Senator Bradley  
5:09:43 PM Response by Speaker Aashutosh Pyakuryal  
5:10:38 PM Follow-up  
5:11:14 PM Question by Senator Mayfield  
5:12:42 PM Follow-up by Senator Mayfield  
5:13:01 PM Response by Speaker Aashutosh Pyakuryal  
5:14:03 PM Speaker Demetrius Platts  
5:15:54 PM Speaker Michaela Daniel, against  
5:17:26 PM Speaker Allie Jacobs, against  
5:19:13 PM Question by Senator Bradley  
5:20:58 PM Response by Speaker Allie Jacobs  
5:21:36 PM Question by Senator Thurston  
5:22:09 PM Response by Speaker Allie Jacobs  
5:22:46 PM Speaker Phillip Agnew, against  
5:24:18 PM Speaker Phillip Agnew, against  
5:24:31 PM Speaker Rebecca Garcia, against  
5:25:58 PM Speaker Alexis Dameron, against  
5:27:38 PM La'Tyana Coleman-Harrison waives in opposition  
5:27:53 PM Speaker Leon Bright Jr., against  
5:29:10 PM Question by Senator Powell  
5:31:00 PM Speaker Adonis Casanovo  
5:31:32 PM Ana Guevara waives in opposition  
5:31:40 PM Barbara waives in opposition  
5:31:54 PM Speaker Reem Zaitoon  
5:33:28 PM Leonardo Gonzalez waives in opposition  
5:33:39 PM Speaker Lakey Love, against  
5:35:15 PM David Caiceb waives in opposition  
5:35:27 PM Speaker Marshall Ogletree, against  
5:36:42 PM Question by Senator Thurston  
5:36:57 PM Response by Speaker Marshall Ogletree  
5:37:13 PM Follow-up  
5:37:22 PM Response by Speaker Marshall Ogletree

5:37:56 PM Speaker Kacey Johnson  
5:39:00 PM Speaker Kara Gross, against  
5:40:26 PM Question by Senator Thurston  
5:40:43 PM Response by Speaker Kara Gross  
5:41:31 PM Question by Senator Bradley  
5:41:57 PM Response by Speaker Kara Gross  
5:42:17 PM Follow-up by Senator Bradley  
5:43:53 PM Follow-up  
5:44:39 PM Response by Speaker Kara Gross  
5:45:46 PM Follow-up by Senator Bradley  
5:47:37 PM Response by Speaker Kara Gross  
5:48:34 PM Question by Senator Thurston  
5:48:42 PM Response by Speaker Kara Gross  
5:49:55 PM Cynthia Colcis waives in opposition  
5:50:04 PM Tyler Crown waives in opposition  
5:50:10 PM Gabriel Perez against  
5:50:24 PM Patrick Ariel waives in opposition  
5:50:28 PM Blake Abner opposition  
5:50:33 PM Cameron Chisolm opposition  
5:50:40 PM Monte'kis Jones against  
5:50:45 PM Amber Kelly support  
5:50:51 PM Donald Sizemore support  
5:50:56 PM Naomi Choulagh support  
5:50:59 PM Bill Bunkley  
5:51:07 PM Keatin Cecile support  
5:51:12 PM Genesis Sanchez support  
5:51:18 PM Caitlin Dezter support  
5:51:23 PM Stefan Pabin support  
5:51:29 PM Cesar Grasales support  
5:51:36 PM Demetrius Minor support  
5:51:44 PM Debate by Senator Gibson  
5:53:05 PM Debate by Senator Thurston  
5:53:56 PM Debate by Senator Powell  
5:55:27 PM Debate by Senator Flores  
5:58:33 PM Senator Baxley closes  
6:00:05 PM CS/CS/SB 1234 Leave Temporarily Postponed  
6:00:10 PM Meeting adjourned