

SB 1360 by **Hays (CO-INTRODUCERS) Evers**; (Identical to H 1209) Application of Foreign Law in Certain Cases

SB 858 by **Negron (CO-INTRODUCERS) Joyner, Evers, Sobel**; (Similar to CS/H 0037) Knowingly and Willfully Giving False Information to a Law Enforcement Officer

CS/SB 210 by **CJ, Wise**; (Identical to CS/CS/H 0135) Costs of Prosecution, Investigation, and Representation

CS/SB 940 by **CJ, Wise**; (Similar to CS/CS/H 0497) Juvenile Expunction

SB 522 by **Braynon**; (Identical to H 4047) Judicial Census Commissions

CS/CS/SB 964 by **CF, CJ, Benacquisto (CO-INTRODUCERS) Gaetz, Lynn, Hays, Altman**; (Similar to CS/1ST ENG/H 0437) Protection of Minors

CS/SB 1816 by **CJ, Benacquisto (CO-INTRODUCERS) Sachs**; (Compare to CS/CS/H 1355) Protection of Vulnerable Persons

596294 D S L BJA, Bennett Delete everything after 02/27 07:27 PM

CS/SB 876 by **CJ, Benacquisto**; (Identical to CS/H 0429) Robbery by Sudden Snatching

CS/SB 950 by **CJ, Simmons (CO-INTRODUCERS) Storms**; (Similar to CS/CS/H 1099) Stalking and Aggravated Stalking

SB 1268 by **Simmons**; (Identical to H 4077) Actions for Damages

CS/CS/SB 1166 by **JU, RI, Simmons**; (Similar to CS/H 7095) Clerks of Court

CS/SB 1272 by **CJ, Latvala**; (Identical to CS/CS/H 0947) Possession of a Firearm or Destructive Device During the Commission of an Offense

CS/SB 1580 by **CA, Latvala**; (Compare to CS/CS/1ST ENG/H 1443) Local Administrative Action to Abate Public Nuisances and Criminal Gang Activity

SB 1322 by **Norman**; (Similar to H 0997) Local Requirements for Dangerous Dogs

CS/SB 1324 by **CM, Norman**; (Identical to CS/H 1323) Metal Theft

CS/SB 1830 by **JU, Flores**; (Similar to CS/CS/H 0921) Landlords and Tenants

CS/CS/SB 834 by **CJ, ED, ED**; (Compare to CS/CS/H 0949) Juvenile Justice Education and Workforce Programs

370770 D S BJA, Thrasher Delete everything after 02/27 10:34 AM

CS/SB 2096 by **CJ, CJ**; Community Reentry Programs

CS/SB 1846 by **CJ, Evers**; (Similar to CS/CS/H 1173) Criminal Gang Prevention

CS/SB 448 by **CJ, Bogdanoff (CO-INTRODUCERS) Lynn**; (Compare to CS/CS/CS/H 0177) Inmate Reentry

112726 D S L BJA, Bogdanoff Delete everything after 02/27 04:29 PM

CS/SB 462 by **JU, Bogdanoff**; (Similar to CS/1ST ENG/H 0631) Terms of Courts

103418 A S L BJA, Bogdanoff btw L.160 - 161: 02/27 04:28 PM

SB 1200 by **Bogdanoff**; (Similar to H 1157) Sexual Offenders and Sexual Predators

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

**BUDGET SUBCOMMITTEE ON CRIMINAL AND CIVIL
JUSTICE APPROPRIATIONS**
Senator Bogdanoff, Chair
Senator Joyner, Vice Chair

MEETING DATE: Tuesday, February 28, 2012

TIME: 10:45 a.m.—12:45 p.m.

PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Bogdanoff, Chair; Senator Joyner, Vice Chair; Senators Bennett, Evers, Smith, Storms, and Thrasher

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 1360 Hays (Identical H 1209)	Application of Foreign Law in Certain Cases; Clarifying that the public policies expressed in the act apply to violations of a natural person's fundamental liberties, rights, and privileges guaranteed by the State Constitution or the United States Constitution; declaring that certain decisions rendered under such laws, codes, or systems are void; providing that the act may not be construed to require or authorize any court to adjudicate, or prohibit any religious organization from adjudicating, ecclesiastical matters in violation of specified constitutional provisions or to conflict with any federal treaty or other international agreement to which the United States is a party to a specified extent, etc.	
		JU 01/25/2012 Favorable BJA 02/28/2012 BC	
2	SB 858 Negron (Similar CS/H 37, Compare H 49, H 259, S 84, S 86, S 146)	Knowingly and Willfully Giving False Information to a Law Enforcement Officer; Providing that it is a third-degree felony for a person to knowingly and willfully give false information to a law enforcement officer conducting a missing person investigation involving a child 16 years of age or younger with the intent to mislead the officer or impede the investigation if the child suffers great bodily harm, permanent disability, permanent disfigurement, or death; providing criminal penalties, etc.	
		CJ 01/12/2012 Favorable JU 01/19/2012 Favorable BJA 02/28/2012 BC	

COMMITTEE MEETING EXPANDED AGENDA

Budget Subcommittee on Criminal and Civil Justice Appropriations
Tuesday, February 28, 2012, 10:45 a.m.—12:45 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/SB 210 Criminal Justice / Wise (Identical CS/CS/H 135)	Costs of Prosecution, Investigation, and Representation; Providing for the withholding of unpaid costs of prosecution and representation from the return of a cash bond posted on behalf of a criminal defendant; requiring a notice on bond forms of such possible withholding; clarifying the types of cases that are subject to the collection and dispensing of cost payments by the clerk of the court; providing for assessment of costs of prosecution against a juvenile who has been adjudicated delinquent or has adjudication of delinquency withheld, etc. CJ 11/03/2011 Temporarily Postponed CJ 01/12/2012 Fav/CS JU 01/19/2012 Favorable BJA 02/28/2012 BC	
4	CS/SB 940 Criminal Justice / Wise (Similar CS/CS/H 497) (If Received)	Juvenile Expunction; Allowing minors who have certain felony arrests to have the Department of Law Enforcement expunge their nonjudicial arrest record upon successful completion of a prearrest or postarrest diversion program; extending the application submission period for minors who have successfully completed a prearrest or postarrest diversion program; extending the application submission date for minors who completed the program before a certain date, etc. CJ 02/22/2012 Fav/CS BC	
5	SB 522 Braynon (Identical H 4047)	Judicial Census Commissions; Repealing provisions relating to judicial census commissions, etc. JU 11/17/2011 Favorable BJA 02/28/2012 BC	

COMMITTEE MEETING EXPANDED AGENDA

Budget Subcommittee on Criminal and Civil Justice Appropriations
Tuesday, February 28, 2012, 10:45 a.m.—12:45 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	CS/CS/SB 964 Children, Families, and Elder Affairs / Criminal Justice / Benacquisto (Similar CS/H 437, Compare H 215, S 436)	Protection of Minors; Citing this act as the "Protect Our Children Act"; requiring a person convicted of a second or subsequent violation of a specified video voyeurism provision to register as a sexual offender if the victim of the violation was a minor; providing that if more than one child is involved in a violation of provisions prohibiting sexual performance by a child, a separate offense may be charged for each child; requiring a person convicted of a video voyeurism violation to register as a sexual offender if the victim of the violation was a minor; revising the definition of the term "place and time when a person has a reasonable expectation of privacy" to include the interior of a residential dwelling; increasing the classification of specified video voyeurism offenses involving minors, etc. CJ 01/25/2012 Fav/CS CF 02/09/2012 Fav/CS BJA 02/28/2012 BC	
7	CS/SB 1816 Criminal Justice / Benacquisto (Compare CS/H 1355, H 7049, CS/S 1880)	Protection of Vulnerable Persons; Deleting the definition of the term "other person responsible for a child's welfare"; revising provisions concerning child abuse reporting; requiring specified educational institutions and their law enforcement agencies to report known or suspected child abuse, abandonment, or neglect in certain circumstances; providing financial penalties for violations; providing for upward reclassification of certain prostitution offenses involving minors; providing for relocation assistance for certain victims of sexual violence, etc. CJ 01/31/2012 Fav/CS BJA 02/28/2012 BC	
8	CS/SB 876 Criminal Justice / Benacquisto (Identical CS/H 429)	Robbery by Sudden Snatching; Clarifying that the offense of robbery by sudden snatching includes the taking of money or other property from the victim's person or from the area within the victim's immediate reach or control; providing criminal penalties, etc. CJ 02/16/2012 Fav/CS BJA 02/28/2012 BC	

COMMITTEE MEETING EXPANDED AGENDA

Budget Subcommittee on Criminal and Civil Justice Appropriations
Tuesday, February 28, 2012, 10:45 a.m.—12:45 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	CS/SB 950 Criminal Justice / Simmons (Similar CS/CS/H 1099)	Stalking and Aggravated Stalking; Redefining the terms "course of conduct" and "credible threat" and defining the term "immediate family"; providing that a person who makes a threat which places another person in reasonable fear for his or her safety or the safety of his or her immediate family commits the offense of aggravated stalking under certain circumstances; creating a civil cause of action for an injunction for protection against stalking or cyberstalking; providing procedures to follow when the respondent has violated the injunction for protection, etc. CJ 01/12/2012 Temporarily Postponed CJ 01/19/2012 Fav/CS JU 01/25/2012 Favorable BJA 02/28/2012 BC	
10	SB 1268 Simmons (Identical H 4077)	Actions for Damages; Repealing provisions relating to an optional settlement conference in certain tort actions, etc. JU 01/25/2012 Favorable BJA 02/28/2012 BC RC	
11	CS/CS/SB 1166 Judiciary / Regulated Industries / Simmons (Similar CS/H 7095, Compare CS/CS/CS/CS/H 481, CS/CS/S 860)	Clerks of Court; Authorizing the clerk of court to review the property records and motor vehicle records to determine whether an applicant for the appointment of a public defender is indigent; requiring clerks of the circuit courts to use the Comprehensive Case Information System and to submit data to the system based on case types designated by the Supreme Court of Florida; requiring the party filing a case in county court to pay all filing and reopen fees at the time of filing; requiring that the clerk of court implement an automated electronic system for drawing jury venire; providing for the duty of a clerk of court to notify the Commission on Ethics of certain proceedings involving public officers or employees to arise after the clerk is advised by the state attorney that the defendant is a public officer or employee who is alleged to have committed a specified offense, etc. RI 02/07/2012 Fav/CS JU 02/16/2012 Fav/CS BJA 02/28/2012 BC	

COMMITTEE MEETING EXPANDED AGENDA

Budget Subcommittee on Criminal and Civil Justice Appropriations
Tuesday, February 28, 2012, 10:45 a.m.—12:45 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	CS/SB 1272 Criminal Justice / Latvala (Identical CS/CS/H 947)	Possession of a Firearm or Destructive Device During the Commission of an Offense; Providing that an exception to the 10-year minimum term for persons convicted of certain offenses during which the person actually possessed a firearm or destructive device does not apply to offenders convicted for possession of a firearm by a felon who have certain prior convictions, etc. CJ 02/09/2012 CJ 02/09/2012 Fav/CS BJA 02/28/2012 BC	
13	CS/SB 1580 Community Affairs / Latvala (Compare CS/CS/H 1443)	Local Administrative Action to Abate Public Nuisances and Criminal Gang Activity; Authorizing a local administrative board to declare a place to be a public nuisance if the place is used on more than two occasions within a 6-month period as the site of the storage of a controlled substance with intent to sell or deliver the controlled substance; prohibiting a county or municipality from declaring a place or premises a public nuisance unless the county or municipality gives prior notice to the owner of the place or premises of its intent to declare the place or premises a public nuisance and affords the owner an opportunity to abate the nuisance; providing that an order entered against a person for a public nuisance expires after 1 year or at an earlier time if so stated in the order unless the person has violated the order during the term of the order, etc. CJ 02/09/2012 CJ 02/09/2012 Favorable CA 02/21/2012 Fav/CS BJA 02/28/2012 BC	
14	SB 1322 Norman (Similar H 997)	Local Requirements for Dangerous Dogs; Removing the provision that exempts local ordinances adopted before a specified date from the prohibition on ordinances that are specific to breed or that lessen state restrictions governing dangerous dogs, etc. CA 01/30/2012 Favorable GO 02/07/2012 Favorable BJA 02/28/2012 BC	

COMMITTEE MEETING EXPANDED AGENDA

Budget Subcommittee on Criminal and Civil Justice Appropriations
Tuesday, February 28, 2012, 10:45 a.m.—12:45 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
15	CS/SB 1324 Commerce and Tourism / Norman (Identical CS/H 1323, Compare CS/H 885, CS/CS/CS/S 540)	Metal Theft; Increasing the criminal penalties for specified violations relating to secondary metals recycling; providing increased criminal penalties for third and subsequent criminal violations; defining the term "electrical substation"; prohibiting removing or assisting with the removal of copper or other nonferrous metals from an electrical substation site without authorization of the utility; providing criminal penalties, etc. CM 01/26/2012 Fav/CS CJ 02/16/2012 Favorable BJA 02/28/2012 BC	
16	CS/SB 1830 Judiciary / Flores (Similar CS/CS/H 921, Compare H 281, S 1082, CS/S 1182)	Landlords and Tenants; Providing that the right to attorney fees may not be waived in a lease agreement; providing a limited rebuttable presumption of receipt of security deposits; providing that a landlord does not waive the right to terminate the rental agreement or to bring a civil action for noncompliance by accepting partial rent, subject to certain notice; providing that a mobile home park owner must be given an opportunity to cure a deficiency in any notice or pleadings prior to dismissal of an eviction action, etc. JU 02/09/2012 Temporarily Postponed JU 02/16/2012 Fav/CS BJA 02/28/2012 BC	
17	CS/CS/SB 834 Criminal Justice / Education Pre-K - 12 / Education Pre-K - 12 (Similar CS/S 1610, Identical CS/H 949)	Juvenile Justice Education and Workforce Programs; Requiring that each juvenile committed to a juvenile justice commitment program have a transition plan upon release; requiring that the transition plan include an education transition plan component and information regarding delinquency treatment and intervention services that are accessible upon exiting the program; requiring that the Department of Education rather than the Department of Juvenile Justice ensure that there is accurate cost accounting for certain education programs; creating the "Florida Juvenile Justice Education Act", etc. ED 11/17/2011 Workshop-Discussed ED 12/06/2011 Fav/CS CJ 01/12/2012 Temporarily Postponed CJ 02/09/2012 CJ 02/09/2012 Fav/CS BJA 02/28/2012 BC	

COMMITTEE MEETING EXPANDED AGENDA

Budget Subcommittee on Criminal and Civil Justice Appropriations
Tuesday, February 28, 2012, 10:45 a.m.—12:45 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
18	CS/SB 2096 Criminal Justice / Criminal Justice	Community Reentry Programs; Requiring the Department of Corrections to develop an operational plan to implement a community reentry program; requiring that all inmates who are within 36 months of their release date be considered for participation in the community reentry program; requiring that an inmate who is selected for participation in the reentry program be transferred into the program no later than 24 months before his or her release date; requiring that the department submit a report and proposed budget request to the Governor and Legislature by a specified date; deleting a provision limiting the modes of transportation an inmate may use when traveling to and from his or her place of employment, education, or training; repealing provisions relating to a prohibition on the driving of inmates participating in a work-release program in state-owned vehicles, etc. CJ 02/16/2012 Fav/CS BJA 02/28/2012 BC	
19	CS/SB 1846 Criminal Justice / Evers (Similar CS/CS/H 1173)	Criminal Gang Prevention; Providing enhanced criminal penalties for certain trespassing offenses in school safety zones by a person convicted of certain gang-related offenses; providing enhanced criminal penalties for a person who intentionally causes, encourages, solicits, or recruits another person under a specified age to become a criminal gang member in certain circumstances; authorizing county and municipal detention facilities to designate an individual to be responsible for determining the gang status of each inmate entering the facility and to assess each current inmate for gang activity or gang affiliation; revising the criteria for application of the sentencing multiplier for offenses related to criminal gangs, etc. CJ 02/09/2012 CJ 02/09/2012 Fav/CS BJA 02/28/2012 BC	

COMMITTEE MEETING EXPANDED AGENDA

Budget Subcommittee on Criminal and Civil Justice Appropriations
Tuesday, February 28, 2012, 10:45 a.m.—12:45 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
20	CS/SB 448 Criminal Justice / Bogdanoff (Compare CS/CS/H 177)	Inmate Reentry; Directing the Department of Corrections to develop and administer a reentry program for nonviolent offenders which is intended to divert nonviolent offenders from long periods of incarceration; directing the department to notify the nonviolent offender's sentencing court to obtain approval before the nonviolent offender is placed into the reentry program; requiring the sentencing court to notify the department of the court's decision to approve or disapprove the requested placement within a specified period; requiring that the department submit a report to the sentencing court at least 30 days before the nonviolent offender is scheduled to complete the reentry program; directing the department to develop a system for tracking recidivism, including, but not limited to, rearrests and recommitment of nonviolent offenders who successfully complete the reentry program, and to report on recidivism in its annual report of the program, etc. CJ 11/17/2011 Fav/CS BJA 02/28/2012 BC	
21	CS/SB 462 Judiciary / Bogdanoff (Similar CS/H 631)	Terms of Courts; Repealing provisions relating to regular terms of the Supreme Court, regular terms of the district courts of appeal, special terms of the district courts of appeal, terms of the circuit courts, requiring a judge to attend the first day of each term of the circuit court, a requirement that criminal trials be heard in the term of court prior to civil cases, and a requirement that persons in custody be arraigned and tried in the term of court unless good cause is shown; allowing the Supreme Court to set terms of court for the Supreme Court, district courts of appeal, and circuit courts; providing that appellate courts may withdraw a mandate within 120 days after its issuance, etc. JU 01/31/2012 JU 02/09/2012 Fav/CS BJA 02/28/2012 BC	

COMMITTEE MEETING EXPANDED AGENDA

Budget Subcommittee on Criminal and Civil Justice Appropriations
Tuesday, February 28, 2012, 10:45 a.m.—12:45 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
22	SB 1200 Bogdanoff (Similar H 1157, Compare H 731, S 1004)	Sexual Offenders and Sexual Predators; Defining the term "homelessness" and deleting the definition of the term "transient residence"; conforming provisions to the revisions in terminology made by the act; clarifying provisions concerning loitering by certain offenders; requiring specified monthly registration by homeless offenders and predators; providing that failure to comply with such registration is a violation of specified provisions, etc. CJ 01/31/2012 Favorable BJA 02/28/2012 BC	

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: SB 1360

INTRODUCER: Senator Hays

SUBJECT: Application of Foreign Law in Certain Cases

DATE: February 6, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Irwin	Cibula	JU	Favorable
2.	Harkness	Sadberry	BJA	Pre-meeting
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill states that any court decision or ruling based, in whole or in part, on any foreign law or legal code that does not grant the parties affected by the ruling the same fundamental liberties, rights, and privileges granted by the State Constitution or the Constitution of the United States violates public policy and is void and unenforceable. Also, any contract that provides for choice of law to govern disputes between the parties is void and unenforceable if the law chosen incorporates any substantive or procedural law that would not provide the parties the same fundamental liberties, rights, and privileges afforded by the State Constitution and the Constitution of the United States.

The bill states that if a contract provides for a choice of venue outside the state or territory of the United States and if enforcement of that choice of venue would result in a violation of any right guaranteed by the State Constitution or the Constitution of the United States, then the provision must be construed to preserve the constitutional rights of the person against whom enforcement is sought. Finally, a claim of forum non conveniens¹ must be denied if a court of this state finds that granting the claim violates or would likely lead to a violation of any constitutional right of the nonclaimant in the foreign forum.

The bill provides that it does not apply to corporations, partnerships, or other forms of business associations. And the bill only applies to actual or foreseeable denials of a natural person's

¹ "Forum non conveniens" is the "doctrine that an appropriate forum – even though competent under the law – may divest itself of jurisdiction if, for the convenience of the litigants and the witnesses, it appears that the action should proceed in another forum in which the action might also have been properly brought in the first place." BLACK'S LAW DICTIONARY (9th ed. 2009).

constitutional rights in proceedings brought under or pertaining to the subject matter of chapter 61 or chapter 88, F.S., Dissolution of Marriage and the Uniform Interstate Family Support Act, respectively.

This bill creates section 45.022, Florida Statutes.

II. Present Situation:

Application or Interpretation of Foreign Laws or Decisions

Courts in the United States use three guiding doctrines when deciding cases that involve the application or interpretation of foreign laws or decisions: the political question doctrine, the act of state doctrine, and the international comity doctrine.

Political Question Doctrine

A court may determine, under the political question doctrine, that a dispute should be addressed by the political branches of government and that the judicial branch is the inappropriate forum for a decision concerning political matters. The political question doctrine stems from constitutional separation of powers concerns and contemplates the strong legislative and presidential foreign affairs powers.²

In *Baker v. Carr*, the U.S. Supreme Court found that if one of the following circumstances exists in a case, then typically the matter is a political question and should not be decided by the court.

- There exists a textually demonstrable constitutional commitment of the issue to a coordinate political department;
- There is a lack of judicially discoverable and manageable standards for resolving the issue;
- It is impossible to decide the issue without an initial policy determination of a kind clearly for nonjudicial discretion;
- It is impossible for a court to undertake independent resolution of the issue without expressing lack of the respect due to coordinate branches of government;
- There is an unusual need for unquestioning adherence to a political decision already made; or
- There is the potential for embarrassment from multifarious pronouncements by various departments on one question.³

Act of State Doctrine

The act of state doctrine provides that U.S. courts should not judge the acts of foreign heads of state made within their states' sovereign territory out of respect for those other states' sovereignty. When used in diplomatically sensitive suits, the doctrine stands for the proposition that when the executive branch makes a determination on a matter affecting U.S. foreign

² Jay M. Zitter, *Construction and Application of Political Question Doctrine by State Courts*, 9 A.L.R. 6th 177 (2005).

³ *Baker v. Carr*, 369 U.S. 186, 216 (1962).

relations, it is not for the judiciary to second-guess that branch's expertise by adjudicating what the executive concludes are sensitive claims.⁴

The classic American statement of the act of state doctrine is found in *Underhill v. Hernandez*, in which Chief Justice Fuller, speaking for a unanimous Court said:

Every sovereign state is bound to respect the independence of every other sovereign state, and the courts of one country will not sit in judgment on the acts of the government of another done within its own territory. Redress of grievances by reason of such acts must be obtained through the means open to be availed of by sovereign powers as between themselves.⁵

However, the application of the act of state doctrine is limited, and courts may decide certain controversies involving foreign judgments. The act of state doctrine applies only to "official" acts of a sovereign.⁶ If there is a treaty or written U.S. State Department opinion disfavoring the application of the doctrine, the act of state doctrine may be avoided.⁷ In addition, the Federal Arbitration Act expressly provides that enforcement of arbitration agreements shall not be refused on the basis of the act of state doctrine.⁸

The act of state doctrine merely requires that those acts by a sovereign within its own territory must be deemed valid under the sovereign's own law.⁹

International Comity Doctrine¹⁰

The doctrine of "comity" is based on respect for the sovereignty of other states or countries, and under it, the forum state will generally apply the substantive law of a foreign sovereign to causes of action which arise in that sovereign. "International comity" is the recognition that one nation allows within its territory the legislative, executive, or judicial acts of another nation, having due regard to international duty and convenience, and to the rights of its own citizens or of other persons who are under the protection of its laws.¹¹

The principle of international comity is an abstention doctrine, which recognizes that there are circumstances under which the application of foreign law may be more appropriate than the application of U.S. law. Thus, under this doctrine, courts sometimes defer to laws or interests of a foreign country and decline to exercise the jurisdiction they otherwise have.

⁴ O'Donnell, Michael J., *A Turn for the Worse: Foreign Relations, Corporate Human Rights Abuse, and the Courts*, 24 B.C. Third World L.J. 223 (2004), available at <http://www.michael-odonnell.com/Note.pdf>.

⁵ *Underhill v. Hernandez*, 168 U.S. 250, 252 (1897).

⁶ *W.S. Kirkpatrick Co. v. Environ. Tectonics Corp. Int'l*, 493 U.S. 400, 406 (1990). Note: Commercial acts by foreign governments are not generally deemed to be "official acts."

⁷ Scullion R. Scullion et al., *Proskauer on International Litigation and Arbitration: Ch. 9 Suing Non-U.S. Governmental Entities in U.S. Courts*, available at <http://www.proskauerguide.com/litigation/9/XV>.

⁸ 9 U.S.C. s. 15.

⁹ O'Donnell, *supra* note 4.

¹⁰ Information concerning the international comity doctrine was adapted from 44B AM. JUR. 2D *International Law* s. 8 (2011).

¹¹ See *Allstate Life Insurance, Co. v. Linter Group Ltd.*, 994 F.2d 996, 998-99 (2d Cir. 1993), citing *Hilton v. Guyot*, 159 U.S. 113, 164 (1895).

Furthermore, international comity is a doctrine that permits a court having a legitimate claim to jurisdiction to conclude that another sovereign also has a legitimate claim to jurisdiction under principles of international law and may concede the case to that jurisdiction. The international comity principle provides for recognition of foreign proceedings to the extent that such proceedings are determined to be orderly, fair, and not detrimental to the nation's interests.¹²

The doctrine of comity is used as a guide for the court, in construing a statute, where the issues to be resolved are entangled in international relations. A generally recognized rule of international comity states that an American court will only recognize a final and valid judgment. This doctrine is not obligatory and is not a rule of law, but is a doctrine of practice, convenience, and expediency. However, the doctrine of comity creates a strong presumption in favor of recognizing foreign judicial decrees. A court may deny comity to a foreign legislative, executive, or judicial act if it finds that the extension of comity would be contrary or prejudicial to the interest of the United States, or violates any laws or public policies of the United States.¹³

Uniform Out-of-country Foreign Money-Judgment Recognition Act

The recognition of foreign judgments in Florida is governed by the Uniform Out-of-country Foreign Money-Judgment Recognition Act (Florida Recognition Act).¹⁴ The Supreme Court of Florida has noted that the Florida Recognition Act was adopted to “ensure the recognition abroad of judgments rendered in Florida.”¹⁵ Accordingly, the Florida Recognition Act attempts to guarantee the recognition of Florida judgments in foreign countries by providing reciprocity in Florida for judgments rendered abroad.¹⁶ However, even though the Florida Recognition Act presumes that foreign judgments are prima facie enforceable, the Florida Recognition Act is also designed to preclude Florida courts from recognizing foreign judgments in certain prescribed cases where the Legislature has determined that enforcement would be unjust or inequitable to domestic defendants.¹⁷

The Florida Recognition Act delineates three mandatory and eight discretionary circumstances under which a foreign judgment may not be entitled to recognition. In Florida, a foreign judgment is not conclusive if:

- The judgment was rendered under a system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law.
- The foreign court did not have personal jurisdiction over the defendant.
- The foreign court did not have jurisdiction over the subject matter.¹⁸

¹² See *Allstate Life Insurance, Co. v. Linter Group Ltd.*, 994 F.2d 996, 999 (2d Cir. 1993), citing *Cunard S.S. Co. v. Salen Reefer Serv.* AB,773 F.2d 452, 457 (2d Cir. 1985).

¹³ *Id.* at 1000.

¹⁴ Sections 55.601-55.607, F.S.

¹⁵ *Nadd v. Le Credit Lyonnais, S.A.*, 804 So. 2d 1226, 1228 (Fla. 2001).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

A foreign judgment need not be recognized if:

- The defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him or her to defend.
- The judgment was obtained by fraud.
- The cause of action or claim for relief on which the judgment is based is repugnant to the public policy of this state.
- The judgment conflicts with another final and conclusive order.
- The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court.
- In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action.
- The foreign jurisdiction where judgment was rendered would not give recognition to a similar judgment rendered in this state.
- The cause of action resulted in a defamation judgment obtained in a jurisdiction outside the United States, unless the court sitting in this state before which the matter is brought first determines that the defamation law applied in the foreign court's adjudication provided at least as much protection for freedom of speech and press in that case as would be provided by the U.S. Constitution and the Florida Constitution.¹⁹

Florida Arbitration Act

In Florida, two or more opposing parties involved in a civil dispute may agree in writing to submit the controversy to voluntary binding arbitration, or voluntary trial resolution, in lieu of litigating the issues involved, prior to or after a lawsuit has been filed, provided no constitutional issue is involved.²⁰

A voluntary binding arbitration decision may be appealed in a Florida circuit court and limited to review on the record of whether the decision reaches a result contrary to the U.S. Constitution or the Florida Constitution.²¹

Uniform Child Custody Jurisdiction and Enforcement Act

In 2002, the Legislature enacted the “Uniform Child Custody Jurisdiction and Enforcement Act” (act) to:

- Avoid jurisdictional competition and conflict with courts of other states in matters of child custody which have in the past resulted in the shifting of children from state to state with harmful effects on their well-being.
- Promote cooperation with the courts of other states to the end that a custody decree is rendered in the state that can best decide the case in the interest of the child.
- Discourage the use of the interstate system for continuing controversies over child custody.
- Deter abductions.
- Avoid relitigating the custody decisions of other states in this state.

¹⁹ *Id.*

²⁰ Section 44.104(1), F.S.

²¹ Section 44.104(10)(c), F.S.

- Facilitate the enforcement of custody decrees of other states.
- Promote and expand the exchange of information and other forms of mutual assistance between the courts of this state and those of other states concerned with the same child.
- Make uniform the law with respect to the subject of the act among the states enacting it.²²

The act prescribes the circumstances under which a court has jurisdiction, mechanisms for granting temporary emergency jurisdiction, and procedures for the enforcement of out-of-state custody orders, including assistance from state attorneys and law enforcement in locating a child and enforcing an out-of-state decree. It facilitates resolution of interstate custody matters and provides for the custody, residence, visitation, or responsibility of a child.

In addition, the act requires a court of this state to treat a foreign country as if it were a state of the U.S. for purposes of applying the provisions of the act. Also, a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of the act must be recognized and enforced, unless the child custody law of the foreign country violates fundamental principles of human rights.²³

American Law for American Courts Movement

Recently, there has been a movement around the country to ban the use of some foreign laws in United States courts. Although this movement has been primarily targeted at prohibiting the use of Islamic Shariah law, advocates of the movement have promoted model legislation banning the use of any law that infringes on constitutional rights.²⁴ Presumably, this action has been taken to avoid freedom of religion challenges. The American Public Policy Alliance,²⁵ a group focused on the promotion of American Law for American Courts, states:

One of the greatest threats to American values and liberties today comes from abroad, including foreign laws and foreign legal doctrines which have been infiltrating our court system at the municipal, state and federal levels. . . . [The] APPA focuses on countering this infiltration of anti-Constitutional laws across a broad variety of initiatives.²⁶

This group offers model legislation that lawmakers may adopt and file as bills in their individual states.

In 2010, 70 percent of Oklahoma voters voted in favor of an Oklahoma constitutional amendment banning the use of Islamic Sharia law in court decisions.²⁷ A Muslim citizen of

²² Section 61.502, F.S. *See also*, ch. 2002-65, s. 5, Laws of Fla. Note: This act replaced the Uniform Child Custody Jurisdiction Act (UCCJA), adopted in 1977.

²³ Section 61.506, F.S.

²⁴ Public Policy Alliance, *American Law for American Courts*, http://publicpolicyalliance.org/?page_id=38 (last visited January 22, 2012).

²⁵ The American Public Policy Alliance describes itself as “a non-partisan advocacy organization dedicated to protecting U.S. constitutional rights, safeguarding U.S. sovereignty and promoting government transparency and accountability” See the organization’s website, http://publicpolicyalliance.org/?page_id=2 (last visited January 22, 2012).

²⁶ *Id.*

²⁷ Meredith Jessup, *Oklahoma Shariah Ban May Conflict with U.S. Constitution*, The Blaze (Nov. 4, 2010), <http://www.theblaze.com/stories/oklahoma-sharia-ban-may-conflict-with-u-s-constitution/> (last visited January 22, 2012).

Oklahoma sought and was granted a preliminary injunction prior to the amendment being certified by the Election Board as a constitutional amendment.²⁸ On appeal, the United States Court of Appeals for the 10th Circuit affirmed the preliminary injunction prohibiting the certification of the Oklahoma constitutional amendment. The Circuit Court stated:

The proposed amendment goes further than preventing courts from “applying” Sharia law. The amendment forbids state courts from “considering” those laws. Even if the state could identify and support a reason to single out and restrict Sharia law in its courts, the amendment’s complete ban of Sharia law is hardly an exercise of narrow tailoring. [The State has] not carried [its] burden to show why the proposed amendment is “closely fitted” to a compelling state interest.²⁹

Additionally, other states, Florida, Tennessee, and Louisiana had comparable bills filed during the 2010 regular session in each of those states.³⁰ Those bills sought to ban the use of foreign laws in court decisions if the foreign laws would violate the fundamental rights guaranteed under the state or United States Constitutions.³¹ The issue has received recent attention in Florida, where a circuit court judge in Hillsborough County issued an order on March 3, 2011, regarding the disposition of proceeds flowing from the 2008 eminent domain taking of a Tampa mosque.³² The judge’s order states that the case will proceed under Ecclesiastical Islamic Law.³³

III. Effect of Proposed Changes:

The bill defines “foreign law, legal code, or system” as any law, legal code, or system of a jurisdiction outside any state or territory of the United States. The bill states that any court, tribunal, or administrative agency ruling or decision that bases the decision, in whole or in part, on any law, legal code, or system that does not grant the parties affected by the ruling the same fundamental liberties, rights, and privileges granted under the State Constitution and the Constitution of the United States violates public policy of the State of Florida and is void and unenforceable.

Similarly, the bill provides that any contract or contractual provision, if severable, that provides for a choice of law, legal code, or system to govern some or all of the disputes between parties, either in court or in arbitration, is void and unenforceable if the law, legal code, or system chosen includes or incorporates any substantive or procedural law that would not provide the parties the same fundamental liberties, rights, and privileges granted under the State Constitution and the Constitution of the United States. If a contractual provision provides for a choice of venue or forum outside the state or territory of the United States and if enforcement of that choice of venue or forum would result in a violation of any right guaranteed by the State Constitution or

²⁸ *Awad v. Ziriax*, 2012 WL 50636, at *3 (10th Cir. 2012).

²⁹ *Id.* at *14.

³⁰ CS/SB 1962 (2010 Reg. Session); Tennessee HB 3768 (2010); Louisiana HB 785 (2010).

³¹ *Id.*

³² William R. Levesque, *Hillsborough Judge in Islamic Law Case No Liberal*, St. Petersburg Times (April 1, 2011), <http://www.tampabay.com/news/courts/civil/hillsborough-judge-in-islamic-law-case-no-liberal/1160886> (last visited January 22, 2012).

³³ *Ghassan Mansour et al. v. Islamic Education Center of Tampa, Inc.*, case no. 08-03497 (Fla. 13th Jud. Cir. 2011), http://tool.donation-net.net/Images/Email/1097/110303_Order_in_Connection_with_Plaintiffs_Emergency_Motion.pdf.

Constitution of the United States, then the provision must be construed to preserve the constitutional rights of the person against whom enforcement is sought. Finally, a claim of forum non conveniens must be denied if a court of this state finds that granting the claim violates or would likely lead to a violation of any constitutional right of the nonclaimant in the foreign forum.

The bill does not apply to a corporation, partnership, or other form of business association. Also, the bill only applies to actual or foreseeable denials of a natural person's constitutional rights. Finally, the bill contains a severability clause, providing that if any provision of this bill or its application is held invalid, the invalidity does not affect other provisions or applications of the bill.

The bill provides that it shall take effect upon becoming law.

IV. Constitutional Issues:³⁴

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Federal Preemption

The doctrine of preemption limits state action in foreign affairs. Article VI of the U.S. Constitution states that the laws and treaties of the U.S. are the "supreme Law of the Land," and, therefore, they preempt state law. The United States Court of Appeals for the 9th Circuit has recently held that even if a state statute was not preempted by a direct conflict with federal law, field preemption could still occur if the state law purported to regulate a "traditional state responsibility," but actually "infringed on a foreign affairs power reserved by the Constitution exclusively to the national government."³⁵ If the bill faces a federal preemption challenge, a court could potentially find that the bill substantially infringes on a foreign affairs power reserved to the national government. Such a finding would likely cause a court hold that the bill is preempted by federal foreign affairs powers.

³⁴ The constitutional analysis was adapted, in part, from Eduardo E. Neret and Marcio W. Valladares, *The Florida International Affairs Act: A Model for State Activism in Foreign Affairs*, 1 J. Transnat'l L. & Pol'y 197 (1992).

³⁵ *Von Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d 954, 964 (9th Cir. 2010).

Dormant Federal Foreign Affairs Powers

Although not explicitly provided for in the U.S. Constitution, the Supreme Court has interpreted the U.S. Constitution to mean that the national government has exclusive power over foreign affairs. In *Zschernig v. Miller*, the Supreme Court reviewed an Oregon statute that refused to let a resident alien inherit property because the alien's home country barred U.S. residents from inheriting property. The Court held that the Oregon law as applied exceeded the limits of state power because the law interfered with the national government's exclusive power over foreign affairs. The Court also held that, to be unconstitutional, the state action must have more than "some incidental or indirect effect on foreign countries,"³⁶ and the action must pose a "great potential for disruption or embarrassment"³⁷ to the national unity of foreign policy. Such a determination would necessarily rely heavily on considerations of current political climates and foreign relations, as well as the United States' perception abroad. Due to the fact that these factors could only be evaluated if and when a challenge to this bill was brought, an assessment of the likelihood for success that such an action would have is not practical at this time.

Separation of Powers

The first three articles of the U.S. Constitution define the powers given to the three branches of government in the United States.³⁸ Article I defines the legislative branch and vests with it all power to make law. Article II defines the executive branch and vest in it the power to enforce the law. Article III defines the judicial branch and vests in it all judicial power. For time immemorial, that power has been understood to mean the power to interpret and apply the law.³⁹

As discussed above, to the extent that this bill directs Florida courts to consider and interpret foreign decisions and law in a certain manner, it may interfere with the federal government's ability to govern foreign policy with one voice. As such, this bill could be challenged as preempted by the federal government. Similarly, as previously stated, the judiciary's constitutional role is to act as the sole interpreter of laws; therefore, the bill could be challenged as an infringement on the essential role of the judicial branch in violation of the constitutional separation of powers. Similarly, the Florida Constitution explicitly mandates separation of powers between branches of the Florida government. Article II, section 3 of the Florida Constitution specifically states:

The powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein.

³⁶ *Zschernig v. Miller*, 389 U.S. 429, 433 (1968).

³⁷ *Id.* at 435.

³⁸ Articles I, II, III, U.S. Const.

³⁹ *Marbury v. Madison*, 5 U.S. 137, 177 (1803).

Because of this language, Florida's separation of powers doctrine is even stronger than the federal concept of separation of powers. Therefore, the bill's application could result in a potentially successful separation of powers challenge under the Florida Constitution, as well. In this way, the bill may face an additional separation of powers problem if a court determines that the bill infringes on the court's exclusive judicial authority under the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill has the potential to affect a private right to freely contract. Constriction of the right to freely contract could negatively impact business flexibility and competitiveness. However, because the bill explicitly states that it does not apply to corporations or partnerships, the bill is not likely to have a significant impact on Florida's overall business climate.

C. Government Sector Impact:

The Office of the State Courts Administrator did not anticipate a fiscal impact on judicial time or court workload.⁴⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

⁴⁰ Office of State Courts Administrator, *Judicial Impact Statement for SB 1360* (January 10, 2012) (on file with the Committee on Judiciary).

By Senator Hays

20-00106B-12

20121360__

1 A bill to be entitled
 2 An act relating to application of foreign law in
 3 certain cases; creating s. 45.022, F.S.; defining the
 4 term "foreign law, legal code, or system"; clarifying
 5 that the public policies expressed in the act apply to
 6 violations of a natural person's fundamental
 7 liberties, rights, and privileges guaranteed by the
 8 State Constitution or the United States Constitution;
 9 providing that the act does not apply to a
 10 corporation, partnership, or other form of business
 11 association, except when necessary to provide
 12 effective relief in proceedings under or relating to
 13 chapters 61 and 88, F.S.; specifying the public policy
 14 of this state in applying the choice of a foreign law,
 15 legal code, or system under certain circumstances in
 16 proceedings brought under or relating to chapters 61
 17 and 88, F.S., which relate to dissolution of marriage,
 18 support, time-sharing, the Uniform Child Custody
 19 Jurisdiction and Enforcement Act, and the Uniform
 20 Interstate Family Support Act; declaring that certain
 21 decisions rendered under such laws, codes, or systems
 22 are void; declaring that certain choice of venue or
 23 forum provisions in a contract are void; providing for
 24 the construction of a waiver by a natural person of
 25 the person's fundamental liberties, rights, and
 26 privileges guaranteed by the State Constitution or the
 27 United States Constitution; declaring that claims of
 28 forum non conveniens or related claims must be denied
 29 under certain circumstances; providing that the act

Page 1 of 5

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

20-00106B-12

20121360__

30 may not be construed to require or authorize any court
 31 to adjudicate, or prohibit any religious organization
 32 from adjudicating, ecclesiastical matters in violation
 33 of specified constitutional provisions or to conflict
 34 with any federal treaty or other international
 35 agreement to which the United States is a party to a
 36 specified extent; providing for severability;
 37 providing an effective date.
 38
 39 Be It Enacted by the Legislature of the State of Florida:
 40
 41 Section 1. Section 45.022, Florida Statutes, is created to
 42 read:
 43 45.022 Application of foreign law contrary to public policy
 44 in certain cases.—
 45 (1) As used in this section, the term "foreign law, legal
 46 code, or system" means any law, legal code, or system of a
 47 jurisdiction outside any state or territory of the United
 48 States, including, but not limited to, international
 49 organizations or tribunals, and applied by that jurisdiction's
 50 courts, administrative bodies, or other formal or informal
 51 tribunals. The term does not include the common law and statute
 52 laws of England as described in s. 2.01 or any laws of the
 53 Native American tribes in this state.
 54 (2) (a) This section applies only to actual or foreseeable
 55 denials of a natural person's fundamental liberties, rights, and
 56 privileges guaranteed by the State Constitution or the United
 57 States Constitution from the application of a foreign law, legal
 58 code, or system in proceedings brought under, pursuant to, or

Page 2 of 5

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

20-00106B-12

20121360

59 pertaining to the subject matter of chapter 61 or chapter 88.

60 (b) Except as necessary to provide effective relief in
 61 proceedings brought under, pursuant to, or pertaining to the
 62 subject matter of chapter 61 or chapter 88, this section does
 63 not apply to a corporation, partnership, or other form of
 64 business association.

65 (3) Any court, arbitration, tribunal, or administrative
 66 agency ruling or decision violates the public policy of this
 67 state and is void and unenforceable if the court, arbitration,
 68 tribunal, or administrative agency bases its ruling or decision
 69 in the matter at issue in whole or in part on any foreign law,
 70 legal code, or system that does not grant the parties affected
 71 by the ruling or decision the same fundamental liberties,
 72 rights, and privileges guaranteed by the State Constitution or
 73 the United States Constitution.

74 (4) (a) A contract or contractual provision, if severable,
 75 that provides for the choice of a foreign law, legal code, or
 76 system to govern some or all of the disputes between the parties
 77 to be adjudicated by a court of law or by an arbitration panel
 78 arising from the contract violates the public policy of this
 79 state and is void and unenforceable if the foreign law, legal
 80 code, or system chosen includes or incorporates any substantive
 81 or procedural law, as applied to the dispute at issue, which
 82 would not grant the parties the same fundamental liberties,
 83 rights, and privileges guaranteed by the State Constitution or
 84 the United States Constitution.

85 (b) This subsection does not limit the right of a natural
 86 person in this state to voluntarily restrict or limit his or her
 87 fundamental liberties, rights, and privileges guaranteed by the

20-00106B-12

20121360

88 State Constitution or the United States Constitution by contract
 89 or specific waiver consistent with constitutional principles,
 90 but the language of any such contract or other waiver must be
 91 strictly construed in favor of preserving such liberties,
 92 rights, and privileges.

93 (5) (a) If any contractual provision or agreement provides
 94 for the choice of venue or forum outside a state or territory of
 95 the United States, and if the enforcement or interpretation of
 96 the contract or agreement applying that choice of venue or forum
 97 provision would result in a violation of any fundamental
 98 liberties, rights, and privileges guaranteed by the State
 99 Constitution or the United States Constitution, that contractual
 100 provision or agreement shall be interpreted or construed to
 101 preserve such liberties, rights, and privileges of the person
 102 against whom enforcement is sought.

103 (b) If a natural person who is subject to personal
 104 jurisdiction in this state seeks to maintain litigation,
 105 arbitration, agency, or similarly binding proceedings in this
 106 state and the courts of this state find that granting a claim of
 107 forum non conveniens or a related claim denies or would likely
 108 lead to the denial of any fundamental liberties, rights, and
 109 privileges guaranteed by the State Constitution or the United
 110 States Constitution of the nonclaimant in the foreign forum with
 111 respect to the matter in dispute, it is the public policy of
 112 this state that the claim be denied.

113 (6) This section may not be construed to:

114 (a) Require or authorize any court to adjudicate, or
 115 prohibit any religious organization from adjudicating,
 116 ecclesiastical matters, including, but not limited to, the

20-00106B-12 20121360

117 election, appointment, calling, discipline, dismissal, removal,
118 or excommunication of a member, officer, official, priest, nun,
119 monk, pastor, rabbi, imam, or member of the clergy of the
120 religious organization, or determination or interpretation of
121 the doctrine of the religious organization, if such adjudication
122 or prohibition would violate s. 3, Art. I of the State
123 Constitution or the First Amendment to the United States
124 Constitution; or

125 (b) Conflict with any federal treaty or other international
126 agreement to which the United States is a party to the extent
127 that such federal treaty or international agreement preempts or
128 is superior to state law on the matter at issue.

129 (7) If any provision of this section or its application to
130 any natural person or circumstance is held invalid, the
131 invalidity does not affect other provisions or applications of
132 this section which can be given effect, and to that end the
133 provisions of this section are severable.

134 Section 2. This act shall take effect upon becoming a law.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: SB 858

INTRODUCER: Senator Negron and Others

SUBJECT: Knowingly and Willfully Giving False Information to a Law Enforcement Officer

DATE: January 20, 2012

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Dugger	Cannon	CJ	Favorable
2. O'Connor	Cibula	JU	Favorable
3. Sneed	Sadberry	BJA	Pre-meeting
4. _____	_____	BC	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

I. Summary:

Senate Bill 858 implements the recommendation of the Senate Select Committee on Protecting Florida's Children to amend s. 837.055, F.S., which currently makes it a first-degree misdemeanor to knowingly and willfully provide false information to a law enforcement officer during a missing person or felony criminal investigation. Specifically, the bill creates a third-degree felony offense for knowingly and willfully providing false information with the intent to mislead or impede a law enforcement officer in a missing person investigation involving a child 16 years of age or younger, and such child suffers great bodily harm, permanent disability, permanent disfigurement, or death.

This bill substantially amends s. 837.055 of the Florida Statutes.

II. Present Situation

Senate Bill 858 is a consensus product by the Senate Select Committee on Protecting Florida's Children which was created by President Haridopolos on August 10, 2011, in the wake of the Casey Anthony verdict.¹ The committee was charged with examining the various policy options

¹ Caylee Anthony was almost three years old when last seen alive on June 16th, 2008 at the Anthony residence. She was reported missing by her grandmother on July 15, 2008. Casey Anthony, the mother of Caylee, was indicted on charges of first degree murder, aggravated child abuse, aggravated manslaughter of a child, and providing false information to law enforcement; she pled not guilty. Caylee's skeletal remains were located in a wooded area near the family residence on December 11, 2008. On July 5, 2011, the jury found Casey Anthony not guilty of murder, aggravated child abuse, and aggravated manslaughter of a child, but guilty of four counts of providing false information to a law enforcement officer. Anthony received a sentence of one year in jail and a \$1,000 fine for each count.

to further advance the protection of children and determine whether changes to current law were needed.

The committee identified the relevant laws on child abuse and providing false information in missing children investigations. The committee examined ch. 827, F.S., relating to the abuse of children, s. 406.12, F.S., relating to the duty to report a death, and s. 837.055, F.S., relating to knowingly giving false information to a law enforcement officer during a missing person investigation. Particular attention was given to ss. 827.03 and 837.055, F.S., and their relationship to the circumstances in the Anthony case.²

Section 827.03, F.S., relates to the abuse, aggravated abuse, and neglect of children. Child abuse is defined as intentionally inflicting physical or mental injury on a child, committing an intentional act reasonably expected to result in physical or mental injury to a child, or actively encouraging the commission of an act resulting in physical or mental injury to a child. It is a third-degree felony offense to knowingly or willfully abuse a child without causing great bodily harm, permanent disability, or permanent disfigurement.³

Aggravated child abuse is defined as committing aggravated battery on a child; willfully torturing, maliciously punishing, or willfully and unlawfully caging a child; or knowingly or willfully abusing a child, thereby causing great bodily harm, permanent disability, or permanent disfigurement. It is a first-degree felony to commit aggravated child abuse.⁴

Neglect is defined as a caregiver's failure or omission to provide a child with care, supervision, and services necessary to maintain the child's physical and mental health that a prudent person would consider essential for the well-being of the child; or a caregiver's failure to make reasonable efforts to protect a child from abuse, neglect, or exploitation by another person.⁵ It is a second-degree felony to willfully or by culpable negligence neglect a child, thereby causing great bodily harm, permanent disability, or permanent disfigurement.⁶ It is a third-degree felony to willfully or by culpable negligence neglect a child without causing any great bodily harm, permanent disability, or permanent disfigurement.⁷

Section 837.055, F.S., criminalizes providing false information to a law enforcement officer during a missing person investigation. The law states that "[w]hoever knowingly and willfully gives false information to a law enforcement officer who is conducting a missing person investigation or a felony criminal investigation with the intent to mislead the officer or impede the investigation commits a misdemeanor of the first degree."⁸

After reviewing these laws and receiving testimony from child abuse officials, law enforcement entities, prosecutors, and defense counsel, the committee recommended the creation of a third-

² See Select Committee on Protecting Florida's Children, <http://www.flsenate.gov/Committees/Show/SPFC> (last visited Jan. 13, 2012).

³ Section 827.03(1), F.S.

⁴ Section 827.03(2), F.S.

⁵ Section 827.03(3)(a), F.S.

⁶ Section 827.03(3)(b), F.S.

⁷ Section 827.03(3)(c), F.S.

⁸ Section 837.055(1), F.S.

degree felony offense for persons who knowingly and willfully provide false information to law enforcement with the intent to mislead or impede a missing child investigation when the child is 16 years of age or younger and suffers great bodily harm or death.

III. Effect of Proposed Changes:

Senate Bill 858 implements the recommendation of the Senate Select Committee on Protecting Florida's Children by amending s. 837.055, F.S., to create a third-degree felony offense for persons who knowingly and willfully provide false information with the intent to mislead or impede a law enforcement officer in a missing person investigation involving a child 16 years of age or younger, and such child suffers great bodily harm, permanent disability, permanent disfigurement, or death. The current first-degree misdemeanor offense will remain applicable in all other missing person or felony criminal investigations, provided the requisite criminal elements for that offense exist.

The bill provides an effective date of July 1, 2012.

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:

Persons found guilty of the newly created third-degree felony offense will be subject to a potential fine of up to \$5,000⁹ rather than potentially up to \$1,000¹⁰ (currently applicable in a first-degree misdemeanor case). Similarly, such persons will be subject to an increase in potential imprisonment of up to five years in prison for the felony offense,¹¹ rather than potentially up to one year in county jail for the misdemeanor offense.¹²

⁹ Section 775.083(1)(c), F.S.

¹⁰ Section 775.083(1)(d), F.S.

¹¹ Section 775.082(3)(d), F.S.

¹² Section 775.082(4)(a), F.S.

C. Government Sector Impact:

On December 14, 2011, the Criminal Justice Impact Conference determined that the bill will have an insignificant fiscal impact upon the cost of housing prisoners within the Department of Corrections.¹³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

B. Amendments:

None.

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

¹³ Criminal Justice Impact Conference, *2012 Session Bills and Links to Backup Materials*, available at <http://edr.state.fl.us/content/conferences/criminaljusticeimpact/index.cfm> (last visited Jan. 13, 2012).

By Senator Negrón

28-00372B-12

2012858

A bill to be entitled

An act relating to knowingly and willfully giving false information to a law enforcement officer; amending s. 837.055, F.S.; providing that it is a third-degree felony for a person to knowingly and willfully give false information to a law enforcement officer conducting a missing person investigation involving a child 16 years of age or younger with the intent to mislead the officer or impede the investigation if the child suffers great bodily harm, permanent disability, permanent disfigurement, or death; providing criminal penalties; providing an effective date.

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

Section 1. Section 837.055, Florida Statutes, is amended to read:

837.055 False information to law enforcement during investigation.—

(1) Whoever knowingly and willfully gives false information to a law enforcement officer who is conducting a missing person investigation or a felony criminal investigation with the intent to mislead the officer or impede the investigation commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Whoever knowingly and willfully gives false information to a law enforcement officer who is conducting a missing person investigation involving a child 16 years of age or younger with

Page 1 of 2

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

28-00372B-12

2012858

the intent to mislead the officer or impede the investigation and the child who is the subject of the investigation suffers great bodily harm, permanent disability, permanent disfigurement, or death commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. This act shall take effect July 1, 2012.

Page 2 of 2

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 210

INTRODUCER: Criminal Justice Committee and Senator Wise

SUBJECT: Costs of Prosecution, Investigation and Representation

DATE: January 20, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Fav/CS
2.	Munroe	Cibula	JU	Favorable
3.	Harkness	Sadberry	BJA	Pre-meeting
4.			BC	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☐	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

The bill includes costs of prosecution and costs of representation among those fees, costs and penalties that shall be withheld from cash bond posted on behalf of a defendant. The bill clarifies that the clerk of court shall collect and dispense cost payments in cases that are disposed of by any lawful manner. The bill also requires the assessment of costs of prosecution in juvenile delinquency proceedings.

This bill substantially amends the following sections of the Florida Statutes: 903.286, 938.27, and 985.032.

II. Present Situation:

Costs of Prosecution

Section 938.27, F.S., provides that convicted persons are liable for costs of prosecution at the rate of \$50 in misdemeanor or criminal traffic offense cases and \$100 in felony criminal cases,

unless the prosecutor proves that costs are higher in the particular case before the court.¹ The costs of prosecution are deposited into the State Attorneys Revenue Trust Fund.²

Convicted persons are also liable for payment of investigative costs incurred by a law enforcement agency, fire department, or the Department of Financial Services and the Office of Financial Regulation of the Financial Services Commission.³ Conviction, for this purpose, includes a determination of guilt, or of violation of probation or community control, which is a result of a plea, trial, or violation proceeding, regardless of whether adjudication is withheld.⁴

Costs of Representation

Section 938.29, F.S., provides that convicted persons are liable for payment of the \$50 public defender application fee under s. 27.52(1)(b), F.S., and attorney's fees and costs if he or she received assistance from the public defender's office, a special assistant public defender, the office of criminal conflict and civil regional counsel, or a private conflict attorney, or who has received due process services after being found indigent for costs.

Costs of representation may be imposed at the rate of \$50 in misdemeanor or criminal traffic offense cases and \$100 in felony criminal cases. The court may set a higher amount upon showing of sufficient proof of higher fees or costs incurred. The costs of representation are deposited into the Indigent Criminal Defense Trust Fund.⁵

The court may order payment of the assessed application fee and attorney's fees and costs as a condition of probation, of suspension of sentence, or of withholding the imposition of sentence. The clerk within the county where the defendant was tried or received services from a public defender is responsible for enforcing, satisfying, compromising, settling, subordinating, releasing or otherwise disposing of any debt or lien imposed.

Clerks to Collect and Disburse Funds

Section 28.246(2), F.S., requires the clerk of the circuit court (clerk) to establish and maintain a system of accounts receivable for court-related fees, charges, and costs.

The clerk may accept partial payments for all fees, charges, and costs in accordance with the terms of an established payment plan.⁶ The clerk may enter into a payment plan when an individual is determined to be indigent for costs by the court.⁷

¹ Section 938.27(8), F.S.

² *Id.*

³ Section 938.27(1), F.S.

⁴ *Id.*

⁵ Section 27.562, F.S.

⁶ Section 28.246(4), F.S.

⁷ "A monthly payment amount, calculated based upon all fees and all anticipated costs, is presumed to correspond to the person's ability to pay if the amount does not exceed 2 percent of the person's annual net income, as defined in s. 27.52(1), divided by 12." Section 28.246(4), F.S.

Criminal Traffic Case Disposition

The clerk of the court is authorized by s. 318.14, F.S., to dispose of certain misdemeanor criminal traffic violations in which the defendant shows the clerk that he or she is in compliance with the law under which the charge was made prior to the court date. Examples of these traffic offenses include operating a motor vehicle without a valid registration under s. 320.131, F.S., and presenting invalid proof of insurance under s. 316.646, F.S. The clerk is statutorily authorized to accept a nolo contendere plea, waive the misdemeanor fines, and assess costs listed in s. 318.14(10)(b), F.S.

Cash Bond Used to Pay Fines, Costs, and Fees

Section 903.286, F.S., authorizes the clerk to withhold the return of a cash bond posted on behalf of a criminal defendant by a person other than a bail bond agent⁸ to pay the following:

- Court fees;
- Court costs; and
- Criminal penalties.

If sufficient funds are not available to pay the above costs, the clerk will immediately obtain payment from the defendant or enroll the defendant in a payment plan pursuant to s. 28.246, F.S.

All cash bond forms must prominently display a notice explaining that all funds are subject to forfeiture and withholding by the clerk for the payment of the above costs on behalf of the criminal defendant regardless of who posted the funds.

Delinquency Cases Exempt

Currently, juveniles who are adjudicated delinquent or have had the adjudication of delinquency withheld are not required to pay the costs of prosecution.

III. Effect of Proposed Changes:

The bill adds the costs of prosecution and the costs of representation by the public defender to the list of costs a clerk is required to withhold from the return of a cash bond posted on behalf of a criminal defendant by a person other than a bail bond agent. If such payments are not made from the cash bond, the clerk is required to obtain payment from a defendant or, if sufficient funds are not available, require the defendant to enroll in a payment plan. Cash bond forms must display notice of the funds being subject to forfeiture for payment of costs of prosecution as well as other costs, fees, and fines.

The bill requires the clerk to collect and disburse costs of prosecution in all cases, regardless of whether the cases are disposed of before a judge in open court. These cases may include criminal

⁸ Licensed under ch. 648, F.S.

traffic violations disposed of pursuant to s. 318.14(10), F.S.⁹ (See the Technical Deficiencies section below.)

The bill requires that costs of prosecution be assessed to juveniles who have been adjudicated delinquent or have adjudication of delinquency withheld.

The bill provides an effective date of July 1, 2012.

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:

Costs of prosecution will be assessed by the court in delinquency cases, which is a new cost not previously assessed.

C. Government Sector Impact:

This bill appears to have a positive fiscal impact on state attorneys and public defenders because:

- i. The costs of prosecution and costs of representation will be withheld by the clerk from the return of a cash bond posted on behalf of a criminal defendant by a person other than a bail bond agent. This will likely result in a positive fiscal impact as the cost of prosecution will be deducted from any cash bonds posted on behalf of a criminal defendant.

⁹ In these cases, the defendant may elect to show proof of compliance to the clerk of the court and enter a plea of nolo contendere. The clerk is authorized by s. 318.14(10), F.S., to assess certain fees. The assessment and collection of costs of prosecution are not specified in s. 318.14(10), F.S. Although s. 938.27(6), F.S., requires the clerk to “collect and dispense cost payments in any case,” which would include costs of prosecution and investigation listed in s. 938.27(8), F.S., state attorneys report that the costs are not being collected in the criminal traffic cases disposed of pursuant to ch. 318, F.S.

The costs of prosecution will now be assessed from juveniles who have been adjudicated delinquent or have adjudication of delinquency withheld. This will likely result in a positive fiscal impact as these costs were not assessed in these specific cases in the past.

VI. Technical Deficiencies:

State attorneys have reported that costs of prosecution are not being collected in criminal traffic cases that are disposed of by the clerk of the court prior to a court appearance by the defendant as authorized in s. 318.14, F.S. If the bill is intended to address this issue, it is suggested that clarity could be gained by adding a cross-reference to s. 938.27(6), F.S., as amended by the bill, within s. 318.14(10), F.S.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Criminal Justice on January 12, 2012:

The Committee Substitute deleted the parts of the bill that provided for the assessment of costs of prosecution in cases that are dismissed after completion of felony and misdemeanor drug court programs.

The Committee Substitute also deleted the prohibition in the bill against a court converting costs of prosecution to community service.

- B. **Amendments:**

None.

By the Committee on Criminal Justice; and Senator Wise

591-01858-12

2012210c1

A bill to be entitled

An act relating to costs of prosecution, investigation, and representation; amending s. 903.286, F.S.; providing for the withholding of unpaid costs of prosecution and representation from the return of a cash bond posted on behalf of a criminal defendant; requiring a notice on bond forms of such possible withholding; amending s. 938.27, F.S.; clarifying the types of cases that are subject to the collection and dispensing of cost payments by the clerk of the court; amending s. 985.032, F.S.; providing for assessment of costs of prosecution against a juvenile who has been adjudicated delinquent or has adjudication of delinquency withheld; providing an effective date.

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

Section 1. Section 903.286, Florida Statutes, is amended to read:

903.286 Return of cash bond; requirement to withhold unpaid fines, fees, court costs; cash bond forms.—

(1) Notwithstanding s. 903.31(2), the clerk of the court shall withhold from the return of a cash bond posted on behalf of a criminal defendant by a person other than a bail bond agent licensed pursuant to chapter 648 sufficient funds to pay any unpaid costs of prosecution, costs of representation as provided by s. 27.52, court fees, court costs, and criminal penalties. If sufficient funds are not available to pay all unpaid costs of

591-01858-12

2012210c1

prosecution, costs of representation as provided by s. 27.52, court fees, court costs, and criminal penalties, the clerk of the court shall immediately obtain payment from the defendant or enroll the defendant in a payment plan pursuant to s. 28.246.

(2) All cash bond forms used in conjunction with the requirements of s. 903.09 must prominently display a notice explaining that all funds are subject to forfeiture and withholding by the clerk of the court for the payment of costs of prosecution, costs of representation as provided by s. 27.52, court fees, court costs, and criminal penalties on behalf of the criminal defendant regardless of who posted the funds.

Section 2. Section 938.27, Florida Statutes, is amended to read:

938.27 Judgment for costs of prosecution and investigation on conviction.—

(1) In all criminal and violation-of-probation or community-control cases, convicted persons are liable for payment of the costs of prosecution, including investigative costs incurred by law enforcement agencies, by fire departments for arson investigations, and by investigations of the Department of Financial Services or the Office of Financial Regulation of the Financial Services Commission, if requested by such agencies. The court shall include these costs in every judgment rendered against the convicted person. For purposes of this section, "convicted" means a determination of guilt, or of violation of probation or community control, which is a result of a plea, trial, or violation proceeding, regardless of whether adjudication is withheld.

(2) (a) The court shall impose the costs of prosecution and

591-01858-12 2012210c1

investigation notwithstanding the defendant's present ability to pay. The court shall require the defendant to pay the costs within a specified period or in specified installments.

(b) The end of such period or the last such installment shall not be later than:

1. The end of the period of probation or community control, if probation or community control is ordered;

2. Five years after the end of the term of imprisonment imposed, if the court does not order probation or community control; or

3. Five years after the date of sentencing in any other case.

However, in no event shall the obligation to pay any unpaid amounts expire if not paid in full within the period specified in this paragraph.

(c) If not otherwise provided by the court under this section, costs shall be paid immediately.

(3) If a defendant is placed on probation or community control, payment of any costs under this section shall be a condition of such probation or community control. The court may revoke probation or community control if the defendant fails to pay these costs.

(4) Any dispute as to the proper amount or type of costs shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of costs incurred is on the state attorney. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant is on the defendant. The burden of

591-01858-12 2012210c1

demonstrating such other matters as the court deems appropriate is upon the party designated by the court as justice requires.

(5) Any default in payment of costs may be collected by any means authorized by law for enforcement of a judgment.

(6) The clerk of the court shall collect and dispense cost payments in any case regardless of whether the disposition of the case takes place before the judge in open court or in any other manner provided by law.

(7) Investigative costs that are recovered shall be returned to the appropriate investigative agency that incurred the expense. Such costs include actual expenses incurred in conducting the investigation and prosecution of the criminal case; however, costs may also include the salaries of permanent employees. Any investigative costs recovered on behalf of a state agency must be remitted to the Department of Revenue for deposit in the agency operating trust fund, and a report of the payment must be sent to the agency, except that any investigative costs recovered on behalf of the Department of Law Enforcement shall be deposited in the department's Forfeiture and Investigative Support Trust Fund under s. 943.362.

(8) Costs for the state attorney shall be set in all cases at no less than \$50 per case when a misdemeanor or criminal traffic offense is charged and no less than \$100 per case when a felony offense is charged, including a proceeding in which the underlying offense is a violation of probation or community control. The court may set a higher amount upon a showing of sufficient proof of higher costs incurred. Costs recovered on behalf of the state attorney under this section shall be deposited into the State Attorneys Revenue Trust Fund to be used

591-01858-12 2012210c1

during the fiscal year in which the funds are collected, or in
any subsequent fiscal year, for actual expenses incurred in
investigating and prosecuting criminal cases, which may include
the salaries of permanent employees, or for any other purpose
authorized by the Legislature.

Section 3. Section 985.032, Florida Statutes, is amended to
read:

985.032 Legal representation for delinquency cases.—

(1) For cases arising under this chapter, the state
attorney shall represent the state.

(2) A juvenile who has been adjudicated delinquent or has
adjudication of delinquency withheld shall be assessed costs of
prosecution as provided in s. 938.27.

Section 4. This act shall take effect July 1, 2012.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: CS/SB 940

INTRODUCER: Criminal Justice Committee and Senator Wise

SUBJECT: Juvenile Diversion Expunction

DATE: February 23, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Fav/CS
2.	Sneed	Sadberry	BJA	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

CS/SB 940 will allow a youth who has been arrested for a felony, with numerous specified exceptions, to have his or her nonjudicial arrest record expunged upon successful completion of a prearrest, postarrest, or teen court diversion program. Currently, only nonviolent misdemeanor arrests, excluding those that qualify as an act of domestic violence, are eligible to be expunged. The bill also makes it possible for a youth who completes a prearrest or postarrest diversion program to now be able to get an expunction for a misdemeanor domestic violence arrest.

This bill substantially amends section 943.0582 of the Florida Statutes.

II. Present Situation:

Youth who successfully complete a prearrest, postarrest, or teen court diversion program after being arrested for a nonviolent misdemeanor are eligible to have their arrest expunged, providing they have no other past criminal history.¹ A nonviolent misdemeanor includes simple assault or battery when the expunction process is approved in writing by the local state attorney. A

¹ Section 943.0582, F.S.

domestic violence arrest is not eligible for expunction. Receiving a juvenile diversion expunction does not prohibit a youth from requesting a regular sealing or expunction under s. 943.0585 or s. 943.059, F.S., if he or she is otherwise eligible.²

The expunged arrest record is available to law enforcement only under certain enumerated circumstances, such as when it is needed to determine eligibility for the diversion program, when a youth is seeking law enforcement employment, or when it is needed for a criminal justice investigation. Local law enforcement records are treated as if they have been sealed (only available to limited entities for limited purposes³).

The Florida Department of Law Enforcement (FDLE) is required to expunge the nonjudicial arrest record of a successful participant in a prearrest, postarrest, or teen court diversion program if the youth does the following: submits a timely filed application⁴ signed by the parents or by the minor if he or she is of age by then; submits a statement by the state attorney that the youth has successfully completed a prearrest or postarrest diversion program that was limited to minors arrested for a nonviolent misdemeanor (excluding domestic violence) who have not otherwise been charged with or found to have committed any criminal offense; participates in a diversion program that allows an expunction to occur; and provides that he or she has not been charged with or found to have committed a prior criminal offense.⁵ The application must be submitted no later than six months after completion of the diversion program.

The FDLE is authorized to charge a \$75 processing fee for each juvenile diversion expunction request, but the executive director can waive the fee.⁶

III. Effect of Proposed Changes:

CS/SB 940 allows a youth who has been arrested for a felony, with numerous specified exceptions, to have his or her nonjudicial arrest record expunged upon successful completion of a prearrest, postarrest, or teen court diversion program. Currently only nonviolent misdemeanor arrests, excluding those that qualify as an act of domestic violence, are eligible to be expunged under s. 943.0582, F.S.

The felony offenses that will not be eligible for expunction under the bill include the following offenses that are also prohibited from being sealed or expunged under the regular sealing and expunction statutes:⁷

- Sexual misconduct with developmentally disabled clients, mental health patients, or forensic clients;
- Luring or enticing a child;
- Sexual battery;
- Procuring a person under 18 years for prostitution;

² *Id.*

³ See s. 943.059(4), F.S.

⁴ Within 6 months of completing the program.

⁵ Section 943.0582(3), F.S.

⁶ Section 943.0582(4), F.S.

⁷ Sections 943.0585 and 943.059, F.S.

- Lewd, lascivious, or indecent assault upon a child;
- Lewd or lascivious offenses committed on an elderly or disabled person;
- Voyeurism;
- Communications fraud;
- Sexual performance by a child;
- Unlawful distribution of obscene materials to a minor;
- Unlawful activities involving computer pornography;
- Selling or buying minors for the purpose of engaging in sex trafficking or prostitution, or sexually explicit conduct;
- Offenses by public officers and employees;
- Drug trafficking;
- Other dangerous crimes such as arson, aggravated assault or battery, illegal use of explosives, child abuse or aggravated child abuse, elderly or disabled abuse, aggravated elderly or disabled abuse, aircraft piracy, kidnapping, sexual battery, homicide, manslaughter, sexual activity with a child, robbery, home invasion robbery, carjacking, stalking and aggravated stalking, domestic violence, terrorism, manufacturing controlled substances, and burglary⁸; and
- Any violation specified as a predicate offense for sexual predator or sexual offender registration.⁹

The bill also deletes the provision prohibiting a misdemeanor domestic violence arrest from being expunged under this statute, making it possible for a youth who meets the statutory requirements to now be able to get an expunction for a misdemeanor domestic violence arrest.

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.

⁸ Section 907.041, F.S.

⁹ See ss. 775.21 and 943.0435, F.S.

B. Private Sector Impact:

Youth now eligible to have a felony arrest record expunged under the bill will be required to pay a \$75 processing fee, unless it is waived by the executive director of the FDLE.

C. Government Sector Impact:

There is no fiscal impact on the Department of Juvenile Justice. The FDLE expects an insignificant fiscal impact due to the low number of juveniles who will become eligible for diversion expunction under the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

CS by Criminal Justice on February 22, 2012:

Extends the time period for submitting an application from 6 to 12 months after completion of the juvenile diversion program.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senator Wise

591-03791-12

2012940c1

A bill to be entitled

An act relating to juvenile expunction; amending s. 943.0582, F.S.; allowing minors who have certain felony arrests to have the Department of Law Enforcement expunge their nonjudicial arrest record upon successful completion of a prearrest or postarrest diversion program; extending the application submission period for minors who have successfully completed a prearrest or postarrest diversion program; extending the application submission date for minors who completed the program before a certain date; providing an effective date.

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

Section 1. Paragraphs (b), (c), (e), and (f) of subsection (3) and subsection (5) of section 943.0582, Florida Statutes, are amended to read:

943.0582 Prearrest, postarrest, or teen court diversion program expunction.—

(3) The department shall expunge the nonjudicial arrest record of a minor who has successfully completed a prearrest or postarrest diversion program if that minor:

(b) Submits the application for prearrest or postarrest diversion expunction no later than 12 6 months after completion of the diversion program.

(c) Submits to the department, with the application, an official written statement from the state attorney for the county in which the arrest occurred certifying that he or she

591-03791-12

2012940c1

has successfully completed that county's prearrest or postarrest diversion program, ~~and that he or she participated participation~~ in the program ~~based on an arrest is strictly limited to minors arrested for a nonviolent misdemeanor, or for a felony that does not relate to a violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in s. 907.041, or any violation specified as a predicate offense for registration as a sexual predator pursuant to s. 775.21, without regard to whether that offense alone is sufficient to require such registration, or for registration as a sexual offender pursuant to s. 943.0435, and that he or she has who have~~ not otherwise been charged with or found to have committed any criminal offense or comparable ordinance violation.

~~(e) Participated in a prearrest or postarrest diversion program based on an arrest for a nonviolent misdemeanor that would not qualify as an act of domestic violence as that term is defined in s. 741.28.~~

(e)(f) Has never, before ~~prior to~~ filing the application for expunction, been charged with or been found to have committed any criminal offense or comparable ordinance violation.

(5) This section operates retroactively to permit the expunction of any nonjudicial record of the arrest of a minor who has successfully completed a prearrest or postarrest diversion program on or after July 1, 2000; however, in the case of a minor whose completion of the program occurred before July

591-03791-12

2012940c1

59 1, 2012 ~~the effective date of this section~~, the application for
60 prearrest or postarrest diversion expunction must be submitted
61 within 12 6 months after July 1, 2012 ~~the effective date of this~~
62 ~~section~~.

63 Section 2. This act shall take effect July 1, 2012.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: SB 522

INTRODUCER: Senator Braynon

SUBJECT: Judicial Census Commissions

DATE: November 21, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Connor	Maclure	JU	Favorable
2.	Harkness	Sadberry	BJA	Pre-meeting
3.			BC	
4.				
5.				
6.				

I. Summary:

The Legislature created the judicial census commissions to determine the population of a given judicial circuit because the Florida Constitution formerly required one circuit judge for every 50,000 people in a circuit. The Constitution was amended in 1973 to provide for a different method of determining the number of circuit judges, making the judicial census commissions unnecessary. Thus, Senate Bill 522 repeals the statute that outlines the makeup and responsibilities of such a commission and the Governor's actions pursuant to the commission's findings.

This bill repeals section 26.011, Florida Statutes.

II. Present Situation:

Section 26.011, F.S., authorizes the Legislature to create "judicial census commissions" from time to time as it deems advisable, to determine the population of any judicial circuit. Under the statute, these judicial census commissions are required to report to the Governor, and the Governor will then, by proclamation, announce the population of the circuit.

Judicial census commissions were once useful because prior versions of the Florida Constitution provided for one circuit judge for every 50,000 people. For example, article V, section 6 of the 1968 Constitution, as originally adopted, provided:

(2) Circuit Judges. The legislature shall provide for one circuit judge in each circuit for each fifty thousand inhabitants or major fraction thereof according to the last census authorized by law. In circuits having more than one judge the

legislature may designate the place of residence of any such additional judge or judges.

This provision was removed from the Constitution effective in 1973 as part of a revision of article V¹ and replaced with the current system, which specifies that if the Florida Supreme Court determines that there is a need to increase or decrease the number of judges, then the Court is directed to certify its recommendations to the Legislature prior to the next regular session.² The Legislature may then accept the Supreme Court's certification in whole or in part by majority vote or refuse it entirely. The Legislature may also increase or further decrease the number of judicial offices recommended by the Court by a two-thirds vote of both houses.³

Rule 2.240 of the Florida Rules of Judicial Administration implements article V, section 9 of the current constitution and states the criteria for determination of need for additional trial and appellate judges and the process for certifying that need to the Legislature.⁴ Under the rule, judicial need is based on an assessment of enumerated factors related to workload.⁵ As described by former Florida Supreme Court Chief Justice B.K. Roberts, the change resulted in judgeships being created on the basis of need, eliminating "any arbitrary population limitation on the number of judges."⁶

III. Effect of Proposed Changes:

Senate Bill 522 repeals s. 26.011, F.S., a provision that authorizes judicial census commissions and is no longer consistent with the current system for determining the need for a change in the number of judges, as outlined in the Florida Constitution. The current system entails a Supreme Court determination of judicial need rather than the calculation of circuit populations and trumps s. 26.011, F.S., rendering it obsolete and no longer used in practice.

The bill provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹ SJR 52-D (1971), adopted in 1972 and effective January 1, 1973.

² FLA. CONST., art. V, s. 9.

³ *Id.*

⁴ Office of the State Courts Administrator, *House Bill 4047 Judicial Impact Statement* (Oct. 12, 2011) (on file with the Senate Committee on Judiciary).

⁵ Fla. R. Jud. Admin. 2.240(b)-(c).

⁶ B.K. Roberts, *The Judicial System*, in ALLEN MORRIS' FLORIDA HANDBOOK 191, 195 (1973-74).

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Office of the State Courts Administrator, this bill has no fiscal or workload impact on the judiciary.⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

Amen

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

⁷ Office of the State Courts Administrator, *supra* note 4.

By Senator Braynon

33-00588-12

2012522__

1 A bill to be entitled
 2 An act relating to judicial census commissions;
 3 repealing s. 26.011, F.S., relating to judicial census
 4 commissions; providing an effective date.
 5
 6 Be It Enacted by the Legislature of the State of Florida:
 7
 8 Section 1. Section 26.011, Florida Statutes, is repealed.
 9 Section 2. This act shall take effect July 1, 2012.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: CS/CS/SB 964

INTRODUCER: Children, Families, and Elder Affairs Committee; Criminal Justice Committee, Senator Benacquisto and others

SUBJECT: Protection of Minors

DATE: February 14, 2012

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Clodfelter	Cannon	CJ	Fav/CS
2. Farmer	Farmer	CF	Fav/CS
3. Sneed	Sadberry	BJA	Pre-meeting
4. _____	_____	BC	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☐	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

This bill creates the “Protect Our Children Act” relating to laws that prohibit video voyeurism and possession of child pornography.

With respect to video voyeurism, the bill:

- Specifies that the interior of a residential dwelling is a place where a person has a reasonable expectation of privacy.
- Increases the penalty for several video voyeurism offenses and adds these offenses to the qualifying offense list that requires an offender to be designated as a sexual predator or to register as a sexual offender. The increased penalty is also added to the qualifying offense list under s. 944.606, F.S., related to notification upon release of sexual offenders and s. 944.607, F.S., related to notification to the Florida Department of Law Enforcement (FDLE) of information on sexual offenders.

The bill also amends the child pornography statute to provide that if a prohibited item includes sexual conduct by a child, a separate offense may be charged for each child in the prohibited item.

This bill substantially amends sections 775.21, 810.145, 827.071, 921.0022, 943.0435, 944.606, and 944.607 of the Florida Statutes.

II. Present Situation:

Sexual Predators and Sexual Offenders

The distinction between a sexual predator and a sexual offender is based on the offense of conviction, the date the offense occurred or when sanctions were completed, and whether the person has previously been convicted of a sexual offense. Sexual predator status can only be conferred for offenses committed on or after October 1, 1993. Sexual offender status applies only if the person was released from the sanction for the designated offense on or after October 1, 1997. The list of designated offenses is not identical for sexual offenders and sexual predators, but commission of any of the following offenses would require registration as either a sexual offender or a sexual predator:

- Kidnapping, false imprisonment, or luring or enticing a child where the victim is a minor and the defendant is not the victim's parent (ss. 787.01, 787.02, and 787.025(2)(c), F.S.).
- Sexual battery under ch. 794.011, F.S. (except false accusation of another under s. 794.011(10), F.S.).
- Sexual activity by a person who is 24 years old or older with a minor who is 16 or 17 years old (s. 794.05, F.S.).
- Procuring a person under the age of 18 for prostitution (s. 796.03, F.S.).
- Selling or buying of minors into sex trafficking or prostitution (s. 796.035, F.S.).
- Lewd or lascivious offenses upon or in the presence of a person under 16 (s. 800.04, F.S.).
- Lewd or lascivious offenses upon an elderly or disabled person (s. 825.1025, F.S.).
- Enticing, promoting, or possessing images of sexual performance by a child (s. 827.071, F.S.).
- Distribution of obscene materials to a minor (s. 847.0133, F.S.).
- Computer pornography (s. 847.0135, F.S.) (except traveling to meet a minor under s. 847.0135(4), F.S.).
- Transmission of child pornography by electronic device (s. 847.0137, F.S.).
- Transmission of material harmful to minors to a minor by electronic device (s. 847.0138, F.S.).
- Selling or buying of minors for child pornography (s. 847.0145, F.S.).
- Sexual misconduct by a DJJ employee with a juvenile offender (s. 985.701(1), F.S.).
- Violating a similar law of another jurisdiction.

A sexual predator or sexual offender is required to comply with a number of statutory requirements.¹ During initial registration, a sexual predator or sexual offender who is not in the custody of the Florida Department of Corrections (DOC), the Department of Juvenile Justice

¹ The specific offender reporting requirements and law enforcement reporting and notification requirements are found in ss. 775.21, 943.0435, 944.606, 944.607, 985.48, and 985.4815, F.S.

(DJJ), or a local jail is required to provide certain information including the “address of legal residence and address of any temporary residence, within the state or out of the state, including a rural route address and a post office box...” to the sheriff’s department within 48 hours of sentencing or of establishing a residence. The sheriff’s office provides this information to the FDLE for inclusion in the statewide database. The offender or predator must also register at a driver’s license office within 48 hours of the initial registration at the sheriff’s department.

Video Surveillance and Voyeurism

Video voyeurism is the unlawful use of an imaging device to surreptitiously observe another person. The practice is most often associated with a sexual motive, such as using a cell phone camera to take pictures beneath women’s skirts in a shopping area or installing hidden cameras in a changing area.

In 2004, the federal government passed the Video Voyeurism Prevention Act of 2004² in order to “protect the privacy of individuals from the surreptitious use of hidden surveillance equipment that captures an individual’s image.”³ The Act makes it a misdemeanor for a person to intentionally capture an image of a private area of another person without his or her consent under circumstances in which the other person has a reasonable expectation of privacy. All states have criminal statutes that address video voyeurism in some form.

Florida’s Video Voyeurism Statute

Florida law forbids video voyeurism if a person uses or installs an imaging device to secretly view, broadcast or record another person for “amusement, entertainment, sexual arousal, gratification, or profit,” or to degrade or abuse that person. The original s. 810.145, F.S., was enacted in 1984 and created misdemeanor video voyeurism offenses. The statute was amended in 2008 to elevate certain video voyeurism offenses committed against children to felonies.

An offender commits the misdemeanor offense of video voyeurism by:

- Intentionally using or installing an imaging device to secretly view, broadcast, or record a person who is dressing, undressing, or privately exposing the body, at a place and time when that person has a reasonable expectation of privacy, for the offender’s own amusement, entertainment, sexual arousal, gratification, or profit, or for the purpose of degrading or abusing another person.⁴
- Intentionally permitting the use or installation of an imaging device to secretly view, broadcast, or record a person as stated above, but for the amusement, entertainment, sexual arousal, gratification, or profit of another person.⁵
- Intentionally using an imaging device to secretly view, broadcast, or record under or through another person’s clothing in order to view that person’s body or undergarments, for the

² 18 U.S.C. s. 1801. The Act applies only within the special maritime and territorial jurisdiction of the United States, so does not conflict with state law.

³ Kristin M. Beasley, *Up-Skirt and Other Dirt: Why Cell Phone Cameras and Other Technologies Require a New Approach to Protecting Personal Privacy in Public Places*, 31 S. ILL. U. L.J. 69, 88 (2006) (quoting H.R. Rep. No. 08-504, at 5, as reprinted in 2004 U.S.C.C.A.N. 3292, 3294-95).

⁴ Section 810.145(2)(a), F.S.

⁵ Section 810.145(2)(b), F.S.

amusement, entertainment, sexual arousal, gratification, or profit of either the offender or another person.⁶

- Committing the offense of “video voyeurism dissemination”⁷ and “commercial video voyeurism dissemination”⁸ for distributing a video or image with knowledge or reason to believe that it was created as a result of video voyeurism.

A first-time violation of any of these provisions is a first-degree misdemeanor, punishable by a term of imprisonment not exceeding one year and a fine of not more than \$1,000. If the offender has previously been convicted of or adjudicated delinquent for any violation of the section, the penalty is enhanced to a third-degree felony, punishable by imprisonment for up to five years and a fine of not more than \$5,000.

There are three felony video voyeurism offenses in addition to those that result from enhancement of the penalty for repeat misdemeanor video voyeurism. Conviction of these offenses requires additional elements of proof:

- Section 810.145(8)(a)1., F.S., applies when the offender was 18 years of age or older, the victim was under the age of 16, and the offender was responsible for the welfare of the victim. Persons who are responsible for a child’s welfare would include coaches, teachers, scout leaders, parents, guardians, babysitters, and those with similar relationships to the child.⁹
- Section 810.145(8)(a)2., F.S., applies when the offender was 18 years old or older, was employed at a public or private K-12 school or a voluntary pre-K program, and the victim was a student at the school or program.
- Section 810.145(8)(a)3., F.S., applies when the offender was 24 years of age or older and the victim was under the age of 16.

These offenses are third-degree felonies, which are punishable by imprisonment for up to five years and a fine of not more than \$5,000. If the offender has previously been convicted of or adjudicated delinquent for any form of video voyeurism, these offenses are second-degree felonies, punishable by imprisonment for up to 15 years and a fine of not more than \$10,000.

The statute includes exceptions to ensure that it does not criminalize legitimate law enforcement surveillance, or security surveillance devices if a notice is posted or if the device is clearly and immediately obvious. There is also an exception for Internet service providers who do not exercise control over user content.¹⁰

⁶ Section 810.145(2)(c), F.S.

⁷ Section 810.145(3), F.S.

⁸ Section 810.145(4), F.S.

⁹ See ss. 39.01(46) and 827.01, F.S.; *P.N. v. Dep’t of Health & Rehabilitative Servs.*, 562 So. 2d 810, 811 (Fla. 2d DCA 1990).

¹⁰ Section 810.145(5), F.S.

During Fiscal Year 2010-2011, six persons were convicted of misdemeanor video voyeurism¹¹ and three persons were placed on community supervision as the result of being convicted of felony video voyeurism.¹²

Possession or Intentional Viewing of Child Pornography

Section 827.071(5), F.S., prohibits a person from knowingly possessing, controlling, or intentionally viewing a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation that he or she knows to include any sexual conduct by a child in whole or in part. A separate offense may be charged for each prohibited item that is possessed. Violation of the statute is a third degree felony ranked at Level 5 of the Criminal Punishment Code, punishable by up to five years in prison.

III. Effect of Proposed Changes:

Section 1 provides that the act may be cited as the “Protect Our Children Act.”

Section 2 amends s. 775.21(4), F.S., to include violation of s. 810.145(8), F.S., as a qualifying offense for purposes of designation as a sexual predator.

Section 3 amends s. 827.071(5), F.S., to provide that a separate offense may be charged for each child included in a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation that shows sexual conduct by a child. This means, for example, that a person can be charged with two child pornography offenses if the person intentionally views a video that includes sexual conduct by two children. Previously, intentional viewing of a single video could only be charged as one offense no matter how many children are depicted in the video.

Section 4 amends s. 943.0435(1), F.S., to include violation of s. 810.145(8)(a), F.S., as an offense that requires registration as a sexual offender.

Section 5 amends two subsections in s. 810.145, F.S., the video voyeurism law:

- Section 810.145(1)(c), F.S., currently defines a “place and time when a person has a reasonable expectation of privacy” as:

“a place and time when a reasonable person would believe that he or she could fully disrobe in privacy, without being concerned that the person’s undressing was being viewed, recorded, or broadcasted by another, including, but not limited to, the interior of a bathroom, changing room, fitting room, dressing room, or tanning booth.”

The bill amends this definition to specifically list the interior of a residential dwelling. Because the definition provides that it is not limited to the listed examples, specific inclusion of the “interior of a residential dwelling” should not change application of the law.

¹¹ Information from the Florida Department of Law Enforcement provided to committee staff by the Office of Economic & Demographic Research, e-mail dated November 30, 2011.

¹² Department of Corrections Analysis of Senate Bill 436.

- Section 810.145(8)(a), F.S., includes the three video voyeurism offenses that are elevated from a first degree misdemeanor to a third degree felony because of the relative ages of the offender and victim or the position of authority that the offender holds in regard to the victim. The bill raises these offenses to second degree felonies. This increases the maximum sentence from five years to fifteen years in prison, and increases the maximum fine from \$5,000 to \$10,000.

Section 6 amends s. 921.0022(3)(f), F.S., to rank the video voyeurism offenses raised to third degree felonies by Section 5 of the bill on the Offense Severity Ranking Chart for sentencing purposes. As unranked third degree felonies, these offenses were considered to be ranked at Level 1 and scored 4 sentencing points. As second degree felonies ranked at Level 6, they score 36 sentencing points. This greatly increases the chance that the offender will be sentenced to a term of imprisonment, particularly if he or she has prior convictions for any offense.

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:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference met December 14, 2011, and found the prison bed impact of this bill to be indeterminate because of the section of the bill that provides that each child in each photograph, image, etc. that is knowingly possessed, controlled, or intentionally viewed is a separate offense. The number of such offenses cannot be determined. Additionally, FDLE reports that expanding the number of persons who qualify as sexual offenders and sexual predators will require programming changes to the sexual offender/sexual predator database, which will cost \$28,625 in non-recurring dollars; however, FDLE states they can absorb these costs with current resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS/CS/ by Children, Families, and Elder Affairs on February 9, 2012:
The Committee Substitute:

- Corrects a cross-reference; and
- Adds the increased penalty for several video voyeurism offenses to the qualifying offense lists under s. 944.606, F.S., related to notification upon release of sexual offenders and s. 944.607, F.S., related to notification to the Florida Department of Law Enforcement (FDLE) of information on sexual offenders.

CS by Criminal Justice on January 25, 2012:

Clarifies language regarding charging a separate offense for each child who is in a picture that includes sexual activity by a child.

- B. **Amendments:**

None.

By the Committees on Children, Families, and Elder Affairs; and
Criminal Justice; and Senators Benacquisto, Gaetz, Lynn, and
Hays

586-03232-12

2012964c2

A bill to be entitled

An act relating to protection of minors; providing a
short title; amending s. 775.21, F.S.; requiring a
person convicted of a second or subsequent violation
of a specified video voyeurism provision to register
as a sexual offender if the victim of the violation
was a minor; amending s. 827.071, F.S.; providing that
if more than one child is involved in a violation of
provisions prohibiting sexual performance by a child,
a separate offense may be charged for each child;
amending s. 943.0435, F.S.; requiring a person
convicted of a video voyeurism violation to register
as a sexual offender if the victim of the violation
was a minor; amending ss. 944.606 and 944.607, F.S.;
redefining the term "sexual offender"; amending s.
810.145, F.S.; revising the definition of the term
"place and time when a person has a reasonable
expectation of privacy" to include the interior of a
residential dwelling; increasing the classification of
specified video voyeurism offenses involving minors;
amending s. 921.0022, F.S.; ranking a violation of s.
810.145(8)(b), F.S., above its default value for
purposes of the offense severity ranking chart of the
Criminal Punishment Code; providing an effective date.

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

Section 1. This act may be cited as the "Protect Our
Children Act."

Page 1 of 15

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

586-03232-12

2012964c2

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

775.21 The Florida Sexual Predators Act.—

(4) SEXUAL PREDATOR CRITERIA.—

(a) For a current offense committed on or after October 1,
1993, upon conviction, an offender shall be designated as a
"sexual predator" under subsection (5), and subject to
registration under subsection (6) and community and public
notification under subsection (7) if:

1. The felony is:

a. A capital, life, or first-degree felony violation, or
any attempt thereof, of s. 787.01 or s. 787.02, where the victim
is a minor and the defendant is not the victim's parent or
guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a
violation of a similar law of another jurisdiction; or

b. Any felony violation, or any attempt thereof, of s.
787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a
minor and the defendant is not the victim's parent or guardian;
s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.
796.035; s. 800.04; s. 810.145(8); s. 825.1025(2)(b); s.
827.071; s. 847.0135(5); s. 847.0145; or s. 985.701(1); or a
violation of a similar law of another jurisdiction, and the
offender has previously been convicted of or found to have
committed, or has pled nolo contendere or guilty to, regardless
of adjudication, any violation of s. 787.01, s. 787.02, or s.
787.025(2)(c), where the victim is a minor and the defendant is
not the victim's parent or guardian; s. 794.011, excluding s.
794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,

Page 2 of 15

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

586-03232-12 2012964c2

59 excluding s. 847.0135(6); s. 847.0145; or s. 985.701(1); or a
60 violation of a similar law of another jurisdiction;

61 2. The offender has not received a pardon for any felony or
62 similar law of another jurisdiction that is necessary for the
63 operation of this paragraph; and

64 3. A conviction of a felony or similar law of another
65 jurisdiction necessary to the operation of this paragraph has
66 not been set aside in any postconviction proceeding.

67 Section 3. Paragraph (a) of subsection (5) of section
68 827.071, Florida Statutes, is amended to read:

69 827.071 Sexual performance by a child; penalties.—

70 (5)(a) It is unlawful for any person to knowingly possess,
71 control, or intentionally view a photograph, motion picture,
72 exhibition, show, representation, image, data, computer
73 depiction, or other presentation which, in whole or in part, he
74 or she knows to include any sexual conduct by a child. The
75 possession, control, or intentional viewing of each such
76 photograph, motion picture, exhibition, show, image, data,
77 computer depiction, representation, or presentation is a
78 separate offense. If a photograph, motion picture, exhibition,
79 show, representation, image, data, computer depiction, or other
80 presentation includes sexual conduct by more than one child, a
81 separate offense may be charged for each such child in each such
82 photograph, motion picture, exhibition, show, representation,
83 image, data, computer depiction, or other presentation. A person
84 who violates this subsection commits a felony of the third
85 degree, punishable as provided in s. 775.082, s. 775.083, or s.
86 775.084.

87 Section 4. Paragraph (a) of subsection (1) of section

586-03232-12 2012964c2

88 943.0435, Florida Statutes, is amended to read:

89 943.0435 Sexual offenders required to register with the
90 department; penalty.—

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

92 (a)1. "Sexual offender" means a person who meets the
93 criteria in sub-subparagraph a., sub-subparagraph b., sub-
94 subparagraph c., or sub-subparagraph d., as follows:

95 a.(I) Has been convicted of committing, or attempting,
96 soliciting, or conspiring to commit, any of the criminal
97 offenses proscribed in the following statutes in this state or
98 similar offenses in another jurisdiction: s. 787.01, s. 787.02,
99 or s. 787.025(2)(c), where the victim is a minor and the
100 defendant is not the victim's parent or guardian; s. 794.011,
101 excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s.
102 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s.
103 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s.
104 847.0145; or s. 985.701(1); or any similar offense committed in
105 this state which has been redesignated from a former statute
106 number to one of those listed in this sub-sub-subparagraph; and

107 (II) Has been released on or after October 1, 1997, from
108 the sanction imposed for any conviction of an offense described
109 in sub-sub-subparagraph (I). For purposes of sub-sub-
110 subparagraph (I), a sanction imposed in this state or in any
111 other jurisdiction includes, but is not limited to, a fine,
112 probation, community control, parole, conditional release,
113 control release, or incarceration in a state prison, federal
114 prison, private correctional facility, or local detention
115 facility;

116 b. Establishes or maintains a residence in this state and

586-03232-12 2012964c2

who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender;

c. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes or similar offense in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subparagraph; or

d. On or after July 1, 2007, has been adjudicated delinquent for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction when the juvenile was 14 years of age or

586-03232-12 2012964c2

older at the time of the offense:

(I) Section 794.011, excluding s. 794.011(10);

(II) Section 800.04(4)(b) where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion;

(III) Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals; or

(IV) Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals.

2. For all qualifying offenses listed in sub-subparagraph (1)(a)1.d., the court shall make a written finding of the age of the offender at the time of the offense.

For each violation of a qualifying offense listed in this subsection, the court shall make a written finding of the age of the victim at the time of the offense. For a violation of s. 800.04(4), the court shall additionally make a written finding indicating that the offense did or did not involve sexual activity and indicating that the offense did or did not involve force or coercion. For a violation of s. 800.04(5), the court shall additionally make a written finding that the offense did or did not involve unclothed genitals or genital area and that the offense did or did not involve the use of force or coercion.

Section 5. Paragraph (b) of subsection (1) of section 944.606, Florida Statutes, is amended to read:

944.606 Sexual offenders; notification upon release.—

(1) As used in this section:

(b) "Sexual offender" means a person who has been convicted of committing, or attempting, soliciting, or conspiring to

586-03232-12 2012964c2

175 commit, any of the criminal offenses proscribed in the following
 176 statutes in this state or similar offenses in another
 177 jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where
 178 the victim is a minor and the defendant is not the victim's
 179 parent or guardian; s. 794.011, excluding s. 794.011(10); s.
 180 794.05; s. 796.03; s. 796.035; s. 800.04; s. 810.145(8); s.
 181 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
 182 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; or s.
 183 985.701(1); or any similar offense committed in this state which
 184 has been redesignated from a former statute number to one of
 185 those listed in this subsection, when the department has
 186 received verified information regarding such conviction; an
 187 offender's computerized criminal history record is not, in and
 188 of itself, verified information.

189 Section 6. Paragraph (a) of subsection (1) of section
 190 944.607, Florida Statutes, is amended to read:

191 944.607 Notification to Department of Law Enforcement of
 192 information on sexual offenders.—

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

194 (a) "Sexual offender" means a person who is in the custody
 195 or control of, or under the supervision of, the department or is
 196 in the custody of a private correctional facility:

197 1. On or after October 1, 1997, as a result of a conviction
 198 for committing, or attempting, soliciting, or conspiring to
 199 commit, any of the criminal offenses proscribed in the following
 200 statutes in this state or similar offenses in another
 201 jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where
 202 the victim is a minor and the defendant is not the victim's
 203 parent or guardian; s. 794.011, excluding s. 794.011(10); s.

586-03232-12 2012964c2

204 794.05; s. 796.03; s. 796.035; s. 800.04; s. 810.145(8); s.
 205 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
 206 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; or s.
 207 985.701(1); or any similar offense committed in this state which
 208 has been redesignated from a former statute number to one of
 209 those listed in this paragraph; or
 210 2. Who establishes or maintains a residence in this state and
 211 who has not been designated as a sexual predator by a court of
 212 this state but who has been designated as a sexual predator, as
 213 a sexually violent predator, or by another sexual offender
 214 designation in another state or jurisdiction and was, as a
 215 result of such designation, subjected to registration or
 216 community or public notification, or both, or would be if the
 217 person were a resident of that state or jurisdiction, without
 218 regard as to whether the person otherwise meets the criteria for
 219 registration as a sexual offender.

220 Section 7. Paragraph (c) of subsection (1) and subsection
 221 (8) of section 810.145, Florida Statutes, are amended to read:

222 810.145 Video voyeurism.—

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

224 (c) "Place and time when a person has a reasonable
 225 expectation of privacy" means a place and time when a reasonable
 226 person would believe that he or she could fully disrobe in
 227 privacy, without being concerned that the person's undressing
 228 was being viewed, recorded, or broadcasted by another,
 229 including, but not limited to, the interior of a residential
 230 dwelling, bathroom, changing room, fitting room, dressing room,
 231 or tanning booth.

232 (8) (a) A person who is:

586-03232-12 2012964c2

233 1. Eighteen years of age or older who is responsible for
 234 the welfare of a child younger than 16 years of age, regardless
 235 of whether the person knows or has reason to know the age of the
 236 child, and who commits an offense under this section against
 237 that child;

238 2. Eighteen years of age or older who is employed at a
 239 private school as defined in s. 1002.01; a school as defined in
 240 s. 1003.01; or a voluntary prekindergarten education program as
 241 described in s. 1002.53(3)(a), (b), or (c) and who commits an
 242 offense under this section against a student of the private
 243 school, school, or voluntary prekindergarten education program;
 244 or

245 3. Twenty-four years of age or older who commits an offense
 246 under this section against a child younger than 16 years of age,
 247 regardless of whether the person knows or has reason to know the
 248 age of the child

249
 250 commits a felony of the second ~~third~~ degree, punishable as
 251 provided in s. 775.082, s. 775.083, or s. 775.084.

252 (b) A person who violates this subsection and who has
 253 previously been convicted of or adjudicated delinquent for any
 254 violation of this section commits a felony of the second degree,
 255 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

256 Section 8. Paragraph (f) of subsection (3) of section
 257 921.0022, Florida Statutes, is amended to read:

258 921.0022 Criminal Punishment Code; offense severity ranking
 259 chart.—

260 (3) OFFENSE SEVERITY RANKING CHART

261 (f) LEVEL 6

586-03232-12 2012964c2

Florida Statute	Felony Degree	Description
262 316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
263 499.0051(3)	2nd	Knowing forgery of pedigree papers.
264 499.0051(4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
265 499.0051(5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
266 775.0875(1)	3rd	Taking firearm from law enforcement officer.
267 784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
268 784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
269 784.041	3rd	Felony battery; domestic battery by strangulation.
270 784.048(3)	3rd	Aggravated stalking; credible threat.
271		

586-03232-12 2012964c2

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

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

784.074(1)(b) 2nd Aggravated assault on sexually violent predators facility staff.

784.08(2)(b) 2nd Aggravated assault on a person 65 years of age or older.

784.081(2) 2nd Aggravated assault on specified official or employee.

784.082(2) 2nd Aggravated assault by detained person on visitor or other detainee.

784.083(2) 2nd Aggravated assault on code inspector.

787.02(2) 3rd False imprisonment; restraining with purpose other than those in s. 787.01.

790.115(2)(d) 2nd Discharging firearm or weapon on school property.

790.161(2) 2nd Make, possess, or throw destructive device with intent to do bodily harm or damage property.

586-03232-12 2012964c2

790.164(1) 2nd False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.

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

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

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

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

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

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

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

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

586-03232-12 2012964c2

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

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

812.015(9)(a) 2nd Retail theft; property stolen \$300 or
more; second or subsequent conviction.

812.015(9)(b) 2nd Retail theft; property stolen \$3,000 or
more; coordination of others.

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

817.034(4)(a)1. 1st Communications fraud, value greater than
\$50,000.

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

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

825.102(3)(c) 3rd Neglect of an elderly person or disabled
adult.

586-03232-12 2012964c2

825.1025(3) 3rd Lewd or lascivious molestation of an
elderly person or disabled adult.

825.103(2)(c) 3rd Exploiting an elderly person or disabled
adult and property is valued at less
than \$20,000.

827.03(1) 3rd Abuse of a child.

827.03(3)(c) 3rd Neglect of a child.

827.071(2) & 2nd Use or induce a child in a sexual
(3) performance, or promote or direct such
performance.

836.05 2nd Threats; extortion.

836.10 2nd Written threats to kill or do bodily
injury.

843.12 3rd Aids or assists person to escape.

847.011 3rd Distributing, offering to distribute, or
possessing with intent to distribute
obscene materials depicting minors.

847.012 3rd Knowingly using a minor in the
production of materials harmful to
minors.

586-03232-12

2012964c2

309

847.0135(2) 3rd Facilitates sexual conduct of or with a
minor or the visual depiction of such
conduct.

310

914.23 2nd Retaliation against a witness, victim,
or informant, with bodily injury.

311

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.

312

944.40 2nd Escapes.

313

944.46 3rd Harboring, concealing, aiding escaped
prisoners.

314

944.47(1)(a)5. 2nd Introduction of contraband (firearm,
weapon, or explosive) into correctional
facility.

315

951.22(1) 3rd Intoxicating drug, firearm, or weapon
introduced into county facility.

316

317

Section 9. This act shall take effect October 1, 2012.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: CS/SB 1816

INTRODUCER: Criminal Justice Committee and Senator Benacquisto

SUBJECT: Protection of Vulnerable Persons

DATE: February 16, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Fav/CS
2.	Sneed	Sadberry	BJA	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

The major features of the bill are described as follows:

- Requires reporting of child abuse, abandonment, or neglect by *any person* to the Department of Children and Family Services (DCF). Current law limits the reporting requirement to a parent, legal custodian, caregiver, or other person responsible for the child's welfare.
- Provides that any report of child abuse, etc., by a person other than the child's caregiver shall be taken by the Florida Abuse Hotline and forwarded to the appropriate county sheriff's office as currently provided in s. 39.201(2)(b), F.S.
- Creates two new reporting violations for which a Florida College System institution, state university, or nonpublic college, university, or school is subject to a \$1 million fine for each reporting violation and loss of *all* state funding for a period of 2 years. These violations involve:
 - Personnel of the Florida College System institution, etc., who knowingly and willfully fail to report known or suspected child abuse, etc., committed on the property of the institution, etc., or during an event or function sponsored by the institution, etc., or who knowingly and willfully prevent another person from doing so.

- A law enforcement agency of the institution, etc., which fails to transmit to prosecutorial authorities any report of known or suspected child abuse, etc., committed on the property of the institution, etc., or during an event or function sponsored by the institution, etc.
- Reclassifies the felony or misdemeanor degree of any violation of ch. 796, F.S., other than s. 796.03, F.S., or s. 796.035, F.S., in which a minor engages in prostitution, lewdness, assignation, sexual conduct, or other conduct as defined in or prohibited by ch. 796, F.S., but the minor is not the person charged with the violation.
- Expands the scope of victims who are eligible to receive monetary relocation assistance from the Department of Legal Affairs to include victims of sexual violence.

This bill substantially amends ss. 39.01, 39.201, 39.205, 39.302, 794.056, 938.085, and 960.198, F.S., and creates s. 796.036, F.S.

II. Present Situation:

Reporting Child Abuse

A study conducted in 2008 indicated that an estimated 4% to 16% of children are physically abused each year in high-income nations including the United States. Additionally, as many as 15% of children are neglected, and up to 10% of girls and 5% of boys suffer severe sexual abuse. Although it is difficult to measure, researchers believe that as few as 1 in 10 of those instances of abuse are actually confirmed by social-service agencies.¹ Recent national events have centered on issues with adults failing to report known instances of ongoing child abuse.

Section 39.201, F.S., requires a person to report certain known or suspected instances of child abuse. Specifically, the law mandates that a person report knowledge or suspicion of child abuse if the person knows, or has reasonable cause to suspect:

- A child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare²; or
- That a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care.

Section 39.201(2), F.S., prescribes the method of reporting child abuse. Instances of child abuse as described by s. 39.201(1), F.S., must be made "immediately to the department's³ central abuse hotline." If a person is required by s. 39.201, F.S., to report known or suspected child abuse and fails to do so, s. 39.205(1), F.S., makes it a first degree misdemeanor⁴ if the person knowingly or willfully failed to report, or knowingly or willfully prevented another person from reporting such abuse.

¹ See Tiffany Sharples, *Most Child Abuse Goes Unreported*, Time Health, (Dec. 2, 2008), available at <http://www.time.com> (search "unreported child abuse" (last visited Jan. 19, 2012)).

² "Other person responsible for a child's welfare" includes many enumerated parties, including employees of a school or day care center. The definition exempts law enforcement officers and employees of municipal or county detention facilities acting in an official capacity, except as otherwise provided in the subsection. Section 39.01(47), F.S.

³ "Department" means the Department of Children and Family Services.

⁴ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

Relocation Assistance for Victims of Domestic Violence

Section 960.198, F.S., authorizes the Department of Legal Affairs (“DLA”) to award monetary payment to a victim of domestic violence in order to provide relocation assistance, under certain conditions. Specifically, the law authorizes DLA to award a victim of domestic violence who needs immediate assistance to escape from a domestic violence environment:

- A one-time payment not exceeding \$1,500 on any one claim; and
- A lifetime maximum of \$3,000.

Certain preconditions must be met before DLA may grant an award:

- There must be proof that a domestic violence offense was committed;
- The domestic violence offense must be reported to the proper authorities;
- The victim’s need for assistance must be certified by a domestic violence center in Florida; and
- The center certification must assert that the victim is cooperating with law enforcement officials, if applicable, and must include documentation that the victim has developed a safety plan.

III. Effect of Proposed Changes:

Section 1 amends s. 39.01, F.S., the definitions section of ch. 39, F.S. It deletes the current definition of the term “other person responsible for a child’s welfare.”

Section 2 amends s. 39.201, F.S., relating to mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; and the central abuse hotline. Currently, this statute provides, in part, that any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child’s welfare shall report such knowledge or suspicion to the DCF. The bill requires this reporting when any person knows, or has reasonable cause to suspect that a child is abused, abandoned, or neglected by *any person*.

Additionally, it is provided that any report of child abuse, abandonment, or neglect by a person other than the child’s caregiver as defined in s. 39.01(10), F.S., shall be taken by the Florida Abuse Hotline and forwarded to the appropriate county sheriff’s office as provided in s. 39.201(2)(b), F.S.

Section 39.201(2)(b), F.S., provides that if the report is of an instance of known or suspected child abuse by someone other than a parent, legal custodian, caregiver, or other person responsible for the child’s welfare as defined in ch. 39, F.S., the report or call shall be immediately electronically transferred to the appropriate county sheriff’s office by the central abuse hotline.

Section 3 amends s. 39.205, F.S., which addresses penalties for acts relating to reporting child abuse, abandonment, or neglect. The bill creates two new reporting violations for which a Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21, F.S., or s. 1005.02, F.S., is subject to a \$1 million fine for each

reporting violation and loss of *all* state funding, including the funds under the Florida Resident Access Grant program, for a period of 2 years. These violations involve:

- Personnel of the Florida College System institution, state university, or private university or college, who knowingly and willfully fail to report known or suspected child abuse, abandonment or neglect committed on the property of the institution, or during an event or function sponsored by the institution, or who knowingly and willfully prevent another person from doing so.
- A law enforcement agency of the institution which fails to transmit to prosecutorial authorities any report of known or suspected child abuse, abandonment or neglect committed on the property of the institution, or during an event or function sponsored by the institution.

Section 4 amends s. 39.302, F.S., relating to protective investigations of institutional child abuse, abandonment, or neglect. Currently, this statute provides, in part, that the DCF shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the DCF, or any other entity or person covered by s. 39.01(33) or (47), F.S., acting in an official capacity, has committed an act of child abuse, etc., the DCF shall initiate a child protective investigation as provided in the statute.

The bill deletes a reference to s. 39.01(47), F.S. This change is conforming since Section 1 of the bill deletes the current definition of the term “other person responsible for a child’s welfare,” which is contained in s. 39.01(47), F.S.

Section 5 creates s. 796.036, F.S., which reclassifies as follows the felony or misdemeanor degree of any violation of ch. 796, F.S., other than s. 796.03, F.S., or s. 796.035, F.S., in which a minor engages in prostitution, lewdness, assignation,⁵ sexual conduct, or other conduct as defined in or prohibited by ch. 796, F.S., but the minor is not the person charged with the violation:

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

Section 6 amends s. 960.198, F.S., relating to relocation assistance for victims of domestic violence. Under this statute, the Department of Legal Affairs is authorized to award a one-time payment of up to \$1,500 on any one claim and a lifetime maximum of \$3,000 to a victim of domestic violence who needs immediate assistance to escape from a domestic violence environment, if specific criteria are met.⁶

⁵ “Assignation” is the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement. Section 796.07(1)(c), F.S.

⁶ As with domestic violence, there must be proof that a sexual violence offense was committed and the sexual violence offense must be reported to proper authorities. Further, consistent with the current requirement that the domestic violence victim’s need for assistance be certified by a certified domestic violence shelter in this state, the sexual violence offense victim’s need for assistance must be certified by a certified rape crisis center in this state.

The statute is amended to also authorize these payments for a victim of sexual violence who reasonably fears for her or his safety and meets criteria of the statute. Conforming changes are made to the statute title and text to reference “sexual violence” and, relevant to victims of sexual violence, require that the victim’s need for assistance is certified by a certified rape crisis center.

Section 7 amends s. 794.056, F.S., relating to the Rape Crises Program Trust Fund. This fund is created within the Department of Health to provide funds for rape crisis centers in this state. Trust fund moneys must be used exclusively for the purpose of providing services for victims of sexual assault. Funds credited to the trust fund consist of those funds collected as an additional court assessment in each case in which a defendant pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, an offense provided in any number of specified statutes or statutory provisions. The statute is amended to delete reference to s. 796.045, F.S., which punishes sex trafficking. (See “Technical Deficiencies” section of this analysis.)

Section 8 amends s. 938.085, F.S., which provides, in part, that in addition to any sanction imposed when a person pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, a violation of any of a number of specified statutes or statutory provisions, the court shall impose a surcharge of \$151.⁷ The statute is amended to delete reference to s. 796.045, which punishes sex trafficking. (See “Technical Deficiencies” section of this analysis.)

Section 9 provides that the act takes effect October 1, 2012.

Other Potential Implications:

Department of Children and Families (DCF)⁸:

The bill could potentially alter the mission of the DCF in that the department would shift investigative efforts from the continued safety of a child to determinations of guilt or innocence.

In its analysis, the DCF expressed the following concerns:

- Removes language defining the term “other person,” as set forth in s. 39.01(47). The term “other person” is ambiguous and could be open to interpretation (e.g., Does “other person” include minors as well as adults?) In addition, removes language exempting law enforcement officers, employees of municipal employees of county detention facilities and employees of Department of Corrections, who are acting within their authority for departmental investigative jurisdiction. Specifically strikes reference to s. 39.01(10), F.S.
- Does not clearly define the term “other person.” The term “other person” is not currently used or defined in Chapter 39, F.S.
- As proposed, the bill expands the type and scope of reports to the Florida Abuse Hotline to now include reports of alleged abuse, abandonment and neglect committed by “any person,” which could include an adult or a minor. Potentially, calls to the hotline would increase, which could require additional staff. The DCF states that “[t]he overall magnitude of this

⁷Payment of the surcharge is a condition of probation, community control, or any other court-ordered supervision. The clerk of court retains a \$1.00 service charge with the remaining \$150 surcharge deposited into the Rape Crisis Program Trust Fund.

⁸Analysis of CS/SB 1816, Department of Children and Family Services, dated February 1, 2012 (on file with the Budget Subcommittee on Criminal and Civil Justice Appropriations). This analysis is further cited as “DCF Analysis.”

expected increase can be divided into two distinct populations.”⁹ This section also removes reference to s. 39.01(47), F.S.

The DCF further stated that the bill “does not distinguish between known and alleged acts of abuse, abandonment or neglect based on the age of the perpetrator.” The bill is ambiguous with regards to alleged acts of child abuse committed by minors. The DCF foresees that fights between school age children on school property or cyberbullying would necessitate the filing of a report by school officials or law enforcement.

In its analysis, the DCF cited information from the Florida Department of Education’s *Incidents of Crime and Violence in Florida Schools*.¹⁰ The data provided in Table 1 shows “there were 54,273 incidents of potential acts of abuse that occurred in Florida schools during the 2007-08 school year[.]”¹¹

Table 1: Florida Department of Education <i>Incidents of Crime and Violence in Florida Schools</i> (2007-2008 School Year) ¹²	
Allegation	Number of Incidents
Battery	8,600
Bullying	5,730
Fighting	30,412
Homicide	3
Kidnapping	4
Sexual Offense	1,287
Sexual Battery	126
Sexual Harassment	2,150
Threat/ Intimidation	5,961
Total	54,273
Data Source Florida Department of Education 2007-08 FSIR Indicators http://www.fldoe.org/eias/eiaspubs/fsir.asp	

By striking the definition of “other person,” in s. 39.201(47), the proposed language expands the definition of parental or guardianship responsibility and potentially increases the number of abuse, abandonment or neglect cases received by the Florida Abuse Hotline. The additional calls to the hotline would result in referrals to the appropriate county sheriff’s office, increasing the expenditure of time and resources.

⁹DCF Analysis.

¹⁰DCF Analysis, citing Florida Department of Education, Florida School Indicators Report 2007-08 <http://www.fldoe.org/eias/eiaspubs/fsir.asp>.

¹¹*Id.*

¹²*Id.*

In its analysis, the DCF cites *The Victimization of Children and Youth: A Comprehensive, National Survey*¹³ in 2005, which states:

- 1 in 2 children will experience physical assault;
- 1 in 12 children will experience sexual assault;
- 1 in 7 children will experience maltreatment (excluding corporal punishment);
- 1 in 4 children will experience property victimization; and,
- 1 in 3 children will be a witness to victimization of others/indirect victimization.

The survey estimates “that four percent of children who experienced a physical assault reported that the perpetrator was an adult stranger.”¹⁴

The DCF, applying the survey’s percentage of physical stranger assaults to the 2010 U.S. Census Data, estimates that each year approximately 80,000 children will be in danger of becoming physically assaulted by an adult stranger. (This estimate does not include assaults by minors.) Using a conservative estimate of 50 percent of these incidents, DCF estimates that the Florida Abuse Hotline would see an increase of an additional 40,000 calls per year.¹⁵ The DCF estimates a 20 percent workload increase to the 24/7 call center.

Department of Education¹⁶

The Department of Education raised several concerns about the bill. According to the department, the term “other person” may be widely interpreted and should be more clearly defined. By striking s. 39.01(47), F.S., “the bill may be inadvertently blurring or blending the jurisdiction of the Department of Children and Families and law enforcement.”¹⁷

Specifically, the DOE analysis states:

Chapter 39, F.S., focuses on the welfare of children, but does so within the context of the child’s family unit. The bill as written appears to do away with the nexus between the subject child and acts committed by the person who is responsible for the child, and instead broadens the category of persons to include everyone, regardless of that person’s relationship to the child. For example, if a child attending a function with a parent on the grounds of a state college is struck by a bystander, the bill requires a person who witnesses that act to call the Florida Abuse Hotline. DCF staff then determines if the report meets the statutory definition of child abuse, abandonment, or neglect. The challenge arises as the bystander who struck the child has no parent or caretaker connection to the child, and therefore does not fall within the population contemplated under Chapter 39. A

¹³*Id.*

¹⁴*Id.*

¹⁵DCF Analysis (footnotes omitted), citing to Finkelhor, D., Turner, H.A., and Hamby, S.L. (2005). The victimization of children and youth: A comprehensive, national survey. *Child Maltreatment*, 10(1): 5-25 (CV-73). The DFF also notes that children between the ages of 0 and 17 years old represent 21.3 percent of the population of Florida or are 4,004,679 children.

¹⁶Analysis of CS/SB 1816, Florida Department of Education, dated February 13, 2012 (on file with the Budget Subcommittee on Criminal and Civil Justice Appropriations). This analysis is further cited as “DOE Analysis.”

¹⁷*Id.*

person with no legally cognizable relationship with the child cannot by definition neglect or abandon the child; should that person physically or sexually abuse the child, then criminal statutes would come into play.”¹⁸

The bill expands the definition of mandatory reporting requirements and would require “any person,” which may include a public school employee, to report any suspected child abuse, abandonment or neglect by a caregiver, to the Florida Abuse Hotline. “A person with no legally cognizable relationship with the child cannot by definition neglect or abandon the child, should that person physically or sexually abuse the child, then criminal statutes would come into play.”¹⁹

The bill creates new language which imposes and levies a \$1 million fine and loss of any state funds for two years for any public and nonpublic postsecondary institution defined in ss. 1000.21 and 1005.02, F.S., for each occurrence when administrators, faculty or staff knowingly or willfully fail to report known or suspected child abuse. The loss of such funds would be detrimental to the affected institutions and to those students seeking a degree.

It is unclear if the loss of funding and the fine would be applicable if the university or college reported the suspected abuse to its law enforcement agency, but not to the Florida Abuse Hotline.

The DOE states it is unclear :

- Whether the bill impacts the Access to Better Learning and Education (ABLE) Grant Program (\$2.4 million);
- If the incident is reported only to the educational institution’s law enforcement agency and not to DCF’s abuse hotline, would the fine of \$1 million and subsequent loss of state funding would apply to the educational institution and its law enforcement agency?

The bill appears to be in conflict with a governmental entity’s sovereign immunity as defined in s. 768.28(9)(a), F.S. and does not provide remedy or protection for reported child abuse allegations which are subsequently classified as “unfounded.”

While the substantial fine and loss of state funding are based on knowing and willful failure to report child abuse, etc., it is possible this knowing and willful failure may have been by personnel of the institution without the knowledge of the institution’s administrators.

If the intent of Section 3 was to partially address a situation similar to what recently occurred at Penn State University, that situation appears to involve alleged child abuse, rather than abandonment and neglect.

Section 3 appears to also apply to students under the age of 18 who are victims of abuse, abandonment, and neglect.

¹⁸Analysis of CS/SB 1816, Florida Department of Education, dated February 13, 2012 (on file with the Budget Subcommittee on Criminal and Civil Justice Appropriations). This analysis is further cited as “DOE Analysis.”

¹⁹*Id.*

Questions may arise about the scope of Section 3. For example, many universities and colleges have on-site day care. If a child comes to school unfed and/or malnourished, is the university or college subject to the bill's penalties if a child care worker is aware of the child's situation and does not report it? Some of the child care workers are students working part-time while they are going to school.

Board of Governors²⁰

The Board of Governors (BOG) expressed a concern with the bill, in that, any public postsecondary institution which receives a \$1 million dollar fine and loss of funding for two years, may be financially unable to continue operating. The BOG reports that in order to continue their degree, students would be required to transfer to other institutions. This could add economic and emotional strain to the students and faculty.

The BOG states in their analysis that "[s]tate funding is the primary revenue source for all public postsecondary institutions; the loss of these funds, regardless of the length of time imposed, would be detrimental to the institution and the students seeking a degree."²¹

Furthermore, the BOG states that "[a]ny public postsecondary institution that loses all of its state funding for a period of two years, including funds under the Resident Access Grant Program, would be unable to operate and students would be required to transfer to another institution to continue their degree programs. Closure of an institution would have an extremely disruptive and detrimental impact on all students at the institution at every level (undergraduate, graduate and professional)."

Department of Legal Affairs/Office of Attorney General

Section 6 of the bill amends s. 960.198, F.S., relating to relocation assistance for victims of domestic violence. Under this statute, the Department of Legal Affairs is authorized to award from the Crimes Compensation Trust Fund a one-time payment of up to \$1,500 on any one claim and a lifetime maximum of \$3,000 to a victim of domestic violence who needs immediate assistance to escape from a domestic violence environment, if specific criteria are met. The statute is amended to also authorize these payments for a victim of sexual violence.

The 2010 Crime in Florida Annual Report indicated that there were 9,885 Forcible Sex Offenses. It is unknown how many of these forcible sex victims may have qualified as a domestic violence victim, as well. It is unknown how many would have requested relocation assistance as a sexual violence victim.

Revenues for the Crimes Compensation Trust Fund are derived from the collection of state and federal criminal assessments. The funds are used to run the Crimes Compensation Program. Crime victims serviced by this program include victims of assault, battery, homicide, sexual offenses, domestic violence, driving while intoxicated, hit and run, stalking, robbery, terrorism,

²⁰Analysis of CS/SB 1816, Board of Governors, dated January 25, 2011 (on file with the Budget Subcommittee on Criminal and Civil Justice Appropriations).

²¹ BOG analysis. All further information in this section of the analysis regarding the BOG is from this source.

kidnapping, arson, and all other violent crimes. Eligible expenses currently paid by the victims compensation program include medical/dental, mental health treatment, crime scene clean-up, funeral/burial, wage loss, loss of support, disability, forensic sexual assault examinations, property loss (for elderly and disabled adults only), and relocation expenses for victims of domestic violence. Since Fiscal Year 2005-06, the claims workload has increased by 19.3 percent and the dollars paid out have increased by 40 percent.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The proposed penalty classification solely for public and nonpublic postsecondary educational institutions may raise an equal protection question under the state and federal constitutions.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The DOE analysis states “[n]onpublic colleges, universities, and schools would face substantial penalties if any personnel or law enforcement agents knowingly or willfully fail to report known or suspected child abuse occurring on the property of the institution or during an event sponsored by the institution.”²²

The potential impact on faculty, staff and students is indeterminate. In the event a school is fined or loses funding, staff may face layoffs, or the school may shut down in part or in whole, which would affect the local economy or degree seeking students may be forced to transfer to other schools.

²² DOE Analysis.

C. Government Sector Impact:

Department of Children and Families

According to DCF, the Florida Abuse Hotline could potentially see a 40,000 annual increase in call volume. DCF estimates it will need 75 staff positions to respond to the increased calls. The additional staffing is projected to cost the department \$3,321,000 for Fiscal Year 2012-13 (October 1, 2012 through June 30, 2013) and \$3,866,331 annually.

Salaries and Benefits:	
66 FTE Abuse Registry Counselors @ \$42,929 ea.	\$2,833,314
9 FTE Abuse Registry Supervisors @ \$57,075 ea.	\$513,672
Expenses (\$6,555 per position)	\$492,625
HR Services (\$356 per position)	<u>\$26,700</u>
Total Annual Cost	<u>\$3,866,331</u>

Florida Educational Institutions

The bill creates reporting violations for which a state college or university, or nonpublic college, university, or school is subject to a \$1 million fine for each failure and loss of state funding, including the funds under the Florida Resident Access Grant program, for a period of 2 years.

Operating funds for Florida College System institutions and state universities are derived from state appropriations and student tuition. Potentially, a fine of \$1 million plus a two year loss of state funding imposed upon a college or university could result in the educational institution being unable to operate.²³

Department of Legal Affairs/Office of Attorney General

The bill would require the Department of Legal Affairs/Office of Attorney General to expend additional revenue from the Crimes Compensation Trust Fund to meet the potential demand for relocation assistance for victims of sexual violence. The bill authorizes the department to award a one-time payment of up to \$1,500 to a victim of sexual violence and a lifetime maximum of \$3,000 to a victim of sexual violence who reasonably fears for his or her safety.

Department of Corrections

The bill reclassifies the degree of felony and misdemeanor violations in ch. 796, F.S. The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation met on January 30, 2012 and determined that the bill will have an insignificant prison bed impact due to the low number of offenses in which a minor engages in prostitution, lewdness, assignation, sexual conduct or other conduct prohibited by chapter 796, F.S.

²³ DOE analysis. All further information in this section of the analysis regarding the DOE is from this source.

VI. Technical Deficiencies:

The bill amends ss. 794.056, F.S. (Rape Crisis Program Trust Fund) and s. 938.085, F.S. (additional cost to fund rape crisis centers) to delete reference to s. 796.045, F.S., which punishes sex trafficking. The original bill repealed s. 796.045, F.S., and therefore, the deletion of the reference to s. 796.045, F.S., in ss. 794.056 and 938.085, F.S., was simply a conforming change. However, the current bill does not repeal s. 796.045, F.S., and therefore, there is no longer a need for the conforming change. Consequently, the bill sponsor may wish to consider removing Sections 7 and 8 from the bill to avoid confusion.

In regard to Section 3 of the bill, there is no language in the bill regarding where the collected fine is to be deposited, i.e., into General Revenue or another trust fund, and if into a trust fund, for what purpose.

Lines 88-89 and 100-101 contain the language: “school, as defined in s. 1000.21 or s. 1005.02.” According to the DOE, these sections do not define “school, and therefore, “[i]t , is unclear whether the intent of the bill is to make all schools, including charter, private, virtual, etc., subject to the requirements and financial penalties contained in the bill.”

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Criminal Justice on January 31, 2012:

- Removes from the bill provisions in the original bill that amended ss. 90.404, 772.102, 787.06, 796.035, 796.07, 895.02, 921.0022, and 932.701, F.S., and that repealed ss. 787.05 and 796.045, F.S.
- Provides that any report of child abuse, abandonment, or neglect by a person other than the child’s caregiver as defined in s. 39.01(10), F.S., shall be taken by the Florida Abuse Hotline and forwarded to the appropriate county sheriff’s office as provided in s. 39.201(2)(b), F.S.

B. Amendments:

None.



596294

LEGISLATIVE ACTION

Senate

.
.
.
.
.
.

House

The Committee on Budget Subcommittee on Criminal and Civil
Justice Appropriations (Bennett) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (1) and subsections
(2) and (4) of section 39.201, Florida Statutes, are amended to
read:

39.201 Mandatory reports of child abuse, abandonment, or
neglect; mandatory reports of death; central abuse hotline.—

(1) (a) Any person who knows, or has reasonable cause to
suspect, that a child is physically or emotionally abused,
abandoned, or neglected by an adult person, or sexually abused



596294

13 ~~by any person a parent, legal custodian, caregiver, or other~~
14 ~~person responsible for the child's welfare, as defined in this~~
15 ~~chapter,~~ or that a child is in need of supervision and care and
16 has no parent, legal custodian, or responsible adult relative
17 immediately known and available to provide supervision and care
18 shall report such knowledge or suspicion to the department in
19 the manner prescribed in subsection (2).

20 (2) (a) Each report of known or suspected child abuse,
21 abandonment, or neglect by an adult person, or of sexual abuse
22 ~~by any person a parent, legal custodian, caregiver, or other~~
23 ~~person responsible for the child's welfare as defined in this~~
24 ~~chapter,~~ except those solely under s. 827.04(3), and each report
25 that a child is in need of supervision and care and has no
26 parent, legal custodian, or responsible adult relative
27 immediately known and available to provide supervision and care
28 shall be made immediately to the department's central abuse
29 hotline. Such reports may be made on the single statewide toll-
30 free telephone number or via fax, web-based chat, or web-based
31 report. Personnel at the department's central abuse hotline
32 shall determine if the report received meets the statutory
33 definition of child abuse, abandonment, or neglect. Any report
34 meeting one of these definitions shall be accepted for the
35 protective investigation pursuant to part III of this chapter.
36 Any report of child abuse, abandonment, or neglect by a person
37 other than the child's caregiver, as defined in s. 39.01, shall
38 be taken by the central abuse hotline and forwarded to the
39 appropriate county sheriff's office pursuant to paragraph (b).

40 (b) If the report is of an instance of known or suspected
41 child abuse by someone other than a parent, legal custodian,



596294

caregiver, or other person responsible for the child's welfare as defined in this chapter, the report or call shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse hotline.

(c) If the report is of an instance of known or suspected child abuse, abandonment, or neglect that occurred out of state and the alleged perpetrator and the child alleged to be a victim live out of state, the central abuse hotline shall not accept the report or call for investigation, but shall transfer the information on the report to the appropriate state.

(d) If the report is of an instance of known or suspected child abuse involving impregnation of a child under 16 years of age by a person 21 years of age or older solely under s. 827.04(3), the report shall be made immediately to the appropriate county sheriff's office or other appropriate law enforcement agency. If the report is of an instance of known or suspected child abuse solely under s. 827.04(3), the reporting provisions of this subsection do not apply to health care professionals or other persons who provide medical or counseling services to pregnant children when such reporting would interfere with the provision of medical services.

(e) Reports involving known or suspected institutional child abuse or neglect shall be made and received in the same manner as all other reports made pursuant to this section.

(f) Reports involving a known or suspected juvenile sexual offender or a child who has exhibited inappropriate sexual behavior shall be made and received by the department.

1. The department shall determine the age of the alleged offender, if known.



596294

71 2. If the alleged offender is 12 years of age or younger,
72 the central abuse hotline shall immediately electronically
73 transfer the report or call to the county sheriff's office. The
74 department shall conduct an assessment and assist the family in
75 receiving appropriate services pursuant to s. 39.307, and send a
76 written report of the allegation to the appropriate county
77 sheriff's office within 48 hours after the initial report is
78 made to the central abuse hotline.

79 3. If the alleged offender is 13 years of age or older, the
80 central abuse hotline shall immediately electronically transfer
81 the report or call to the appropriate county sheriff's office
82 and send a written report to the appropriate county sheriff's
83 office within 48 hours after the initial report to the central
84 abuse hotline.

85 (g) Reports involving surrendered newborn infants as
86 described in s. 383.50 shall be made and received by the
87 department.

88 1. If the report is of a surrendered newborn infant as
89 described in s. 383.50 and there is no indication of abuse,
90 neglect, or abandonment other than that necessarily entailed in
91 the infant having been left at a hospital, emergency medical
92 services station, or fire station, the department shall provide
93 to the caller the name of a licensed child-placing agency on a
94 rotating basis from a list of licensed child-placing agencies
95 eligible and required to accept physical custody of and to place
96 newborn infants left at a hospital, emergency medical services
97 station, or fire station. The report shall not be considered a
98 report of abuse, neglect, or abandonment solely because the
99 infant has been left at a hospital, emergency medical services



596294

station, or fire station pursuant to s. 383.50.

2. If the call, fax, web-based chat, or web-based report includes indications of abuse or neglect beyond that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the report shall be considered as a report of abuse, neglect, or abandonment and shall be subject to the requirements of s. 39.395 and all other relevant provisions of this chapter, notwithstanding any provisions of chapter 383.

(h) Hotline counselors shall receive periodic training in encouraging reporters to provide their names when reporting abuse, abandonment, or neglect. Callers shall be advised of the confidentiality provisions of s. 39.202. The department shall secure and install electronic equipment that automatically provides to the hotline the number from which the call or fax is placed or the Internet protocol (IP) address from which the report is received. This number shall be entered into the report of abuse, abandonment, or neglect and become a part of the record of the report, but shall enjoy the same confidentiality as provided to the identity of the reporter pursuant to s. 39.202.

(i) The department shall voice-record all incoming or outgoing calls that are received or placed by the central abuse hotline which relate to suspected or known child abuse, neglect, or abandonment. The department shall maintain an electronic copy of each fax and web-based report. The recording or electronic copy of each fax and web-based report shall become a part of the record of the report but, notwithstanding s. 39.202, shall be released in full only to law enforcement agencies and state



596294

attorneys for the purpose of investigating and prosecuting criminal charges pursuant to s. 39.205, or to employees of the department for the purpose of investigating and seeking administrative penalties pursuant to s. 39.206. Nothing in this paragraph shall prohibit the use of the recordings, the electronic copies of faxes, and web-based reports by hotline staff for quality assurance and training.

(j)1. The department shall update the web form used for reporting child abuse, abandonment, or neglect to:

a. Include qualifying questions in order to obtain necessary information required to assess need and a response.

b. Indicate which fields are required to submit the report.

c. Allow a reporter to save his or her report and return to it a later time.

2. The report shall be made available to the counselors in its entirety as needed to update the Florida Safe Families Network or other similar systems.

(k) The department shall conduct a study to determine the feasibility of using text and short message service formats to receive and process reports of child abuse, abandonment, or neglect to the central abuse hotline.

(4) The department shall establish and maintain a central abuse hotline to receive all reports made pursuant to this section in writing, via fax, via web-based reporting, via web-based chat, or through a single statewide toll-free telephone number, which any person may use to report known or suspected child abuse, abandonment, or neglect at any hour of the day or night, any day of the week. The department shall promote public awareness of the central abuse hotline through community-based



596294

partner organizations and public service campaigns. The central abuse hotline shall be operated in such a manner as to enable the department to:

(a) Immediately identify and locate prior reports or cases of child abuse, abandonment, or neglect through utilization of the department's automated tracking system.

(b) Monitor and evaluate the effectiveness of the department's program for reporting and investigating suspected abuse, abandonment, or neglect of children through the development and analysis of statistical and other information.

(c) Track critical steps in the investigative process to ensure compliance with all requirements for any report of abuse, abandonment, or neglect.

(d) Maintain and produce aggregate statistical reports monitoring patterns of child abuse, child abandonment, and child neglect. The department shall collect and analyze child-on-child sexual abuse reports and include the information in aggregate statistical reports. The department shall collect and analyze, in separate statistical reports, those reports of child abuse and sexual abuse which are reported from or occurred on the campus of any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02.

(e) Serve as a resource for the evaluation, management, and planning of preventive and remedial services for children who have been subject to abuse, abandonment, or neglect.

(f) Initiate and enter into agreements with other states for the purpose of gathering and sharing information contained in reports on child maltreatment to further enhance programs for



596294

the protection of children.

Section 2. Subsections (3) through (6) of section 39.205, Florida Statutes, are renumbered as subsections (6) through (9), respectively, new subsections (3), (4), and (5) are added to that section, and subsection (1) of that section is amended, to read:

39.205 Penalties relating to reporting of child abuse, abandonment, or neglect.—

(1) A person who is required to report known or suspected child abuse, abandonment, or neglect and who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, commits ~~is guilty of a felony misdemeanor~~ of the third ~~first~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084. A judge subject to discipline pursuant to s. 12, Art. V of the Florida Constitution shall not be subject to criminal prosecution when the information was received in the course of official duties.

(3) Any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, whose administrators knowingly and willfully, upon receiving information from faculty, staff, or other institution employees, fail to report known or suspected child abuse, abandonment, or neglect committed on the property of the institution, university, college, or school, or during an event or function sponsored by the institution, university, college, or school, or who knowingly and willfully prevent another person from doing so, shall be subject to fines by the Board of Governors of \$1 million for each such failure. Any fine collected under this



596294

subsection shall be deposited in the Rape Crisis Program Trust Fund.

(4) Any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, whose law enforcement agency fails to report known or suspected child abuse, abandonment, or neglect committed on the property of the institution, university, college, or school, or during an event or function sponsored by the institution, university, college, or school, shall be subject to fines imposed by the Board of Governors of \$1 million for each such failure. Any fine collected under this subsection shall be deposited in the Rape Crisis Program Trust Fund.

(5) Any Florida College System institution, state university, or nonpublic college, university or school, as defined in s. 1000.21 or s. 1005.02, shall have the right to challenge the Board of Governor's determination that the institution acted knowingly and willfully under subsection (3) or subsection (4) in an administrative hearing pursuant to s. 120.57; however, if it is found that actual knowledge and information of known or suspected child abuse was in fact received by the institution's administrators and was not reported, a presumption of a knowing and willful act will be established.

Section 3. Section 39.309, Florida Statutes, is created to read:

39.309 Alternative response to protective investigation.—
The department shall, in order to implement an alternative response to protective investigations program:



596294

(1) Develop and implement a program of social services and other supportive and rehabilitative services to be made available to the parent or legal custodian of a child seeking assistance pursuant to s. 39.201(2) (a). The social services and other supportive and rehabilitative services shall promote the child's physical, mental, and emotional health; provide a safe, stable living environment; promote family autonomy; and strengthen family life, whenever possible.

(2) Ensure that such services are targeted to prevent or mitigate the possibility of a child being referred to the hotline as an alleged victim of abuse, neglect, or abandonment, or to reduce the incidents of abuse.

(3) Coordinate with community-based care lead agencies pursuant to s. 409.1671 or other agencies.

Section 4. Paragraph (e) of subsection (1) of section 409.1671, Florida Statutes, is amended to read:

409.1671 Foster care and related services; outsourcing.—

(1)

(e) As used in this section, the term "eligible lead community-based provider" means a single agency with which the department shall contract for the provision of child protective services in a community that is no smaller than a county. The secretary of the department may authorize more than one eligible lead community-based provider within a single county when to do so will result in more effective delivery of foster care and related services. To compete for an outsourcing project, such agency must have:

1. The ability to coordinate, integrate, and manage all child protective services in the designated community in



596294

cooperation with child protective investigations.

2. The ability to ensure continuity of care from entry to exit for all children referred from the protective investigation and court systems.

3. The ability to provide directly, or contract for through a local network of providers, all necessary child protective services. Such agencies should directly provide no more than 35 percent of all child protective services provided.

4. The willingness to accept accountability for meeting the outcomes and performance standards related to child protective services established by the Legislature and the Federal Government.

5. The capability and the willingness to serve all children referred to it from the protective investigation and court systems, regardless of the level of funding allocated to the community by the state, provided all related funding is transferred.

6. The willingness to ensure that each individual who provides child protective services completes the training required of child protective service workers by the Department of Children and Family Services.

7. The ability to maintain eligibility to receive all federal child welfare funds, including Title IV-E and IV-A funds, currently being used by the Department of Children and Family Services.

8. Written agreements with Healthy Families Florida lead entities in their community, pursuant to s. 409.153, to promote cooperative planning for the provision of prevention and intervention services.



596294

9. A board of directors, of which at least 51 percent of the membership is comprised of persons residing in this state. Of the state residents, at least 51 percent must also reside within the service area of the lead community-based provider.

10. An alternative response to protective investigations program pursuant to s. 39.309.

Section 5. Section 796.036, Florida Statutes, is created to read:

796.036 Violations involving minors; reclassification.—

(1) The felony or misdemeanor degree of any violation of this chapter, other than s. 796.03 or s. 796.035, in which a minor engages in prostitution, lewdness, assignation, sexual conduct, or other conduct as defined in or prohibited by this chapter, but the minor is not the person charged with the violation, is reclassified as provided in this section.

(2) Offenses shall be reclassified as follows:

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

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

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

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

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

Section 6. Subsection (3) is added to section 960.198, Florida Statutes, to read:

960.198 Relocation assistance for victims of domestic



596294

violence.—

(3) Relocation payments for a domestic violence claim shall be denied if the department has previously approved or paid out a sexual battery relocation claim under s. 960.199 to the same victim regarding the same incident.

Section 7. Section 960.199, Florida Statutes, is created to read:

960.199 Relocation assistance for victims of sexual battery.—

(1) The department may award a one-time payment of up to \$1,500 on any one claim and a lifetime maximum of \$3,000 to a victim of sexual battery as defined in s. 794.011 who needs relocation assistance.

(2) In order for an award to be granted to a victim for relocation assistance:

(a) There must be proof that a sexual battery offense was committed.

(b) The sexual battery offense must be reported to the proper authorities.

(c) The victim's need for assistance must be certified by a certified rape crisis center in this state.

(d) The center certification must assert that the victim is cooperating with law enforcement officials, if applicable, and must include documentation that the victim has developed a safety plan.

(e) The act of sexual battery must be committed in the victim's place of residence or in a location that would lead the victim to reasonably fear for his or her continued safety in the place of residence.



596294

(3) Relocation payments for a sexual battery claim shall be denied if the department has previously approved or paid out a domestic violence relocation claim under s. 960.198 to the same victim regarding the same incident.

Section 8. For the 2012-2013 state fiscal year, the sum of \$1.5 million in recurring funds is appropriated from the General Revenue Fund to the Department of Legal Affairs, Office of the Attorney General, for the relocation of victims of sexual battery as provided in s. 960.199, Florida Statutes, as created by this act.

Section 9. Subsection (12) is added to section 1012.98, Florida Statutes, to read:

1012.98 School Community Professional Development Act.—

(12) The department shall require all certified school personnel to participate in continuing education training programs provided by the Department of Children and Family Services relating to the identifying and reporting of child abuse and neglect.

Section 10. This act shall take effect October 1, 2012.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to protection of vulnerable persons;
amending s. 39.201, F.S.; revising language concerning
child abuse reporting; requiring the Department of



596294

Children and Family Services to provide for web-chat and update other web-based forms for reporting child abuse, abandonment, or neglect; requiring a study on the use of short message format for the central abuse hotline; requiring the development of a public awareness campaign for the central abuse hotline; requiring the collection of statistical reports on child abuse and child sexual abuse on campuses of colleges and universities; amending s. 39.205, F.S.; increasing criminal penalties for knowingly and willfully failing to report known or suspected child abuse, abandonment, or neglect, or knowingly and willfully preventing another person from doing so; requiring specified educational institutions and their law enforcement agencies to report known or suspected child abuse, abandonment, or neglect in certain circumstances; providing financial penalties for violations; providing for challenges to findings of determinations; proving for a presumption in certain circumstances; creating s. 39.309, F.S.; requiring the department to develop and implement a program of social services and rehabilitative services for the parent or legal custodian of a child seeking assistance; amending s. 409.1671, F.S.; requiring eligible lead community-based providers to have alternative response to protective investigations programs pursuant to specified provisions; creating s. 796.036, F.S.; providing for upward reclassification of certain prostitution offenses involving minors;



596294

amending s. 960.198, F.S.; providing for denial of relocation payment for a domestic violence claim if the Department of Legal Affairs has previously paid a sexual battery relocation claim to the same victim for the same incident; creating s. 960.199, F.S.; providing for relocation assistance payments to victims of sexual battery; providing criteria for awards; providing for denial of relocation payment for a sexual battery claim if the department has previously paid a domestic violence relocation claim to the same victim for the same incident; providing an appropriation; amending s. 1012.98, F.S.; providing a continuing education requirement for certain teachers on identifying and reporting child abuse and neglect; providing an effective date.

By the Committee on Criminal Justice; and Senator Benacquisto

591-02720-12

20121816c1

A bill to be entitled

An act relating to protection of vulnerable persons; amending s. 39.01, F.S.; deleting the definition of the term "other person responsible for a child's welfare"; conforming provisions; amending s. 39.201, F.S.; revising provisions concerning child abuse reporting; amending s. 39.205, F.S.; requiring specified educational institutions and their law enforcement agencies to report known or suspected child abuse, abandonment, or neglect in certain circumstances; providing financial penalties for violations; amending s. 39.302, F.S.; conforming a cross-reference; creating s. 796.036, F.S.; providing for upward reclassification of certain prostitution offenses involving minors; amending s. 960.198, F.S.; providing for relocation assistance for certain victims of sexual violence; amending ss. 794.056 and 938.085, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Subsections (48) through (76) of section 39.01, Florida Statutes, are renumbered as subsections (47) through (75), respectively, and present subsections (10) and (47) of that section are amended to read:

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

(10) "Caregiver" means the parent, legal custodian,

591-02720-12

20121816c1

permanent guardian, adult household member, or other person responsible for a child's welfare ~~as defined in subsection (47).~~

~~(47) "Other person responsible for a child's welfare" includes the child's legal guardian or foster parent; an employee of any school, public or private child day care center, residential home, institution, facility, or agency; a law enforcement officer employed in any facility, service, or program for children that is operated or contracted by the Department of Juvenile Justice; or any other person legally responsible for the child's welfare in a residential setting; and also includes an adult sitter or relative entrusted with a child's care. For the purpose of departmental investigative jurisdiction, this definition does not include the following persons when they are acting in an official capacity: law enforcement officers, except as otherwise provided in this subsection; employees of municipal or county detention facilities; or employees of the Department of Corrections.~~

Section 2. Paragraph (a) of subsection (1) and paragraph (a) of subsection (2) of section 39.201, Florida Statutes, are amended to read:

39.201 Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.—

(1) (a) Any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by any person a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care,

591-02720-12 20121816c1

shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(2) (a) Each report of known or suspected child abuse, abandonment, or neglect by ~~any person a parent, legal custodian, caregiver, or other person responsible for the child's welfare as defined in this chapter~~, except those solely under s.

827.04(3), and each report that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall be made immediately to the department's central abuse hotline. Such reports may be made on the single statewide toll-free telephone number or via fax or web-based report. Personnel at the department's central abuse hotline shall determine if the report received meets the statutory definition of child abuse, abandonment, or neglect. Any report meeting one of these definitions shall be accepted for the protective investigation pursuant to part III of this chapter. Any report of child abuse, abandonment, or neglect by a person other than the child's caregiver as defined in s. 39.01(10), shall be taken by the Florida Abuse Hotline and forwarded to the appropriate county sheriff's office pursuant to paragraph (b).

Section 3. Subsections (3) through (6) of section 39.205, Florida Statutes, are renumbered as subsections (5) through (8), respectively, and new subsections (3) and (4) are added to that section to read:

39.205 Penalties relating to reporting of child abuse, abandonment, or neglect.—

(3) Any Florida College System institution, state

591-02720-12 20121816c1

university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, whose administrators, faculty, or staff knowingly and willfully fail to report known or suspected child abuse, abandonment, or neglect committed on the property of the institution, university, college, or school, or during an event or function sponsored by the institution, university, college, or school, or who knowingly and willfully prevent another person from doing so, shall be subject to fines of \$1 million for each such failure and the loss of all state funding, including the funds under the Florida Resident Access Grant Program, for a period of 2 years.

(4) Any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, whose law enforcement agency fails to transmit to prosecutorial authorities any report of known or suspected child abuse, abandonment, or neglect committed on the property of the institution, university, college, or school, or during an event or function sponsored by the institution, university, college, or school, shall be subject to fines of \$1 million for each such failure and the loss of all state funding, including the funds under the Florida Resident Access Grant Program, for a period of 2 years.

Section 4. Subsection (1) of section 39.302, Florida Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(1) The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges

591-02720-12 20121816c1

that an employee or agent of the department, or any other entity or person covered by s. 39.01(33) ~~or (47)~~, acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the timeframe established under s. 39.201(5) and orally notify the appropriate state attorney, law enforcement agency, and licensing agency, which shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations onsite or having face-to-face interviews with the child, investigation visits shall be unannounced unless it is determined by the department or its agent that unannounced visits threaten the safety of the child. If a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation is entitled to full access to the information gathered by the department in the course of the investigation. A protective investigation must include an onsite visit of the child's place of residence. The department shall make a full written report to the state attorney within 3 working days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in the report a determination of whether or not

591-02720-12 20121816c1

prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 5. Section 796.036, Florida Statutes, is created to read:

796.036 Violations involving minors; reclassification.-

(1) The felony or misdemeanor degree of any violation of this chapter, other than s. 796.03 or s. 796.035, in which a minor engages in prostitution, lewdness, assignation, sexual conduct, or other conduct as defined in or prohibited by this chapter, but the minor is not the person charged with the violation, is reclassified as provided in this section.

(2) Offenses shall be reclassified as follows:

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

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

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

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

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

Section 6. Section 960.198, Florida Statutes, is amended to read:

960.198 Relocation assistance for victims of domestic violence or sexual violence.-

(1) Notwithstanding the criteria set forth in s. 960.13 for crime victim compensation awards, the department may award a one-time payment of up to \$1,500 on any one claim and a lifetime

591-02720-12 20121816c1

175 maximum of \$3,000 to a victim of domestic violence who needs
 176 immediate assistance to escape from a domestic violence
 177 environment or to a victim of sexual violence who reasonably
 178 fears for her or his safety.

179 (2) In order for an award to be granted to a victim for
 180 relocation assistance:

181 (a) There must be proof that a domestic violence or sexual
 182 violence offense was committed;

183 (b) The domestic violence or sexual violence offense must
 184 be reported to the proper authorities;

185 (c) The victim's need for assistance must be certified by a
 186 certified domestic violence center or a certified rape crisis
 187 center in this state; and

188 (d) The center certification must assert that the victim is
 189 cooperating with law enforcement officials, if applicable, and
 190 must include documentation that the victim has developed a
 191 safety plan.

192 Section 7. Subsection (1) of section 794.056, Florida
 193 Statutes, is amended to read:

194 794.056 Rape Crisis Program Trust Fund.—

195 (1) The Rape Crisis Program Trust Fund is created within
 196 the Department of Health for the purpose of providing funds for
 197 rape crisis centers in this state. Trust fund moneys shall be
 198 used exclusively for the purpose of providing services for
 199 victims of sexual assault. Funds credited to the trust fund
 200 consist of those funds collected as an additional court
 201 assessment in each case in which a defendant pleads guilty or
 202 nolo contendere to, or is found guilty of, regardless of
 203 adjudication, an offense provided in s. 775.21(6) and (10) (a),

591-02720-12 20121816c1

204 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
 205 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
 206 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
 207 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
 208 s. 796.03; s. 796.035; s. 796.04; ~~s. 796.045~~; s. 796.05; s.
 209 796.06; s. 796.07(2) (a)-(d) and (i); s. 800.03; s. 800.04; s.
 210 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.
 211 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.
 212 847.0137; s. 847.0145; s. 943.0435(4) (c), (7), (8), (9) (a),
 213 (13), and (14) (c); or s. 985.701(1). Funds credited to the trust
 214 fund also shall include revenues provided by law, moneys
 215 appropriated by the Legislature, and grants from public or
 216 private entities.

217 Section 8. Section 938.085, Florida Statutes, is amended to
 218 read:

219 938.085 Additional cost to fund rape crisis centers.—In
 220 addition to any sanction imposed when a person pleads guilty or
 221 nolo contendere to, or is found guilty of, regardless of
 222 adjudication, a violation of s. 775.21(6) and (10) (a), (b), and
 223 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;
 224 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
 225 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.
 226 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; s. 796.03;
 227 s. 796.035; s. 796.04; ~~s. 796.045~~; s. 796.05; s. 796.06; s.
 228 796.07(2) (a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.
 229 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.
 230 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.
 231 847.0145; s. 943.0435(4) (c), (7), (8), (9) (a), (13), and
 232 (14) (c); or s. 985.701(1), the court shall impose a surcharge of

591-02720-12

20121816c1

233 \$151. Payment of the surcharge shall be a condition of
234 probation, community control, or any other court-ordered
235 supervision. The sum of \$150 of the surcharge shall be deposited
236 into the Rape Crisis Program Trust Fund established within the
237 Department of Health by chapter 2003-140, Laws of Florida. The
238 clerk of the court shall retain \$1 of each surcharge that the
239 clerk of the court collects as a service charge of the clerk's
240 office.

241 Section 9. This act shall take effect October 1, 2012.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: CS/SB 876

INTRODUCER: Criminal Justice Committee and Senator Benacquisto

SUBJECT: Robbery by Sudden Snatching

DATE: February 21, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Fav/CS
2.	Sneed	Sadberry	BJA	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

Section 812.131, F.S., punishes the offense of robbery by sudden snatching. Recently, the Florida First District Court of Appeal reviewed a case in which the defendant was charged with robbery by sudden snatching after he took the victim's purse. At the time of the taking, the victim was sitting on a park bench and her purse was next to her, touching her right hip. The defendant snatched the purse and ran away. The court held that the defendant could not be charged with robbery by sudden snatching because the statute required that the property be taken from the victim's person, not taken from the victim's reach, proximity, or control. Several other courts have reached the same conclusion when presented with similar facts.

The bill specifies that this offense also includes the taking of money or other property from the victim's immediate reach or control.

This bill substantially amends section 812.131, Florida Statutes.

II. Present Situation:

Section 812.131, F.S., provides that it is a third degree felony¹ to commit robbery by sudden snatching if, in the course of committing a robbery by sudden snatching,² the offender did not carry a firearm or deadly weapon. The offense is a second degree felony³ if, in the course of committing a robbery by sudden snatching, the offender carried a firearm or deadly weapon.

The statute defines the term “robbery by sudden snatching” as the taking of money or other property from the victim’s person, with intent to permanently or temporarily deprive the victim or the owner of the money or other property, when, in the course of the taking,⁴ the victim was or became aware of the taking. In order to satisfy this definition, it is not necessary to show that:

- The offender used any amount of force beyond that effort necessary to obtain possession of the money or other property; or
- There was any resistance offered by the victim to the offender or that there was injury to the victim’s person.

Cases Regarding the Scope of Robbery by Sudden Snatching

Recently, Florida’s First District Court of Appeal reviewed a case where the defendant was charged with robbery by sudden snatching after he took a victim’s purse.⁵ At the time of the taking, the victim was sitting on a park bench and her purse was next to her, touching her right hip. The defendant snatched the purse and ran away. The court held that the defendant could not be charged with robbery by sudden snatching because the statute required that the property be taken from the victim’s person, not taken from the victim’s reach, proximity, or control. Several other courts have reached the same conclusion when presented with similar facts.⁶

It appears that acts which the courts’ rulings indicate are outside the scope of s. 812.131, F.S., are being prosecuted as “simple theft.”⁷ The bill analysis for CS/HB 425 (1999 Legislative Session), when the offense of robbery by sudden snatching was created, indicated that the typical

¹ The maximum prison sanction that may imposed for a third degree felony is 5 years in state prison. s. 775.082, F.S. The maximum fine that may be imposed is \$5,000. s. 775.083, F.S. Additionally, repeat offender sanctions may be imposed pursuant to s. 775.084, if the offender qualifies under one of the repeat offender categories in that statute. This offense is ranked in Level 5 of the offense severity ranking chart of the Criminal Punishment Code. s. 921.0022, F.S.

² The statute specifies that an act shall be deemed “in the course of committing a robbery by sudden snatching” if the act occurs in an attempt to commit robbery by sudden snatching or in fleeing after the attempt or commission.

³ The maximum prison sanction that may imposed for a second degree felony is 15 years in state prison. s. 775.082, F.S. The maximum fine that may be imposed is \$10,000. s. 775.083, F.S. Additionally, repeat offender sanctions may be imposed pursuant to s. 775.084, F.S., if the offender qualifies under one of the repeat offender categories in that statute. This offense is ranked in Level 7 of the offense severity ranking chart of the Criminal Punishment Code. s. 921.0022, F.S.

⁴ The statute specifies that an act shall be deemed “in the course of taking” if the act occurs prior to, contemporaneous with, or subsequent to the taking of the property and if such act and the act of taking constitute a continuous series of acts or events.

⁵ *Wess v. State*, 67 So.3d 1133 (Fla. 1st DCA 2011).

⁶ See e.g., *State v. Floyd*, 872 So.2d 445 (Fla. 2d DCA 2004) and *Brown v. State*, 848 So.2d 361 (Fla. 4th DCA 2003).

⁷ E-mail from William Cervone, State Attorney, Eighth Judicial Circuit, to staff of the House Criminal Justice Subcommittee, dated November 9, 2011 (on file with the Senate Committee on Criminal Justice).

purse snatching offense (prior to passage of the legislation creating the offense) was prosecuted as second degree misdemeanor petit theft.⁸

III. Effect of Proposed Changes:

The bill amends s. 812.131, F.S., to specify that the offense of robbery by sudden snatching also includes the taking of money or other property from the victim's immediate reach or control.

This change to the definition of "robbery by sudden snatching" would allow prosecutors to charge robbery by sudden snatching when the robbery involves the taking of money or other property from the victim's immediate reach or control, which it is currently precluded from doing as a result of court cases holding that indicate that the acts are not within the scope of s. 812.131, F.S.

Information provided to legislative staff indicates that "cases now prosecuted as simple theft could become sudden snatching robbery[.]"⁹ Therefore, there is the potential that some acts currently charged as a misdemeanor theft (petit theft) could be charged as a felony (sudden snatching robbery).

The act takes effect July 1, 2012.

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:

None.

⁸ HB 429 – Robbery by Sudden Snatching, document prepared by the Office of Economic and Demographic Research, Florida Legislature, on November 8, 2011 (on file with the Senate Committee on Criminal Justice).

⁹ See footnote 7.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation estimated that the original bill would have an indeterminate prison bed impact.

Additionally, the bill could have a workload impact on state attorneys. Information received by legislative staff indicates that “cases now prosecuted as simple theft could become sudden snatching robbery, and carry greater penalty exposure, thus increasing workload if more defendants insisted on a trial.”¹⁰ However, the number of such cases cannot be estimated at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Criminal Justice on February 16, 2012:

Specifies that the offense of robbery by sudden snatching also includes the taking of money or other property from the victim’s immediate reach or control.

B. Amendments:

None.

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

¹⁰ See footnote 7.

By the Committee on Criminal Justice; and Senator Benacquisto

591-03525-12

2012876c1

A bill to be entitled

An act relating to robbery by sudden snatching;
amending s. 812.131, F.S.; clarifying that the offense
of robbery by sudden snatching includes the taking of
money or other property from the victim's person or
from the area within the victim's immediate reach or
control; providing criminal penalties; providing an
effective date.

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

Section 1. Section 812.131, Florida Statutes, is amended to
read:

812.131 Robbery by sudden snatching.—

(1) (a) "Robbery by sudden snatching" means the taking of
money or other property from the victim's person or from the
area within the victim's immediate reach or control, with intent
to permanently or temporarily deprive the victim or the owner of
the money or other property, when, in the course of the taking,
the victim was or became aware of the taking. In order to
satisfy this definition, it is not necessary to show that:

1. ~~(a)~~ The offender used any amount of force beyond that
effort necessary to obtain possession of the money or other
property; or

2. ~~(b)~~ There was any resistance offered by the victim to the
offender or that there was injury to the victim's person.

(b) (3) (a) An act shall be deemed:

1. "In the course of committing a robbery by sudden
snatching" if the act occurs in an attempt to commit robbery by

591-03525-12

2012876c1

sudden snatching or in fleeing after the attempt or commission.

2. ~~(b)~~ An act shall be deemed "In the course of the taking"
if the act occurs prior to, contemporaneous with, or subsequent
to the taking of the property and if such act and the act of
taking constitute a continuous series of acts or events.

(2) ~~(a)~~ If, in the course of committing a robbery by sudden
snatching, the offender:

(a) Carried a firearm or other deadly weapon, the offense
~~robbery by sudden snatching~~ is a felony of the second degree,
punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

~~(b) If, in the course of committing a robbery by sudden~~
~~snatching, the offender~~ Carried no firearm or other deadly
weapon, the offense ~~robbery by sudden snatching~~ is a felony of
the third degree, punishable as provided in s. 775.082, s.
775.083, or s. 775.084.

Section 2. This act shall take effect July 1, 2012.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: CS/SB 950

INTRODUCER: Criminal Justice Committee and Senators Smith and Storms

SUBJECT: Stalking & Aggravated Stalking

DATE: February 6, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Fav/CS
2.	White	Cibula	JU	Favorable
3.	Harkness	Sadberry	BJA	Pre-meeting
4.			BC	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

The bill amends the stalking statute, s. 784.048, F.S., by revising definitions related to stalking, primarily the definition of “credible threat.” It establishes a cause of action for an injunction for protection against stalking and cyberstalking, provides procedures and protections for obtaining a temporary or final injunction against stalking or cyberstalking, provides a first-degree misdemeanor penalty for violating an injunction against stalking or cyberstalking, and requires the court to consider issuing an injunction restraining a defendant from victim contact for up to ten years.

This bill substantially amends section 784.048, Florida Statutes. The bill creates sections 784.0485 and 784.0487, Florida Statutes.

II. Present Situation:

Stalking

Section 784.048, F.S., criminalizes the offense of stalking and aggravated stalking. Stalking is a first-degree misdemeanor, punishable by up to one year in county jail and potentially a fine of up

to \$1,000. Stalking is committed when a person willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person.¹

Aggravated stalking is a third-degree felony, punishable by up to five years in prison and potentially a fine of up to \$5,000. There are four aggravated stalking offenses provided in s. 784.048, F.S. Aggravated stalking occurs when a person willfully, maliciously, and repeatedly follows, harasses, or cyberstalks:

- Any person while making a credible threat with the intent to place that person in reasonable fear of death or bodily injury for himself, his child, sibling, spouse, parent, or dependent.²
- The same person for whom there has been an injunction for protection against repeat violence, sexual violence, dating violence, domestic violence, or any other court imposed prohibition of conduct toward the subject person or his property, so long as the aggravated stalking conduct is performed knowingly.³
- A minor under 16 years of age.⁴
- The victim of a crime for which the offender has been sentenced for sexual battery, a lewd or lascivious offense, or lewd or lascivious exhibition via computer transmission and for which the offender has been issued a no contact order under s. 921.244, F.S.⁵

The stalking law provides definitions for several common terms related to the offense of stalking. It defines “harass” as engaging in a “course of conduct directed at a specific person that causes substantial emotional distress and serves no legitimate purpose.”⁶ A course of conduct is a “pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.”⁷ A credible threat is one that is “made with the intent to cause the targeted person to reasonably fear for his or her safety.” Also, a credible threat must be made against the life of a person, or threaten to cause bodily injury to a person.⁸ Lastly, cyberstalking means engaging in a course of conduct to communicate through words or images by electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.⁹

In 1995, the constitutionality of Florida’s stalking statute was upheld by the Florida Supreme Court against an overbreadth and vagueness challenge.¹⁰

¹ Section 784.048(2), F.S.

² Section 784.048(3), F.S.

³ Section 784.048(4), F.S.

⁴ Section 784.048(5), F.S.

⁵ Section 784.048(7), F.S.

⁶ Section 784.048(1), F.S.

⁷ Section 784.048(1)(b), F.S.

⁸ Section 784.048(1)(c), F.S.

⁹ Section 784.048(1)(d), F.S.

¹⁰ *Bouters v. State*, 659 So. 2d 235 (1995), *cert. denied*, 116 S.Ct. 245, 516 U.S. 894, 133 L.Ed.2d 171.

Injunctions for Protection against Domestic Violence, Repeat Violence, Sexual Violence, or Dating Violence

A victim of domestic violence,¹¹ or a person who has reasonable cause to believe that he or she is in imminent danger of becoming a victim of domestic violence, may seek protective injunctive relief.¹² In seeking protective injunctive relief, a person must file a sworn petition with the court which alleges the existence of domestic violence and includes specific facts and circumstances upon which relief is sought.¹³ The court must set a hearing at the earliest possible time after a petition is filed.¹⁴ The respondent must be personally served with a copy of the petition, financial affidavit, Uniform Child Custody Jurisdiction and Enforcement Act affidavit, if any, notice of hearing, and any temporary injunction that has been issued.¹⁵ The court can enforce a violation of an injunction through a civil or criminal contempt proceeding, or the state attorney may prosecute it as a first-degree misdemeanor under s. 741.31, F.S.¹⁶ Either party may move the court to modify or dissolve an injunction at any time.¹⁷

Section 784.046, F.S., governs the issuance of injunctions for protection against repeat violence,¹⁸ dating violence,¹⁹ and sexual violence.²⁰ To a large extent, this statute recreates provisions discussed above in the domestic violence law, applying the right to seek protective injunctive relief in instances of repeat violence, dating violence, and sexual violence.

Currently, a statutory cause of action does not exist specifically for an injunction for protection against stalking or cyberstalking. A person seeking such an injunction must pursue injunctive relief through the domestic violence injunction statute or the repeat violence injunction statute, as outlined above. The domestic violence definition requires stalking or aggravated stalking

¹¹ Section 741.28(2), F.S., defines domestic violence as “any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.”

¹² Section 741.30(1), F.S.

¹³ Section 741.30(3), F.S.

¹⁴ Section 741.30(4), F.S.

¹⁵ *Id.* When an immediate and present danger of domestic violence exists, the court may grant a temporary injunction *ex parte*, pending a full hearing. Section 741.30(5), F.S.

¹⁶ Section 741.30(9), F.S.

¹⁷ Section 741.30(10), F.S.

¹⁸ Section 784.046(1)(a), F.S., defines violence as “any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, or false imprisonment, or any criminal offense resulting in physical injury or death, by a person against any other person.” Section 784.046(1)(b), F.S., defines repeat violence as “two incidents of violence or stalking committed by the respondent, one of which must have been within 6 months of the filing of the petition, which are directed against the petitioner or the petitioner’s immediate family member.”

¹⁹ Section 784.046(1)(d), F.S., defines dating violence as “violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature.” The following factors come into play when determining the existence of such a relationship: (1) a dating relationship must have existed within the past six months; (2) the nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and (3) the persons involved in the relationship must have been involved over time and on a continuous basis during the course of the relationship. Dating violence does not include violence in a casual acquaintanceship or between individuals who have only engaged in ordinary fraternization.

²⁰ Section 784.046(1)(c), F.S., defines sexual violence as any one incident of “1. Sexual battery, as defined in chapter 794; 2. A lewd or lascivious act, as defined in chapter 800, committed upon or in the presence of a person younger than 16 years of age; 3. Luring or enticing a child, as described in chapter 787; 4. Sexual performance by a child, as described in chapter 827; or 5. Any other forcible felony wherein a sexual act is committed or attempted.” For purposes of this definition, it does not matter whether criminal charges based on the incident were filed, reduced, or dismissed by the state attorney.

resulting in physical injury or death of one family or household member by another member.²¹ Similarly, the violence definition in the repeat violence statute requires stalking or aggravated stalking resulting in physical injury or death by one person against any other person.²² The repeat violence definition requires two incidents of stalking, one being within six months of the petition's filing, which are directed against the petitioner or an immediate family member.²³

III. Effect of Proposed Changes:

The bill amends the stalking statute, s. 784.048, F.S., by revising certain definitions, including the definition of what constitutes a “credible threat.” Additionally, the bill establishes a cause of action for an injunction for protection against stalking and cyberstalking. It provides procedures and protections for obtaining a temporary or final injunction against stalking or cyberstalking, and also provides a first-degree misdemeanor penalty for violating an injunction against stalking or cyberstalking.²⁴ Finally, the bill requires the court to consider issuing an injunction restraining a defendant from victim contact for up to ten years.

Stalking

This bill clarifies the stalking statute by revising the definition of “credible threat” and providing a definition of “immediate family.” Under the definition provided in the bill, the standard for establishing a credible threat is relaxed, so that the threat no longer must be made against the life of the targeted person, or be a threat to cause bodily injury to the targeted person. Rather, the bill contemplates the possibility of a credible threat being made against a person's family or household member.

Under the bill, a “credible threat” means a verbal or nonverbal threat, including one delivered by electronic communication, which places the targeted person in reasonable fear of his or her safety or that of his or her immediate family or household member, and made with the apparent ability to carry it out. This language further strengthens the Supreme Court of Florida's interpretation of the existing statute,²⁵ in that the bill specifically sets out an objective, reasonable fear standard.²⁶ Additionally, the bill clarifies that it is not necessary to prove that the person making the threat had the intent to actually carry it out. The bill deletes the current language requiring that the credible threat be against the life of a person, or be a threat to cause bodily injury to a person. These changes should make it easier to establish aggravated stalking when a person willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another and makes a credible threat against that person.

The bill also provides a definition of “immediate family” to include a person's spouse, parent, child, grandparent, or sibling. This definition potentially includes people not represented in the class established by the definition of “family or household member” as provided elsewhere in the

²¹ See *supra* note 11.

²² See *supra* note 18.

²³ *Id.*

²⁴ Generally, these same procedures, protections, and penalties exist for domestic violence and repeat violence injunctions. See ss. 741.30 and 741.046, F.S.

²⁵ *Bouters*, 659 So. 2d at 238.

²⁶ So long as a reasonable person in the targeted person's place would fear for his safety or that of his family or household members, the standard will be met.

statutes. For example, under the domestic violence statute, a “family or household member” means spouses, former spouses, persons related by blood or marriage, persons presently residing together, or persons who have a child in common.²⁷

Injunctions for No Contact and for Protection Against Stalking and Cyberstalking

The bill requires the sentencing court to consider issuing an injunction restraining the defendant from any victim contact for up to ten years. The length of this restraining injunction is intended to be based upon the seriousness of the case facts, the probability of future violations, and the victim’s safety. The court may issue the injunction regardless of whether the defendant is in prison, county jail, or on probation.

The bill creates a statutory cause of action for an injunction for protection against stalking and cyberstalking, which is similar to the current causes of action for injunctions against domestic violence, repeat violence, sexual violence, and dating violence. The cause of action that this bill establishes, however, does not include a requirement that physical injury or death be involved. The bill allows a stalking victim to file a sworn petition for an injunction for protection against stalking or cyberstalking in circuit court.

The petition for protection must allege the incidents of stalking or cyberstalking and include specific facts and circumstances upon which relief is sought. The court may not require the petitioner to file a bond upon the issuance of the injunction, nor pay a filing fee. The clerk of the court must provide the petitioner with a certified copy of any protective injunction against stalking entered by the court.

The bill provides procedures and protections for obtaining a temporary or final injunction against stalking or cyberstalking, which are generally similar to those currently existing for a domestic violence or repeat violence injunction. Additionally, the bill provides a first degree misdemeanor penalty for violating an injunction against stalking or cyberstalking, similar to the current criminal penalty that exists for violating a domestic violence or repeat violence injunction.

The bill provides an effective date of October 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²⁷ Section 741.28(3), F.S.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The first-degree misdemeanor penalty imposed upon violators of injunctions against stalking or cyberstalking would subject those violators to serving up to one year in jail and paying up to \$1,000 in a fine. Fines associated with the misdemeanor penalties established by this bill could result in an indeterminate amount of government revenues. An indeterminate fiscal impact upon local jails is expected because violators of stalking injunctions are subject to incarceration for up to one year in jail. There would be no fiscal impact on state prisons.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Criminal Justice on January 19, 2012:**

- Deletes the enhanced criminal penalties for aggravated stalking and the conforming changes to the Criminal Punishment Code;
- Deletes mandatory attendance at a batterers' intervention program;
- Provides procedures and protections for obtaining a temporary or final injunction against stalking or cyberstalking (generally the same as exists for a domestic violence or repeat violence injunction); and
- Provides a first degree misdemeanor penalty for violating an injunction against stalking or cyberstalking (same as exists for a domestic violence or repeat violence injunction).

B. Amendments:

None.

By the Committee on Criminal Justice; and Senators Simmons and Storms

591-02052-12

2012950c1

1 A bill to be entitled
 2 An act relating to stalking and aggravated stalking;
 3 amending s. 784.048, F.S.; redefining the terms
 4 "course of conduct" and "credible threat" and defining
 5 the term "immediate family"; providing that a person
 6 who makes a threat which places another person in
 7 reasonable fear for his or her safety or the safety of
 8 his or her immediate family commits the offense of
 9 aggravated stalking under certain circumstances;
 10 requiring that the sentencing court consider issuing
 11 an injunction that restrains a defendant from any
 12 contact with the victim for up to 10 years; providing
 13 legislative intent regarding the length of any such
 14 restraining order; creating s. 784.0485, F.S.;
 15 creating a civil cause of action for an injunction for
 16 protection against stalking or cyberstalking;
 17 providing that the victim of stalking or cyberstalking
 18 has standing in the circuit court to file a sworn
 19 petition for an injunction for protection against
 20 stalking or cyberstalking; prohibiting a court from
 21 issuing mutual orders of protection, but authorizing
 22 the court to issue a separate injunction for
 23 protection against stalking or cyberstalking if each
 24 party has complied with the provisions of law;
 25 providing for venue of the cause of action;
 26 prohibiting the clerk of the court from assessing a
 27 filing fee; providing an exception; providing that a
 28 petitioner is not required to post a bond; requiring
 29 the clerks of court to assist petitioners in filing

Page 1 of 22

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

591-02052-12

2012950c1

30 petitions with the court; requiring the clerk of the
 31 court in each county to make available informational
 32 brochures; providing a sample petition for an
 33 injunction for protection against stalking or
 34 cyberstalking; authorizing the court to grant a
 35 temporary injunction ex parte, pending a full hearing,
 36 under certain circumstances; authorizing the court to
 37 grant such relief as the court deems necessary and
 38 proper; providing procedures for an ex parte
 39 injunction hearing; setting forth the relief the court
 40 may grant if it finds that the petitioner is in
 41 imminent danger of becoming a victim of stalking or
 42 cyberstalking; setting forth the criteria the court
 43 must consider at the hearing; requiring the court to
 44 allow an advocate from a state attorney's office, law
 45 enforcement agency, or certified domestic violence
 46 center to be present with the petitioner or respondent
 47 during any court proceeding; requiring the clerk of
 48 the court to furnish a copy of the petition, notice of
 49 hearing, and temporary injunction, if any, to the
 50 sheriff or a law enforcement agency of the county
 51 where the respondent resides or can be found, who
 52 shall serve it upon the respondent as soon thereafter
 53 as possible on any day of the week and at any time of
 54 the day or night; authorizing the court to order a law
 55 enforcement officer to accompany the petitioner;
 56 authorizing the court to enforce a violation of an
 57 injunction for protection against stalking or
 58 cyberstalking through a civil or criminal contempt

Page 2 of 22

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

591-02052-12

2012950c1

proceeding; authorizing a state attorney to use criminal procedures for a violation of an injunction for protection; creating s. 784.0487, F.S.; providing procedures to follow when the respondent has violated the injunction for protection; providing legislative intent; providing criminal penalties; providing that a court may award a person who suffers an injury or loss as a result of a violation of an injunction for protection against stalking or cyberstalking economic damages for that injury or loss, including costs and attorney fees for enforcement of the injunction; providing an effective date.

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

Section 1. Section 784.048, Florida Statutes, is amended to read:

784.048 Stalking; definitions; penalties.—

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

(a) "Harass" means to engage in a course of conduct directed at a specific person which that causes substantial emotional distress to that in such person and serves no legitimate purpose.

(b) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, which evidence evidencing a continuity of purpose. The term does not include constitutionally protected activity such as is not included within the meaning of "course of conduct." Such constitutionally protected activity includes picketing or other

591-02052-12

2012950c1

organized protests.

(c) "Credible threat" means a verbal or nonverbal threat, including a threat delivered by electronic communication or a threat implied by a pattern of conduct, or a combination of the two, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her immediate family or household member, as defined in s. 741.28, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat. The present incarceration of the person making the threat is not a bar to prosecution under this section made with the intent to cause the person who is the target of the threat to reasonably fear for his or her safety. The threat must be against the life of, or a threat to cause bodily injury to, a person.

(d) "Cyberstalk" means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.

(e) "Immediate family" means a person's spouse, parent, child, grandparent, or sibling.

(2) A ~~Any~~ person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A ~~Any~~ person who willfully, maliciously, and repeatedly

591-02052-12 2012950c1

follows, harasses, or cyberstalks another person, and makes a credible threat ~~to that person with the intent to place that person in reasonable fear of death or bodily injury of the person, or the person's child, sibling, spouse, parent, or dependent,~~ commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) ~~A~~ Any person who, after an injunction for protection against repeat violence, sexual violence, or dating violence pursuant to s. 784.046, or an injunction for protection against domestic violence pursuant to s. 741.30, or after any other court-imposed prohibition of conduct toward the subject person or that person's property, knowingly, willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) ~~A~~ Any person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks a child ~~minor~~ under 16 years of age commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) ~~A~~ Any law enforcement officer may arrest, without a warrant, any person that he or she has probable cause to believe has violated ~~the provisions of~~ this section.

(7) ~~A~~ Any person who, after having been sentenced for a violation of s. 794.011, s. 800.04, or s. 847.0135(5) and prohibited from contacting the victim of the offense under s. 921.244, willfully, maliciously, and repeatedly follows,

591-02052-12 2012950c1

harasses, or cyberstalks the victim commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8) The punishment imposed under this section shall run consecutive to any former sentence imposed for a conviction for any offense under s. 794.011, s. 800.04, or s. 847.0135(5).

(9) (a) The sentencing court shall consider, as a part of any sentence, issuing an injunction restraining the defendant from any contact with the victim, which may be valid for up to 10 years, as determined by the court. It is the intent of the Legislature that the length of any such restraining order be based upon the seriousness of the facts before the court, the probability of future violations by the perpetrator, and the safety of the victim and his or her immediate family.

(b) The injunction may be issued by the court even if the defendant is sentenced to a state prison or a county jail or even if the imposition of the sentence is suspended and the defendant is placed on probation.

Section 2. Section 784.0485, Florida Statutes, is created to read:

784.0485 Stalking or cyberstalking; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.-

(1) There is created a cause of action for an injunction for protection against stalking or cyberstalking.

(a) A person who is the victim of stalking or cyberstalking has standing in the circuit court to file a sworn petition for an injunction for protection against stalking or cyberstalking.

591-02052-12

2012950c1

(b) The cause of action for an injunction for protection may be sought regardless of whether any other cause of action is currently pending between the parties. However, the pendency of any such cause of action shall be alleged in the petition.

(c) The cause of action for an injunction may be sought by any affected person.

(d) The cause of action for an injunction does not require either party to be represented by an attorney.

(e) The court may not issue mutual orders of protection; however, the court is not precluded from issuing separate injunctions for protection against stalking or cyberstalking if each party has complied with this section. Compliance with this section may not be waived.

(f) Notwithstanding chapter 47, a petition for an injunction for protection against stalking or cyberstalking may be filed in the circuit where the petitioner currently or temporarily resides, where the respondent resides, or where the stalking or cyberstalking occurred. There is no minimum requirement of residency to petition for an injunction for protection.

(2) (a) Notwithstanding any other law, the clerk of court may not assess a filing fee to file a petition for protection against stalking or cyberstalking. However, subject to legislative appropriation, the clerk of the circuit court may, on a quarterly basis, submit to the Office of the State Courts Administrator a certified request for reimbursement for petitions for protection against stalking or cyberstalking issued by the court, at the rate of \$40 per petition. The request for reimbursement shall be submitted in the form and

591-02052-12

2012950c1

manner prescribed by the Office of the State Courts Administrator. From this reimbursement, the clerk shall pay any law enforcement agency serving the injunction the fee requested by the law enforcement agency; however, this fee may not exceed \$20.

(b) A bond is not required by the court for the entry of an injunction.

(c) 1. The clerk of the court shall assist petitioners in seeking both injunctions for protection against stalking and enforcement of a violation thereof as specified in this section.

2. All offices of the clerk of the court shall provide simplified petition forms for the injunction and any modifications to and the enforcement thereof, including instructions for completion.

3. The clerk of the court shall ensure the petitioner's privacy to the extent practicable while completing the forms for an injunction for protection against stalking or cyberstalking.

4. The clerk of the court shall provide a petitioner with a minimum of two certified copies of the order of injunction, one of which is serviceable and will inform the petitioner of the process for service and enforcement.

5. The clerk of the court and appropriate staff in each county shall receive training in the effective assistance of petitioners as provided or approved by the Florida Association of Court Clerks.

6. The clerk of the court in each county shall make available informational brochures on stalking when such a brochure is provided by the local certified domestic violence center.

591-02052-12

2012950c1

233 7. The clerk of the court in each county shall distribute a
 234 statewide uniform informational brochure to petitioners at the
 235 time of filing for an injunction for protection against stalking
 236 or cyberstalking when such brochures become available. The
 237 brochure must include information about the effect of giving the
 238 court false information.

239 (3) (a) The sworn petition shall allege the existence of
 240 such stalking or cyberstalking and shall include the specific
 241 facts and circumstances for which relief is sought.

242 (b) The sworn petition shall be in substantially the
 243 following form:

244
 245 PETITION FOR INJUNCTION FOR PROTECTION AGAINST STALKING

246
 247 Before me, the undersigned authority, personally appeared
 248 Petitioner....(Name)...., who has been sworn and says that
 249 the following statements are true:

250
 251 1. Petitioner resides at:....(address)....

252 (Petitioner may furnish the address to the court in a
 253 separate confidential filing if, for safety reasons,
 254 the petitioner requires the location of the current
 255 residence to be confidential.)

256 2. Respondent resides at:....(last known address)....

257 3. Respondent's last known place of employment:....(name
 258 of business and address)....

259 4. Physical description of respondent:....

260 5. Race....

261 6. Sex....

591-02052-12

2012950c1

262 7. Date of birth....

263 8. Height....

264 9. Weight....

265 10. Eye color....

266 11. Hair color....

267 12. Distinguishing marks or scars....

268 13. Aliases of respondent:....

269
 270 (c) The petitioner shall describe any other cause of action
 271 currently pending between the petitioner and respondent. The
 272 petitioner shall also describe any previous attempt by the
 273 petitioner to obtain an injunction for protection against
 274 stalking or cyberstalking in this or any other circuit, and the
 275 result of that attempt. (Case numbers should be included, if
 276 available.)

277 (d) The petition must provide space for the petitioner to
 278 specifically allege that he or she is a victim of stalking or
 279 cyberstalking because respondent has:

280
 281 (Mark all sections that apply and describe in the spaces below
 282 the incidents of stalking or cyberstalking specifying when and
 283 where they occurred, including, but not limited to, locations
 284 such as a home, school, or place of employment.)

285
 286 Committed or threatened to commit stalking.

287 Previously threatened, harassed, stalked,
 288 cyberstalked, or physically abused the petitioner.

289 Threatened to harm the petitioner or family members or
 290 individuals closely associated with the petitioner.

591-02052-12

2012950c1

291 Intentionally injured or killed a family pet.
 292 Used, or has threatened to use, against the petitioner
 293 any weapons such as guns or knives.
 294 A criminal history involving violence or the threat of
 295 violence (if known).
 296 Another order of protection issued against him or her
 297 previously or from another jurisdiction, if known.
 298 Destroyed personal property, including, but not
 299 limited to, telephones or other communication equipment,
 300 clothing, or other items belonging to the petitioner.
 301 (e) The petitioner seeks an injunction: (Mark appropriate
 302 section or sections.)
 303 Immediately restraining the respondent from committing
 304 any acts of stalking or cyberstalking.
 305 Restraining the respondent from committing any acts of
 306 stalking or cyberstalking.
 307 Providing any terms the court deems necessary for the
 308 protection of a victim of stalking or cyberstalking, including
 309 any injunctions or directives to law enforcement agencies.
 310 (f) Every petition for an injunction against stalking or
 311 cyberstalking must contain, directly above the signature line, a
 312 statement in all capital letters and bold type not smaller than
 313 the surrounding text, as follows:
 314
 315 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND
 316 EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT
 317 THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE
 318 UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN
 319 SECTION 837.02, FLORIDA STATUTES.

591-02052-12

2012950c1

320
 321(initials)....
 322
 323 (4) Upon the filing of the petition, the court shall set a
 324 hearing to be held at the earliest possible time. The respondent
 325 shall be personally served with a copy of the petition, notice
 326 of hearing, and temporary injunction, if any, before the
 327 hearing.
 328 (5) (a) If it appears to the court that an immediate and
 329 present danger of stalking or cyberstalking exists, the court
 330 may grant a temporary injunction ex parte, pending a full
 331 hearing, and may grant such relief as the court deems proper,
 332 including an injunction restraining the respondent from
 333 committing any act of stalking or cyberstalking.
 334 (b) In a hearing ex parte for the purpose of obtaining such
 335 ex parte temporary injunction, evidence other than verified
 336 pleadings or affidavits may not be used as evidence, unless the
 337 respondent appears at the hearing or has received reasonable
 338 notice of the hearing. A denial of a petition for an ex parte
 339 injunction shall be by written order noting the legal grounds
 340 for denial. If the only ground for denial is no appearance of an
 341 immediate and present danger of stalking or cyberstalking, the
 342 court shall set a full hearing on the petition for injunction
 343 with notice at the earliest possible time. This paragraph does
 344 not affect a petitioner's right to promptly amend any petition,
 345 or otherwise be heard in person on any petition consistent with
 346 the Florida Rules of Civil Procedure.
 347 (c) Any such ex parte temporary injunction is effective for
 348 a fixed period not to exceed 15 days. A full hearing, as

591-02052-12 2012950c1

provided in this section, shall be set for a date no later than the date when the temporary injunction ceases to be effective. The court may grant a continuance of the hearing before or during a hearing for good cause shown by any party, which shall include a continuance to obtain service of process. An injunction shall be extended if necessary to remain in full force and effect during any period of continuance.

(6) (a) Upon notice and hearing, when it appears to the court that the petitioner is the victim of stalking or cyberstalking, the court may grant such relief as the court deems proper, including an injunction:

1. Restraining the respondent from committing any act of stalking or cyberstalking.

2. Ordering the respondent to participate in treatment, intervention, or counseling services to be paid for by the respondent.

3. Referring a petitioner to a certified domestic violence center. The court must provide the petitioner with a list of certified domestic violence centers in the circuit which the petitioner may contact.

4. Ordering such other relief as the court deems necessary for the protection of a victim of stalking or cyberstalking, including injunctions or directives to law enforcement agencies, as provided in this section.

(b) When determining whether a petitioner has reasonable cause to believe that there is a credible threat that he or she is in imminent danger of becoming a victim of stalking or cyberstalking, the court shall consider and evaluate all relevant factors alleged in the petition, including, but not

591-02052-12 2012950c1

limited to:

1. The history between the petitioner and the respondent, including threats, harassment, stalking or cyberstalking, and physical abuse.

2. Whether the respondent has attempted to harm the petitioner or family members or individuals closely associated with the petitioner.

3. Whether the respondent has intentionally injured or killed a family pet.

4. Whether the respondent has used, or has threatened to use, against the petitioner any weapons such as guns or knives.

5. Whether the respondent has a criminal history involving violence or the threat of violence.

6. The existence of a verifiable order of protection issued previously or from another jurisdiction.

7. Whether the respondent has destroyed personal property, including, but not limited to, telephones or other communications equipment, clothing, or other items belonging to the petitioner.

In making its determination under this paragraph, the court is not limited to those factors enumerated in subparagraphs 1.-7.

(c) The terms of an injunction restraining the respondent under subparagraph (a)1. or ordering other relief for the protection of the victim under subparagraph (a)4. shall remain in effect until modified or dissolved. Either party may move at any time to modify or dissolve the injunction. Specific allegations are not required. Such relief may be granted in addition to other civil or criminal remedies.

591-02052-12

2012950c1

407 (d) A temporary or final judgment on injunction for
 408 protection against stalking or cyberstalking entered pursuant to
 409 this section shall, on its face, indicate that:

410 1. The injunction is valid and enforceable in all counties
 411 of this state.

412 2. Law enforcement officers may use their arrest powers
 413 pursuant to s. 901.15(6) to enforce the terms of the injunction.

414 3. The court has jurisdiction over the parties and matter
 415 under the laws of this state and that reasonable notice and
 416 opportunity to be heard was given to the person against whom the
 417 order is sought sufficient to protect that person's right to due
 418 process.

419 4. The date that the respondent was served with the
 420 temporary or final order, if obtainable.

421 (e) The fact that a separate order of protection is granted
 422 to each opposing party is not legally sufficient to deny any
 423 remedy to either party or to prove that the parties are equally
 424 at fault or equally endangered.

425 (f) A final judgment on an injunction for protection
 426 against stalking or cyberstalking entered pursuant to this
 427 section may, on its face, provide that it is a violation of s.
 428 790.233 and a misdemeanor of the first degree for the respondent
 429 to have in his or her care, custody, possession, or control any
 430 firearm or ammunition.

431 (g) All proceedings under this subsection shall be
 432 recorded. Recording may be by electronic means as provided by
 433 the Rules of Judicial Administration.

434 (7) The court shall allow an advocate from a state
 435 attorney's office, a law enforcement agency, or a certified

591-02052-12

2012950c1

436 domestic violence center who is registered under s. 39.905 to be
 437 present with the petitioner or respondent during any court
 438 proceedings or hearings related to the injunction for protection
 439 if the petitioner or respondent has made such a request and the
 440 advocate is able to be present.

441 (8)(a)1. The clerk of the court shall furnish a copy of the
 442 petition, notice of hearing, and temporary injunction, if any,
 443 to the sheriff or a law enforcement agency of the county where
 444 the respondent resides or can be found, who shall serve it upon
 445 the respondent as soon thereafter as possible on any day of the
 446 week and at any time of the day or night. When requested by the
 447 sheriff, the clerk of the court may transmit a facsimile copy of
 448 an injunction that has been certified by the clerk of the court,
 449 and this facsimile copy may be served in the same manner as a
 450 certified copy. Upon receiving a facsimile copy, the sheriff
 451 must verify receipt with the sender before attempting to serve
 452 it on the respondent. In addition, if the sheriff is in
 453 possession of an injunction for protection which has been
 454 certified by the clerk of the court, the sheriff may transmit a
 455 facsimile copy of that injunction to a law enforcement officer
 456 who shall serve it in the same manner as a certified copy. The
 457 clerk of the court shall furnish to the sheriff such information
 458 concerning the respondent's physical description and location as
 459 is required by the department to comply with the verification
 460 procedures set forth in this section. Notwithstanding any other
 461 law, the chief judge of each circuit, in consultation with the
 462 appropriate sheriff, may authorize a law enforcement agency
 463 within the jurisdiction to effect service. A law enforcement
 464 agency serving injunctions pursuant to this section shall use

591-02052-12 2012950c1

service and verification procedures consistent with those of the sheriff.

2. If an injunction is issued and the petitioner requests the assistance of a law enforcement agency, the court may order that an officer from the appropriate law enforcement agency accompany the petitioner to assist in the execution or service of the injunction. A law enforcement officer shall accept a copy of an injunction for protection against stalking, certified by the clerk of the court, from the petitioner and immediately serve it upon a respondent who has been located but not yet served.

3. An order issued, changed, continued, extended, or vacated subsequent to the original service of documents enumerated under subparagraph 1. shall be certified by the clerk of the court and delivered to the parties at the time of the entry of the order. The parties may acknowledge receipt of such order in writing on the face of the original order. If a party fails or refuses to acknowledge the receipt of a certified copy of an order, the clerk shall note on the original order that service was effected. If delivery at the hearing is not possible, the clerk shall mail certified copies of the order to the parties at the last known address of each party. Service by mail is complete upon mailing. When an order is served pursuant to this subsection, the clerk shall prepare a written certification to be placed in the court file specifying the time, date, and method of service and shall notify the sheriff.

4. If the respondent has been served previously with a temporary injunction and has failed to appear at the initial hearing on the temporary injunction, any subsequent petition for

591-02052-12 2012950c1

injunction seeking an extension of time may be served on the respondent by the clerk of the court by certified mail in lieu of personal service by a law enforcement officer.

(b)1. Within 24 hours after the court issues an injunction for protection against stalking or cyberstalking or changes, continues, extends, or vacates an injunction for protection against stalking or cyberstalking, the clerk of the court must forward a certified copy of the injunction for service to the sheriff having jurisdiction over the residence of the petitioner. The injunction must be served in accordance with this subsection.

2. Within 24 hours after service of process of an injunction for protection against stalking or cyberstalking upon a respondent, the law enforcement officer must forward the written proof of service of process to the sheriff having jurisdiction over the residence of the petitioner.

3. Within 24 hours after the sheriff receives a certified copy of the injunction for protection against stalking or cyberstalking, the sheriff must make information relating to the injunction available to other law enforcement agencies by electronically transmitting such information to the Department of Law Enforcement.

4. Within 24 hours after the sheriff or other law enforcement officer has made service upon the respondent and the sheriff has been so notified, the sheriff must make information relating to the service available to other law enforcement agencies by electronically transmitting such information to the Department of Law Enforcement.

5. Within 24 hours after an injunction for protection

591-02052-12 2012950c1

523 against stalking or cyberstalking is vacated, terminated, or
 524 otherwise rendered no longer effective by ruling of the court,
 525 the clerk of the court must notify the sheriff receiving
 526 original notification of the injunction as provided in
 527 subparagraph 2. That agency shall, within 24 hours after
 528 receiving such notification from the clerk of the court, notify
 529 the Department of Law Enforcement of such action of the court.

530 (9) (a) The court may enforce a violation of an injunction
 531 for protection against stalking or cyberstalking through a civil
 532 or criminal contempt proceeding, or the state attorney may
 533 prosecute it as a criminal violation under s. 784.0487. The
 534 court may enforce the respondent's compliance with the
 535 injunction through any appropriate civil and criminal remedies,
 536 including, but not limited to, a monetary assessment or a fine.
 537 The clerk of the court shall collect and receive such
 538 assessments or fines. On a monthly basis, the clerk shall
 539 transfer the moneys collected pursuant to this paragraph to the
 540 State Treasury for deposit into the Domestic Violence Trust
 541 Fund.

542 (b) If the respondent is arrested by a law enforcement
 543 officer under s. 901.15(6) or for a violation of s. 784.0487,
 544 the respondent shall be held in custody until brought before the
 545 court as expeditiously as possible for the purpose of enforcing
 546 the injunction and for admittance to bail in accordance with
 547 chapter 903 and the applicable rules of criminal procedure,
 548 pending a hearing.

549 (10) The petitioner or the respondent may move the court to
 550 modify or dissolve an injunction at any time.

551 Section 3. Section 784.0487, Florida Statutes, is created

591-02052-12 2012950c1

552 to read:

553 784.0487 Violation of an injunction for protection against
 554 stalking or cyberstalking.—

555 (1) If the injunction for protection against stalking or
 556 cyberstalking has been violated and the respondent has not been
 557 arrested, the petitioner may contact the clerk of the circuit
 558 court of the county in which the violation is alleged to have
 559 occurred. The clerk shall assist the petitioner in preparing an
 560 affidavit in support of reporting the violation or directing the
 561 petitioner to the office operated by the court that has been
 562 designated by the chief judge of that circuit as the central
 563 intake point for violations of injunctions for protection where
 564 the petitioner can receive assistance in the preparation of the
 565 affidavit in support of the violation.

566 (2) The affidavit shall be immediately forwarded by the
 567 office assisting the petitioner to the state attorney of that
 568 circuit and to such judge as the chief judge determines to be
 569 the recipient of affidavits of violations of an injunction. If
 570 the affidavit alleges that a crime has been committed, the
 571 office assisting the petitioner shall also forward a copy of the
 572 petitioner's affidavit to the appropriate law enforcement agency
 573 for investigation. No later than 20 days after receiving the
 574 initial report, the local law enforcement agency shall complete
 575 its investigation and forward a report to the state attorney.
 576 The policy adopted by the state attorney in each circuit under
 577 s. 741.2901(2) shall include a policy regarding intake of
 578 alleged violations of injunctions for protection against
 579 stalking or cyberstalking under this section. The intake shall
 580 be supervised by a state attorney who has been designated and

591-02052-12 2012950c1

581 assigned to handle stalking or cyberstalking cases. The state
 582 attorney shall determine within 30 working days whether his or
 583 her office will file criminal charges or prepare a motion for an
 584 order to show cause as to why the respondent should not be held
 585 in criminal contempt, or prepare both as alternative findings,
 586 or file notice that the case remains under investigation or is
 587 pending subject to some other action.

588 (3) If the court has knowledge that the petitioner or
 589 another person is in immediate danger if the court does not act
 590 before the decision of the state attorney to proceed, the court
 591 shall immediately issue an order of appointment of the state
 592 attorney to file a motion for an order to show cause as to why
 593 the respondent should not be held in contempt. If the court does
 594 not issue an order of appointment of the state attorney, it
 595 shall immediately notify the state attorney that the court is
 596 proceeding to enforce the violation through criminal contempt.

597 (4) A person who willfully violates an injunction for
 598 protection against stalking or cyberstalking issued pursuant to
 599 s. 784.0485, or a foreign protection order accorded full faith
 600 and credit pursuant to s. 741.315, by:

601 (a) Going to, or being within 500 feet of, the petitioner's
 602 residence, school, place of employment, or a specified place
 603 frequented regularly by the petitioner and any named family or
 604 household member;

605 (b) Committing an act of stalking or cyberstalking against
 606 the petitioner;

607 (c) Committing any other violation of the injunction
 608 through an intentional unlawful threat, word, or act to do
 609 violence to the petitioner;

591-02052-12 2012950c1

610 (d) Telephoning, contacting, or otherwise communicating
 611 with the petitioner, directly or indirectly, unless the
 612 injunction specifically allows indirect contact through a third
 613 party;

614 (e) Knowingly and intentionally coming within 100 feet of
 615 the petitioner's motor vehicle, whether or not that vehicle is
 616 occupied;

617 (f) Defacing or destroying the petitioner's personal
 618 property, including the petitioner's motor vehicle; or

619 (g) Refusing to surrender firearms or ammunition if ordered
 620 to do so by the court,

621
 622 commits a misdemeanor of the first degree, punishable as
 623 provided in s. 775.082 or s. 775.083.

624 (5) A person who suffers an injury or loss as a result of a
 625 violation of an injunction for protection against stalking or
 626 cyberstalking may be awarded economic damages for that injury or
 627 loss by the court issuing the injunction. Damages includes costs
 628 and attorney fees for enforcement of the injunction.

629 Section 4. This act shall take effect October 1, 2012.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: SB 1268

INTRODUCER: Senator Simmons

SUBJECT: Action for Damages

DATE: February 7, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Irwin	Cibula	JU	Favorable
2.	Harkness	Sadberry	BJA	Pre-meeting
3.			BC	
4.			RC	
5.				
6.				

I. Summary:

This bill repeals s. 768.75, F.S., which authorizes a court in a negligence action to require the attorneys, parties, and persons having authority to settle to attend a settlement action at least 3 weeks before trial.

This bill repeals section 768.75, Florida Statutes.

II. Present Situation:

While s. 768.75, F.S., authorizes a court to order a pretrial settlement conference requiring all necessary parties to attend, Rule 1.200(a)(7), Fla. R. Civ. P., states that “[a]t any time after responsive pleadings or motions are due, the court may order . . . a case management conference. . . . At such a conference the court may . . . pursue the possibility of settlement.” And, Rule 1.200(b)(6), Fla. R. Civ. P., states that “[a]fter the action is at issue the court itself may or shall on the timely motion of any party require the parties to appear for a conference to consider and determine . . . any matters permitted under subdivision (a) of this rule.”

Furthermore, Fed. R. Civ. P. 16, states that “[i]n any action, the court may order the attorneys and any unrepresented parties to appear for one or more pretrial conferences for such purposes as . . . facilitating settlement.”

III. Effect of Proposed Changes:

This bill repeals s. 768.75, F.S., which states that:

- In negligence cases, the court may require a settlement conference to be held at least 3 weeks before the date set for trial; and
- The attorneys who will conduct the trial, parties, and persons with authority to settle shall attend the settlement conference held before the court unless excused by the court for good cause.

This 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:

Committee staff does not anticipate any significant private sector impact because these settlement conferences are provided for under both the Florida Rules of Civil Procedure and the Federal Rules of Civil Procedure.

C. Government Sector Impact:

Committee staff does not anticipate any significant government sector impact because these settlement conferences are provided for under both the Florida Rules of Civil Procedure and the Federal Rules of Civil Procedure.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Simmons

22-01229-12

20121268__

1 A bill to be entitled
2 An act relating to actions for damages; repealing s.
3 768.75, F.S., relating to an optional settlement
4 conference in certain tort actions; providing an
5 effective date.
6
7 Be It Enacted by the Legislature of the State of Florida:
8
9 Section 1. Section 768.75, Florida Statutes, is repealed.
10 Section 2. This act shall take effect upon becoming a law.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: CS/CS/SB 1166

INTRODUCER: Judiciary Committee, Regulated Industries Committee and Senator Simmons

SUBJECT: Clerks of Court

DATE: February 22, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harrington	Imhof	RI	Fav/CS
2.	Irwin	Cibula	JU	Fav/CS
3.	Harkness	Sadberry	BJA	Pre-meeting
4.			BC	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☐	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

The bill amends current law relating to the responsibilities of the clerks of the court to enhance the collection of court fees and fines and to improve the efficiency of their operations. The bill requires a broader use of the Comprehensive Case Information System (CCIS) among state agencies to reduce operational costs and duties of the clerks of the court.

The bill:

- Makes discretionary the clerk's review of property and motor vehicle records of persons seeking an indigency determination for purposes of obtaining a public defender.
- Provides that filing fees are due when a party files a pleading to initiate a proceeding.
- Provides that fees are due upon filing a pleading to reopen a case that has been closed at least 90 days.
- Requires clerks to collect a \$10 service charge for issuing a certified copy of an electronic certified copy of a summons rather than only for an original summons.
- Updates jury legislation to reflect modern practices and current procedures.
- Allows an action for the collection of court costs and fines to be brought at any time.

- Requires the state attorney to notify the clerk of the court when a defendant is a public officer charged with a specified offense before the clerk must send notice of the proceedings to the Commission on Ethics.
- Ranks claims for the collection of unpaid fees, court costs, and fines at level three for payment of claims against a decedent's estate by a personal representative.
- Removes the requirement for clerks of the court to send certified copies of felony drug convictions to agencies issuing business or professional licenses, and replaces it with a requirement for the licensing agency to obtain such information from the CCIS.
- Provides that with respect to criminal financial obligations, a previously imposed criminal or civil judgment constitutes a civil lien against the judgment debtor's real or personal property when recorded as required by s. 55.10, F.S. The bill exempts such liens from the current 10 year re-recording requirement of the statute.
- Adds the payment of fines, fees, and other court related costs as a condition of parole in addition to the current condition of paying restitution.

This bill substantially amends the following sections of the Florida Statutes: 27.52, 28.24, 28.241, 28.37, 34.041, 40.011, 40.02, 40.022, 40.221, 40.225, 57.081, 95.11, 112.3173, 318.18, 668.50, 733.707, 893.11, 938.27, 938.30, and 947.181.

This bill creates section 28.2405, Florida Statutes.

II. Present Situation:

Determinations of Indigency

Section 27.52(2), F.S., requires the clerk of the court to determine whether an applicant seeking appointment of a public defender is indigent. The clerk must consider the applicant to be indigent if the applicant:

- Is at or below 200 percent of the federal poverty guidelines;
- Is receiving Temporary Assistance for Needy Families-Cash Assistance;
- Is receiving poverty-related veterans' benefits; or
- Is receiving Supplemental Security Income (SSI).¹

There is a presumption that the applicant is not indigent if the applicant owns, or has equity in, any intangible or tangible personal property or real property or the expectancy of an interest in property having a net equity value of \$2,500 or more, excluding the value of the person's homestead and one vehicle having a net value under \$5,000.²

The clerk must conduct a review of property records for the county in which an applicant resides and motor vehicle records of the state to identify any property interests of the applicant.³ The clerk must evaluate and consider the results of its review in making a determination of indigency. The clerk is also required to maintain the results of the review in a file with the application and

¹ Section 27.52(2)(a)1., F.S.

² Section 27.52(2)(a)2.a., F.S.

³ Section 27.52(2)(a)2.b., F.S.

provide the file to the court if the applicant seeks a court review of the clerk's determination that the applicant is not indigent.⁴

Filing Fees

A party "instituting any civil action" must pay the statutorily prescribed filing fees to the clerk of the court. Under current law, a party reopening a civil action or proceeding in circuit court must pay a filing fee not exceeding \$50.⁵ In county court, reopening fees are up to \$25 for all claims not more than \$500, and up to \$50 for claims over \$500.⁶ A case is "reopened" when it has previously been reported as disposed of and is resubmitted to the court.⁷ However, section 28.241(1)(b), F.S., and s. 34.041, F.S., list several exceptions to the payment of a reopening fee.⁸

Service Charges

The clerk of the court must collect a \$10 service charge for issuing a summons from a party seeking to have a summons issued.⁹

Juror Legislation

Section 40.01, F.S., provides that jurors in this state must be taken from all persons at least 18 years of age who are citizens of the United States and residents of this state and their respective counties and who possess a drivers' license or state issued identification card. Persons without drivers' licenses or identification cards may also be added to the list if they execute an affidavit at the office of the clerk of the court.¹⁰ Section 40.013, F.S., lists persons who are disqualified or excused from jury service, including but not limited to, persons under prosecution for any crime, the Governor, and the clerk of the court. Section 40.011, F.S., requires the Department of Highway Safety and Motor Vehicles to deliver quarterly to the clerk of the circuit court in each county a list of the names of persons eligible for jury duty.

The chief judge of each circuit, or a circuit judge in each county within the circuit who is designated by the chief judge, must request the selection of a jury list in each county within the circuit during the first week of January of each year, or as soon thereafter as practicable.¹¹

The chief judge or the chief judge's designee shall direct the clerk of the court to select at random a sufficient number of names, with their addresses, from the list of persons who are qualified to serve as jurors . . . and to generate a list of not fewer than 250 persons to serve as jurors, which list shall be signed and verified by the clerk of the court as having been selected [at

⁴ *Id.*

⁵ Section 28.241(1)(b), F.S.

⁶ Section 34.041(2), F.S.

⁷ Section 34.041(2), F.S.

⁸ See ss. 28.241(1)(b) and 34.041, F.S. (providing a complete list of 18 circuit court and 10 county court prescribed circumstances when a party is exempt from paying the fee to reopen a case).

⁹ Section 34.041(1)(d), F.S.

¹⁰ Section 40.011(1), F.S.

¹¹ Section 40.02(1), F.S.

random]. A circuit judge in a county to which he or she has been assigned may request additional jury lists as necessary to prevent the jury list from becoming exhausted.¹²

The clerk of the court is responsible for preserving the security of the jury lists.¹³

Statute of Limitations

A statute of limitations is an absolute bar to the filing of a legal case after a date set by law.¹⁴ Section 95.11, F.S., specifies limitations on time periods to initiate actions other than for the recovery of real property. Under this section, an action on a judgment or decree of court must be commenced within 20 years.¹⁵

Notice of Breach of Public Trust

Section 112.3173, F.S., requires the clerk of the court to provide notice to the Commission on Ethics when a proceeding against a public official for a “specified offense” is being conducted in its court. Under s. 112.3173(4)(a), F.S., a copy of an information, indictment, or other document containing the charges is sufficient for notice. Section 112.3173(2)(e), F.S., defines a “specified offense” as:

- The committing, aiding, or abetting of an embezzlement of public funds;
- The committing, aiding, or abetting of any theft by a public officer or employee from his or her employer;
- Bribery in connection with the employment of a public officer or employee;
- Any felony specified in ch. 838, F.S., except ss. 838.15-838.16, F.S.;
- The committing of an impeachable offense;
- The committing of any felony by a public officer or employee who, willfully and with intent to defraud the public or the public agency for which the public officer or employee acts or in which he or she is employed of the right to receive the faithful performance of his or her duty as a public officer or employee, realizes or obtains, or attempts to realize or obtain, a profit, gain, or advantage for himself or herself or for some other person through the use or attempted use of the power, rights, privileges, duties, or positions of his or her public office or employment position; or
- The committing on or after October 1, 2008, of any felony defined in s. 800.04, F.S.,¹⁶ against a victim younger than 16 years of age, or any felony defined in ch. 794, F.S.,¹⁷ against a victim younger than 18 years of age, by a public officer or employee through the use or attempted use of power, rights, privileges, duties, or position of his or her public office or employment position.

¹² Section 40.02(1), F.S.

¹³ Section 40.02(2), F.S.

¹⁴ Section 95.11(6), F.S. *See generally* 35 FLA. JUR 2D s. 1 *Limitations and Laches* (2012).

¹⁵ Section 95.11(1), F.S.

¹⁶ Section 800.04, F.S. (pertaining to lewd and lascivious offenses).

¹⁷ Chapter 794, F.S. (pertaining to sexual battery).

Community Service in Lieu of Civil Penalty

If a person has been ordered to pay a civil penalty for a noncriminal traffic infraction and is unable to do so due to a financial hardship, the court must allow the person to satisfy the civil penalty by participating in community service until the civil penalty is paid.¹⁸ Such persons either receive credit for community service hours against the civil penalty at a specified hourly rate based on the wage rate specified under the federal Fair Labor Standards Act of 1938 or, if the person has a trade or profession, at the average prevailing wage rate for that trade or profession.¹⁹

The supervision of the performance of community service hours is conducted by “a community service agency” that agrees to accept community service from persons unable to pay their civil penalties.²⁰ The community service agency must record the number of community service hours completed along with the date of the completion to the clerk of the court on the letterhead of the community service agency and signed by the designated representative of the community service agency.²¹

Section 668.50, F.S., is known as the “Uniform Electronic Transaction Act.”²² The act applies to electronic records and electronic signatures relating to a transaction.²³ The act does not apply to the transactions to the extent they are governed by:

- A provision of law governing the creation and execution of wills, codicils, or testamentary trusts;
- The Uniform Commercial Code other than s. 671.107, F.S., and chs. 672 and 680, F.S.;
- The Uniform Computer Information Transactions Act; or
- Rules relating to judicial procedure.²⁴

Priority of Payment of Expenses and Obligations

Section 733.707, F.S., sets forth the order in which the personal representative of a decedent’s estate must pay the expenses of the estate’s administration and obligations against creditors. It provides the following order of payment:

¹⁸ Section 318.18(8)(b)1.a., F.S.

¹⁹ Section 318.18(8), F.S.

²⁰ Section 318.18(8)(b), F.S. (defining “community service agency” as a “not-for-profit corporation, community organization, charitable organization, public officer, the state or any political subdivision of the state, or any other body the purpose of which is to improve the quality of life or social welfare of the community and which agrees to accept community service from persons unable to pay civil penalties for noncriminal traffic infractions.”).

²¹ Section 318.18(8)(b)3.a., F.S.

²² Section 668.50(1), F.S.

²³ Section 668.50(2), F.S. (defining an “electronic record” as “a record created, generated, sent, communicated, received, or stored by electronic means.” An “electronic signature” is defined as “an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.” A “transaction” is defined as “an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, insurance, or governmental affairs.”).

²⁴ Section 668.50(3)(b), F.S.

- Class 1.—Costs, expenses of administration, and compensation of personal representatives and their attorneys fees and attorneys fees awarded under s. 733.106(3), F.S.
- Class 2.—Reasonable funeral, interment, and grave marker expenses, whether paid by a guardian, the personal representative, or any other person, not to exceed the aggregate of \$6,000.
- Class 3.—Debts and taxes with preference under federal law, and claims pursuant to ss. 409.9101 and 414.28, F.S.
- Class 4.—Reasonable and necessary medical and hospital expenses of the last 60 days of the last illness of the decedent, including compensation of persons attending the decedent.
- Class 5.—Family allowance.
- Class 6.—Arrearage from court-ordered child support.
- Class 7.—Debts acquired after death by the continuation of the decedent’s business, in accordance with s. 733.612(22), F.S., but only to the extent of the assets of that business.
- Class 8.—All other claims, including those founded on judgments or decrees rendered against the decedent during the decedent’s lifetime, and any excess over the sums allowed as Class 2 or Class 4 expenses.²⁵

Suspension of License to Practice upon Conviction of Certain Felonies

The clerk of the court must send a certified copy of a judgment of conviction of any person holding a license, permit, or certificate issued by a state agency, to the head of the licensing agency when such conviction is for a felony offense of selling, trafficking, or conspiracy to sell or traffic in a controlled substance.²⁶ The certified copy of the judgment must show the person’s license number, permit number, or certificate number on the face of the document.²⁷ The agency head must suspend or revoke the license, permit, or certificate of the convicted defendant to practice his or her profession or to carry on his or her business.²⁸

Costs of Prosecution and Investigation

Section 938.27(2)(a), F.S., requires a court to impose costs of prosecution and investigation notwithstanding a defendant’s present inability to pay. These costs are to be paid within a specified period or in specified installments.²⁹ Section 28.246, F.S., provides for a monthly payment plan. The court may review the reasonableness of the payment plan.³⁰

Financial Obligations in Criminal Cases

A judgment lien generally refers to a lien against property which is based on an underlying monetary judgment.³¹ A judgment lien on real property is created and perfected upon the recording of a certified copy of a judgment in the official county records.³² Under s. 55.10, F.S.,

²⁵ Section 733.707(1)(a)-(h), F.S.

²⁶ Section 893.11, F.S.

²⁷ *Id.*

²⁸ *Id.*

²⁹ Section 938.27(2)(a), F.S.

³⁰ Section 28.246(4), F.S.

³¹ 34 FLA. JUR 2D s. 1 *Liens* (2012).

³² Section 55.10(1), F.S.

the judgment shall be a lien for an initial period of 10 years from the date of the recording. A lien may be extended for an additional 10 years by re-recording a certified copy of the judgment prior to the expiration of the lien and by simultaneously recording an affidavit with the current address of the person who has a lien as a result of the judgment.³³ Section 55.081, F.S., provides that a judgment lien on real property can be effective for up to 20 years from the date the judgment was entered.

Parole and Fines, Costs, and Restitution

Section 947.181, F.S., provides that the Parole Commission must require restitution to the victim as a condition of parole unless the commission states reasons on the record for not ordering it. The amount of restitution is determined by the commission unless restitution has previously been ordered by the court under s. 775.089, F.S.³⁴ Court ordered restitution must be made a condition of parole.³⁵ If a parolee fails to make restitution as ordered it is considered a violation of parole and may be cause for revocation of parole.³⁶

Section 775.089(3)(a), F.S., provides that the court may require that the defendant make restitution within a specified period or in specified installments. Section 775.089(3)(b), F.S., provides that the end of such period or the last installment for restitution shall be no later than:

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

III. Effect of Proposed Changes:

Section 1. Amends s. 27.52, F.S., to provide that the clerk of the court may, instead of must, conduct a review of the property records for the county in which the applicant resides and the motor vehicle title records to identify any property interests of the applicant for a determination of indigent status for an appointment of a public defender. If a review is completed, the clerk must maintain the results of the review in a file with the application and provide the file to the court if the applicant seeks review of the clerk's determination of indigent status.

Section 2. Amends s. 28.24, F.S., to delete a requirement that all clerks must participate in the CCIS on or before January 1, 2006.

Section 3. Creates s. 28.2405, F.S., to provide that all clerks of the circuit court shall participate in the CCIS and shall submit electronic case data to the system based on the case types designated by the Supreme Court.

Section 4. Amends s. 28.241, F.S., to provide that circuit court filing fees are due at the time a party files a pleading to initiate a proceeding or files a pleading for relief, and reopen fees are

³³ Section 55.10(2), F.S.

³⁴ Section 947.181(1)(a), F.S.

³⁵ Section 775.089(4), F.S.

³⁶ Section 947.181(b), F.S.

due at the time a party files a pleading to reopen a proceeding. If a fee is not paid upon the filing of the pleading, the clerk shall pursue collection of the fee pursuant to s. 28.246, F.S.

The section provides a revised definition for when a case is “reopened.” The bill provides that a case is reopened after all appeals have been exhausted or time to file an appeal from a final order or final judgment has expired. A reopen fee may not be assessed by the clerk for any motion filed by any party until 90 days after a final order or final judgment has been filed with the clerk. When the case has been reopened, an additional reopen fee may not be assessed until the reopened matter is resolved. A reservation of jurisdiction by a court does not cause a case to remain open for purposes of this section or exempt a party from paying a reopen fee. The bill provides two additional circumstances for when a party is not required to pay the fee to reopen a case to include motions to enforce stipulations or motions for contempt.

The bill provides that the clerk of court shall collect a service charge of \$10 for issuing an original, a certified copy, or an electronic certified copy of a summons.

Section 5. Amends s. 28.37, F.S., to provide that except for penalties or fines distributed to counties or municipalities under ss. 316.0083(1)(b)3. or 318.18(15)(a), F.S., 10 percent of all court-related fines collected by the clerk must be deposited into the clerk’s Public Records Modernization Trust Fund.

Section 6. Amends s. 34.041, F.S., to provide that all county court filing and reopen fees shall be paid by the party filing the case at the time the case is filed. If the fee is not paid at that time, the clerk shall pursue collection of these filing fees pursuant to s. 28.246, F.S.

The bill provides that the clerk of the county court shall collect a service charge of \$10 for issuing a summons or an electronic certified copy of a summons. The section provides a revised definition for when a case is “reopened.” The definition is the same as in section 5 of this CS but applies to county courts. The bill provides that a case is reopened after all appeals have been exhausted or time to file an appeal from a final order or final judgment has expired. A reopen fee may not be assessed by the clerk for any motion filed by any party under 90 days after a final order or final judgment has been filed with the clerk. When the case has been reopened, an additional reopen fee may not be assessed until the reopened matter is resolved. A reservation of jurisdiction by a court does not cause a case to remain open for purposes of this section. The bill provides two additional circumstances for when a party is not required to pay the fee to reopen a case to include motions to enforce stipulations or motions for contempt.

Section 7. Amends s. 40.011, F.S., to provide that a clerk of the court shall generate a set of juror candidate lists derived from the source lists described in s. 40.01, F.S. The source lists and the juror candidate list must be maintained as specified in ch. 40, F.S., and in accordance with the juror selection plan approved in s. 40.225, F.S.

The bill provides that in addition to the list of licensed drivers and identification card holders, the clerk of the circuit court must add to the list of jurors the name of any person who is at least 18 years of age or older and who is a citizen of the United States and resident of this state if the person desires to be a juror.

The bill provides that a clerk of the court may generate juror candidate lists as necessary to ensure a valid and consistent juror selection process. The initial juror candidate list is derived from the name sources described in s. 40.01, F.S., which must be the master list from which prospective jurors are drawn for summons. The final juror candidate list must contain a list of those persons, drawn from the initial candidate list as prescribed in ch. 40, F.S., who are to be summoned as a pool for possible juror service.

Section 8. Amends s. 40.02, F.S., to delete the requirement that the chief judge of each circuit must request the selection of a jury list in each county within the first week of January of each year, or as soon as practicable thereafter. Alternatively, the bill provides that the chief judge or designee must direct the clerk of the court to select, by lot and at random, a sufficient number of names from the initial juror candidate list of not fewer than 250 persons to serve as jurors as provided for in s. 40.221, F.S.

The bill provides that the final juror candidate list may be created, updated, or supplemented as often as necessary to prevent the selection list from being exhausted, but in no case less than annually during the first week of January of each year, or as soon as practicable thereafter. The bill provides that the circuit judge may also request that the final juror candidate list be updated or supplemented, or that a new list be created as necessary.

Section 9. Amends s. 40.022, F.S., to provide that each clerk of the circuit court must, upon receipt of the list of persons in the department database from the Department of Highway Safety and Motor Vehicles, purge the final juror candidate lists of, at a minimum, the names of those persons adjudicated mentally incompetent, convicted of a felony, or deceased. The bill provides that this purge is necessary to ensure that the juror candidate summons satisfy the requirements of ss. 40.01 and 40.013, F.S.

Section 10. Amends s. 40.221, F.S., to provide that a clerk of the court, under supervision of a judge of any court, must, in a manner deemed to produce a result by lot and at random, select from the final juror candidate list such number of persons as he or she deems necessary for a jury venire.

Section 11. Amends s. 40.225, F.S., to remove the alternative method for drawing jury venire. The bill provides that the chief judge of each circuit must review and consent to the process for selecting juror candidate within his or her circuit. The clerk of the court must implement an automated electronic system as the exclusive method for maintaining the names of prospective jurors and other data for the purpose of drawing juror candidates. The clerk of the circuit in each county must have the administrative responsibility for developing the automated system of jury venire selection, obtaining approval for the juror candidate selection process, and operating and updated the system in accordance with ch. 40, F.S., and the technical standards and procedures adopted by the Chief Justice.

The bill provides that the clerk of the court, or the chief judge of the circuit if performing the duties of juror candidate selection, must submit for approval a plan for the selection of juror candidates to the Chief Justice.

Section 12. Amends s. 57.081, F.S., to reword the provision that a party who has obtained a certification of indigence pursuant to s. 27.52, F.S.,³⁷ or s. 57.082, F.S.,³⁸ is not required to prepay costs, filing fees, or charges for issuance of a summons.

Section 13. Amends s. 95.11, F.S., to extend the statute of limitations for the collection of court costs or fines owed to the state. The bill provides that such an action may be commenced at any time.

Section 14. Amends s. 112.3173, F.S., to provide that the clerk of the court in a proceeding involving a specified offense being conducted against a public officer or employee must provide notice of the proceeding to the Commission on Ethics *after* the state attorney advises the clerk that the defendant is a public officer or employee and that the defendant is alleged to have committed a qualifying offense.

Section 15. Amends s. 318.18, F.S., to require the signature of the person designated to represent a community service agency be notarized on letterhead that indicates the number of hours of community service completed and the date the community service hours were completed by a person who is ordered to perform community service as a penalty for specified offenses.

Section 16. Amends s. 668.50, F.S., related to the Uniform Electronic Transaction Act. The bill provides that the Uniform Electronic Transaction Act does apply to rules relating to judicial procedure, except with respect to subsections (2), (9), and (11), of s. 668.50, F.S., to the extent the transaction is governed by rules relating to judicial procedure.³⁹

Section 17. Amends s. 773.707, F.S., to add claims in favor of the state for unpaid court costs, fees, or fines, to a Class 3 debt for purposes of classification for the order of payments due from a decedent's estate.

Section 18. Amends s. 893.11, F.S., to restate that a state agency must immediately suspend the business or professional license of a person licensed by the agency if that person is convicted of a felony for the sale of, or trafficking in, a controlled substance or for the conspiracy to sell, or traffic in, a controlled substance. The bill provides that a state agency that renews a business or professional license must use the CCIS to obtain information relating to the conviction. The clerk of the court must provide a certified copy of the judgment upon request to the agency, rather than automatically upon conviction of the person. The bill provides that the term "business or professional license" includes any license, permit, or certificate that authorizes a person to practice his or her profession or to carry on his or her business.

Section 19. Amends s. 938.27, F.S., to provide that a court must require the defendant to pay the costs of prosecution and investigation pursuant to a payment plan under s. 28.246(4), F.S., rather than installments specified by the court.

³⁷ Section 27.52, F.S. (providing criteria for determining criminal indigency status).

³⁸ Section 57.082, F.S. (providing criteria for the clerk to determine if a civil litigant is indigent).

³⁹ Subsection (2) provides definitions; subsection (9) provides the effect of an electronic signature; and subsection (11) specifies how an electronic signature is notarized or acknowledged.

Section 20. Amends s. 938.30, F.S., to provide that if a criminal or civil judgment has previously been entered on a court-imposed financial obligation, the judgment constitutes a civil lien against the judgment debtor's presently owned or after-acquired real or personal property when recorded pursuant to s. 55.10, F.S., except that a judgment on a court-imposed financial obligation is not subject to the 10-year re-recording requirement of s. 55.10, F.S. The judgment must secure all unpaid court-imposed financial obligations that are due and may accrue subsequent to the recording of the judgment, as well as interest and reasonable costs for issuing a satisfaction and recording of the satisfaction in the official records.

The bill provides that the clerk must enforce, satisfy, compromise, settle, subordinate, release, or otherwise dispose of any debts or liens imposed and collected under s. 938.30, F.S., in the same manner as prescribed in s. 938.29(3), F.S., relating to indigent criminal defense fees and costs.

Section 21. Amends s. 947.181, F.S., to rename the section "Fines, fees, restitution, or other costs ordered to be paid by a court as conditions of parole."⁴⁰ The bill provides that the Parole Commission must require the payment of fines, fees, restitution, or other court-ordered costs as condition of parole unless the commission finds reasons to the contrary. If the commission does not require payment of fines, fees, restitution, or other court-ordered costs, or requires partial payment, the commission must state on the record the reasons for its decision. Failure of a parolee to make the above payments must be considered by the commission as a violation of parole. The bill provides that restitution to the aggrieved party for injury, damage, or loss caused by the offense for which the parolee was imprisoned must have first priority in the payment of amounts owed under s. 947.181, F.S.

The bill deletes the provision that required the commission to revoke parole if the parolee failed to make restitution payments, but maintains current law that the commission must consider the defendant's employment status, earning ability, financial resources, willfulness of the defendant's failure to pay, and other special circumstances that may have bearing on the defendant's ability to pay prior to revoking parole.⁴¹

Section 22. Provides that this act shall take effect on July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁴⁰ Section 947.181, F.S. (currently relating only to "victim restitution as condition of parole").

⁴¹ Section 947.181(2), F.S.

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

This bill adds additional fees for services provided by the Clerks of the Court.

B. Private Sector Impact:

This bill adds additional fees for services provided by the Clerks of the Court.

C. Government Sector Impact:

According to the Florida Association of Court Clerks, the bill provides for increased efficiencies in day-to-day office operations for the clerks and should result in an indeterminate, positive fiscal impact.⁴²

According to the Office of the State Courts Administrator, the bill will likely have a minimal fiscal impact on expenditures of the State Court Systems.⁴³ However, the Office of State Courts Administrator indicated that the more narrowly drawn definition for when a case is “reopened” may result in a reduction of the amount of revenues that are generated from reopening cases.⁴⁴ The Florida Association of Court Clerks and Comptrollers reported that the reduction of revenue associated with the change in the definition of “reopened” cases would not be significant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Judiciary on February 16, 2012:**

The Committee Substitute (CS) removes a provision requiring the Department of the Lottery to use the CCIS, rather than rely on notification from the judiciary and other state agencies to enforce the current prohibition on paying a prize of \$600 or more before collecting outstanding fines and support obligations.

The CS also removes a provision imposing a \$70 fee for rescheduling a judicial sale.

⁴² Florida Association of Court Clerks, *Senate Bill # 1166 Clerks of Court* (January 4, 2012) (on file with the Senate Committee on Judiciary).

⁴³ Office of the State Courts Administrator, *2012 Judicial Impact Statement SB 1166* (January 12, 2012) (on file with the Senate Committee on Judiciary).

⁴⁴ *Id.*

CS by Regulated Industries on February 7, 2012:

The Committee Substitute provides that except for penalties or fines distributed to counties, 10 percent of all court-related fines collected by the clerk must be deposited into the clerk's Public Records Modernization Trust Fund. The bill adds sections 8-12 of the bill to amend ch. 40, F.S., to be consistent with modern practices and current procedures concerning jury legislation. The bill provides that licensing agencies must use the CCIS when renewing a license to obtain conviction information. The bill clarifies that payment of restitution takes priority over payment of court costs. The bill deletes the requirement in the original bill for circuit and county courts to require a prisoner to make monthly payments of at least 20 percent of the balance of the prisoner's trust account as payment of the court costs while imprisoned. The bill amends the effective date of the act.

B. Amendments:

None.

By the Committees on Judiciary; and Regulated Industries; and
Senator Simmons

590-03539A-12

20121166c2

1 A bill to be entitled
2 An act relating to clerks of court; amending s. 27.52,
3 F.S.; authorizing the clerk of court to review the
4 property records and motor vehicle records to
5 determine whether an applicant for the appointment of
6 a public defender is indigent; deleting a requirement
7 that the clerk conduct the review; amending s. 28.24,
8 F.S.; deleting a requirement for the clerks of the
9 circuit courts to participate in the Comprehensive
10 Case Information System; creating s. 28.2405, F.S.;
11 requiring clerks of the circuit courts to use the
12 Comprehensive Case Information System and to submit
13 data to the system based on case types designated by
14 the Supreme Court of Florida; amending s. 28.241,
15 F.S.; providing that filing fees and fees to reopen a
16 proceeding are due at the time a party files a
17 pleading to initiate or reopen a proceeding; requiring
18 the clerk of court to pursue the collection of fees
19 that are not timely paid; revising the circumstances
20 under which a fee to reopen a case applies; exempting
21 a person from paying a reopen fee for filing a motion
22 to enforce a stipulation or a motion for contempt;
23 authorizing the clerk of court to charge a fee to
24 issue an electronic certified copy of a summons;
25 amending s. 28.37, F.S.; providing that certain
26 penalties and fines are not deposited into the clerk's
27 Public Records Modernization Trust Fund; amending s.
28 34.041, F.S.; requiring the party filing a case in
29 county court to pay all filing and reopen fees at the

Page 1 of 36

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

590-03539A-12

20121166c2

30 time of filing; requiring the clerk to pursue
31 collection of the fees if the fees are not paid at the
32 time of filing; authorizing the clerk of court to
33 charge a fee for issuing an electronic certified copy
34 of a summons; revising the circumstances under which a
35 fee to reopen a case applies; exempting a party from
36 paying a reopen fee for filing motions to enforce
37 stipulations and motions for contempt; amending s.
38 40.011, F.S.; requiring that a clerk of court generate
39 a set of juror candidate lists; requiring that the
40 clerk of court add names of certain persons to the
41 juror candidate lists; authorizing the clerk of court
42 to generate juror candidate lists to ensure a valid
43 and consistent juror selection process; amending s.
44 40.02, F.S.; revising the process of selecting jury
45 lists; amending s. 40.022, F.S.; revising the process
46 of purging jury selection lists; amending s. 40.221,
47 F.S.; conforming provisions to changes made by the
48 act; amending s. 40.225, F.S.; requiring that the
49 clerk of court implement an automated electronic
50 system for drawing jury venire; providing
51 administrative responsibilities of the clerks of court
52 with regard to the jury venire; requiring that the
53 clerk of court or the chief judge submit for approval
54 a plan for the selection of juror candidates;
55 requiring that the Chief Justice of the Supreme Court
56 examine the proposed plan for compliance with
57 applicable statutory requirements and technical
58 standards and procedures; requiring that an

Page 2 of 36

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

590-03539A-12

20121166c2

59 administrative order be filed if the proposed plan is
 60 approved; amending s. 57.081, F.S.; providing that a
 61 person who receives a certification of indigence with
 62 respect to a proceeding is not required to pay charges
 63 to issue a summons; amending s. 95.11, F.S.; providing
 64 that an action to collect any court costs, fees, or
 65 fines owed to the state may be commenced at any time;
 66 amending s. 112.3173, F.S.; providing for the duty of
 67 a clerk of court to notify the Commission on Ethics of
 68 certain proceedings involving public officers or
 69 employees to arise after the clerk is advised by the
 70 state attorney that the defendant is a public officer
 71 or employee who is alleged to have committed a
 72 specified offense; amending s. 318.18, F.S.; requiring
 73 that the signature of the person designated to
 74 represent a community service agency be notarized on
 75 letterhead that indicates the number of hours of
 76 community service completed and the date the community
 77 service hours were completed by a person who is
 78 ordered to perform community service as a penalty for
 79 specified offenses; amending s. 668.50, F.S.; limiting
 80 the exemption from the Uniform Electronic Transaction
 81 Act for transactions governed by rules relating to
 82 judicial procedure; amending s. 733.707, F.S.;
 83 specifying the priority of payment of unpaid court
 84 costs, fees, or fines by a decedent's estate; amending
 85 s. 893.11, F.S.; providing that convictions of certain
 86 types of criminal offenses which are reported to the
 87 Comprehensive Case Information System of the Florida

590-03539A-12

20121166c2

88 Association of Clerks and Comptroller, Inc., are an
 89 immediate, serious danger to the public health,
 90 safety, or welfare; providing that such convictions
 91 are grounds for disciplinary action by a licensing
 92 state agency; requiring that a state agency initiate
 93 an emergency suspension of an individual professional
 94 license upon the agency's finding of the licensee's
 95 conviction of a certain type of criminal offense which
 96 is reported to the Comprehensive Case Information
 97 System; requiring that certain state agencies use the
 98 Comprehensive Case Information System to obtain
 99 information relating to a conviction involving certain
 100 types of criminal offenses; requiring that the clerk
 101 of court provide to each state agency electronic
 102 access and provide certified copies of judgments to
 103 licensing agencies upon request; defining the term
 104 "business or professional license"; amending s.
 105 938.27, F.S.; authorizing a court to require a
 106 defendant to pay the costs of prosecution and
 107 investigation pursuant to a payment plan under a
 108 specified provision; amending s. 938.30, F.S.;
 109 providing that criminal or civil judgment and related
 110 costs are a civil lien against the judgment debtor's
 111 presently owned or after-acquired real or personal
 112 property if the judgment is recorded; providing an
 113 exception to rerecording requirements; requiring that
 114 the clerk of court enforce, satisfy, compromise,
 115 settle, subordinate, release, or otherwise dispose of
 116 any debts or lien imposed and collected in the same

590-03539A-12

20121166c2

117 manner as for an indigent defendant-recipient;
 118 amending s. 947.181, F.S.; providing that the Parole
 119 Commission require as a condition of parole the
 120 payment of fines, fees, or other court-ordered costs
 121 under certain circumstances; providing that
 122 restitution ordered as a condition of parole has first
 123 priority over the payment of other costs ordered as a
 124 condition of parole; requiring that the commission
 125 state on record the reasons for not requiring the full
 126 payment of the fines, fees, or other court-ordered
 127 costs; providing an effective date.

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

131 Section 1. Paragraph (a) of subsection (2) of section
 132 27.52, Florida Statutes, is amended to read:

133 27.52 Determination of indigent status.—

134 (2) DETERMINATION BY THE CLERK.—The clerk of the court
 135 shall determine whether an applicant seeking appointment of a
 136 public defender is indigent based upon the information provided
 137 in the application and the criteria prescribed in this
 138 subsection.

139 (a)1. An applicant, including an applicant who is a minor
 140 or an adult tax-dependent person, is indigent if the applicant's
 141 income is equal to or below 200 percent of the then-current
 142 federal poverty guidelines prescribed for the size of the
 143 household of the applicant by the United States Department of
 144 Health and Human Services or if the person is receiving
 145 Temporary Assistance for Needy Families-Cash Assistance,

590-03539A-12

20121166c2

146 poverty-related veterans' benefits, or Supplemental Security
 147 Income (SSI).

148 2.a. There is a presumption that the applicant is not
 149 indigent if the applicant owns, or has equity in, any intangible
 150 or tangible personal property or real property or the expectancy
 151 of an interest in any such property having a net equity value of
 152 \$2,500 or more, excluding the value of the person's homestead
 153 and one vehicle having a net value not exceeding \$5,000.

154 b. Notwithstanding the information that the applicant
 155 provides, the clerk may ~~shall~~ conduct a review of the property
 156 records for the county in which the applicant resides and the
 157 motor vehicle title records of the state to identify any
 158 property interests of the applicant under this subparagraph. The
 159 clerk may ~~shall~~ evaluate and consider the results of the review
 160 in making a determination under this subsection. If the review
 161 is completed by the clerk, the clerk shall maintain the results
 162 of the review in a file with the application and provide the
 163 file to the court if the applicant seeks review under subsection
 164 (4) of the clerk's determination of indigent status.

165 Section 2. Paragraph (e) of subsection (12) of section
 166 28.24, Florida Statutes, is amended to read:

167 28.24 Service charges by clerk of the circuit court.—The
 168 clerk of the circuit court shall charge for services rendered by
 169 the clerk's office in recording documents and instruments and in
 170 performing the duties enumerated in amounts not to exceed those
 171 specified in this section. Notwithstanding any other provision
 172 of this section, the clerk of the circuit court shall provide
 173 without charge to the state attorney, public defender, guardian
 174 ad litem, public guardian, attorney ad litem, criminal conflict

590-03539A-12

20121166c2

and civil regional counsel, and private court-appointed counsel paid by the state, and to the authorized staff acting on behalf of each, access to and a copy of any public record, if the requesting party is entitled by law to view the exempt or confidential record, as maintained by and in the custody of the clerk of the circuit court as provided in general law and the Florida Rules of Judicial Administration. The clerk of the circuit court may provide the requested public record in an electronic format in lieu of a paper format when capable of being accessed by the requesting entity.

Charges

(12) For recording, indexing, and filing any instrument not more than 14 inches by 8 1/2 inches, including required notice to property appraiser where applicable:

(e) An additional service charge of \$4 per page shall be paid to the clerk of the circuit court for each instrument listed in s. 28.222, except judgments received from the courts and notices of lis pendens, recorded in the official records. From the additional \$4 service charge collected:

1. If the counties maintain legal responsibility for the costs of the court-related technology needs as defined in s. 29.008(1)(f)2. and (h), 10 cents shall be distributed to the Florida Association of Court Clerks and Comptroller, Inc., for the cost of development, implementation, operation, and maintenance of the clerks' Comprehensive Case Information System, ~~in which system all clerks shall participate on or before January 1, 2006;~~ \$1.90 shall be retained by the clerk to

590-03539A-12

20121166c2

be deposited in the Public Records Modernization Trust Fund and used exclusively for funding court-related technology needs of the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall be distributed to the board of county commissioners to be used exclusively to fund court-related technology, and court technology needs as defined in s. 29.008(1)(f)2. and (h) for the state trial courts, state attorney, public defender, and criminal conflict and civil regional counsel in that county. If the counties maintain legal responsibility for the costs of the court-related technology needs as defined in s. 29.008(1)(f)2. and (h), notwithstanding any other provision of law, the county is not required to provide additional funding beyond that provided herein for the court-related technology needs of the clerk as defined in s. 29.008(1)(f)2. and (h). All court records and official records are the property of the State of Florida, including any records generated as part of the Comprehensive Case Information System funded pursuant to this paragraph and the clerk of court is designated as the custodian of such records, except in a county where the duty of maintaining official records exists in a county office other than the clerk of court or comptroller, such county office is designated the custodian of all official records, and the clerk of court is designated the custodian of all court records. The clerk of court or any entity acting on behalf of the clerk of court, including an association, shall not charge a fee to any agency as defined in s. 119.011, the Legislature, or the State Court System for copies of records generated by the Comprehensive Case Information System or held by the clerk of court or any entity acting on behalf of the clerk of court, including an

590-03539A-12 20121166c2

233 association.

234 2. If the state becomes legally responsible for the costs
235 of court-related technology needs as defined in s.

236 29.008(1)(f)2. and (h), whether by operation of general law or
237 by court order, \$4 shall be remitted to the Department of
238 Revenue for deposit into the General Revenue Fund.

239 Section 3. Section 28.2405, Florida Statutes, is created to
240 read:

241 28.2405 Comprehensive Case Information System.—All clerks
242 of the circuit court shall participate in the Comprehensive Case
243 Information System of the Florida Association of Clerks and
244 Comptroller, Inc., and shall submit electronic case data to the
245 system based on the case types designated by the Supreme Court.

246 Section 4. Subsection (1) of section 28.241, Florida
247 Statutes, is amended to read:

248 28.241 Filing fees for trial and appellate proceedings.—

249 (1) Filing fees are due at the time a party files a
250 pleading to initiate a proceeding or files a pleading for
251 relief. Reopen fees are due at the time a party files a pleading
252 to reopen a proceeding if at least 90 days have elapsed since
253 the filing of a final order or final judgment with the clerk. If
254 a fee is not paid upon the filing of the pleading as required
255 under this section, the clerk shall pursue collection of the fee
256 pursuant to s. 28.246.

257 (a)1.a. Except as provided in sub-subparagraph b. and
258 subparagraph 2., the party instituting any civil action, suit,
259 or proceeding in the circuit court shall pay to the clerk of
260 that court a filing fee of up to \$395 in all cases in which
261 there are not more than five defendants and an additional filing

590-03539A-12 20121166c2

262 fee of up to \$2.50 for each defendant in excess of five. Of the
263 first \$280 in filing fees, \$80 must be remitted by the clerk to
264 the Department of Revenue for deposit into the General Revenue
265 Fund, \$195 must be remitted to the Department of Revenue for
266 deposit into the State Courts Revenue Trust Fund, \$3.50 must be
267 remitted to the Department of Revenue for deposit into the
268 Clerks of the Court Trust Fund within the Justice Administrative
269 Commission and used to fund the Florida Clerks of Court
270 Operations Corporation created in s. 28.35, and \$1.50 shall be
271 remitted to the Department of Revenue for deposit into the
272 Administrative Trust Fund within the Department of Financial
273 Services to fund clerk budget reviews conducted by the
274 Department of Financial Services. One third of any filing fees
275 collected by the clerk of the circuit court in excess of \$100
276 shall be remitted to the Department of Revenue for deposit into
277 the Clerks of the Court Trust Fund within the Justice
278 Administrative Commission.

279 b. The party instituting any civil action, suit, or
280 proceeding in the circuit court under chapter 39, chapter 61,
281 chapter 741, chapter 742, chapter 747, chapter 752, or chapter
282 753 shall pay to the clerk of that court a filing fee of up to
283 \$295 in all cases in which there are not more than five
284 defendants and an additional filing fee of up to \$2.50 for each
285 defendant in excess of five. Of the first \$180 in filing fees,
286 \$80 must be remitted by the clerk to the Department of Revenue
287 for deposit into the General Revenue Fund, \$95 must be remitted
288 to the Department of Revenue for deposit into the State Courts
289 Revenue Trust Fund, \$3.50 must be remitted to the Department of
290 Revenue for deposit into the Clerks of the Court Trust Fund

590-03539A-12 20121166c2

within the Justice Administrative Commission and used to fund the Florida Clerks of Court Operations Corporation created in s. 28.35, and \$1.50 shall be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk budget reviews conducted by the Department of Financial Services.

c. An additional filing fee of \$4 shall be paid to the clerk. The clerk shall remit \$3.50 to the Department of Revenue for deposit into the Court Education Trust Fund and shall remit 50 cents to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission to fund clerk education. An additional filing fee of up to \$18 shall be paid by the party seeking each severance that is granted. The clerk may impose an additional filing fee of up to \$85 for all proceedings of garnishment, attachment, replevin, and distress. Postal charges incurred by the clerk of the circuit court in making service by certified or registered mail on defendants or other parties shall be paid by the party at whose instance service is made. ~~No~~ Additional fees, charges, or costs may not ~~shall~~ be added to the filing fees imposed under this section, except as authorized in this section or by general law.

2.a. Notwithstanding the fees prescribed in subparagraph 1., a party instituting a civil action in circuit court relating to real property or mortgage foreclosure shall pay a graduated filing fee based on the value of the claim.

b. A party shall estimate in writing the amount in controversy of the claim upon filing the action. For purposes of this subparagraph, the value of a mortgage foreclosure action is

590-03539A-12 20121166c2

based upon the principal due on the note secured by the mortgage, plus interest owed on the note and any moneys advanced by the lender for property taxes, insurance, and other advances secured by the mortgage, at the time of filing the foreclosure. The value shall also include the value of any tax certificates related to the property. In stating the value of a mortgage foreclosure claim, a party shall declare in writing the total value of the claim, as well as the individual elements of the value as prescribed in this sub-subparagraph.

c. In its order providing for the final disposition of the matter, the court shall identify the actual value of the claim. The clerk shall adjust the filing fee if there is a difference between the estimated amount in controversy and the actual value of the claim and collect any additional filing fee owed or provide a refund of excess filing fee paid.

d. The party shall pay a filing fee of:

(I) Three hundred and ninety-five dollars in all cases in which the value of the claim is \$50,000 or less and in which there are not more than five defendants. The party shall pay an additional filing fee of up to \$2.50 for each defendant in excess of five. Of the first \$280 in filing fees, \$80 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, \$195 must be remitted to the Department of Revenue for deposit into the State Courts Revenue Trust Fund, \$3.50 must be remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission and used to fund the Florida Clerks of Court Operations Corporation created in s. 28.35, and \$1.50 shall be remitted to the Department of Revenue for deposit

590-03539A-12

20121166c2

into the Administrative Trust Fund within the Department of Financial Services to fund clerk budget reviews conducted by the Department of Financial Services;

(II) Nine hundred dollars in all cases in which the value of the claim is more than \$50,000 but less than \$250,000 and in which there are not more than five defendants. The party shall pay an additional filing fee of up to \$2.50 for each defendant in excess of five. Of the first \$785 in filing fees, \$80 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, \$700 must be remitted to the Department of Revenue for deposit into the State Courts Revenue Trust Fund, \$3.50 must be remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission and used to fund the Florida Clerks of Court Operations Corporation described in s. 28.35, and \$1.50 shall be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk budget reviews conducted by the Department of Financial Services; or

(III) One thousand nine hundred dollars in all cases in which the value of the claim is \$250,000 or more and in which there are not more than five defendants. The party shall pay an additional filing fee of up to \$2.50 for each defendant in excess of five. Of the first \$1,785 in filing fees, \$80 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund, \$1,700 must be remitted to the Department of Revenue for deposit into the State Courts Revenue Trust Fund, \$3.50 must be remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the

590-03539A-12

20121166c2

Justice Administrative Commission to fund the Florida Clerks of Court Operations Corporation created in s. 28.35, and \$1.50 shall be remitted to the Department of Revenue for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk budget reviews conducted by the Department of Financial Services.

e. An additional filing fee of \$4 shall be paid to the clerk. The clerk shall remit \$3.50 to the Department of Revenue for deposit into the Court Education Trust Fund and shall remit 50 cents to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission to fund clerk education. An additional filing fee of up to \$18 shall be paid by the party seeking each severance that is granted. The clerk may impose an additional filing fee of up to \$85 for all proceedings of garnishment, attachment, replevin, and distress. Postal charges incurred by the clerk of the circuit court in making service by certified or registered mail on defendants or other parties shall be paid by the party at whose instance service is made. ~~No~~ Additional fees, charges, or costs may not ~~shall~~ be added to the filing fees imposed under this section, except as authorized in this section or by general law.

(b) A party reopening any civil action, suit, or proceeding in the circuit court shall pay to the clerk of court a filing fee set by the clerk in an amount not to exceed \$50. For purposes of this section, a case is reopened after all appeals have been exhausted or time to file an appeal from a final order or final judgment has expired. A reopen fee may be assessed by the clerk for any motion filed by any party at least 90 days

590-03539A-12 20121166c2

407 after a final order or final judgment has been filed with the
 408 clerk in the initial case. A reservation of jurisdiction by a
 409 court does not cause a case to remain open for purposes of this
 410 section or exempt a party from paying a reopen fee when a case
 411 previously reported as disposed of is resubmitted to a court and
 412 includes petitions for modification of a final judgment of
 413 dissolution. A party is exempt from paying the fee for any of
 414 the following:

- 415 1. A writ of garnishment;
- 416 2. A writ of replevin;
- 417 3. A distress writ;
- 418 4. A writ of attachment;
- 419 5. A motion for rehearing filed within 10 days;
- 420 6. A motion for attorney's fees filed within 30 days after
- 421 entry of a judgment or final order;
- 422 7. A motion for dismissal filed after a mediation agreement
- 423 has been filed;
- 424 8. A disposition of personal property without
- 425 administration;
- 426 9. Any probate case prior to the discharge of a personal
- 427 representative;
- 428 10. Any guardianship pleading prior to discharge;
- 429 11. Any mental health pleading;
- 430 12. Motions to withdraw by attorneys;
- 431 13. Motions exclusively for the enforcement of child
- 432 support orders;
- 433 14. A petition for credit of child support;
- 434 15. A Notice of Intent to Relocate and any order issuing as
- 435 a result of an uncontested relocation;

590-03539A-12 20121166c2

436 16. Stipulations and motions to enforce stipulations;
 437 17. Responsive pleadings; ~~or~~
 438 18. Cases in which there is no initial filing fee; or
 439 19. Motions for contempt.

440 (c)1. A party in addition to a party described in sub-
 441 subparagraph (a)1.a. who files a pleading in an original civil
 442 action in circuit court for affirmative relief by cross-claim,
 443 counterclaim, counterpetition, or third-party complaint shall
 444 pay the clerk of court a fee of \$395. A party in addition to a
 445 party described in sub-subparagraph (a)1.b. who files a pleading
 446 in an original civil action in circuit court for affirmative
 447 relief by cross-claim, counterclaim, counterpetition, or third-
 448 party complaint shall pay the clerk of court a fee of \$295. The
 449 clerk shall remit the fee to the Department of Revenue for
 450 deposit into the General Revenue Fund.

451 2. A party in addition to a party described in subparagraph
 452 (a)2. who files a pleading in an original civil action in
 453 circuit court for affirmative relief by cross-claim,
 454 counterclaim, counterpetition, or third-party complaint shall
 455 pay the clerk of court a graduated fee of:

- 456 a. Three hundred and ninety-five dollars in all cases in
- 457 which the value of the pleading is \$50,000 or less;
- 458 b. Nine hundred dollars in all cases in which the value of
- 459 the pleading is more than \$50,000 but less than \$250,000; or
- 460 c. One thousand nine hundred dollars in all cases in which
- 461 the value of the pleading is \$250,000 or more.

462 The clerk shall remit the fees collected under this subparagraph
 463 to the Department of Revenue for deposit into the General
 464

590-03539A-12 20121166c2

Revenue Fund, except that the clerk shall remit \$100 of the fee collected under sub-subparagraph a., \$605 of the fee collected under sub-subparagraph b., and \$1,605 of the fee collected under sub-subparagraph c. to the Department of Revenue for deposit into the State Courts Revenue Trust Fund.

(d) The clerk of court shall collect a service charge of \$10 for issuing an original, a certified copy, or an electronic certified copy of a summons. The clerk shall assess the fee against the party seeking to have the summons issued.

Section 5. Subsection (2) of section 28.37, Florida Statutes, is amended to read:

28.37 Fines, fees, service charges, and costs remitted to the state.—

(2) Except as otherwise provided in ss. 28.241 and 34.041, all court-related fines, fees, service charges, and costs are considered state funds and shall be remitted by the clerk to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission. However, 10 percent of all court-related fines collected by the clerk, except for penalties or fines distributed to counties or municipalities under s. 316.0083(1)(b)3. or s. 318.18(15)(a), shall be deposited into the clerk's Public Records Modernization Trust Fund to be used exclusively for additional clerk court-related operational needs and program enhancements.

Section 6. Paragraphs (a) and (d) of subsection (1) and subsection (2) of section 34.041, Florida Statutes, are amended to read:

34.041 Filing fees.—

(1)(a) Filing fees are due at the time a party files a

590-03539A-12 20121166c2

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

1. For all claims less than \$100 \$50.

2. For all claims of \$100 or more but not more than \$500 \$75.

3. For all claims of more than \$500 but not more than \$2,500 \$170.

4. For all claims of more than \$2,500 \$295.

5. In addition, for all proceedings of garnishment, attachment, replevin, and distress \$85.

6. Notwithstanding subparagraphs 3. and 5., for all claims of not more than \$1,000 filed simultaneously with an action for replevin of property that is the subject of the claim \$125.

7. For removal of tenant action \$180.

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

(d) The clerk of court shall collect a service charge of \$10 for issuing a summons or an electronic certified copy of a summons. The clerk shall assess the fee against the party seeking to have the summons issued.

590-03539A-12

20121166c2

523 (2) A party reopening any civil action, suit, or proceeding
 524 in the county court shall pay to the clerk of court a filing fee
 525 set by the clerk in an amount not to exceed \$25 for all claims
 526 of not more than \$500 and an amount not to exceed \$50 for all
 527 claims of more than \$500. For purposes of this section, a case
 528 is reopened after all appeals have been exhausted, or time to
 529 file an appeal from a final order or final judgment has expired.
 530 A reopen fee may be assessed by the clerk for any motion filed
 531 by any party at least 90 days after a final order or final
 532 judgment has been filed with the clerk in the initial case. A
 533 reservation of jurisdiction by a court does not cause a case to
 534 remain open for purposes of this section or exempt a party from
 535 paying a reopen fee when a case previously reported as disposed
 536 of is resubmitted to a court. A party is exempt from paying the
 537 fee for any of the following:
 538 (a) A writ of garnishment;
 539 (b) A writ of replevin;
 540 (c) A distress writ;
 541 (d) A writ of attachment;
 542 (e) A motion for rehearing filed within 10 days;
 543 (f) A motion for attorney's fees filed within 30 days of
 544 the entry of the judgment or final order;
 545 (g) A motion for dismissal filed after a mediation
 546 agreement has been filed;
 547 (h) A motion to withdraw by attorneys;
 548 (i) Stipulations and motions to enforce stipulations; ~~or~~
 549 (j) Responsive pleadings; or
 550 (k) Motions for contempt.
 551 Section 7. Section 40.011, Florida Statutes, is amended to

590-03539A-12

20121166c2

552 read:
 553 40.011 Jury lists.—
 554 (1) A clerk of the court shall generate a set of juror
 555 candidate lists derived from the source lists described in s.
 556 40.01. The source name lists and the juror candidate lists shall
 557 be maintained as specified in this chapter and in accordance
 558 with the juror selection plan approved in s. 40.225.
 559 (2)(1) Pursuant to s. 40.01, the Department of Highway
 560 Safety and Motor Vehicles shall deliver quarterly to the clerk
 561 of the circuit court in each county a list of names of persons
 562 who reside in that county, who are citizens of the United
 563 States, who are legal residents of Florida, who are 18 years of
 564 age or older, and for whom the department has a driver's license
 565 or identification card record.
 566 (3) The clerk of the circuit court shall add to the list of
 567 licensed drivers and identification cardholders the name of any
 568 person who is 18 years of age or older and who is a citizen of
 569 the United States and a legal resident of this state ~~Florida~~ and
 570 who indicates a desire to serve as a juror, but whose name does
 571 not appear on the department list, by requiring such person to
 572 execute an affidavit at the office of the clerk.
 573 (4)(2) The affidavit executed pursuant to subsection (3)
 574 (1) must be in substantially the following form:
 575
 576 State of Florida
 577
 578 I, . . . , do solemnly swear (or affirm) that I am . . . years of
 579 age; that I am a citizen of the United States and a legal
 580 resident of Florida and . . . County; that I personally make

590-03539A-12

20121166c2

application for jury duty; that I am eligible to serve as a juror under the Constitution and laws of Florida; and that I reside at(Address).....

.....(Signature).....

Sworn to and subscribed before me this day of, ... (year)...., at County, Florida.

.....
(Signature and title of officer
administering oath)

(5) Using the source name lists described in subsections (2) and (3), a clerk of court may generate juror candidate lists as necessary to ensure a valid and consistent juror selection process.

(a) The initial juror candidate list is derived from the name sources and shall be the master list from which prospective jurors are drawn for summons.

(b) The final juror candidate list shall contain a list of those persons, drawn from the initial candidate list as prescribed in this chapter, who are to be summoned as a pool for possible juror service.

Section 8. Section 40.02, Florida Statutes, is amended to read:

40.02 Selection of jury lists.—

~~(1) The chief judge of each circuit, or a circuit judge in each county within the circuit who is designated by the chief judge, shall request the selection of a jury list in each county~~

590-03539A-12

20121166c2

~~within the circuit during the first week of January of each year, or as soon thereafter as practicable.~~ The chief judge or the chief judge's designee shall direct the clerk of the court to select, by lot and at random, a sufficient number of names, with their addresses, from the initial juror candidate list of persons who are qualified to serve as jurors under the provisions of s. 40.01 and to generate a final juror candidate list of not fewer than 250 persons to serve as jurors as provided for in s. 40.221. ~~The final juror candidate, which list must shall~~ be signed and verified by the clerk of the court as having been selected as aforesaid. The final juror candidate list may be created, updated, or supplemented as often as necessary to prevent the selection list from becoming exhausted, but in no case less than annually during the first week of January of each year, or as soon thereafter as practicable. A circuit judge in a county to which he or she has been assigned may also request that the final juror candidate list be updated or supplemented, or that a new list be created ~~additional jury lists as necessary to prevent the jury list from becoming exhausted.~~

(2) When the final juror candidate ~~annual jury~~ list is prepared pursuant to the request of a chief judge or the chief judge's designee, the previously prepared final juror candidate ~~lists prepared the previous year~~ shall be withdrawn from further use. If, notwithstanding this provision, some names are not withdrawn, such error or irregularity shall not invalidate any subsequent proceeding or jury. The fact that any person so selected had been on a former jury list or had served as a juror in any court at any time shall not be grounds for challenge of

590-03539A-12

20121166c2

such person as a juror. If any person so selected shall be ascertained to be disqualified or incompetent to serve as a juror, such disqualification shall not affect the legality of such list or be cause of challenge to the array of any jury chosen from such list, but any person ascertained to be disqualified to serve as a juror shall be subject to challenge for cause, as defined by law. The set of juror candidate lists, although they may be defective or irregular in form or other formal requirement, or in the number or qualification of the persons so named, shall be the lists from which the names of persons for jury service are to be drawn as prescribed by law.

(3)(2) The clerk of the court shall be responsible for preserving the security of the source and juror candidate ~~jury~~ lists.

(4)(3) The clerk of the court shall perform the duties set forth in this section and in ss. 40.221, 40.23, and 40.231 in counties having an approved, computerized jury selection system, the provisions of any special law or general law of local application to the contrary notwithstanding. However, the chief judge may designate the court administrator to perform these duties if the county provides funding to the court administrator to provide the personnel and other costs associated with jury services.

Section 9. Subsection (1) of section 40.022, Florida Statutes, is amended to read:

40.022 Clerk to purge jury selection lists; restoration.—

(1) To ensure that the juror candidates summoned satisfy the requirements of ss. 40.01 and 40.013, each clerk of the circuit court shall, upon receipt of the list of persons in the

590-03539A-12

20121166c2

department database from the Department of Highway Safety and Motor Vehicles and at least once each month thereafter, purge the final juror candidate ~~jury selection~~ lists of, at a minimum, the names of those persons:

(a) Adjudicated mentally incompetent;

(b) Convicted of a felony; or

(c) Deceased.

Section 10. Section 40.221, Florida Statutes, is amended to read:

40.221 Drawing jury venire.—A clerk of the court, under supervision of a judge of any court of record, shall, in a manner deemed to produce a result by lot and at random, ~~randomly~~ select from the final juror candidate ~~jury~~ list such number of persons as he or she deems necessary or expedient for a jury venire, to be returnable at such time as the judge shall specify, from which such venire or venires any jury may be organized, including a grand jury when drawn by or upon order of a judge of the circuit court. The clerk of the court shall keep the list in a secure place.

Section 11. Section 40.225, Florida Statutes, is amended to read:

40.225 Jury selection plan ~~Drawing jury venire; alternative method.—~~

(1) Pursuant to s. 40.001, the chief judge of each circuit shall review and consent to the process for selecting juror candidates within his or her circuit. The clerk of court shall implement an automated electronic system in which ~~Whenever a majority of the judges authorized to conduct jury trials in a county consents,~~ the names of prospective jurors and other data

590-03539A-12

20121166c2

697 pertinent thereto shall be maintained for the purpose of the
 698 drawing of juror candidates. This system shall be used as the
 699 exclusive method may be fed into a mechanical, electronic, or
 700 electrical device and drawn therefrom as an alternative to other
 701 methods authorized by law for obtaining jury venires, if such
 702 drawing is by lot and at random and is approved by the Supreme
 703 Court as hereinafter provided. Subject to the provisions of ss.
 704 40.001 and 40.02, the clerk of the circuit court in each county
 705 shall have the administrative responsibility for developing the
 706 automated system of jury venire selection, obtaining approval
 707 for the juror candidate selection process, and operating and
 708 updating the system in accordance with this chapter and
 709 technical standards and procedures adopted by the Chief Justice.

710 (2) The clerk of the court, or the chief judge of the
 711 circuit if performing the duties of juror candidate selection as
 712 provided in s. 40.02, shall submit for approval a plan for the
 713 selection of juror candidates as required in this section to the
 714 Chief Justice. The plan must be reapproved whenever required by
 715 a change in the law, a change in the technical standards and
 716 procedures, or a change in the approved clerk-maintained
 717 hardware or software used in the automated system of jury venire
 718 selection. The proposed plan, if submitted by the clerk, must be
 719 approved by the chief judge of the judicial circuit in which the
 720 county is located, and must include a description of the
 721 equipment, methods, and mode of operation to be used, in a
 722 manner consistent with the technical standards and procedures
 723 established by the Chief Justice. When a majority of the trial
 724 judges authorizes the alternative method of drawing a jury
 725 venire as provided in subsection (1), the chief judge of the

590-03539A-12

20121166c2

726 ~~judicial circuit in which the county is located shall make a~~
 727 ~~certificate to that effect and transmit the same to the Chief~~
 728 ~~Justice of the Supreme Court, together with a description of the~~
 729 ~~equipment, methods, and mode of operation to be used.~~

730 (3) The Chief Justice shall examine the proposed plan for
 731 compliance with applicable statutory requirements and with
 732 established technical standards and procedures ~~cause the~~
 733 ~~certificate and data accompanying it to be presented to the~~
 734 ~~justices of the Supreme Court.~~ If the Chief Justice court finds
 735 that the proposed plan method will produce venires selected by
 736 lot and at random, is in compliance with applicable statutory
 737 requirements and established technical standards and procedures,
 738 will produce venires selected by lot and at random ~~all~~
 739 ~~constitutional requirements of jury selection,~~ and is otherwise
 740 feasible and practicable, an administrative order of approval of
 741 same shall be made and filed. Thereafter, the ~~alternative method~~
 742 ~~so~~ approved system for automated selection of jury venires shall
 743 may be used in the county so authorized.

744 ~~(4) The chief judge of the judicial circuit in which the~~
 745 ~~county is located shall supervise the use of such alternative~~
 746 ~~method whenever approval of same has been made by order of the~~
 747 ~~Supreme Court.~~

748 ~~(4)-(5) This section does not require~~ Nothing herein shall
 749 ~~be construed as requiring~~ uniform equipment or methods
 750 throughout the state.

751 Section 12. Subsection (1) of section 57.081, Florida
 752 Statutes, is amended to read:

753 57.081 Costs; right to proceed where prepayment of costs
 754 and payment of filing fees waived.-

590-03539A-12

20121166c2

755 (1) Any indigent person, except a prisoner as defined in s.
 756 57.085, who is a party or intervenor in any judicial or
 757 administrative agency proceeding or who initiates such
 758 proceeding shall receive the services of the courts, sheriffs,
 759 and clerks, with respect to such proceedings, despite his or her
 760 present inability to pay for these services. Such services are
 761 limited to filing fees; service of process; certified copies of
 762 orders or final judgments; a single photocopy of any court
 763 pleading, record, or instrument filed with the clerk; examining
 764 fees; mediation services and fees; private court-appointed
 765 counsel fees; subpoena fees and services; service charges for
 766 collecting and disbursing funds; and any other cost or service
 767 arising out of pending litigation. In any appeal from an
 768 administrative agency decision, for which the clerk is
 769 responsible for preparing the transcript, the clerk shall record
 770 the cost of preparing the transcripts and the cost for copies of
 771 any exhibits in the record. A party who has obtained a
 772 certification of indigence pursuant to s. 27.52 or s. 57.082
 773 with respect to a proceeding is not required to prepay costs to
 774 a court, clerk, or sheriff and is not required to pay filing
 775 fees or charges for issuance of a summons ~~Prepayment of costs to~~
 776 ~~any court, clerk, or sheriff is not required and payment of~~
 777 ~~filing fees is not required in any action if the party has~~
 778 ~~obtained in each proceeding a certification of indigence in~~
 779 ~~accordance with s. 27.52 or s. 57.082.~~

780 Section 13. Subsection (11) is added to section 95.11,
 781 Florida Statutes, to read:

782 95.11 Limitations other than for the recovery of real
 783 property.—Actions other than for recovery of real property shall

590-03539A-12

20121166c2

784 be commenced as follows:

785 (11) COURT COSTS AND FINES.—Notwithstanding subsection (1),
 786 an action to collect court costs, fees, or fines owed to the
 787 state may be commenced at any time.

788 Section 14. Paragraph (a) of subsection (4) of section
 789 112.3173, Florida Statutes, is amended to read:

790 112.3173 Felonies involving breach of public trust and
 791 other specified offenses by public officers and employees;
 792 forfeiture of retirement benefits.—

793 (4) NOTICE.—

794 (a) The clerk of a court in which a proceeding involving a
 795 specified offense is being conducted against a public officer or
 796 employee shall furnish notice of the proceeding to the
 797 Commission on Ethics after the state attorney advises the clerk
 798 that the defendant is a public officer or employee and that the
 799 defendant is alleged to have committed a specified offense. Such
 800 notice is sufficient if it is in the form of a copy of the
 801 indictment, information, or other document containing the
 802 charges. In addition, if a verdict of guilty is returned by a
 803 jury or by the court trying the case without a jury, or a plea
 804 of guilty or of nolo contendere is entered in the court by the
 805 public officer or employee, the clerk shall furnish a copy
 806 thereof to the Commission on Ethics.

807 Section 15. Paragraph (b) of subsection (8) of section
 808 318.18, Florida Statutes, is amended to read:

809 318.18 Amount of penalties.—The penalties required for a
 810 noncriminal disposition pursuant to s. 318.14 or a criminal
 811 offense listed in s. 318.17 are as follows:

812 (8)

590-03539A-12

20121166c2

(b)1.a. If a person has been ordered to pay a civil penalty for a noncriminal traffic infraction and the person is unable to comply with the court's order due to demonstrable financial hardship, the court shall allow the person to satisfy the civil penalty by participating in community service until the civil penalty is paid.

b. If a court orders a person to perform community service, the person shall receive credit for the civil penalty at the specified hourly credit rate per hour of community service performed, and each hour of community service performed shall reduce the civil penalty by that amount.

2.a. As used in this paragraph, the term "specified hourly credit rate" means the wage rate that is specified in 29 U.S.C. s. 206(a)(1) under the federal Fair Labor Standards Act of 1938, that is then in effect, and that an employer subject to such provision must pay per hour to each employee subject to such provision.

b. However, if a person ordered to perform community service has a trade or profession for which there is a community service need, the specified hourly credit rate for each hour of community service performed by that person shall be the average prevailing wage rate for the trade or profession that the community service agency needs.

3.a. The community service agency supervising the person shall record the number of hours of community service completed and the date the community service hours were completed. The community service agency shall submit the data to the clerk of court on the letterhead of the community service agency, which must also bear the notarized signature of the person designated

590-03539A-12

20121166c2

to represent the community service agency.

b. When the number of community service hours completed by the person equals the amount of the civil penalty, the clerk of court shall certify this fact to the court. Thereafter, the clerk of court shall record in the case file that the civil penalty has been paid in full.

4. As used in this paragraph, the term:

a. "Community service" means uncompensated labor for a community service agency.

b. "Community service agency" means a not-for-profit corporation, community organization, charitable organization, public officer, the state or any political subdivision of the state, or any other body the purpose of which is to improve the quality of life or social welfare of the community and which agrees to accept community service from persons unable to pay civil penalties for noncriminal traffic infractions.

Section 16. Subsection (3) of section 668.50, Florida Statutes, is amended to read:

668.50 Uniform Electronic Transaction Act.—

(3) SCOPE.—

(a) Except as otherwise provided in paragraph (b), this section applies to electronic records and electronic signatures relating to a transaction.

(b) This section does not apply to a transaction to the extent the transaction is governed by:

1. A provision of law governing the creation and execution of wills, codicils, or testamentary trusts;

2. The Uniform Commercial Code other than s. 671.107 and chapters 672 and 680; or

590-03539A-12

20121166c2

871 3. The Uniform Computer Information Transactions Act. ~~or~~

872 ~~4. Rules relating to judicial procedure.~~

873 (c) Except with respect to subsections (2), (9), and (11),
 874 this section does not apply to a transaction to the extent the
 875 transaction is governed by rules relating to judicial procedure.

876 (d) (e) This section applies to an electronic record or
 877 electronic signature otherwise excluded under paragraph (b) to
 878 the extent such record or signature is governed by a provision
 879 of law other than those specified in paragraph (b).

880 (e) (d) A transaction subject to this section is also
 881 subject to other applicable provisions of substantive law.

882 Section 17. Paragraph (c) of subsection (1) of section
 883 733.707, Florida Statutes, is amended to read:

884 733.707 Order of payment of expenses and obligations.—

885 (1) The personal representative shall pay the expenses of
 886 the administration and obligations of the decedent's estate in
 887 the following order:

888 (c) Class 3.—Debts and taxes with preference under federal
 889 law, ~~and~~ claims pursuant to ss. 409.9101 and 414.28, and claims
 890 in favor of the state for unpaid court costs, fees, or fines.

891 Section 18. Section 893.11, Florida Statutes, is amended to
 892 read:

893 893.11 Suspension, revocation, and reinstatement of
 894 business and professional licenses.—For the purposes of s.
 895 120.60(6), any conviction in any court reported to the
 896 Comprehensive Case Information System of the Florida Association
 897 of Clerks and Comptroller, Inc., for the sale of, or trafficking
 898 in, a controlled substance or for conspiracy to sell, or traffic
 899 in, a controlled substance constitutes an immediate serious

590-03539A-12

20121166c2

900 danger to the public health, safety, or welfare, and is grounds
 901 for disciplinary action by the licensing state agency. A state
 902 agency shall initiate an immediate emergency suspension of an
 903 individual professional license issued by the agency, in
 904 compliance with the procedures for summary suspensions in s.
 905 120.60(6), upon the agency's findings of the licensee's
 906 conviction in any court reported to the Comprehensive Case
 907 Information System of the Florida Association of Court Clerks
 908 and Comptroller, Inc., ~~Upon the conviction in any court of~~
 909 ~~competent jurisdiction of any person holding a license, permit,~~
 910 ~~or certificate issued by a state agency, for the sale of, or~~
 911 ~~trafficking in, a controlled substance, or for conspiracy to~~
 912 ~~sell, or traffic in, a controlled substance. Before renewing any~~
 913 professional license, a state agency that issues a professional
 914 license must use the Comprehensive Case Information System of
 915 the Florida Association of Court Clerks and Comptroller, Inc.,
 916 to obtain information relating to any conviction for the sale
 917 of, or trafficking in, a controlled substance or for conspiracy
 918 to sell, or traffic in, a controlled substance. The clerk of
 919 court shall provide electronic access to each state agency at no
 920 cost and also provide certified copies of the judgment upon
 921 request to the agency. ~~if such offense is a felony, the clerk~~
 922 ~~of said court shall send a certified copy of the judgment of~~
 923 ~~conviction with the person's license number, permit number, or~~
 924 ~~certificate number on the face of such certified copy to the~~
 925 ~~agency head by whom the convicted defendant has received a~~
 926 ~~license, permit, or certificate to practice his or her~~
 927 ~~profession or to carry on his or her business. Such agency head~~
 928 ~~shall suspend or revoke the license, permit, or certificate of~~

590-03539A-12 20121166c2

929 ~~the convicted defendant to practice his or her profession or to~~
 930 ~~carry on his or her business.~~ Upon a showing by any such
 931 convicted defendant whose professional license, permit, or
 932 ~~certificate~~ has been suspended or revoked pursuant to this
 933 section that his or her civil rights have been restored or upon
 934 a showing that the convicted defendant meets the following
 935 criteria, the agency head may reinstate or reactivate such
 936 ~~license, permit, or certificate~~ when:

937 (1) The person has complied with the conditions of
 938 paragraphs (a) and (b) which shall be monitored by the
 939 Department of Corrections while the person is under any
 940 supervisory sanction. If the person fails to comply with
 941 provisions of these paragraphs by either failing to maintain
 942 treatment or by testing positive for drug use, the department
 943 shall notify the licensing, ~~permitting, or certifying~~ agency,
 944 which shall revoke the license, ~~permit, or certification~~. The
 945 person under supervision may:

946 (a) Seek evaluation and enrollment in, and once enrolled
 947 maintain enrollment in until completion, a drug treatment and
 948 rehabilitation program which is approved or regulated by the
 949 Department of Children and Family Services. The treatment and
 950 rehabilitation program shall be specified by:

951 1. The court, in the case of court-ordered supervisory
 952 sanctions;

953 2. The Parole Commission, in the case of parole, control
 954 release, or conditional release; or

955 3. The Department of Corrections, in the case of
 956 imprisonment or any other supervision required by law.

957 (b) Submit to periodic urine drug testing pursuant to

590-03539A-12 20121166c2

958 procedures prescribed by the Department of Corrections. If the
 959 person is indigent, the costs shall be paid by the Department of
 960 Corrections; or

961 (2) The person has successfully completed an appropriate
 962 program under the Correctional Education Program.

963 (3) As used in this section, the term "professional
 964 license" includes any license, permit, or certificate that
 965 authorizes a person to practice his or her profession. However,
 966 the term This section does not include ~~apply to~~ any of the
 967 taxes, fees, or permits regulated, controlled, or administered
 968 by the Department of Revenue in accordance with s. 213.05.

969 Section 19. Paragraphs (a) and (b) of subsection (2) of
 970 section 938.27, Florida Statutes, are amended to read:

971 938.27 Judgment for costs on conviction.—

972 (2) (a) The court shall impose the costs of prosecution and
 973 investigation notwithstanding the defendant's present ability to
 974 pay. The court shall require the defendant to pay the costs
 975 within a specified period or pursuant to a payment plan under s.
 976 28.246(4) in specified installments.

977 (b) The end of such period or the last such installment
 978 must ~~shall~~ not be later than:

979 1. The end of the period of probation or community control,
 980 if probation or community control is ordered;

981 2. Five years after the end of the term of imprisonment
 982 imposed, if the court does not order probation or community
 983 control; or

984 3. Five years after the date of sentencing in any other
 985 case.

986

590-03539A-12 20121166c2

987 However, ~~in no event shall~~ the obligation to pay any unpaid
 988 amounts does not expire if not paid in full within the period
 989 specified in this paragraph.

990 Section 20. Present subsections (8) through (12) of section
 991 938.30, Florida Statutes, are renumbered as subsections (10)
 992 through (14), respectively, and new subsections (8) and (9) are
 993 added to that section to read:

994 938.30 Financial obligations in criminal cases;
 995 supplementary proceedings.—

996 (8) If a criminal or civil judgment has previously been
 997 entered on a court-imposed financial obligation, the judgment
 998 constitutes a civil lien against the judgment debtor's presently
 999 owned or after-acquired real or personal property when recorded
 1000 pursuant to s. 55.10, except that a judgment on a court-imposed
 1001 financial obligation is not subject to the 10-year rerecording
 1002 requirement of s. 55.10. The judgment must secure all unpaid
 1003 court-imposed financial obligations that are due and may accrue
 1004 subsequent to the recording of the judgment, as well as interest
 1005 and reasonable costs for issuing a satisfaction and recording
 1006 the satisfaction in the official records.

1007 (9) The clerk of the court shall enforce, satisfy,
 1008 compromise, settle, subordinate, release, or otherwise dispose
 1009 of any debts or liens imposed and collected under this section
 1010 in the same manner as prescribed in s. 938.29(3).

1011 Section 21. Section 947.181, Florida Statutes, is amended
 1012 to read:

1013 947.181 Fines, fees, restitution, or other costs ordered to
 1014 be paid ~~Victim restitution~~ as conditions ~~condition~~ of parole.—

1015 ~~(1)(a)~~ The Parole commission shall require the payment of

590-03539A-12 20121166c2

1016 finest, fees, restitution, or other court-ordered costs as a
 1017 condition of parole ~~reparation or restitution to the aggrieved~~
 1018 ~~party for the damage or loss caused by the offense for which the~~
 1019 ~~parolee was imprisoned~~ unless the commission finds reasons to
 1020 the contrary. Restitution to the aggrieved party for injury,
 1021 damage, or loss caused by the offense for which the parolee was
 1022 imprisoned shall have first priority in the payment of amounts
 1023 owed under this section. If the commission does not require the
 1024 payment of fines, fees, restitution, or other court-ordered
 1025 costs ~~order restitution~~ or requires ~~orders~~ only partial payment
 1026 of the fines, fees, restitution, or other court-ordered costs
 1027 ~~restitution~~, the commission shall state on the record the
 1028 reasons for its decision ~~therefor~~. ~~The amount of such reparation~~
 1029 ~~or restitution shall be determined by the Parole Commission.~~

1030 (2)(b) If the parolee fails to make the payments ~~reparation~~
 1031 ~~or restitution to the aggrieved party as required~~ authorized in
 1032 subsection (1) paragraph (a), it shall be considered by the
 1033 commission as a violation of parole as specified in s. 947.21
 1034 and may be cause for revocation of ~~her or his~~ parole.

1035 (3)(2) If a defendant is paroled, any restitution ordered
 1036 under s. 775.089 shall be a condition of such parole. The Parole
 1037 Commission may revoke parole if the defendant fails to comply
 1038 with such order.

1039 (4) In determining whether to revoke parole, the ~~Parole~~
 1040 commission shall consider the defendant's employment status,
 1041 earning ability, and financial resources; the willfulness of the
 1042 defendant's failure to pay; and any other special circumstances
 1043 that may have a bearing on the defendant's ability to pay.

1044 Section 22. This act shall take effect July 1, 2012.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: CS/SB 1272

INTRODUCER: Criminal Justice Committee and Senator Latvala

SUBJECT: Possession of a Firearm or Destructive Device During the Commission of an Offense

DATE: February 14, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Fav/CS
2.	Sneed	Sadberry	BJA	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

The bill provides that an offender who is before the court for sentencing on a conviction of possession of a firearm by a convicted felon *and* who has a *prior conviction* for committing or attempting to commit certain felony offenses, *during which time* he or she possessed a firearm or destructive device, is subject to a 10 year mandatory sentence under the “10-20-Life” law.

This bill substantially amends section 775.087 of the Florida Statutes

II. Present Situation:

Section 775.087(2), F.S., is commonly referred to as the “10-20-Life” sentencing law. It requires a minimum term of imprisonment if the offender is convicted of committing or attempting to commit one of the enumerated felony offenses, regardless of whether the use of a weapon is an element of that felony offense, when during the commission of the felony offense the offender possesses, discharges, or causes death or great bodily harm with a firearm or destructive device.¹

¹ s. 775.087(2) (a) 1.-3., F.S.

Firearm is defined in s. 790.001(6), F.S., as any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun. It does not include an antique firearm unless the antique firearm is used in the commission of a crime. Destructive device is defined in s. 790.001(4), F.S., as follows:

(4) “Destructive device” means any bomb, grenade, mine, rocket, missile, pipebomb, or similar device containing an explosive, incendiary, or poison gas and includes any frangible container filled with an explosive, incendiary, explosive gas, or expanding gas, which is designed or so constructed as to explode by such filler and is capable of causing bodily harm or property damage; any combination of parts either designed or intended for use in converting any device into a destructive device and from which a destructive device may be readily assembled; any device declared a destructive device by the Bureau of Alcohol, Tobacco, and Firearms; any type of weapon which will, is designed to, or may readily be converted to expel a projectile by the action of any explosive and which has a barrel with a bore of one-half inch or more in diameter; and ammunition for such destructive devices, but not including shotgun shells or any other ammunition designed for use in a firearm other than a destructive device. “Destructive device” does not include:

- (a) A device which is not designed, redesigned, used, or intended for use as a weapon;
- (b) Any device, although originally designed as a weapon, which is redesigned so that it may be used solely as a signaling, line-throwing, safety, or similar device;
- (c) Any shotgun other than a short-barreled shotgun; or
- (d) Any nonautomatic rifle (other than a short-barreled rifle) generally recognized or particularly suitable for use for the hunting of big game.

The offenses to which the minimum mandatory sentences apply are set forth in s. 775.087(2)(a)1., F.S. as follows:

- a. Murder;
- b. Sexual battery;
- c. Robbery;
- d. Burglary;
- e. Arson;
- f. Aggravated assault;
- g. Aggravated battery;
- h. Kidnapping;
- i. Escape;
- j. Aircraft piracy;
- k. Aggravated child abuse;
- l. Aggravated abuse of an elderly person or disabled adult;
- m. Unlawful throwing, placing, or discharging of a destructive device or bomb;

- n. Carjacking;
- o. Home-invasion robbery;
- p. Aggravated stalking;
- q. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1); or
- r. Possession of a firearm by a felon.

A person who possesses a firearm or destructive device during the commission of the offenses listed above *except for* aggravated assault, possession of a firearm by a convicted felon, or burglary of a conveyance, shall be sentenced to a minimum of 10 years imprisonment.² If the conviction is for aggravated assault, possession of a firearm by a convicted felon or burglary of a conveyance, the minimum sentence is 3 years imprisonment.³

The mandatory minimum sentence provided for in s. 775.087(2), F.S., increases to 20 years if the firearm or destructive device is discharged during the commission of or attempt to commit the offenses enumerated in s. 775.087(2)(a)1. a.-q., F.S., as set forth above.⁴ The offense of possession of a firearm by a convicted felon is specifically *excluded* from the application of the mandatory 20 years.

The mandatory minimum sentence provided for in s. 775.087(2), F.S., increases to 25 years to life if the firearm or destructive device is discharged and someone is killed or suffers great bodily harm by the discharge during the commission of or attempt to commit the offenses enumerated in s. 775.087(2)(a)1. a.-q., F.S., as set forth above.⁵ The offense of possession of a firearm by a convicted felon is likewise *excluded* from the application of the mandatory 25 years to life sentence.

III. Effect of Proposed Changes:

The bill provides that an offender who is before the court for sentencing on a conviction of possession of a firearm by a convicted felon *and* who has a *prior conviction* for committing or attempting to commit the following listed offenses, *during which time* he or she possessed a firearm or destructive device, is subject to the 10 year mandatory sentence under s. 775.087(2)(a)1., F.S.⁶

² s. 775.087(2)(a)1., F.S.

³ *Id.*

⁴ s. 775.087(2)(a)2., F.S.

⁵ s. 775.087(2)(a)3., F.S.

⁶ This interpretation of the effect of the bill is partly based upon a review of the bill's title as the statutory amendment itself is somewhat unclear (please see the Technical Deficiencies section of the Bill Analysis). It should be noted that the House companion bill (HB 947) was amended on January 31, 2012, in an attempt to clarify the bill language.

The felony offenses that comprise the *listed prior conviction offenses* referred to above are:

- Arson;
- Sexual battery;
- Robbery;
- Kidnapping;
- Aggravated child abuse;
- Aggravated abuse of an elderly person or disabled adult;
- Aggravated assault with a deadly weapon;
- Murder;
- Manslaughter;
- Aggravated manslaughter of an elderly person or disabled adult;
- Aggravated manslaughter of a child;
- Unlawful throwing, placing, or discharging of a destructive device or bomb;
- Armed burglary;
- Aggravated battery; or
- Aggravated stalking.⁷

The bill has a July 1, 2012 effective date.

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:

None.

⁷ This list of offenses is found in s. 775.084(1)(b)1., F.S., the “habitual violent felony offender” statute.

C. Government Sector Impact:

On January 30, 2012, the Criminal Justice Impact Conference determined that the bill's effect on the Department of Corrections inmate population should be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Criminal Justice on February 9, 2012:

The Committee Substitute inserted language that clarifies the application of the sentencing provision as was intended.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senator Latvala

591-03220-12

20121272c1

A bill to be entitled

An act relating to possession of a firearm or destructive device during the commission of an offense; amending s. 775.087, F.S.; providing that an exception to the 10-year minimum term for persons convicted of certain offenses during which the person actually possessed a firearm or destructive device does not apply to offenders convicted for possession of a firearm by a felon who have certain prior convictions; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2) of section 775.087, Florida Statutes, is amended to read:

775.087 Possession or use of weapon; aggravated battery; felony reclassification; minimum sentence.—

(2)(a)1. Any person who is convicted of a felony or an attempt to commit a felony, regardless of whether the use of a weapon is an element of the felony, and the conviction was for:

- a. Murder;
- b. Sexual battery;
- c. Robbery;
- d. Burglary;
- e. Arson;
- f. Aggravated assault;
- g. Aggravated battery;
- h. Kidnapping;
- i. Escape;

591-03220-12

20121272c1

j. Aircraft piracy;

k. Aggravated child abuse;

l. Aggravated abuse of an elderly person or disabled adult;

m. Unlawful throwing, placing, or discharging of a destructive device or bomb;

n. Carjacking;

o. Home-invasion robbery;

p. Aggravated stalking;

q. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1); or

r. Possession of a firearm by a felon

and during the commission of the offense, such person actually possessed a "firearm" or "destructive device" as those terms are defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 10 years, except that a person who is convicted for aggravated assault, possession of a firearm by a felon, or burglary of a conveyance shall be sentenced to a minimum term of imprisonment of 3 years if such person possessed a "firearm" or "destructive device" during the commission of the offense. However, if an offender who is convicted of the offense of possession of a firearm by a felon has a previous conviction of

591-03220-12 20121272c1

59 committing or attempting to commit a felony listed in s.
60 775.084(1)(b)1. and actually possessed a firearm or destructive
61 device during the commission of the prior felony, the offender
62 shall be sentenced to a minimum term of imprisonment of 10
63 years.

64 2. Any person who is convicted of a felony or an attempt to
65 commit a felony listed in sub-subparagraphs (a)1.a.-q.,
66 regardless of whether the use of a weapon is an element of the
67 felony, and during the course of the commission of the felony
68 such person discharged a "firearm" or "destructive device" as
69 defined in s. 790.001 shall be sentenced to a minimum term of
70 imprisonment of 20 years.

71 3. Any person who is convicted of a felony or an attempt to
72 commit a felony listed in sub-subparagraphs (a)1.a.-q.,
73 regardless of whether the use of a weapon is an element of the
74 felony, and during the course of the commission of the felony
75 such person discharged a "firearm" or "destructive device" as
76 defined in s. 790.001 and, as the result of the discharge, death
77 or great bodily harm was inflicted upon any person, the
78 convicted person shall be sentenced to a minimum term of
79 imprisonment of not less than 25 years and not more than a term
80 of imprisonment of life in prison.

81 Section 2. This act shall take effect July 1, 2012.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: CS/SB 1580

INTRODUCER: Community Affairs and Senator Latvala

SUBJECT: Local Administrative Actions to Abate Public Nuisances and Criminal Gang Activity

DATE: February 22, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	Favorable
2.	<u>Toman</u>	<u>Yeatman</u>	<u>CA</u>	Fav/CS
3.	<u>Harkness</u>	<u>Sadberry</u>	<u>BJA</u>	Pre-meeting
4.	_____	_____	<u>BC</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

The bill amends s. 893.138, F.S., relating to local administrative actions to abate specified public nuisances and criminal gang activity, to do the following:

- Authorize a local administrative board to declare a place or premises to be a public nuisance if it is used on more than 2 occasions within a 6-month period as the site of the storage of a controlled substance with intent to sell or deliver the controlled substance off the premises.
- Provide that a county or municipality give prior notice to an owner of its intent to declare a place or premises a public nuisance before taking official action.
- Specify the duration of a public nuisance order, when the term of the order may be extended, and the period of extension.
- Provide that the local ordinance supplementing s. 893.138, F.S., may include fines not to exceed \$250 per day for each day that the public nuisance activities involving a place or premises have occurred, including days outside the 6 month period in which the minimum number of public nuisance activities are shown to have occurred. (Some nuisance activities involve use of the place or premise on more than 2 occasions within a 6-month period for specified unlawful activities like unlawfully selling a controlled substance.)
- Authorize a local ordinance to provide for continuing jurisdiction over a place or premises that is subject to an extension of the public nuisance order.

This bill substantially amends section 893.138, Florida Statutes.

II. Present Situation:

Section 893.138, F.S., provides that when a place or premises has been used for any of the following activities, the place or premises may be declared a public nuisance and the public nuisance may be abated:

- On more than 2 occasions within a 6-month period, as the site of a violation of s. 796.07, F.S., which punishes various acts involving prostitution, lewdness, or assignation.¹
- On more than 2 occasions within a 6-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance.²
- On 1 occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than 1 occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance.
- By a criminal gang for the purpose of conducting criminal gang activity as defined by s. 874.03, F.S.
- On more than 2 occasions within a 6-month period, as the site of a violation of s. 812.019, F.S., which punishes dealing in stolen property.

Section 893.138, F.S., also provides that when a pain-management clinic, as described in s. 458.3265, F.S., or s. 459.0137, F.S., has been used as the site of a violation of any of the following statutes, the pain-management clinic may be declared to be a public nuisance and the public nuisance may be abated:

- Section 784.011, F.S., s. 784.021, F.S., s. 784.03, F.S., or s. 784.045, F.S., all of which punish various acts of assault and battery.
- Section 810.02, F.S., which punishes burglary.
- Section 812.014, F.S., which punishes theft.
- Section 812.131, F.S., which punishes robbery by sudden snatching.
- Section 893.13, F.S., which punishes unlawful possession, sale, etc., of a controlled substance.

Section 893.138, F.S., also authorizes any county or municipality, by ordinance, to create an administrative board to hear complaints regarding the public nuisance activities.³ Any employee, officer, or resident of the county or municipality may bring a complaint before the board after giving not less than 3 days' written notice of such complaint to the owner of the place or premises at his or her last known address. After a hearing in which the board may consider any

¹ "Assignation" means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement. Section 796.07(1)(c), F.S.

² Section 893.138(10), F.S., states that the term "controlled substance" includes any substance sold in lieu of a controlled substance in violation of s. 817.563, F.S., or any imitation controlled substance defined in s. 817.564, F.S.

³ The statute specifies that the complaints are in regard to nuisances described in s. 893.138(2), F.S., which lists the nuisance activities applicable to places and premises. However s. 893.138(3), F.S., which lists the nuisance activities applicable to pain-management clinics, states that these activities may be abated pursuant to "the procedures provided in this section." Therefore, it appears that any county or municipality may also, by ordinance, create an administrative board to hear complaints regarding the public nuisance activities relating to pain-management clinics.

evidence, including evidence of the general reputation of the place or premises, and at which the owner of the premises shall have an opportunity to present evidence in his or her defense, the board may declare the place or premises to be a public nuisance as previously described.

If the board declares a place or premises to be a public nuisance, it may enter an order requiring the owner of such place or premises to adopt such procedure as may be appropriate under the circumstances to abate any such nuisance or it may enter an order immediately prohibiting any of the following:

- The maintaining of the nuisance.
- The operating or maintaining of the place or premises, including the closure of the place or premises or any part thereof.
- The conduct, operation, or maintenance of any business or activity on the premises which is conducive to such nuisance.

The public nuisance order expires after 1 year or at such earlier time as is stated in the order.

The public nuisance order may be enforced pursuant to the procedures contained in s. 120.69, F.S. (Section 120.69, F.S., which is part of the Administrative Procedure Act, specifies procedures for proceedings in which the substantial interests of a party are determined by an agency, subject to exceptions.) This authorization does not subject a municipality that creates a board under s. 893.138, F.S., or the board so created, to any other provision of ch. 120, F.S.

Section 893.138, F.S., also authorizes the board to bring a complaint under s. 60.05, F.S., (issuance of an injunction abating a nuisance upon suit by the Attorney General; state, city, or county attorney; or any citizen of the county), seeking temporary and permanent injunctive relief against any public nuisance. This authorization does not restrict the right of any person to proceed under s. 60.05, F.S., against any public nuisance.

The statute may also be supplemented by a county or municipal ordinance, which may include, but is not limited to, provisions that:

- Establish additional penalties for public nuisances, including fines not to exceed \$250 per day.
- Provide for payment of reasonable costs, including reasonable attorney fees associated with investigations of and hearings on public nuisances.
- Provide for continuing jurisdiction for a period of 1 year over any place or premises that has been or is declared to be a public nuisance.
- Establish penalties, including fines not to exceed \$500 per day for recurring public nuisances.
- Provide for the recording of orders on public nuisances so that notice must be given to subsequent purchasers, successors in interest, or assigns of the real property that is the subject of the order.
- Provide that recorded orders on public nuisances may become liens against the real property that is the subject of the order.
- Provide for the foreclosure of property subject to a lien and the recovery of all costs, including reasonable attorney fees, associated with the recording of orders and foreclosure, except that no lien may be foreclosed on real property which is a homestead.

Where a local government seeks to bring an administrative action based on a stolen property nuisance against a property owner operating an establishment where multiple tenants on one site conduct their own retail business, the property owner shall not be subject to a lien against his or her property or the prohibition of operation provision if the property owner evicts the business declared to be a nuisance within 90 days after notification by registered mail to the property owner of a second stolen property conviction of the tenant.

The total fines imposed pursuant to the authority of s. 893.138, F.S., shall not exceed \$15,000.

Nothing contained within s. 893.138, F.S., prohibits a county or municipality from proceeding against a public nuisance by any other means.

III. Effect of Proposed Changes:

Section 1 amends s. 893.138, F.S., relating to local administrative actions to abate specified public nuisances and criminal gang activity, to do the following:

- Authorize a local administrative board to declare a place or premises to be a public nuisance if it is used on more than 2 occasions within a 6-month period as the site of the storage of a controlled substance with intent to sell or deliver the controlled substance off the premises.
- Provide that a county or municipality give prior notice to an owner of its intent to declare a place or premises a public nuisance and afford the owner an opportunity to abate the nuisance before taking official action.
- Provide that the public nuisance order expires after 1 year or at an earlier time if so stated in the order unless the person subject to the order has violated the order during its term.
- Require the board to conduct a hearing to determine whether the person violated the order after providing notice to the person whose activities have been declared to be a public nuisance.
- Provide that if the board finds the person violated the order, the board may extend the term of the order by up to 1 additional year and may impose an additional penalty to the extent authorized by s. 893.138, F.S., and by supplemental local ordinance.
- Provide that the local ordinance supplementing s. 893.138, F.S., may include fines not to exceed \$250 per day for each day that the public nuisance activities involving a place or premises have occurred, including days outside the 6-month period in which the minimum number of public nuisance activities are shown to have occurred. (Under s. 893.138, F.S., the board may issue a public nuisance order when it finds that a place or premises has been used on more than 2 occasions within a 6-month period for prostitution, lewdness, assignation, specified drug activity, or dealing in stolen property.)
- Authorize a local ordinance to provide for continuing jurisdiction over a place or premises that is subject to an extension of the public nuisance order.

Section 2 provides an effective date of July 1, 2012.

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:

The bill potentially impacts those persons subject to fines as specified in the bill (see “Effect of Proposed Changes” section of this analysis) for the public nuisance.

C. Government Sector Impact:

There may be a cost-benefit to municipal and county governments if the provisions of the bill lead to a reduction in criminal activities in those places or premises declared a public nuisance, such as reducing impact on law enforcement resources. There may also be a benefit to municipal and county governments from the fines collected for the public nuisance.

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, estimates that the bill will not have any prison bed impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

CS by Community Affairs on February 21, 2012:

Provides that a county or municipality give prior notice to an owner of its intent to declare a place or premises a public nuisance and afford the owner the opportunity to abate the nuisance before taking official action.

B. Amendments:

None.

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

By the Committee on Community Affairs; and Senator Latvala

578-03698-12

20121580c1

1 A bill to be entitled
 2 An act relating to local administrative action to
 3 abate public nuisances and criminal gang activity;
 4 amending s. 893.138, F.S.; authorizing a local
 5 administrative board to declare a place to be a public
 6 nuisance if the place is used on more than two
 7 occasions within a 6-month period as the site of the
 8 storage of a controlled substance with intent to sell
 9 or deliver the controlled substance; prohibiting a
 10 county or municipality from declaring a place or
 11 premises a public nuisance unless the county or
 12 municipality gives prior notice to the owner of the
 13 place or premises of its intent to declare the place
 14 or premises a public nuisance and affords the owner an
 15 opportunity to abate the nuisance; providing that an
 16 order entered against a person for a public nuisance
 17 expires after 1 year or at an earlier time if so
 18 stated in the order unless the person has violated the
 19 order during the term of the order; requiring that the
 20 board conduct a hearing to determine whether the
 21 person violated the administrative order; authorizing
 22 the board to extend the term of the order by up to 1
 23 additional year and to impose a penalty if the board
 24 finds that the person violated the order; authorizing
 25 a county or municipal ordinance to include fines for
 26 days of public nuisance activities outside the 6-month
 27 period in which the minimum number of activities are
 28 shown to have occurred; authorizing a local ordinance
 29 to provide for continuing jurisdiction over a place or

Page 1 of 5

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

578-03698-12

20121580c1

30 premises that are subject to an extension of the
 31 administrative order; providing an effective date.
 32
 33 Be It Enacted by the Legislature of the State of Florida:
 34
 35 Section 1. Subsections (2), (6), and (11) of section
 36 893.138, Florida Statutes, are amended to read:
 37 893.138 Local administrative action to abate drug-related,
 38 prostitution-related, or stolen-property-related public
 39 nuisances and criminal gang activity.-
 40 (2) Any place or premises that has been used:
 41 (a) On more than two occasions within a 6-month period, as
 42 the site of a violation of s. 796.07;
 43 (b) On more than two occasions within a 6-month period, as
 44 the site of the unlawful sale, delivery, manufacture, or
 45 cultivation of a ~~any~~ controlled substance, or as the site of the
 46 storage of a controlled substance with intent to sell or deliver
 47 the controlled substance off the premises;
 48 (c) On one occasion as the site of the unlawful possession
 49 of a controlled substance, where such possession constitutes a
 50 felony, and that has been previously used on more than one
 51 occasion as the site of the unlawful sale, delivery,
 52 manufacture, or cultivation of a ~~any~~ controlled substance;
 53 (d) By a criminal gang for the purpose of conducting
 54 criminal gang-related ~~gang~~ activity as defined in ~~by~~ s. 874.03;
 55 or
 56 (e) On more than two occasions within a 6-month period, as
 57 the site of a violation of s. 812.019 relating to dealing in
 58 stolen property,

Page 2 of 5

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

578-03698-12

20121580c1

59 may be declared to be a public nuisance, and such nuisance may
 60 be abated pursuant to ~~the procedures provided in this section if~~
 61 the county or municipality has given prior notice to the owner
 62 of the place or premises of its intent to declare the place or
 63 premises a public nuisance and afforded the owner of the place
 64 or premises the opportunity to abate the nuisance before taking
 65 any official action against the place or premises pursuant to
 66 this section.

68 (6) An order entered under subsection (4) expires shall
 69 expire after 1 year or at such earlier time as is stated in the
 70 order unless the person has violated the order during the term
 71 of the order. After providing notice to the person whose
 72 activities have been declared to be a public nuisance, the board
 73 shall conduct a hearing to determine whether the person violated
 74 the administrative order entered under subsection (5). If the
 75 board finds that the person violated the order, the board may
 76 extend the term of the order by up to 1 additional year and may
 77 impose an additional penalty to the extent authorized by this
 78 section and by a supplemental county or municipal ordinance.

79 (11) ~~The provisions of~~ This section may be supplemented by
 80 a county or municipal ordinance. The ordinance may include, but
 81 ~~need is not be~~ limited to, provisions that establish additional
 82 penalties for public nuisances, including fines not to exceed
 83 \$250 per day for each day that the public nuisance activities
 84 described in subsection (2) have occurred, including days
 85 outside the 6-month period in which the minimum number of public
 86 nuisance activities are shown to have occurred. The ordinance
 87 may also provide for the payment of reasonable costs, including

578-03698-12

20121580c1

88 reasonable attorney fees associated with investigations of and
 89 hearings on public nuisances; provide for continuing
 90 jurisdiction for a period of 1 year over any place or premises
 91 that ~~have has~~ been or are is declared to be a public nuisance,
 92 subject to an extension for up to 1 additional year as provided
 93 in subsection (6); establish penalties, including fines not to
 94 exceed \$500 per day for recurring public nuisances; provide for
 95 the recording of orders on public nuisances so that notice must
 96 be given to subsequent purchasers, successors in interest, or
 97 assigns of the real property that is the subject of the order;
 98 provide that recorded orders on public nuisances may become
 99 liens against the real property that is the subject of the
 100 order; and provide for the foreclosure of the property that is
 101 subject to a lien and the recovery of all costs, including
 102 reasonable attorney fees, associated with the recording of
 103 orders and foreclosure. A No lien created pursuant to the
 104 provisions of this section may not be foreclosed on real
 105 property that which is a homestead under s. 4, Art. X of the
 106 State Constitution. When Where a local government seeks to bring
 107 an administrative action, based on a stolen property nuisance,
 108 against a property owner operating an establishment where
 109 multiple tenants, on one site, conduct their own retail
 110 business, the property owner is shall not ~~be~~ subject to a lien
 111 against his or her property or the prohibition of operation
 112 provision if the property owner evicts the business declared to
 113 be a nuisance within 90 days after notification by registered
 114 mail to the property owner of a second stolen property
 115 conviction of the tenant. The total fines imposed pursuant to
 116 ~~the authority of this section may shall~~ not exceed \$15,000.

578-03698-12

20121580c1

117 ~~Nothing contained within~~ This section does not prohibit
118 ~~prohibits~~ a county or municipality from proceeding against a
119 public nuisance by any other means.
120 Section 2. This act shall take effect July 1, 2012.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: SB 1322

INTRODUCER: Senator Norman

SUBJECT: Local Requirements for Dangerous Dogs

DATE: February 8, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Yeatman	CA	Favorable
2.	Jenkins	Roberts	GO	Favorable
3.	Sadberry	Sadberry	BJA	Pre-meeting
4.			BC	
5.				
6.				

I. Summary:

This bill removes a provision that exempts local ordinances adopted before October 1, 1990 from the prohibition on ordinances that are specific to breed.

This bill amends section 767.14 of the Florida Statutes.

II. Present Situation:

Chapter 767, F.S., outlines the state's "Damage by Dogs" provisions. In 1990, the State of Florida enacted a dangerous dog law.¹ The Legislature found that "dangerous dogs are an increasingly serious and widespread threat to the safety and welfare of the people of this state because of unprovoked attacks which cause injury to persons and domestic animals; that such attacks are in part attributable to the failure of the owners to confine and properly train and control their dogs; that existing laws inadequately address this growing problem; and that it is appropriate and necessary to impose uniform requirements on the owners of dangerous dogs."²

A "dangerous dog" is defined as a dog that:

- Has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property;
- Has more than once severely injured or killed a domestic animal while off the owner's property; or

¹ Ch. 90-180, L.O.F.

² Section 767.10, F.S.

- Has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the appropriate authority.³

Enforcement of the dangerous dog law relies on a formal complaint to trigger an investigation by an animal control authority. Pending the outcome of the investigation, the dog must be confined by its owner or impounded with an animal control authority and may not be relocated or have its ownership transferred. A dog cannot be declared dangerous if the threat, injury, or damage was sustained by a person who was unlawfully on the property, harassing the dog or its owner, or if the dog was protecting a human from an unjustified attack.⁴

After the investigation, the animal control authority makes an initial determination as to whether there is sufficient cause to classify the dog as dangerous. The owner must have an opportunity for a hearing prior to a final determination. The local governing body establishes the hearing procedures. If the dog is classified as a dangerous dog, the animal control authority must provide written notice to the owner, and the owner may appeal the classification to the county court.⁵

Within 14 days after the classification as a dangerous dog by the animal control authority or the classification is upheld by the county court on appeal, the owner must register the dog with the animal control authority and renew the certificate annually. Vaccination, enclosure, warning sign, and identification requirements must then be followed. The owner must immediately notify the animal control authority if the dog is loose, bites or attacks a person or another animal, or if there is any other change in status. A dangerous dog must remain in its enclosure at all times unless it is muzzled and restrained by a chain or leash. Any violation of these requirements is a noncriminal infraction punishable by a fine, not to exceed \$500. Exemptions are provided for: hunting dogs, when engaged in any legal hunt or training procedure; dogs engaged in training or exhibiting in legal sports, such as obedience trials, conformation shows, field trials, hunting/retrieving trials, and herding trials; and dogs used for law enforcement work.⁶

In addition to civil penalties, the owner of a dangerous dog can be charged with the following criminal violations:

- 3rd degree felony (punishable under s. 775.082, s. 775.083, or s. 775.084, F.S.), if the dog has previously been declared “dangerous” and it attacks and causes severe injury to or death of any human.⁷
- 1st degree misdemeanor (punishable under s. 775.082 or s. 775.083, F.S.), if the dog has previously been declared “dangerous” and it attacks or bites a person or domestic animal without provocation.

³ Section 767.11(1), F.S.

⁴ Section 767.12(1)(a), F.S.

⁵ Section 767.12(1)(c)(d), F.S.

⁶ Section 767.12(2-7), F.S.

⁷ Section 767.13, F.S.

- 2nd degree misdemeanor (punishable under s. 775.082 or s. 775.083, F.S.), if the dog has not previously been declared “dangerous” but causes severe injury to or death of any human and the owner had prior knowledge of, but recklessly disregarded, the dog’s dangerous propensities.

Under these criminal scenarios, the dog must be confiscated, placed in quarantine, if necessary, or impounded for 10 business days after the owner is given written notification of the animal control authority’s intent to destroy. During such time, the owner may request a hearing, and the dog may not be destroyed while an appeal is pending. However, the owner must pay for all boarding costs and other fees to maintain the dog during any appeal process. If a dog attacks or bites a person who is engaged in or attempting to engage in a criminal activity at the time of the attack, the owner is not guilty of any crime under this section.⁸

Local governments are authorized to place further restrictions and additional requirements on owners of dangerous dogs. However, no local regulation may be breed-specific, or lessen the provisions of chapter 767 unless the regulation was adopted prior to October 1, 1990.⁹ Florida is one of twelve states that prohibit local governments from enacting breed specific ordinances.¹⁰ A handful of communities were grandfathered in with an exception to this provision including Miami-Dade County.

In *State v. Peters*, the 3rd District Court of Appeals upheld the City of North Miami’s ordinance that required owners of pit bull-type dogs to post a surety bond (or provide other proof of financial responsibility) and confine the dogs indoors or in a locked pen.¹¹ The City of North Miami defined “Pit Bull Dog” with reference to the descriptions given by the American Kennel Club (AKC) and the United Kennel Club (UKC). The court held that:

- the ordinance did not deny equal protection to dog owners;
- the ordinance did not deny due process;
- the ordinance was not unconstitutionally vague in its definition of pit bull; and
- the determination of whether a dog was pit bull within the meaning of the ordinance was a matter of evidence not constitutional law.¹²

A similar Dade County ordinance also survived a challenge on vagueness grounds in a federal district court.¹³

The Senate Committee on Community Affairs Interim Report 2009-102¹⁴ reviewed the law on breed specific ordinances and surveyed local governments. The report concluded that while little evidence exists to support claims that one breed is more predisposed to aggressive behavior than others, studies do provide evidence that certain breeds are more likely to cause severe injury than

⁸ Section 767.13(5), F.S.

⁹ Section 767.14, F.S.

¹⁰ Pit Bull Awareness: Breed Specific Legislation; Nov. 28, 2007.

¹¹ 534 So. 2d 760 (Fla. 3d DCA 1988).

¹² *Id.*

¹³ *American Dog Owners Association, Inc. v. Dade County*, 728 F. Supp. 1533 (S.D. Fla. 1989).

¹⁴ Florida Senate Committee on Community Affairs, [Review of the Viability of City or County Pre-emption of Banning Certain Dog Breeds by Ordinance](http://www.flsenate.gov/data/Publications/2009/Senate/reports/interim_reports/pdf/2009-102ca.pdf), Interim Report 2009-102, available at http://www.flsenate.gov/data/Publications/2009/Senate/reports/interim_reports/pdf/2009-102ca.pdf.

others. The courts have consistently upheld these breed specific laws due to the rational relationship state and local governments have in preserving public safety and welfare. The issue of dangerous dogs varies greatly in different areas of this state – rural, semi-rural, and suburban. Within these local governments, human and dog populations vary greatly and can create possible unique areas of concern.

III. Effect of Proposed Changes:

Section 1 removes a provision that exempts local ordinances adopted before October 1, 1990 from the prohibition on ordinances that are specific to breed.

Section 2 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Veterinarians in localities that have breed-specific ordinances could potentially see an increase in business since previously prohibited breeds will become legal to own.

C. Government Sector Impact:

Any local government that has a breed specific ordinance or one that lessens state restrictions governing dangerous dogs will be preempted. In localities that require dog licenses and that have breed-specific prohibitions, there could potentially be an increase in dog license purchases resulting in an increase in revenue, although the scale of that increase is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

- B. Amendments:

None.

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

By Senator Norman

12-01344A-12

20121322__

A bill to be entitled

An act relating to local requirements for dangerous dogs; amending s. 767.14, F.S.; removing the provision that exempts local ordinances adopted before a specified date from the prohibition on ordinances that are specific to breed or that lessen state restrictions governing dangerous dogs; providing an effective date.

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

Section 1. Section 767.14, Florida Statutes, is amended to read:

767.14 Additional local restrictions authorized. ~~Nothing in~~
This act does not ~~shall~~ limit a any local government from placing further restrictions or additional requirements on owners of dangerous dogs or developing procedures and criteria for the implementation of this act, provided that no such regulation is specific to breed and that the provisions of this act are not lessened by such additional regulations or requirements. ~~This section shall not apply to any local ordinance adopted prior to October 1, 1990.~~

Section 2. This act shall take effect July 1, 2012.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: CS/SB 1324

INTRODUCER: Commerce and Tourism Committee and Senator Norman

SUBJECT: Theft of Copper

DATE: February 21, 2012

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Juliachs	Hrdlicka	CM	Fav/CS
2. Dugger	Cannon	CJ	Favorable
3. Sneed	Sadberry	BJA	Pre-meeting
4. _____	_____	BC	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

The bill deals with the regulation of secondary metals recyclers. Specifically, the bill increases the penalty against secondary metals recyclers for engaging in a pattern of failing to keep records as required by law to a third degree felony and increases the penalty for habitual violators of such provision to a first degree felony; defines the meaning of an electrical substation; and provides that a person who knowingly and intentionally removes or assists another to remove copper or other nonferrous metals from an electrical substation site commits a felony of the first degree.

This bill amends the following sections of the Florida Statutes: ss. 538.23 and 812.145, F.S.

II. Present Situation:

Part II of ch. 538, F.S., addresses the regulation of secondary metals recyclers¹ and purchase transactions² involving “regulated metals property.”³ With the economic recession, the value of

¹ The definition for “secondary metals recyclers” is defined in s. 538.18(8)(a), F.S.

² Section 538.18(6), F.S. (2011)(“Any transaction in which a secondary metals recycler gives consideration for regulated metals property.”).

metals has risen significantly, prompting an increase in metal theft crimes statewide. Law enforcement agencies have testified before county commission boards as to the negative consequences that increased criminal activity relating to the theft of secondary metals and secondary metal products has had on their respective jurisdictions.⁴

Additionally, the unlawful removing of metal from private property and government structures has caused economic loss for both the private and public sectors.⁵ In an issue paper published by the National Conference of State Legislatures it was noted that “stealing copper and other metals from utilities can cause electric outages and [that] expensive repairs impact ratepayers.” “The Department of Energy estimates that a theft of just \$100 in copper wire can cost the utility more than \$5,000 to repair.”⁶ In Miami Dade County alone, “since 2009, the County’s Public Works Department has spent thousands of dollars to repair or replace vandalized light poles.”⁷ Furthermore, with the influx of the number of foreclosures, metal theft has become common in unoccupied properties, which has impeded the ability of property owners, banks, and mortgage holders to sell both residential and commercial properties.⁸

In 2008, the Legislature revised part II of ch. 538, F.S., considerably. The new statutory provisions included increasing the record keeping requirements for purchase transactions by requiring additional seller information to be obtained; enhancing penalties for third or subsequent violations of the statute and for providing false verification of ownership or false or altered identification to a secondary metals recycler; prohibiting secondary metals recyclers from entering into cash transactions for over the amount of \$1,000; as well as requiring that all secondary metals recyclers register with the Department of Revenue prior to engaging in business.^{9, 10} In 2009, part II of ch. 538, F.S., was once again amended when s. 538.21, F.S., added a clause whereby all municipal and county ordinances relating to the issuance of hold notices by law enforcement were preempted.¹¹

With respect to penalties directed at punishing violators of secondary metals recycler laws, the law presently provides that a secondary metals recycler who knowingly and intentionally engages in a pattern of failing to keep records commits a misdemeanor of the first degree.¹²

³ Section 538.18(7) F.S. (2011) (“Any item composed primarily of any nonferrous metals, but shall not include aluminum beverage containers, used beverage containers, or similar beverage containers . . .”).

⁴ See Orange County, Fla. Ordinance 2010-16, pmbl (Dec. 7, 2010); See also Miami-Dade County, Fla. Ordinance 11-17, pmbl (April 4, 2011).

⁵ Jacquelyn Pless, *Copper Theft Can Cause Major Outages and Impact Ratepayers: A Hot Issue in 2011* (October 2011), NCSL.org, available at <http://www.ncsl.org/default.aspx?tabid=23720> (last visited December 16, 2011).

⁶ *Id.* (citing U.S. Department of Energy, Office of Electricity Delivery and Energy Reliability, *An Assessment of Copper Wire Thefts from Electric Utilities*, DOE.org, available at <http://www.oe.netl.doe.gov/docs/copper042707.pdf>. (April 2007).

⁷ Miami-Dade County, Fla. Ordinance 11-17, pmbl (April 4, 2011).

⁸ *Id.*

⁹ Chapter 2008-69, L.O.F. (2008).

¹⁰ In 2008, the number of secondary metals recyclers registered with the Florida Department of Revenue was 278. As of August 2011, that number increased to 769. See, Fla. Dept. of Revenue, *Secondary Dealers and Secondary Metals Recyclers by County* (August 2011), available at http://dor.myflorida.com/dor/taxes/pdf/secondhand_dealers_recyclers.pdf (last visited January 3, 2012).

¹¹ Chapter 2009-162, L.O.F. (2009) (creating s. 538.21(4), F.S., effective October 1, 2009).

¹² A misdemeanor of the first degree is punishable by a term of imprisonment not exceeding 1 year and a fine of up to \$1,000. See ss. 775.082 and 775.083, F.S. (2011).

Moreover, a third or subsequent violation of such provision will result in a felony of the third degree.¹³

Section 812.145, F.S., provides that a person who knowingly and intentionally takes copper or other nonferrous metals from a utility or communications services provider commits a felony of the first degree, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.¹⁴

III. Effect of Proposed Changes:

Section 1 amends s. 538.23, F.S., by providing that a secondary metals recycler who knowingly and intentionally engages in a pattern of failing to keep records concerning purchase transactions commits a felony of the third degree.¹⁵ Moreover, a secondary metals recycler who commits a third or subsequent violation of such provision will have committed a felony of the first degree.¹⁶

Section 2 amends s. 812.145, F.S., by defining electrical substation as a facility that takes electricity from the transmission grid and converts it to a lower voltage so it can be distributed to customers in the local area on the local distribution grid through one or more distribution lines less than 69 kilovolts in size.

Moreover, this section also provides that anyone who knowingly and intentionally removes or assists with the removal of copper or other nonferrous metals from an electrical substation site commits a felony of the first degree.¹⁷

Section 3 provides that this act shall take effect October 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹³ A felony of the third degree is punishable by a term of imprisonment not exceeding 5 years and a fine of up to \$5,000. See ss. 775.082 and 775.083, F.S. (2011).

¹⁴ A felony of the first degree is punishable by a term of imprisonment not exceeding 30 years and a fine of up to \$10,000. See ss. 775.082 and 775.083, F.S. (2011).

¹⁵ See Note 13 *supra*.

¹⁶ See Note 14 *supra*.

¹⁷ *Id.*

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

As of January 30, 2012, the Criminal Justice Impact Conference determined that the fiscal impact that this CS will have upon prison beds within the Department of Corrections is insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Commerce and Tourism on January 26, 2012:**

- Creates definition for an electrical substation.
- Increases punishment for secondary metals recyclers who knowingly and intentionally engages in a pattern of failing to keep records of purchase transactions from a misdemeanor of the first degree to a felony of the third degree.
- Increases punishment for a secondary metals recycler who violates the above-referenced provision for a third or subsequent time from a felony of the third degree to a felony of the first degree.
- Removes newly created definition of copper, as well as the reference to copper from the definition of regulated metals property.
- Removes requirement that a secondary metals recycler annually execute a bond in the amount of \$1.5 million with a surety company authorized to do business in Florida for the benefit of any person wrongfully injured by any malfeasance,¹⁸ misfeasance,¹⁹ neglect of duty, or incompetence by the secondary metals recycler for purchasing metals property stolen from an electrical substation site.
- Removes requirement that a secondary metals recycler is prohibited from purchasing regulated metals property from a seller who either uses a name other than his or her

¹⁸ Defined as a wrongful or unlawful act. See Black's Law Dictionary (9th ed. 2009).

¹⁹ Defined as a lawful act performed in a wrongful manner. See Black's Law Dictionary (9th ed. 2009).

own name or the registered name of the seller's business; is younger than 18 years of age; or is under the influence of drugs or alcohol, if such condition is visible or apparent.

B. Amendments:

None.

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

By the Committee on Commerce and Tourism; and Senator Norman

577-02441-12

20121324c1

A bill to be entitled

An act relating to metal theft; amending s. 538.23, F.S.; increasing the criminal penalties for specified violations relating to secondary metals recycling; providing increased criminal penalties for third and subsequent criminal violations; amending s. 812.145, F.S.; defining the term "electrical substation"; prohibiting removing or assisting with the removal of copper or other nonferrous metals from an electrical substation site without authorization of the utility; providing criminal penalties; providing an effective date.

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

Section 1. Subsection (1) of section 538.23, Florida Statutes, is amended to read:

538.23 Violations and penalties.—

(1)(a) Except as provided in paragraph (b), A secondary metals recycler who knowingly and intentionally:

1. Violates s. 538.20 or s. 538.21;

2. Engages in a pattern of failing to keep records required by s. 538.19;

3. Violates s. 538.26(4); or

4. Violates s. 538.235,

commits a ~~felony misdemeanor~~ of the third first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A secondary metals recycler who commits a third or

577-02441-12

20121324c1

subsequent violation of paragraph (a) commits a felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Present paragraphs (d) and (e) of subsection (1) of section 812.145, Florida Statutes, are redesignated as paragraphs (e) and (f), respectively, a new paragraph (d) is added to that subsection, and subsection (3) is added to that section, to read:

812.145 Theft of copper or other nonferrous metals.—

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

(d) "Electrical substation" means a facility that takes electricity from the transmission grid and converts it to a lower voltage so it can be distributed to customers in the local area on the local distribution grid through one or more distribution lines less than 69 kilovolts in size.

(3) A person who knowingly and intentionally removes, or assists with the removal of, copper or other nonferrous metals from an electrical substation without authorization of the utility commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. This act shall take effect October 1, 2012.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: CS/SB 1830

INTRODUCER: Judiciary Committee and Senator Flores

SUBJECT: Landlords and Tenants

DATE: February 22, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munro	Cibula	JU	Fav/CS
2.	Sadberry	Sadberry	BJA	Pre-meeting
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill makes numerous changes to the Florida Residential Landlord and Tenant Act. Specifically, the bill makes the following changes:

- Authorizes the eviction procedures under the Act, instead of foreclosure procedures, to apply to a person who occupies a dwelling pursuant to a lease-purchase agreement in some circumstances.
- Provides that the right of a prevailing party to attorney fees for enforcing a rental agreement may not be waived in the rental agreement.
- Provides that the right to the statutorily required notices before a landlord or tenant may terminate a lease may not be waived in the lease.
- Provides that attorney fees may not be awarded in a claim for personal injury damages based on a breach of duty to maintain the rental premises.
- Revises the notice that a landlord must provide a tenant which describes how advance rent and security deposits will be held and used by the landlord or returned to the tenant.
- Allows landlords to withdraw advance rents without notice to tenants.
- Creates a rebuttable presumption that a new owner of a rental property receives the security deposits paid by a tenant to the previous owner, but limit's the presumption to 1-months rent.
- Relieves landlords of single-family homes and duplexes of the obligation to provide and maintain screens on windows.
- Eliminates a landlord's obligation to make certain disclosures regarding fire safety to tenants.
- Provides that upon the re-occurrence within 12 months after the initial notice of tenant actions constituting noncompliance under a lease, the landlord is not required to provide an additional notice before initiating an eviction action.

- Provides that a lease must require a landlord to give advance notice of the intent to nonrenew the lease if the lease requires a tenant to give advance notice to a landlord of the intent to vacate the premises at the end of the lease.
- Revises procedures for restoration of possession of a rental property to a landlord to provide that weekends and holidays do not stay the applicable notice period.
- Specifies additional grounds for which a landlord may not retaliate against a tenant.

The bill conforms statutory cross-references and makes other editorial changes.

This bill creates one undesignated section of Florida law.

This bill amends the following sections of the Florida Statutes: 83.42, 83.48, 83.49, 83.50, 83.51, 83.56, 83.575, 83.58, 83.59, 83.60, 83.62, 83.63, 83.64, and 723.063.

II. Present Situation:

Applicability of the Florida Residential Landlord and Tenant Act

Part II, ch. 83, F.S., known as the “Florida Residential Landlord and Tenant Act,” governs the relationship between landlords and tenants under a residential rental agreement.¹

The Act does not apply to:

- residency or detention in a facility, whether public or private, when residence or detention is incidental to the provision of medical, geriatric, educational, counseling, religious, or similar services.²
- occupancy under a contract of sale of a dwelling unit or property of which it is a part.³
- transient occupancy in a hotel, condominium, motel, roominghouse, or similar public lodging, or transient occupancy in a mobile home park.⁴
- occupancy by a holder of a proprietary lease in a cooperative apartment.⁵
- occupancy by an owner of a condominium unit.⁶

Attorney Fees

Under s. 83.48, F.S., in any civil action brought to enforce the provisions of a rental agreement or the Florida Residential Landlord and Tenant Act, the party in whose favor a judgment or decree has been rendered may recover reasonable costs, including attorney fees from the prevailing party. In an interpretation of s. 83.48, F.S., by the Third District Court of Appeal, the court held that the statute did not allow for the award of attorney fees in an action for damages for personal injuries resulting from a landlord’s failure to maintain the rental premises.⁷

¹ Section 83.41, F.S., provides that part II, ch. 83, F.S., applies to the rental of a dwelling unit.

² Section 83.42(1), F.S.

³ Section 83.42(2), F.S.

⁴ Section 83.42(3), F.S.

⁵ Section 83.42(4), F.S.

⁶ Section 83.42(5), F.S.

⁷ *Gilbert v. Jabour*, 527 So. 2d 951 (Fla. 3d DCA 1988).

Advance Rent Payments

Section 83.49, F.S., specifies requirements for the landlord's duty to a tenant for deposit money or advance rent. "[T]he purpose of [s. 83.49(3)(a), F.S.,] is to assure tenants that their security deposits will be returned expeditiously or they will be promptly notified otherwise."⁸

Section 83.49(3)(a), F.S., states:

[u]pon the vacating of the premises for termination of the lease, if the landlord does not intend to impose a claim on the security deposit, the landlord shall have 15 days to return the security deposit together with interest if otherwise required, or the landlord shall have 30 days to give the tenant written notice by certified mail to the tenant's last known mailing address of his or her intention to impose a claim on the deposit and the reason for imposing the claim. The notice shall contain a statement in substantially the following form:

This is a notice of my intention to impose a claim for damages in the amount of ____ upon your security deposit, due to ____ . It is sent to you as required by s. 83.49 (3), Florida Statutes. You are hereby notified that you must object in writing to this deduction from your security deposit within 15 days from the time you receive this notice or I will be authorized to deduct my claim from your security deposit. Your objection must be sent to (landlord's address) .

If the landlord fails to give the required notice within the 30-day period, he or she forfeits the right to impose a claim upon the security deposit.

Section 83.49(3)(b), F.S., provides that:

[u]nless the tenant objects to the imposition of the landlord's claim or the amount thereof within 15 days after receipt of the landlord's notice of intention to impose a claim, the landlord may then deduct the amount of his or her claim and shall remit the balance of the deposit to the tenant within 30 days after the date of the notice of intention to impose a claim for damages.

Disclosure of Fire Protection

The landlord or the landlord's authorized representative, upon completion of construction of a building exceeding three stories in height and containing dwelling units, must disclose to the tenants initially moving into the building the availability or lack of availability of fire protection.⁹

⁸ See *Durene v. Alcime*, 448 So. 2d 1208, 1210 (Fla. 3d DCA 1984).

⁹ Section 83.50(2), F.S.

Landlord's Obligation to Maintain Premises

At all times during a tenancy, the landlord must comply with the requirements of applicable building, housing, and health codes.¹⁰ Where there are no applicable building, housing, or health codes, the landlord must maintain the roofs, windows, screens, doors, floors, steps, porches, exterior walls, foundations, and all other structural components in good repair and the plumbing in reasonable working condition.¹¹

Unless otherwise agreed in writing, in addition to the requirements [described above], the landlord of a dwelling unit other than a single-family home or duplex shall, at all times during the tenancy, make reasonable provisions for:

1. The extermination of rats, mice, roaches, ants, wood-destroying organisms, and bedbugs. When vacation of the premises is required for such extermination, the landlord shall not be liable for damages but shall abate the rent. The tenant shall be required to temporarily vacate the premises for a period of time not to exceed 4 days, on 7 days' written notice, if necessary, for extermination pursuant to this subparagraph.
2. Locks and keys.
3. The clean and safe condition of common areas.
4. Garbage removal and outside receptacles therefor.
5. Functioning facilities for heat during winter, running water, and hot water.¹²

Unless otherwise agreed in writing, at the commencement of the tenancy of a single-family home or duplex, the landlord shall install working smoke detection devices.¹³

Termination of Rental Agreement - Noncompliance

Section 83.56, F.S., establishes the circumstances under which the tenant or landlord may terminate a rental agreement. A tenant may be subject to eviction for monetary default or non-monetary default. Section 83.56, F.S., recognizes two different categories of non-monetary default:

Noncurable Default

(2)(a) If such noncompliance is of a nature that the **tenant should not be given an opportunity to cure** it or if the noncompliance constitutes a subsequent or continuing noncompliance within 12 months of a written warning by the landlord of a similar violation, deliver a written notice to the tenant specifying the noncompliance and the landlord's intent to terminate the rental agreement by reason thereof. Examples of

¹⁰ Section 83.51(1)(a), F.S.

¹¹ Section 83.51(1)(b), F.S.

¹² Section 83.51(2)(a), F.S.

¹³ Section 83.51(2)(b), F.S.

noncompliance which are of a nature that the tenant should not be given an opportunity to cure include, but are not limited to, destruction, damage, or misuse of the landlord's or other tenants' property by intentional act or a subsequent or continued unreasonable disturbance. In such event, the landlord may terminate the rental agreement, and the tenant shall have 7 days from the date that the notice is delivered to vacate the premises.¹⁴

Curable Default

(2)(b) If such noncompliance is of a nature that the **tenant should be given an opportunity to cure** it, deliver a written notice to the tenant specifying the noncompliance, including a notice that, if the noncompliance is not corrected within 7 days from the date the written notice is delivered, the landlord shall terminate the rental agreement by reason thereof. Examples of such noncompliance include, but are not limited to, activities in contravention of the lease or this act such as having or permitting unauthorized pets, guests, or vehicles; parking in an unauthorized manner or permitting such parking; or failing to keep the premises clean and sanitary.¹⁵

Termination of Rental Agreement - Waiver of Rent

If the tenant fails to pay rent when due and the default continues for 3 days, excluding Saturday, Sunday, and legal holidays, after delivery of written demand by the landlord for payment of rent or possession of the premises, the landlord may terminate the rental agreement.¹⁶

If the landlord accepts rent with actual knowledge of a noncompliance by the tenant or accepts performance by the tenant of any other provision of the rental agreement that is at variance with its provisions, the landlord waives his or her right to terminate the rental agreement or to bring a civil action for a specific noncompliance.¹⁷ The landlord does not waive his or her right to terminate the rental agreement or to bring a civil action for any subsequent or continuing noncompliance. If a landlord accepts a partial payment of rent from a tenant with full knowledge that the payment is not for the full amount, the landlord waives the right to terminate the rental agreement or to bring a civil action.¹⁸

Termination of a Tenancy with a Specific Duration

A rental agreement with a specific duration may contain a provision requiring the tenant to notify the landlord before vacating the premises at the end of the rental agreement.¹⁹ Such a provision may not require more than 60 days' notice before vacating the premises.²⁰ A rental agreement having a specific duration may also provide that if a tenant fails to give the required notice

¹⁴ Section 83.56(2)(a), F.S.

¹⁵ Section 83.56(2)(b), F.S.

¹⁶ Section 83.56(3), F.S.

¹⁷ Section 83.56(5), F.S.

¹⁸ See *In re Sorrento's I, Inc.*, 195 B.R. 502, 504 (Bankruptcy. M.D. Fla. 1996).

¹⁹ Section 83.575(1), F.S.

²⁰ *Id.*

before vacating the premises at the end of the rental agreement, the tenant may be liable for liquidated damages as specified in the rental agreement. To do so, the landlord must provide written notice to the tenant specifying his or her obligations under the notification provision contained in the lease and the date the rental agreement is terminated. The landlord must provide the written notice within 15 days before the start of the notification period contained in the lease and the written notice must list all fees, penalties, and other charges applicable to the tenant.

Restoration of Possession to Landlord Upon Eviction

In an action for possession, if the judgment is entered in the landlord's favor, the clerk must issue a writ to the sheriff commanding him or her to put the landlord in possession after 24 hours' notice is conspicuously posted on the premises.²¹

Retaliatory Conduct

Section 83.64, F.S., prohibits a landlord from discriminatorily increasing a tenant's rent or decrease services to a tenant, or to bring or threaten to bring an action for possession or other civil action, primarily because the landlord is retaliating against the tenant. The tenant may raise the defense of retaliatory conduct if the tenant acts in good faith.

Rental Units or Parcels in Condominiums, Cooperatives, and Homeowners' Associations

If a unit or parcel is occupied by a tenant and the unit or parcel owner is delinquent in paying any monetary obligation due to the association, the association may demand that the tenant pay to the association the subsequent rental payments and continue to make such payments until all monetary obligations of the unit owner related to the unit have been paid in full to the association.²² The tenant must pay the monetary obligations to the association until the association releases the tenant or the tenant discontinues the tenancy in the unit or parcel.

III. Effect of Proposed Changes:

Applicability of the Florida Residential Landlord and Tenant Act

The bill makes the Florida Residential Landlord Tenant Act applicable to lease purchase agreements for residential properties if the buyer has not paid at least one month's rent and paid a deposit of at least 5 percent of the value of the property or at least 12 month's rent.

Attorney Fees

The bill provides that a right to attorney fees may not be waived in a lease agreement. In addition, the bill provides that attorney fees may not be awarded in a claim for personal injury damages based on a breach of the landlord's duty to maintain the premises. The limitation on the award of attorney fees in a personal injury action based on the failure of a landlord to maintain the leased premises appears codify the interpretation of s. 83.56, F.S., by the Third District Court of Appeal in *Gilbert v. Jabour*.

²¹ Section 83.62, F.S.

²² Sections 718.116(11)(a) and (b), 719.108(10)(a) and (b), and 720.3085(8)(a) and (b), F.S.

Advance Rent Payments/Nonrefundable Deposits

The bill eliminates a requirement under s. 83.49(2), F.S., for a landlord to give to a tenant a copy of the law relating to security deposits and replaces it with another disclosure which states:

YOUR LEASE REQUIRES PAYMENT OF CERTAIN DEPOSITS. THE LANDLORD MAY TRANSFER ADVANCE RENTS TO THE LANDLORD'S ACCOUNT AS THEY ARE DUE AND WITHOUT NOTICE. WHEN YOU MOVE OUT, YOU MUST GIVE THE LANDLORD YOUR NEW ADDRESS SO THAT THE LANDLORD CAN SEND YOU NOTICES REGARDING YOUR DEPOSIT. THE LANDLORD MUST MAIL YOU NOTICE, WITHIN 30 DAYS AFTER YOU MOVE OUT, OF THE LANDLORD'S INTENT TO IMPOSE A CLAIM AGAINST THE DEPOSIT. IF YOU DO NOT REPLY TO THE LANDLORD STATING YOUR OBJECTION TO THE CLAIM WITHIN 15 DAYS AFTER RECEIPT OF THE LANDLORD'S NOTICE, THE LANDLORD WILL COLLECT THE CLAIM AND MUST MAIL YOU THE REMAINING DEPOSIT, IF ANY. IF YOU TIMELY OBJECT, THE LANDLORD MUST HOLD THE DEPOSIT AND EITHER YOU OR THE LANDLORD WILL HAVE TO FILE A LAWSUIT SO THAT THE COURT CAN RESOLVE THE DISPUTE.

The bill allows the landlord to withdraw advance rents from the deposit account without notice and as the rents become due to the landlord. The changes to the required disclosure regarding security deposits in this bill are conditional for leases entered into between July 1, 2012, and December 31, 2012. During the period between July 1, 2012, and December 31, 2012, the landlord may elect to give notice required under the current disclosure or the disclosure required under the bill. On or after January 1, 2013, the disclosure regarding security deposits as required by this bill will be required for all leases.

Transfer of Deposits to New Owner or Manager

The bill creates a rebuttable presumption that the previous owner or manager of the property of the property has transferred any deposit to the new owner. However, this presumption is limited to one month's rent.²³

Disclosure of Fire Protection

The bill eliminates a disclosure requirement for landlords regarding the availability or lack of availability of fire protection in certain new construction. Current law requires the landlord or the landlord's authorized representative, upon completion of construction of a building exceeding three stories in height and containing dwelling units, to disclose to the tenants initially moving into the building the availability or lack of availability of fire protection.²⁴

²³ The amount could be at variance with the amount actually received from the previous owner or agent.

²⁴ Section 83.50(2), F.S.

Maintenance of Screens on Windows

The bill relieves landlords of single-family homes and duplexes of the obligation to provide and maintain screens on windows.

Termination of Rental Agreement- Noncompliance

In the event a notice of noncompliance has been previously delivered to a tenant giving the tenant an opportunity to cure a curable lease violation, the bill provides that upon re-occurrence within 12 months after the initial notice of the noncompliance, the landlord is not required to provide an additional notice before instituting an eviction action.

Termination of Rental Agreement- Rent Waiver

The bill requires that after a landlord serves a tenant with a 3-day notice for failure to pay rent, the landlord may require payment of the rent to be in cash, money order, or certified funds. The bill also allows the landlord to demand “all moneys due,” including late fees, to the landlord.

The bill provides that the right to the statutorily required notices before a landlord or tenant may terminate a lease may not be waived in the lease. The bill provides that a landlord does not waive the right to terminate a rental agreement or to bring a civil action for noncompliance by accepting partial rent if the landlord notifies the tenant that the landlord may seek payment of the remainder. The bill revises the calculation of the time period within which a landlord with a tenant who receives rent subsidies waives the right to enforce a rental agreement if action is not timely instituted within 45 days of a noncompliance. Under the bill, a landlord must enforce the rental agreement within 45 days after obtaining actual knowledge of a noncompliance.

Termination of a Tenancy with a Specific Duration

The bill provides that if a rental agreement has a requirement for a tenant to provide notice to the landlord regarding nonrenewal, the rental agreement must provide a reciprocal requirement for the landlord to provide the same notice of an intent not to renew. However, a rental agreement may not require more than 60 days’ notice from either the tenant or the landlord.

Landlord or Mobile Home Park Owner’s Action for Rent or Possession

The bill provides that, before an action for possession based on nonpayment of rent or seeking recovery of unpaid rent may be dismissed by a court, the landlord or mobile home park owner²⁵ must be given an opportunity to cure a deficiency in a notice or in the pleadings. The bill requires a tenant in any action for possession of a dwelling unit by the landlord, if the tenant interposes any defense other than payment, including the defense of a defective 3-day notice, to pay the accrued rent under dispute into a court registry during the pendency of the proceeding.

²⁵ Under ss. 83.60 and 723.063, F.S., a tenant or mobile home owner may raise various defenses in opposition to a landlord or mobile home park owner’s action for possession or nonpayment of rent.

Restoration of Possession to Landlord

Existing law requires an eviction notice to be posted on a rental property at least 24 hours before a sheriff may restore possession of the property to the landlord. The bill provides that weekends and holidays do not stay the 24-hour notice period. The bill revises procedures for the restoration of possession of a rental unit to a landlord to provides that weekends and legal holidays do not stay the 24-hour notice period.

Retaliatory Conduct

The bill specifies two additional grounds for which a landlord may not retaliate against a tenant:

- The tenant has paid the rent to a condominium, cooperative, or homeowners' association after demand from the association.
- The tenant has exercised his or her rights under local, state, or federal fair housing laws.

The bill provides an effective date of July 1, 2012.

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:

The bill may make evictions or actions for possession of a residential dwelling unit faster and less costly in some circumstances.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Judiciary on February 16, 2012:**

The committee substitute no longer:

- Specifies that the eviction procedures in the Florida Residential Landlord Tenant Act (Act) apply to eviction from a dwelling after a final judgment in foreclosure, ejectment, quiet title, partition, or other cause action in which a court awards possession of a dwelling unit.
- Provides that the eviction procedures in the Act apply to an eviction based on the nonpayment of fees due to a condominium, cooperative, or homeowners' association.
- Contains references to "nonrefundable deposits."
- Requires landlords to pay condominium, cooperative, or homeowners' association assessments.
- Provides that a pending foreclosure action is not grounds for a tenant to terminate a lease.
- Requires a landlord to notify a tenant of a mortgage default.

Additionally, the committee substitute:

- Revises notice and eviction requirements for tenant actions constituting noncompliance under a lease;
- Provides that, before an action for possession based on nonpayment of rent or seeking recovery of unpaid rent may be dismissed by a court, the landlord or mobile home park owner must be given an opportunity to cure a deficiency in a notice or in the pleadings.
- Requires a tenant in any action for possession of a dwelling unit by the landlord, if the tenant interposes any defense other than payment, including the defense of a defective 3-day notice, to pay the accrued rent under dispute into a court registry during the pendency of the proceeding.
- Revises the period to institute an action for possession of a rental unit for noncompliance before an exemption involving rent subsidies is waived to 45 days after the landlord obtains actual knowledge of the noncompliance.
- Provides a transition period that allows landlords to exhaust existing forms before they are required to use the new form notices specified by the bill.

B. Amendments:

None.

By the Committee on Judiciary; and Senator Flores

590-03517-12

20121830c1

1 A bill to be entitled
 2 An act relating to landlords and tenants; amending s.
 3 83.42, F.S.; revising exclusions from application of
 4 part II of ch. 83, F.S., relating to residential
 5 tenancies; amending s. 83.48, F.S.; providing that the
 6 right to attorney fees may not be waived in a lease
 7 agreement; providing that attorney fees may not be
 8 awarded in a claim for personal injury damages based
 9 on a breach of duty of premises maintenance; amending
 10 s. 83.49, F.S.; revising and providing landlord
 11 disclosure requirements with respect to deposit money
 12 and advance rent; providing requirements for the
 13 disbursement of advance rents; providing a limited
 14 rebuttable presumption of receipt of security
 15 deposits; providing for certain changes to disclosure
 16 requirements to be phased in; amending s. 83.50, F.S.;
 17 removing certain landlord disclosure requirements
 18 relating to fire protection; amending s. 83.51, F.S.;
 19 revising a landlord's obligation to maintain a
 20 premises with respect to screens; amending s. 83.56,
 21 F.S.; revising procedures for the termination of a
 22 rental agreement by a landlord; revising notice and
 23 payment procedures; providing that a landlord does not
 24 waive the right to terminate the rental agreement or
 25 to bring a civil action for noncompliance by accepting
 26 partial rent, subject to certain notice; providing
 27 that the period to institute an action before an
 28 exemption involving rent subsidies is waived begins
 29 upon actual knowledge; amending s. 83.575, F.S.;

Page 1 of 20

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

590-03517-12

20121830c1

30 revising requirements for the termination of a tenancy
 31 having a specific duration to provide for reciprocal
 32 notice provisions in rental agreements; amending ss.
 33 83.58 and 83.59, F.S.; conforming cross-references;
 34 amending s. 83.60, F.S.; providing that a landlord
 35 must be given an opportunity to cure a deficiency in
 36 any notice or pleadings prior to dismissal of an
 37 eviction action; making technical changes; amending s.
 38 83.62, F.S.; revising procedures for the restoration
 39 of possession to a landlord to provide that weekends
 40 and holidays do not stay the applicable notice period;
 41 amending s. 83.63, F.S.; conforming a cross-reference;
 42 amending s. 83.64, F.S.; providing examples of conduct
 43 for which the landlord may not retaliate; amending s.
 44 723.063, F.S.; providing that a mobile home park owner
 45 must be given an opportunity to cure a deficiency in
 46 any notice or pleadings prior to dismissal of an
 47 eviction action; providing an effective date.

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

51 Section 1. Subsection (2) of section 83.42, Florida
 52 Statutes, is amended to read:

53 83.42 Exclusions from application of part.—This part does
 54 not apply to:

55 (2) Occupancy under a contract of sale of a dwelling unit
 56 or the property of which it is a part in which at least one
 57 month's rent has been paid and the buyer has paid a deposit of
 58 at least 5 percent of the value of the property, or in which the

Page 2 of 20

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

590-03517-12

20121830c1

59 buyer has paid at least 12 months' rent.

60 Section 2. Section 83.48, Florida Statutes, is amended to
61 read:

62 83.48 Attorney ~~Attorney's~~ fees.—In any civil action brought
63 to enforce the provisions of the rental agreement or this part,
64 the party in whose favor a judgment or decree has been rendered
65 may recover reasonable court costs, including, but not limited
66 to, attorney ~~attorney's~~ fees, from the nonprevailing party. The
67 right to attorney fees in this section may not be waived in a
68 lease agreement. However, attorney fees may not be awarded under
69 this section in a claim for personal injury damages based on a
70 breach of duty under s. 83.51.

71 Section 3. Subsections (2), (3), and (7) of section 83.49,
72 Florida Statutes, are amended to read:

73 83.49 Deposit money or advance rent; duty of landlord and
74 tenant.—

75 (2) The landlord shall, in the lease agreement or within 30
76 days after ~~of~~ receipt of advance rent or a security deposit,
77 furnish written notice to notify the tenant which includes
78 disclosure of in writing of the manner in which the landlord is
79 holding the advance rent or security deposit and the rate of
80 interest, if any, which the tenant is to receive and the time of
81 interest payments to the tenant. Such written notice shall:

82 ~~(a) Be given in person or by mail to the tenant.~~

83 ~~(b) State the name and address of the depository where the~~
84 ~~advance rent or security deposit is being held, whether the~~
85 ~~advance rent or security deposit is being held in a separate~~
86 ~~account for the benefit of the tenant or is commingled with~~
87 ~~other funds of the landlord, and, if commingled, whether such~~

590-03517-12

20121830c1

88 ~~funds are deposited in an interest-bearing account in a Florida~~
89 ~~banking institution.~~

90 ~~(e) Include a copy of the provisions of subsection (3).~~

91
92 Subsequent to providing such notice, if the landlord changes the
93 manner or location in which he or she is holding the advance
94 rent or security deposit, he or she shall notify the tenant
95 within 30 days after ~~of~~ the change according to the provisions
96 of paragraphs (a)-(d) herein set forth. The landlord is not
97 required to give a new notice or an additional notice solely
98 because the depository has merged with another financial
99 institution, changed its name, or transferred ownership to a
100 different financial institution. This subsection does not apply
101 to any landlord who rents fewer than five individual dwelling
102 units. Failure to provide this notice is ~~shall~~ not be a defense
103 to the payment of rent when due. Such written notice must:

104 (a) Be given in person or by mail to the tenant;

105 (b) State the name and address of the depository where the
106 advance rent or security deposit is being held, or state that
107 the landlord has posted a surety bond as provided by law;

108 (c) State whether the tenant is entitled to interest on the
109 deposit; and

110 (d) Include the following disclosure:

111
112 YOUR LEASE REQUIRES PAYMENT OF CERTAIN DEPOSITS. THE
113 LANDLORD MAY TRANSFER ADVANCE RENTS TO THE LANDLORD'S
114 ACCOUNT AS THEY ARE DUE AND WITHOUT NOTICE. WHEN YOU
115 MOVE OUT, YOU MUST GIVE THE LANDLORD YOUR NEW ADDRESS
116 SO THAT THE LANDLORD CAN SEND YOU NOTICES REGARDING

590-03517-12

20121830c1

117 YOUR DEPOSIT. THE LANDLORD MUST MAIL YOU NOTICE,
 118 WITHIN 30 DAYS AFTER YOU MOVE OUT, OF THE LANDLORD'S
 119 INTENT TO IMPOSE A CLAIM AGAINST THE DEPOSIT. IF YOU
 120 DO NOT REPLY TO THE LANDLORD STATING YOUR OBJECTION TO
 121 THE CLAIM WITHIN 15 DAYS AFTER RECEIPT OF THE
 122 LANDLORD'S NOTICE, THE LANDLORD WILL COLLECT THE CLAIM
 123 AND MUST MAIL YOU THE REMAINING DEPOSIT, IF ANY. IF
 124 YOU TIMELY OBJECT, THE LANDLORD MUST HOLD THE DEPOSIT
 125 AND EITHER YOU OR THE LANDLORD WILL HAVE TO FILE A
 126 LAWSUIT SO THAT THE COURT CAN RESOLVE THE DISPUTE.
 127
 128 IF THE LANDLORD FAILS TO TIMELY MAIL YOU NOTICE, THE
 129 LANDLORD MUST RETURN THE DEPOSIT BUT MAY LATER FILE A
 130 LAWSUIT AGAINST YOU FOR DAMAGES. IF YOU FAIL TO TIMELY
 131 OBJECT TO A CLAIM, THE LANDLORD MAY COLLECT FROM THE
 132 DEPOSIT BUT YOU MAY LATER FILE A LAWSUIT CLAIMING A
 133 REFUND.
 134
 135 YOU SHOULD ATTEMPT TO INFORMALLY RESOLVE ANY DISPUTE
 136 BEFORE FILING A LAWSUIT. GENERALLY, THE PARTY IN WHOSE
 137 FAVOR A JUDGMENT HAS BEEN RENDERED WILL BE AWARDED
 138 COSTS AND ATTORNEY FEES PAYABLE BY THE LOSING PARTY.
 139
 140 THIS DISCLOSURE IS BASIC. PLEASE REFER TO PART II OF
 141 CHAPTER 83, FLORIDA STATUTES, TO DETERMINE YOUR LEGAL
 142 RIGHTS AND OBLIGATIONS.
 143

144 (3) The landlord may disburse advance rents from the
 145 deposit account to the landlord's benefit when the advance

590-03517-12

20121830c1

146 rental period commences and without notice to the tenant. For
 147 all other deposits:

148 (a) Upon the vacating of the premises for termination of
 149 the lease, if the landlord does not intend to impose a claim on
 150 the security deposit, the landlord shall have 15 days to return
 151 the security deposit together with interest if otherwise
 152 required, or the landlord shall have 30 days to give the tenant
 153 written notice by certified mail to the tenant's last known
 154 mailing address of his or her intention to impose a claim on the
 155 deposit and the reason for imposing the claim. The notice shall
 156 contain a statement in substantially the following form:

157
 158 This is a notice of my intention to impose a claim for
 159 damages in the amount of upon your security deposit, due to
 160 It is sent to you as required by s. 83.49(3), Florida
 161 Statutes. You are hereby notified that you must object in
 162 writing to this deduction from your security deposit within 15
 163 days from the time you receive this notice or I will be
 164 authorized to deduct my claim from your security deposit. Your
 165 objection must be sent to ...(landlord's address)....
 166

167 If the landlord fails to give the required notice within the 30-
 168 day period, he or she forfeits the right to impose a claim upon
 169 the security deposit and may not seek a setoff against the
 170 deposit but may file an action for damages after return of the
 171 deposit.

172 (b) Unless the tenant objects to the imposition of the
 173 landlord's claim or the amount thereof within 15 days after
 174 receipt of the landlord's notice of intention to impose a claim,

590-03517-12 20121830c1

the landlord may then deduct the amount of his or her claim and shall remit the balance of the deposit to the tenant within 30 days after the date of the notice of intention to impose a claim for damages. The failure of the tenant to make a timely objection does not waive any rights of the tenant to seek damages in a separate action.

(c) If either party institutes an action in a court of competent jurisdiction to adjudicate the party's right to the security deposit, the prevailing party is entitled to receive his or her court costs plus a reasonable fee for his or her attorney. The court shall advance the cause on the calendar.

(d) Compliance with this section by an individual or business entity authorized to conduct business in this state, including Florida-licensed real estate brokers and sales associates, constitutes ~~shall constitute~~ compliance with all other relevant Florida Statutes pertaining to security deposits held pursuant to a rental agreement or other landlord-tenant relationship. Enforcement personnel shall look solely to this section to determine compliance. This section prevails over any conflicting provisions in chapter 475 and in other sections of the Florida Statutes, and shall operate to permit licensed real estate brokers to disburse security deposits and deposit money without having to comply with the notice and settlement procedures contained in s. 475.25(1)(d).

(7) Upon the sale or transfer of title of the rental property from one owner to another, or upon a change in the designated rental agent, any and all security deposits or advance rents being held for the benefit of the tenants shall be transferred to the new owner or agent, together with any earned

590-03517-12 20121830c1

interest and with an accurate accounting showing the amounts to be credited to each tenant account. Upon the transfer of such funds and records to the new owner or agent as stated herein, and upon transmittal of a written receipt therefor, the transferor ~~is shall be~~ free from the obligation imposed in subsection (1) to hold such moneys on behalf of the tenant. There is a rebuttable presumption that any new owner or agent received the security deposits from the previous owner or agent; however, the limit of this presumption is one month's rent. This subsection does not ~~However, nothing herein shall~~ excuse the landlord or agent for a violation of other ~~the~~ provisions of this section while in possession of such deposits.

Section 4. The Legislature recognizes that landlords may have stocks of preprinted lease forms that contain disclosures compliant with current law. Accordingly, changes to the disclosure required of a landlord and made by amendments to s. 83.49, Florida Statutes, in this act, are conditional for leases entered into between July 1, 2012, and December 31, 2012. During that period, the landlord may elect to give notice required by former s. 83.49, Florida Statutes, or the disclosure required under this act. The disclosure required by this act is required for all leases entered into on or after January 1, 2013.

Section 5. Section 83.50, Florida Statutes, is amended to read:

83.50 Disclosure of landlord's address.-

~~(1)~~ In addition to other disclosures required by law, the landlord, or a person authorized to enter into a rental agreement on the landlord's behalf, shall disclose in writing to the tenant, at or before the commencement of the tenancy, the

590-03517-12 20121830c1

name and address of the landlord or a person authorized to receive notices and demands in the landlord's behalf. The person so authorized to receive notices and demands retains authority until the tenant is notified otherwise. All notices of such names and addresses or changes thereto shall be delivered to the tenant's residence or, if specified in writing by the tenant, to any other address.

~~(2) The landlord or the landlord's authorized representative, upon completion of construction of a building exceeding three stories in height and containing dwelling units, shall disclose to the tenants initially moving into the building the availability or lack of availability of fire protection.~~

Section 6. Subsection (1) and paragraph (a) of subsection (2) of section 83.51, Florida Statutes, are amended to read:

83.51 Landlord's obligation to maintain premises.—

(1) The landlord at all times during the tenancy shall:

(a) Comply with the requirements of applicable building, housing, and health codes; or

(b) Where there are no applicable building, housing, or health codes, maintain the roofs, windows, ~~screens~~, doors, floors, steps, porches, exterior walls, foundations, and all other structural components in good repair and capable of resisting normal forces and loads and the plumbing in reasonable working condition. ~~However,~~ The landlord is ~~shall~~ not ~~be~~ required to maintain a mobile home or other structure owned by the tenant.

The landlord's obligations under this subsection may be altered or modified in writing with respect to a single-family home or

590-03517-12 20121830c1

duplex.

(2) (a) Unless otherwise agreed in writing, in addition to the requirements of subsection (1), the landlord of a dwelling unit other than a single-family home or duplex shall, at all times during the tenancy, make reasonable provisions for:

1. The extermination of rats, mice, roaches, ants, wood-destroying organisms, and bedbugs. When vacation of the premises is required for such extermination, the landlord is ~~shall~~ not ~~be~~ liable for damages but shall abate the rent. The tenant must ~~shall be required to~~ temporarily vacate the premises for a period of time not to exceed 4 days, on 7 days' written notice, if necessary, for extermination pursuant to this subparagraph.

2. Locks and keys.

3. The clean and safe condition of common areas.

4. Garbage removal and outside receptacles therefor.

5. Functioning facilities for heat during winter, running water, and hot water.

Section 7. Subsections (2) through (5) of section 83.56, Florida Statutes, are amended to read:

83.56 Termination of rental agreement.—

(2) If the tenant materially fails to comply with s. 83.52 or material provisions of the rental agreement, other than a failure to pay rent, or reasonable rules or regulations, the landlord may:

(a) If such noncompliance is of a nature that the tenant should not be given an opportunity to cure it or if the noncompliance constitutes a subsequent or continuing noncompliance within 12 months of a written warning by the landlord of a similar violation, deliver a written notice to the

590-03517-12 20121830c1

291 tenant specifying the noncompliance and the landlord's intent to
 292 terminate the rental agreement by reason thereof. Examples of
 293 noncompliance which are of a nature that the tenant should not
 294 be given an opportunity to cure include, but are not limited to,
 295 destruction, damage, or misuse of the landlord's or other
 296 tenants' property by intentional act or a subsequent or
 297 continued unreasonable disturbance. In such event, the landlord
 298 may terminate the rental agreement, and the tenant shall have 7
 299 days from the date that the notice is delivered to vacate the
 300 premises. The notice shall be ~~adequate if it is~~ in substantially
 301 the following form:

302

303 You are advised that your lease is terminated effective
 304 immediately. You shall have 7 days from the delivery of this
 305 letter to vacate the premises. This action is taken because
 306 ... (cite the noncompliance)....

307

308 (b) If such noncompliance is of a nature that the tenant
 309 should be given an opportunity to cure it, deliver a written
 310 notice to the tenant specifying the noncompliance, including a
 311 notice that, if the noncompliance is not corrected within 7 days
 312 from the date the written notice is delivered, the landlord
 313 shall terminate the rental agreement by reason thereof. Examples
 314 of such noncompliance include, but are not limited to,
 315 activities in contravention of the lease or this part ~~act~~ such
 316 as having or permitting unauthorized pets, guests, or vehicles;
 317 parking in an unauthorized manner or permitting such parking; or
 318 failing to keep the premises clean and sanitary. If there is a
 319 noncompliance within 12 months after notice, an eviction action

590-03517-12 20121830c1

320 may commence without the necessity of delivering a subsequent
 321 notice pursuant to paragraph (a) or this paragraph. The notice
 322 shall be ~~adequate if it is~~ in substantially the following form:

323

324 You are hereby notified that ... (cite the
 325 noncompliance).... Demand is hereby made that you remedy the
 326 noncompliance within 7 days of receipt of this notice or your
 327 lease shall be deemed terminated and you shall vacate the
 328 premises upon such termination. If this same conduct or conduct
 329 of a similar nature is repeated within 12 months, your tenancy
 330 is subject to termination without further warning and without
 331 your being given an opportunity to cure the noncompliance.

332

333 (3) If the tenant fails to pay rent when due and the
 334 default continues for 3 days, excluding Saturday, Sunday, and
 335 legal holidays, after delivery of written demand by the landlord
 336 for payment of the rent or possession of the premises, the
 337 landlord may terminate the rental agreement. Legal holidays for
 338 the purpose of this section shall be court-observed holidays
 339 only. The total amount claimed may include all moneys owed to
 340 the landlord through the date of the notice, including, but not
 341 limited to, late fees. The 3-day notice shall contain a
 342 statement in substantially the following form:

343

344 You are hereby notified that you are indebted to me in the
 345 sum of dollars for the rent and use of the premises
 346 ... (address of leased premises, including county) ..., Florida,
 347 now occupied by you and that I demand payment of the rent or
 348 possession of the premises within 3 days (excluding Saturday,

590-03517-12 20121830c1

349 Sunday, and legal holidays) from the date of delivery of this
 350 notice, to wit: on or before the day of, ...(year)....
 351 ...(landlord's name, address and phone number)...

352
 353 (4) The delivery of the written notices required by
 354 subsections (1), (2), and (3) shall be by mailing or delivery of
 355 a true copy thereof or, if the tenant is absent from the
 356 premises, by leaving a copy thereof at the residence. The notice
 357 requirements of subsections (1), (2), and (3) may not be waived
 358 in the lease.

359 (5) (a) If the landlord accepts rent with actual knowledge
 360 of a noncompliance by the tenant or accepts performance by the
 361 tenant of any other provision of the rental agreement that is at
 362 variance with its provisions, or if the tenant pays rent with
 363 actual knowledge of a noncompliance by the landlord or accepts
 364 performance by the landlord of any other provision of the rental
 365 agreement that is at variance with its provisions, the landlord
 366 or tenant waives his or her right to terminate the rental
 367 agreement or to bring a civil action for that noncompliance, but
 368 not for any subsequent or continuing noncompliance. However, a
 369 landlord does not waive the right to terminate the rental
 370 agreement or to bring a civil action for that noncompliance by
 371 accepting partial rent for the period if the landlord notifies
 372 the tenant that the landlord is reserving the right to enforce
 373 the rental agreement.

374 (b) Any tenant who wishes to defend against an action by
 375 the landlord for possession of the unit for noncompliance of the
 376 rental agreement or of relevant statutes must ~~shall~~ comply with
 377 ~~the provisions in~~ s. 83.60(2). The court may not set a date for

590-03517-12 20121830c1

378 mediation or trial unless the provisions of s. 83.60(2) have
 379 been met, but must ~~shall~~ enter a default judgment for removal of
 380 the tenant with a writ of possession to issue immediately if the
 381 tenant fails to comply with s. 83.60(2).

382 (c) This subsection does not apply to that portion of rent
 383 subsidies received from a local, state, or national government
 384 or an agency of local, state, or national government; however,
 385 waiver will occur if an action has not been instituted within 45
 386 days after the landlord obtains actual knowledge of the
 387 noncompliance.

388 Section 8. Section 83.575, Florida Statutes, is amended to
 389 read:

390 83.575 Termination of tenancy with specific duration.—

391 (1) A rental agreement with a specific duration may contain
 392 a provision requiring the tenant to notify the landlord before
 393 vacating the premises at the end of the rental agreement if the
 394 provision also requires that the landlord notify the tenant if
 395 the rental agreement will not be renewed on the same terms;
 396 however, a rental agreement may not require more than 60 days'
 397 notice from either the tenant or the landlord ~~before vacating~~
 398 ~~the premises.~~

399 (2) A rental agreement with a specific duration may provide
 400 that if a tenant fails to give the required notice before
 401 vacating the premises at the end of the rental agreement, the
 402 tenant may be liable for liquidated damages as specified in the
 403 rental agreement if the landlord provides written notice to the
 404 tenant specifying the tenant's obligations under the
 405 notification provision contained in the lease and the date the
 406 rental agreement is terminated. The landlord must provide such

590-03517-12 20121830c1

written notice to the tenant within 15 days before the start of the notification period contained in the lease. The written notice shall list all fees, penalties, and other charges applicable to the tenant under this subsection.

(3) If the tenant remains on the premises with the permission of the landlord after the rental agreement has terminated and fails to give notice required under s. 83.57(3), the tenant is liable to the landlord for an additional 1 month's rent.

Section 9. Section 83.58, Florida Statutes, is amended to read:

83.58 Remedies; tenant holding over.—If the tenant holds over and continues in possession of the dwelling unit or any part thereof after the expiration of the rental agreement without the permission of the landlord, the landlord may recover possession of the dwelling unit in the manner provided for in s. 83.59 ~~{F.S. 1973}~~. The landlord may also recover double the amount of rent due on the dwelling unit, or any part thereof, for the period during which the tenant refuses to surrender possession.

Section 10. Subsection (2) of section 83.59, Florida Statutes, is amended to read:

83.59 Right of action for possession.—

(2) A landlord, the landlord's attorney, or the landlord's agent, applying for the removal of a tenant, shall file in the county court of the county where the premises are situated a complaint describing the dwelling unit and stating the facts that authorize its recovery. A landlord's agent is not permitted to take any action other than the initial filing of the

590-03517-12 20121830c1

complaint, unless the landlord's agent is an attorney. The landlord is entitled to the summary procedure provided in s. 51.011 ~~{F.S. 1971}~~, and the court shall advance the cause on the calendar.

Section 11. Section 83.60, Florida Statutes, is amended to read:

83.60 Defenses to action for rent or possession; procedure.—

(1) (a) In an action by the landlord for possession of a dwelling unit based upon nonpayment of rent or in an action by the landlord under s. 83.55 seeking to recover unpaid rent, the tenant may defend upon the ground of a material noncompliance with s. 83.51(1) ~~{F.S. 1973}~~, or may raise any other defense, whether legal or equitable, that he or she may have, including the defense of retaliatory conduct in accordance with s. 83.64. The landlord must be given an opportunity to cure a deficiency in a notice or in the pleadings prior to dismissal of the action.

(b) The defense of a material noncompliance with s. 83.51(1) ~~{F.S. 1973}~~ may be raised by the tenant if 7 days have elapsed after the delivery of written notice by the tenant to the landlord, specifying the noncompliance and indicating the intention of the tenant not to pay rent by reason thereof. Such notice by the tenant may be given to the landlord, the landlord's representative as designated pursuant to s. 83.50~~(1)~~, a resident manager, or the person or entity who collects the rent on behalf of the landlord. A material noncompliance with s. 83.51(1) ~~{F.S. 1973}~~ by the landlord is a complete defense to an action for possession based upon nonpayment of rent, and, upon

590-03517-12 20121830c1

465 hearing, the court or the jury, as the case may be, shall
 466 determine the amount, if any, by which the rent is to be reduced
 467 to reflect the diminution in value of the dwelling unit during
 468 the period of noncompliance with s. 83.51(1) ~~[F.S. 1973]~~. After
 469 consideration of all other relevant issues, the court shall
 470 enter appropriate judgment.

471 (2) In an action by the landlord for possession of a
 472 dwelling unit, if the tenant interposes any defense other than
 473 payment, including, but not limited to, the defense of a
 474 defective 3-day notice, the tenant shall pay into the registry
 475 of the court the accrued rent as alleged in the complaint or as
 476 determined by the court and the rent that ~~which~~ accrues during
 477 the pendency of the proceeding, when due. The clerk shall notify
 478 the tenant of such requirement in the summons. Failure of the
 479 tenant to pay the rent into the registry of the court or to file
 480 a motion to determine the amount of rent to be paid into the
 481 registry within 5 days, excluding Saturdays, Sundays, and legal
 482 holidays, after the date of service of process constitutes an
 483 absolute waiver of the tenant's defenses other than payment, and
 484 the landlord is entitled to an immediate default judgment for
 485 removal of the tenant with a writ of possession to issue without
 486 further notice or hearing thereon. ~~If in the event~~ a motion to
 487 determine rent is filed, documentation in support of the
 488 allegation that the rent as alleged in the complaint is in error
 489 is required. Public housing tenants or tenants receiving rent
 490 subsidies are ~~shall be~~ required to deposit only that portion of
 491 the full rent for which they are ~~the tenant is~~ responsible
 492 pursuant to the federal, state, or local program in which they
 493 are participating.

590-03517-12 20121830c1

494 Section 12. Subsection (1) of section 83.62, Florida
 495 Statutes, is amended to read:

496 83.62 Restoration of possession to landlord.—

497 (1) In an action for possession, after entry of judgment in
 498 favor of the landlord, the clerk shall issue a writ to the
 499 sheriff describing the premises and commanding the sheriff to
 500 put the landlord in possession after 24 hours' notice
 501 conspicuously posted on the premises. Weekends and legal
 502 holidays do not stay the 24-hour notice period.

503 Section 13. Section 83.63, Florida Statutes, is amended to
 504 read:

505 83.63 Casualty damage.—If the premises are damaged or
 506 destroyed other than by the wrongful or negligent acts of the
 507 tenant so that the enjoyment of the premises is substantially
 508 impaired, the tenant may terminate the rental agreement and
 509 immediately vacate the premises. The tenant may vacate the part
 510 of the premises rendered unusable by the casualty, in which case
 511 the tenant's liability for rent shall be reduced by the fair
 512 rental value of that part of the premises damaged or destroyed.
 513 If the rental agreement is terminated, the landlord shall comply
 514 with s. 83.49(3) ~~[F.S. 1973]~~.

515 Section 14. Subsection (1) of section 83.64, Florida
 516 Statutes, is amended to read:

517 83.64 Retaliatory conduct.—

518 (1) It is unlawful for a landlord to discriminatorily
 519 increase a tenant's rent or decrease services to a tenant, or to
 520 bring or threaten to bring an action for possession or other
 521 civil action, primarily because the landlord is retaliating
 522 against the tenant. In order for the tenant to raise the defense

590-03517-12 20121830c1

of retaliatory conduct, the tenant must have acted in good faith. Examples of conduct for which the landlord may not retaliate include, but are not limited to, situations where:

(a) The tenant has complained to a governmental agency charged with responsibility for enforcement of a building, housing, or health code of a suspected violation applicable to the premises;

(b) The tenant has organized, encouraged, or participated in a tenants' organization;

(c) The tenant has complained to the landlord pursuant to s. 83.56(1); ~~or~~

(d) The tenant is a servicemember who has terminated a rental agreement pursuant to s. 83.682;

(e) The tenant has paid rents to a condominium, cooperative, or homeowners' association after demand from the association in order to pay the landlord's obligation to the association; or

(f) The tenant has exercised his or her rights under local, state, or federal fair housing laws.

Section 15. Subsection (1) of section 723.063, Florida Statutes, is amended to read:

723.063 Defenses to action for rent or possession; procedure.—

(1) (a) In any action based upon nonpayment of rent or seeking to recover unpaid rent, or a portion thereof, the mobile home owner may defend upon the ground of a material noncompliance with any portion of this chapter or may raise any other defense, whether legal or equitable, which he or she may have. The mobile home park owner must be given an opportunity to

590-03517-12 20121830c1

cure a deficiency in a notice or in the pleadings prior to dismissal of the action.

(b) The defense of material noncompliance may be raised by the mobile home owner only if 7 days have elapsed after he or she has notified the park owner in writing of his or her intention not to pay rent, or a portion thereof, based upon the park owner's noncompliance with portions of this chapter, specifying in reasonable detail the provisions in default. A material noncompliance with this chapter by the park owner is a complete defense to an action for possession based upon nonpayment of rent, or a portion thereof, and, upon hearing, the court or the jury, as the case may be, shall determine the amount, if any, by which the rent is to be reduced to reflect the diminution in value of the lot during the period of noncompliance with any portion of this chapter. After consideration of all other relevant issues, the court shall enter appropriate judgment.

Section 16. This act shall take effect July 1, 2012.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: CS/CS/SB 834

INTRODUCER: Criminal Justice Committee; Education Pre-K - 12 Committee; and, Education Pre-K - 12 Committee

SUBJECT: Education Programs for Juvenile Justice Students

DATE: February 14, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carrouth	deMarsh-Mathues	ED	Fav/CS
2.	Dugger	Cannon	CJ	Fav/CS
3.	Sadberry	Sadberry	BJA	Pre-meeting
4.			BC	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

The bill is the culmination of the committee's interim project on education in Department of Juvenile Justice (DJJ) facilities.¹ It includes the recommendations of the Juvenile Justice Education Workgroup to improve the education outcomes of youth in DJJ facilities. The bill requires an evaluation of the effectiveness of school districts and private providers based upon the attainment of relevant academic and workforce skills that increase the likelihood of success upon release from a DJJ facility. School districts and private providers would be prohibited from providing educational services to youth in DJJ facilities if they fail to meet the above performance outcomes.

This bill substantially amends sections 985.03, 985.46, 985.618, 1009.25, 1011.62, creates section 1003.515, repeals section 1003.52, and makes conforming changes to sections 985.721, 985.632, 1001.42, 1002.20, 1002.45, 1003.01 and 1011.62 of the Florida Statutes.

¹ Senate Interim Report 2012-219, Delivery of Educational Services in the Department of Juvenile Justice Services, available at <http://www.flsenate.gov/Committees/InterimProjects/2012/>.

II. Present Situation:

Statutory requirements

Section 1003.52, F.S., establishes the educational expectations for DJJ youth in residential and day treatment programs.² The Department of Education (DOE) currently serves as the lead agency for juvenile justice education programs, curriculum, support services, and resources. Although district school boards are responsible for providing educational services to youth in juvenile justice programs, the DOE and DJJ are responsible for reporting the academic performance of students in juvenile justice programs, developing academic and career guidance to district school boards and providers in educational programming, and prescribing the roles of program personnel and school district or provider collaboration strategies.³

Current law states that education is the single most important factor in the rehabilitation of adjudicated delinquent youth and that the goal of the juvenile justice system is to allow these youth the opportunity to obtain a high-quality education.⁴ Unfortunately, the law only requires an education program that supports treatment goals and leads to a high school diploma or equivalent.⁵ Data collected on student achievement is based primarily on learning gains in reading and mathematics.⁶ Given the serious academic deficits many of these youth bring to the programs and the significant hurdles they will face in obtaining gainful employment, DJJ education programs must go beyond a high school diploma or equivalent and offer workforce skills that will lead to employment.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) reported concerns with a lack of meaningful student outcomes in DJJ facilities and recommended the evaluation of youth based on outcomes proven to reduce delinquency—continuing education and meaningful employment.⁷ Instead, educational programs are currently assigned quality assurance ratings based on on-site reviews and interviews of education services personnel.⁸

² DJJ programs provide oversight for approximately 150 residential, day treatment, and prevention programs in 43 counties. The majority of programs are operated under contract by private providers for services such as mental health, substance abuse treatment, plans for restitution, and transition services so that youth successfully re-enter their home communities.

³ s. 1003.52(1), F.S.

⁴ *Id.*

⁵ s. 1003.52(5), F.S.

⁶ Approximately 15 percent of DJJ students demonstrated learning gains in mathematics and reading during FY 2009-2010. Eighty-five percent failed to read on grade level and 78 percent scored below grade level on mathematics. See page 4, www.fldoe.org/ese/pdf/jj_annual.pdf.

⁷ OPPAGA Report 08-07, available at: <http://www.oppaga.state.fl.us/ReportsYearList.aspx?yearID=22>.

⁸ Quality assurance ratings include information relating to teacher certifications and qualifications, courses taught by each teacher, qualifications and duties of all educational support personnel, assessment information, progress monitoring data, and program characteristics (i.e., size, location, provider, career education level designated by the DJJ, security level, and age range of students), school names and numbers under which diplomas are reported, course offerings, class schedules, bell schedules, school calendars, curriculum information, fidelity checks, walk-through forms, and annual evaluations of the educational program. See also *Developing Effective Education in Department of Juvenile Justice and other Dropout Prevention Programs*, 2009-10, Department of Education, available at: www.fldoe.org/ese/pdf/jj_annual.pdf.

DJJ education program outcomes

The need to improve the educational outcomes of youth in DJJ facilities is documented through available data. On any given day, approximately 100,000 youth are in some form of juvenile justice placement, nationally.⁹ Obstacles to successful re-entry amplify the effects of the school-to-prison pipeline and increase the likelihood that these youth will find themselves returning to the justice system they just exited. Youth who return to school from juvenile justice placements have lower recidivism rates and a higher likelihood of successful re-entry into the community.¹⁰ Unfortunately, 79 percent of juvenile justice students in residential programs, who were age 16 or older and significantly behind academically, did not return to school upon release.¹¹

The Department of Education (DOE) provided data on youth released from DJJ programs over several years using information from the Florida Education and Training Placement Information Program (FETPIP). The DOE tracked youth in DJJ residential programs to determine occupational, educational, and subsequent judicial placement in the years following release from the program. To provide context, the DOE provided the same outcome information for high school dropouts and graduates. The chart shows that youth released from DJJ are returning to school at progressively lower rates over time. In addition, DJJ youth are similar to dropouts in that low percentages enroll in postsecondary education. Youth released from DJJ were also less likely to be employed than dropouts or high school graduates. Finally, DJJ youth, following release, are more likely to be incarcerated as adults than dropouts or high school graduates. Of those who were later incarcerated by the Department of Corrections, they were less likely to earn full time equivalent wages after leaving the DJJ program.

Information on DJJ Youth in Comparison to School Dropouts and High School Graduates

	Year Students Left Or Graduated 2006-07			Year Students Left or Graduated 2007-08		
	DJJ Leavers	Dropouts	HS Grads	DJJ Leavers	Dropouts	HS Grads
1. Number of students	7,395	25,144	127,258	6,041	19,640	131,128
2. Number and percent who returned to HS or MS at any point following release	2430	7,879	NA	634	5,471	NA
	33%	31%		10%	28%	
3. Number and percentage of DJJ Leavers who received a GED	1,557	NA	NA	1,288	NA	NA
	21%			21%		

⁹ See *The School to Prison Pipeline and Back*, New York Law School Review, Volume 54, 2009-10, pg. 1116, available at: www.nyls.edu/index.php?cID=2666.

¹⁰ *Id.*

¹¹ *Juvenile Justice Students Face Barriers to High School Graduation and Job Training*, OPPAGA, Report No. 10-55 (October 2010.)

	Year Students Left Or Graduated 2006-07			Year Students Left or Graduated 2007-08		
	DJJ Leavers	Dropouts	HS Grads	DJJ Leavers	Dropouts	HS Grads
4. Number and percent who enrolled in Postsecondary ED in the year following their release - continuing education	390 0%	1,520 6%	80,057 63%	364 6%	1,274 6%	82,741 63%
5. Number and percent who were employed in the year after release	1,502 20%	9,234 37%	69,117 54%	866 14%	5,437 28%	62,890 48%
6. Of those who were employed, number and percent who were employed with full time equivalent wages in the year after their release ¹²	231 15%	2,011 22%	15,032 22%	135 16%	1,239 28%	10,613 17%
7. Number and percent who were later incarcerated in a DOC facility (Followed through 2009-10)	1,197 16%	874 3%	271 0%	600 10%	503 3%	159 0%
8. Of those that were later incarcerated in a DOC facility, the number and percent employed in the year after release with full time equivalent wages ¹	20 2%	16 2%	29 11%	3 0%	2 0%	8 5%

Source: Florida Education and Training Placement Information Program

* Percentages less than .50% are rounded to (whole percentages) 0%.

Youth released from DJJ programs are most likely to reoffend within the first nine months of release.¹³ Of these recidivists, more than half will be rearrested within the first four months following program release. Although Florida and federal law¹⁴ require state and local agencies to provide for effective re-entry of youth into the community, 13 of the state's 67 school districts automatically place students in an alternative education setting despite recommendations from the DJJ program staff and statutory requirements to use those recommendations in re-entry placement decisions.¹⁵ Youth who have been involved in juvenile and criminal activity are not provided sufficient re-entry support to ensure that they do not re-offend.

The Center for Smart Justice¹⁶ reports that the \$240 million the state spends annually on residential facilities is not making Florida safer, but instead more vulnerable. Residential

¹² Full-time is determined by the wages equal to or greater than "minimum wages *13 weeks* 40 hours." If the wage amount is equal to or greater than this number, FETPIP considers the individual full-time for the quarter.

¹³ DJJ CAR Report, 2009-09, page 115.

¹⁴ Sections 1401(a), 1417(a), and 1422(d) of PL 107-110, No Child Left Behind Act of 2001; Sections 1003.52(5) (13)(i) and 985.618(1)(a)(b), F.S.; and State Board Rule 6A-6.05281.

¹⁵ See <http://www.fldoe.org/ese/sdte.asp>.

¹⁶ The Florida TaxWatch Center for Smart Justice was established in 2010 as a statewide research organization to ensure statewide justice reform through proven, cost-effective measures. The center is led by a board of civic and business leaders from across the state. See www.floridatxwatch.org/centers/CSJ/aboutsmartjustice.php.

facilities have higher recidivism rates than community-based alternatives, and repeated studies have proven that institutional programs make low-risk children more likely to re-offend.¹⁷

Juvenile Justice Education Workgroup

The Juvenile Justice Education Workgroup was created in the summer of 2011 to bring together stakeholders in juvenile justice education. The workgroup heard testimony concerning youth education outcomes in juvenile justice facilities. Cognizant of the significant challenges these youth will face in obtaining gainful employment, the workgroup recommended a revised accountability structure to evaluate the effectiveness of the education. In particular, the workgroup recommended evaluating DJJ education programs on the following: youth attainment of industry certifications in targeted, high-demand and high-wage fields; continuing education at the secondary or postsecondary level; job placement or self-employment; and attainment of postsecondary credit.

High-demand and high-wage employment

In an effort to improve the alignment of coursework to skills needed in high demand occupations, the Career and Professional Academy Act was enacted by the 2007 Legislature.¹⁸ The legislation requires the collaborative development of a strategic 5-year plan by school districts, regional workforce boards, postsecondary institutions, and private businesses to determine relevant workforce-related educational offerings to be delivered within the K-12 arena. As a result of the legislation, the number of career academies in the state's secondary schools has increased dramatically. High school students earned a total of 803 industry certifications in high demand occupations during the 2007-08 school year and 8,629 certifications in the 2009-10 school year.¹⁹ Of particular importance, the development of the 5-year plan specifically requires that strategies be included to involve youth in DJJ facilities.²⁰ During the 2010-11 FY, grant funding supported industry certifications for youth in DJJ programs through virtual course offerings. As a result of the funding, the DJJ reports that 72 youth earned OSHA (Office of Safety and Health Administration) industry certifications, 60 earned industry certifications in Microsoft Office Suites, and 13 earned OSHA+certifications (OSHA plus add-on certification in Aggression Management and/or Blood-borne Pathogens).²¹

III. Effect of Proposed Changes:

The Department of Juvenile Justice (DJJ)

The bill is a comprehensive effort to transform educational opportunities for youth in DJJ programs. Under the bill, the DOE is given authority to develop performance ratings for school

¹⁷ The Juvenile Justice Blueprint Commission found that youth who are kept in programs for prolonged lengths of time after treatment goals are achieved often begin to deteriorate and may be more likely to re-offend once release is finally achieved. See the *Report of the Blueprint Commission: Getting Smart About Juvenile Justice*, available at: <http://www.djj.state.fl.us/blueprint/index.html>.

¹⁸ ch. 2007-216, L.O.F.

¹⁹ Presentation by the Department of Education, Chancellor for Career and Adult Education, August 24, 2011, on file with the committee.

²⁰ See s. 1003.491(3)(j), F.S.

²¹ Data provided by DJJ Office of Educational Services, on file with the committee.

district and private providers based on identified student outcomes. School districts or private providers who fail to meet established performance thresholds for two years out of three, based on the specified outcomes, would no longer provide educational services to these youth. Instead, the school district would be required to contract with a school district or private provider with an adequate or higher performance rating to offer educational and workforce-related services to youth in these programs.

The DJJ, in consultation with the DOE, the Department of Economic Opportunity, school districts, and private providers, would adopt rules to implement provisions in the bill for which the DJJ is given responsibility.

The State Board of Education, in consultation with the DJJ, the Department of Economic Opportunity, school districts, and private providers, would adopt rules to establish performance ratings based on levels of attainment of outcomes. The bill requires the performance ratings to be weighted based on the rigor in attaining specified outcomes. Performance categories would include high, adequate, and failing. For purposes of determining performance ratings, school districts and private providers would be held accountable for student outcomes for no more than six months following the student's release from a residential or non-residential DJJ program.

Performance Outcomes

Education outcomes are designed to promote the successful return of adjudicated youth to their communities through employment in high demand occupations or continuing education. Outcomes established under the bill would differ based on the age-appropriate needs of the youth. Those 14 years or younger would be required to meet at least one of the following outcomes:

- Attainment of an industry certification in a targeted occupation²² and continuing education;²³
- Attainment of occupational completion points²⁴ in a targeted occupation and continuing education;
- Attainment of secondary or postsecondary credit and continuing education; or
- Achievement of academic progress in reading and mathematics²⁵ and continuing education.

²² In order to provide workforce skills in high demand occupations, the bill requires that industry certifications for these students be limited to those included on the Industry Certification Funding List pursuant to s. 1011.62(1)(o), F.S.

²³ For purposes of measuring student outcomes, continuing education would be defined based on the individual youth. Students of compulsory attendance age, for example, would be expected to continue their education within the secondary school arena in a supportive environment and an academic area that has meaning to them. Older youth who have attained a partial industry certification would enroll in an educational environment to complete the training, while those having attained full industry certification may wish to enhance those credentials with additional coursework.

²⁴ Occupational Completion Points (OCPs) are selected sets of student performance standards that fall between established occupational completion points, as identified in vocational job preparatory course descriptions. These selected standards guide the student in completing a modified program and developing marketable skills. See <http://www.fldoe.org/workforce/programs/ss5.asp>.

²⁵ Section 1003.52(3)(b), F.S., requires the DOE to select a valid assessment tool to measure learning gains in mathematics and reading.

Youth 15 years and older would be required to meet at least one of the following outcomes:

- Attainment of an industry certification in a targeted occupation and obtaining employment;²⁶
- Attainment of occupational completion points in a targeted occupation and continuing education to complete the industry certification;
- Attainment of occupational completion points and obtaining employment;
- Attainment of a high school diploma or its equivalent and continuing education;
- Attainment of a high school diploma or its equivalent and job employment;
- Earning secondary or postsecondary credit and continuing education; or
- Achievement of academic progress in reading and mathematics²⁷ and continuing education.

If a youth is in a residential or non-residential program for less than 40 days, the bill requires that the youth receives employability, life skills, and academic remediation, as appropriate. Counseling and transition services must also be provided.

Industry Certifications for Targeted Occupations

In an effort to promote academic engagement and relevant workforce skills, the bill establishes youth attainment of industry certifications as a key performance outcome. The DJJ program must collaborate with the regional workforce board and postsecondary institutions to determine the occupational areas of emphasis in the program. This provision will ensure that employment positions are currently or forecast to be available in the area in which the student is pursuing the certification. Additionally, it provides opportunities for industry certified volunteers from the community to provide support.

Access to Educational and Workforce-related Virtual Courses and Virtual Counseling

The bill requires juvenile justice education programs to provide access to virtual education instruction and virtual counseling to support the educational and workforce skills needed for adjudicated youth. This provision supports efficient use of the youth's time in a DJJ facility, by accelerating instructional opportunities during evenings and weekends, and expands access to courses, many of which result in high-demand industry certifications.²⁸

School District Contracts with Private Providers

School districts would continue to provide educational services or contract with a private provider to meet specified student outcomes, contingent upon a designated level of performance over time. The bill establishes that school districts that contract for educational services may not dictate personnel decisions if the contracted provider maintains a high performance rating. It also allows for certification of instructional personnel to be covered under the "expert in the field" provisions currently in law. These provisions promote flexibility to employ instructors who are

²⁶ The Industry Certification Funding List is available at: <https://www.fldoe.org/workforce/fcpea/pdf/1011icfl.pdf>.

²⁷ Section 1003.52(3)(b), F.S., requires the DOE to select a common assessment tool to measure academic progress in mathematics and reading.

²⁸ All 145 industry certifications earned by youth in DJJ programs during FY 2010-11 (OSHA and Microsoft Office Suites) were completed through virtual education courses.

highly effective in working with at-risk youth. Also, when determining educational placement for youth upon release, the school district must adhere to the transition plan. This provision promotes decisions made in the best interest of the youth and supports the transition and re-entry plan established during program stay.

Development of Transitions Plans for Successful Reintegration

The bill requires that an educational component to the transition plan be developed for youth to specify educational and other services to be provided during the youth's stay in the DJJ program, as well as services to be provided upon release. The educational component of the transition plan, developed in collaboration with the youth and the youth's family, would govern decisions regarding educational, workforce, and other services to ensure successful reintegration into the community.

Annual Report to the Legislature

The DJJ, with assistance from the DOE, school districts, and private providers, is required to submit an annual report to the Legislature beginning December 31, 2013. The report must include data on the level of attainment of performance outcomes by DJJ youth and include comparisons by demographics, by district and provider, and with students in traditional educational settings. The report must address the use of virtual education in attainment of outcomes and implementation of transition and reintegration plans for successful re-entry of youth into the community. Additionally, the report must provide recommendations for improving outcome measures and additional cost savings.

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:

Private providers that fail to meet performance expectations for two out of three years would be barred from providing education services to youth in DJJ facilities. These

entities may experience a reduction in revenue. High-performing providers may experience a positive fiscal impact.

The cost savings to taxpayers, although indeterminate, may be significant. Criminologists estimate that steering just one high-risk delinquent teen away from a life of crime saves society \$3 million to \$6 million in reduced victim costs and criminal justice expenses, plus increased wages and tax payments over the young person's lifetime.²⁹

C. Government Sector Impact:

School districts that fail to meet performance expectations for two out of three years would experience a reduction in revenue. High-performing school districts may experience a positive revenue impact.

Government cost savings, although indeterminate, may be significant. Youth are more likely to successfully return to their communities with educational success and meaningful workforce skills. When youth are successful, future crime and costly incarceration is prevented.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS/CS by Criminal Justice on February 9, 2012:

- Provides that the DJJ will work with enumerated entities to ensure that the educational component of the comprehensive annual report is developed collaboratively;
- Requires opportunities for eligible youth to earn a special diploma;
- Provides that a student who earns occupational completion points and is then employed upon release from a program will be one of the recognized outcomes under the bill;
- Clarifies that youth in detention centers are excluded from the provisions of the bill as most of these youth are there for two weeks or less;
- Juvenile justice education programs (school district operated and those operated by a private provider under contract with the school district) are accountable for student

²⁹ Missouri's current director of adult corrections credits their Department of Youth Services practices with saving the state millions of dollars by reducing the recidivism of juvenile offenders into adult prisons. See the Missouri Model, available at: www.aecf.org/~media/Pubs/.../MOModel/MO_Fullreport_webfinal.pdf.

performance outcomes no longer than six months following release of the youth from a program;

- Includes provisions for certification of instructional personnel in juvenile justice education programs to be covered under “expert in the field” provisions currently in statute; and
- Provides postsecondary fee exemptions for youth in residential programs who have received a high school diploma, are unemployed, and who began postsecondary coursework during their residential stay.

CS by the Education Pre-K – 12 Committee on December 6, 2011:

The committee substitute:

- Places authority to determine school district and private provider performance with the Department of Education, rather than the Department of Juvenile Justice;
- Adds occupational completion points as an acceptable youth outcome, provided the youth is placed in employment or continues his or her education to full industry certification;
- Adds academic progress in reading and mathematics as an outcome for high school age youth, provided that they continue their education upon release from the program;
- Removes student completion of comprehensive career exploration as a performance outcome;
- Requires that virtual education and workforce related counseling be made available to youth in education programs in juvenile justice facilities;
- Provides autonomy to private providers when selecting personnel, provided that they maintain high performing status; and

Requires that an educational component be included in the transition plan developed during the youth’s stay in a program and that the educational component drive decisions for youth when they are released.

B. Amendments:

None.



370770

LEGISLATIVE ACTION

Senate

.
.
.
.
.
.

House

The Committee on Budget Subcommittee on Criminal and Civil
Justice Appropriations (Thrasher) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (30) through (57) of section
985.03, Florida Statutes, are redesignated as subsections (31)
through (58), respectively, and a new subsection (30) is added
to that section, to read:

985.03 Definitions.—As used in this chapter, the term:
(30) "Juvenile justice education programs" has the same
meaning as provided in s. 1003.01(11)(a).

Section 2. Subsection (6) is added to section 985.46,



370770

Florida Statutes, to read:

985.46 Conditional release.—

(6) Each juvenile committed to a commitment program shall have a transition plan upon release. Transition planning shall begin for each juvenile upon placement in a commitment program and shall result in an individual transition plan for each youth before he or she is released. The transition plan shall be developed with the participation of the youth, representatives of the commitment program, school district personnel, and representatives of conditional release or postcommitment probation programs, if appropriate. The transition plan shall include an education transition plan component as provided in s. 1003.515(10), as well as information regarding pertinent delinquency treatment and intervention services that are accessible upon exiting the program.

(a) For a juvenile who is released on conditional release or postcommitment probation status, the transition plan shall be incorporated into the conditions of release.

(b) For a juvenile who is not released on conditional release or postcommitment probation status, the transition plan shall be explained to the youth and provided upon release, with all necessary referrals having been made at least 30 days before the youth exits the program.

(c) For a juvenile who participates in a nonresidential program, the transition plan shall be explained to the youth and provided upon release. For a juvenile who participates in a nonresidential program and who is released on conditional release or postcommitment probation status, the transition plan shall be incorporated into the conditions of release.



370770

Section 3. Section 985.618, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 985.618, F.S., for present text.)

985.618 Education and workforce-related programs.—

(1) The Legislature intends for youth in juvenile justice programs to be provided a quality education that includes workforce-related skills that lead to continuing education or meaningful employment, or both, and that results in reduced rates of recidivism.

(2) The department, in collaboration with the Department of Education, shall annually verify that each juvenile justice education program, at a minimum:

(a) Provides access to virtual course offerings that maximize learning opportunities for youth.

(b) Encourages access to virtual counseling to address the educational and workforce needs of adjudicated youth.

(c) Provides instruction from individuals who hold industry credentials in the occupational areas in which they teach.

(d) Ensures that students in juvenile justice residential education programs have access to virtual instruction or instruction offered by volunteers during evenings and weekends.

(e) Considers, before placement, the age, interests, prior education, training, work experience, emotional and mental abilities, treatment needs, and physical capabilities of the youth and the duration of the term of placement imposed.

(f) Provides specialized instruction, related services, accommodations, and modifications as are necessary to ensure the provision of a free, appropriate public education for students



370770

71 with disabilities.

72 (g) Expends funds in a manner that directly supports the
73 attainment of successful student outcomes as specified in s.
74 1003.515(7) and that allows youth to engage in real work
75 situations whenever possible.

76 (3) The department shall collaborate with the Department of
77 Education, the Department of Economic Opportunity, school
78 districts, and private providers to adopt rules to administer
79 this section.

80 Section 4. Section 985.632, Florida Statutes, is amended to
81 read:

82 985.632 Quality assurance and cost-effectiveness.—

83 (1) It is the intent of the Legislature that the
84 department:

85 (a) Ensure that information be provided to decisionmakers
86 in a timely manner so that resources are allocated to programs
87 of the department which achieve desired performance levels.

88 (b) Provide information about the cost of such programs and
89 their differential effectiveness so that the quality of such
90 programs can be compared and improvements made continually.

91 (c) Provide information to aid in developing related policy
92 issues and concerns.

93 (d) Provide information to the public about the
94 effectiveness of such programs in meeting established goals and
95 objectives.

96 (e) Provide a basis for a system of accountability so that
97 each client is afforded the best programs to meet his or her
98 needs.

99 (f) Improve service delivery to clients.



370770

(g) Modify or eliminate activities that are not effective.

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

(a) "Client" means any person who is being provided treatment or services by the department or by a provider under contract with the department.

(b) "Program component" means an aggregation of generally related objectives which, because of their special character, related workload, and interrelated output, can logically be considered an entity for purposes of organization, management, accounting, reporting, and budgeting.

(c) "Program effectiveness" means the ability of the program to achieve desired client outcomes, goals, and objectives.

(3) The department shall annually collect and report cost data for every program operated by the department or its contracted provider ~~or contracted by the department~~. The cost data shall conform to a format approved by the department and the Legislature. Uniform cost data shall be reported and collected for each education program operated by a school district or private provider contracted by a school district ~~state-operated and contracted programs~~ so that comparisons can be made among programs. The Department of Education shall ensure that there is accurate cost accounting for education programs operated by school districts, including those programs operated by private providers under contract with school districts ~~state-operated services including market-equivalent rent and other shared cost. The cost of the educational program provided to a residential facility shall be reported and included in the cost of a program.~~ The Department of Education shall submit ~~an~~ annual



370770

cost data report to the department ~~President of the Senate, the~~
~~Speaker of the House of Representatives, the Minority Leader of~~
~~each house of the Legislature, the appropriate substantive and~~
~~fiscal committees of each house of the Legislature, and the~~
~~Governor, no later than December 1 of each year. The annual cost~~
data shall be included in the annual report required in
subsection (7). Cost-benefit analysis for juvenile justice
education ~~educational~~ programs shall ~~will~~ be developed and
implemented in collaboration with and in cooperation with the
Department of Education, local providers, and local school
districts. ~~Cost data for the report shall include data collected~~
~~by the Department of Education for the purposes of preparing the~~
~~annual report required by s. 1003.52(19).~~

(4) (a) The department, in consultation with the Office of
Economic and Demographic Research and contract service
providers, shall develop a cost-effectiveness model and apply
the model to each commitment program. Program recidivism rates
shall be a component of the model. The cost-effectiveness model
shall compare program costs to client outcomes and program
outputs. It is the intent of the Legislature that continual
development efforts take place to improve the validity and
reliability of the cost-effectiveness model.

(b) The department shall rank commitment programs based on
the cost-effectiveness model and shall submit a report to the
appropriate substantive and fiscal committees of each house of
the Legislature by December 31 of each year.

(c) Based on reports of the department on client outcomes
and program outputs and on the department's most recent cost-
effectiveness rankings, the department may terminate a program



370770

operated by the department or a provider if the program has failed to achieve a minimum threshold of program effectiveness. This paragraph does not preclude the department from terminating a contract as provided under this section or as otherwise provided by law or contract, and does not limit the department's authority to enter into or terminate a contract.

(d) In collaboration with the Office of Economic and Demographic Research, and contract service providers, the department shall develop a work plan to refine the cost-effectiveness model so that the model is consistent with the performance-based program budgeting measures approved by the Legislature to the extent the department deems appropriate. The department shall notify the Office of Program Policy Analysis and Government Accountability of any meetings to refine the model.

(e) Contingent upon specific appropriation, the department, in consultation with the Office of Economic and Demographic Research, and contract service providers, shall:

1. Construct a profile of each commitment program that uses the results of the quality assurance report required by this section, the cost-effectiveness report required in this subsection, and other reports available to the department.

2. Target, for a more comprehensive evaluation, any commitment program that has achieved consistently high, low, or disparate ratings in the reports required under subparagraph 1.

3. Identify the essential factors that contribute to the high, low, or disparate program ratings.

4. Use the results of these evaluations in developing or refining juvenile justice programs or program models, client



370770

outcomes and program outputs, provider contracts, quality assurance standards, and the cost-effectiveness model.

(5) (a) Program effectiveness shall be determined by implementing systematic data collection, data analysis, and education and workforce-related program evaluations pursuant to this section and s. 1003.515.

(b) The evaluation of juvenile justice education and workforce-related programs shall be based on the performance outcomes provided in s. 1003.515(7).

(6)~~(5)~~ The department shall:

(a) Establish a comprehensive quality assurance system for each program operated by the department or its contracted provider ~~operated by a provider under contract with the department~~. Each contract entered into by the department must provide for quality assurance.

(b) Provide operational definitions of and criteria for quality assurance for each specific program component.

(c) Establish quality assurance goals and objectives for each specific program component.

(d) Establish the information and specific data elements required for the quality assurance program.

(e) Develop a quality assurance manual of specific, standardized terminology and procedures to be followed by each program.

(f) Evaluate each program operated by the department or its contracted ~~a provider under a contract with the department~~ and establish minimum thresholds for each program component. If a provider fails to meet the established minimum thresholds, such failure shall cause the department to cancel the provider's



370770

contract unless the provider achieves compliance with minimum thresholds within 6 months or unless there are documented extenuating circumstances. In addition, the department may not contract with the same provider for the canceled service for a period of 12 months. If a department-operated program fails to meet the established minimum thresholds, the department must take necessary and sufficient steps to ensure and document program changes to achieve compliance with the established minimum thresholds. If the department-operated program fails to achieve compliance with the established minimum thresholds within 6 months and if there are no documented extenuating circumstances, the department must notify the Executive Office of the Governor and the Legislature of the corrective action taken. Appropriate corrective action may include, but is not limited to:

1. Contracting out for the services provided in the program;
2. Initiating appropriate disciplinary action against all employees whose conduct or performance is deemed to have materially contributed to the program's failure to meet established minimum thresholds;
3. Redesigning the program; or
4. Realigning the program.

The department shall submit an annual report to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, the appropriate substantive and fiscal committees of each house of the Legislature, and the Governor, no later than February 1 of



370770

each year. The annual report must contain, at a minimum, for each specific program component: a comprehensive description of the population served by the program; a specific description of the services provided by the program; cost; a comparison of expenditures to federal and state funding; immediate and long-range concerns; and recommendations to maintain, expand, improve, modify, or eliminate each program component so that changes in services lead to enhancement in program quality. The department shall ensure the reliability and validity of the information contained in the report.

(7) The department, in collaboration with the Department of Education and in consultation with the school districts and private juvenile justice education program providers, shall prepare an annual report containing the education performance outcomes, based on the criteria in s. 1003.515(7), of youth in juvenile justice education programs. The report shall delineate the performance outcomes of youth in the state, in each school district's juvenile justice education program, and for each private provider's juvenile justice education program, including the performance outcomes of all major student populations and genders, as determined by the Department of Education. The report shall address the use and successful completion of virtual instruction courses and the successful implementation of transition and reintegration plans. The report must include an analysis of the performance of youth over time, including, but not limited to, additional education attainment, employment, earnings, industry certification, and rates of recidivism. The report must also include recommendations for improving performance outcomes and for additional cost savings and



370770

efficiencies. The report shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 15, 2014, and each year thereafter.

~~(8)(6)~~ The department shall collect and analyze available statistical data for the purpose of ongoing evaluation of all programs. The department shall provide the Legislature with necessary information and reports to enable the Legislature to make informed decisions regarding the effectiveness of, and any needed changes in, services, programs, policies, and laws.

Section 5. Section 985.721, Florida Statutes, is amended to read:

985.721 Escapes from secure detention or residential commitment facility.—An escape from:

(1) Any secure detention facility maintained for the temporary detention of children, pending adjudication, disposition, or placement;

(2) Any residential commitment facility described in s. 985.03(46) ~~985.03(45)~~, maintained for the custody, treatment, punishment, or rehabilitation of children found to have committed delinquent acts or violations of law; or

(3) Lawful transportation to or from any such secure detention facility or residential commitment facility,

constitutes escape within the intent and meaning of s. 944.40 and is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 6. Paragraph (b) of subsection (18) of section 1001.42, Florida Statutes, is amended to read:

1001.42 Powers and duties of district school board.—The



370770

district school board, acting as a board, shall exercise all powers and perform all duties listed below:

(18) IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.— Maintain a state system of school improvement and education accountability as provided by statute and State Board of Education rule. This system of school improvement and education accountability shall be consistent with, and implemented through, the district's continuing system of planning and budgeting required by this section and ss. 1008.385, 1010.01, and 1011.01. This system of school improvement and education accountability shall comply with the provisions of ss. 1008.33, 1008.34, 1008.345, and 1008.385 and include the following:

(b) *Public disclosure.*—The district school board shall provide information regarding the performance of students in ~~and education~~ educational programs as required pursuant to ss. 1008.22 and 1008.385 and implement a system of school reports as required by statute and State Board of Education rule which shall include schools operating for the purpose of providing education ~~educational~~ services to youth in Department of Juvenile Justice residential and nonresidential programs, and for those programs ~~schools~~, report on the data and education outcomes ~~elements~~ specified in s. 1003.515(7) ~~1003.52(19)~~. Annual public disclosure reports shall be in an easy-to-read report card format and shall include the school's grade, high school graduation rate calculated without GED tests, disaggregated by student ethnicity, and performance data as specified in state board rule.

Section 7. Subsection (20) of section 1002.20, Florida Statutes, is amended to read:



370770

1002.20 K-12 student and parent rights.—Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(20) JUVENILE JUSTICE PROGRAMS.—Students who are in juvenile justice programs have the right to receive educational programs and services in accordance with the provisions of s. 1003.515 ~~1003.52~~.

Section 8. Paragraph (b) of subsection (1) of section 1002.45, Florida Statutes, is amended to read:

1002.45 Virtual instruction programs.—

(1) PROGRAM.—

(b) Each school district that is eligible for the sparsity supplement pursuant to s. 1011.62(7) shall provide all enrolled public school students within its boundaries the option of participating in part-time and full-time virtual instruction programs. Each school district that is not eligible for the sparsity supplement shall provide at least three options for part-time and full-time virtual instruction. All school districts must provide parents with timely written notification of an open enrollment period for full-time students of at least 90 days that ends no later than 30 days before ~~prior to~~ the first day of the school year. The purpose of the program is to make quality virtual instruction available to students using online and distance learning technology in the nontraditional classroom. A school district virtual instruction program shall provide the following:



370770

1. Full-time virtual instruction for students enrolled in kindergarten through grade 12.

2. Part-time virtual instruction for students enrolled in grades 9 through 12 courses that are measured pursuant to subparagraph (8)(a)2.

3. Full-time or part-time virtual instruction for students enrolled in dropout prevention and academic intervention programs under s. 1003.53, Department of Juvenile Justice education programs under s. 1003.515 ~~1003.52~~, core-curricula courses to meet class size requirements under s. 1003.03, or Florida College System institutions under this section.

Section 9. Paragraph (a) of subsection (11) of section 1003.01, Florida Statutes, is amended to read:

1003.01 Definitions.—As used in this chapter, the term:

(11)(a) "Juvenile justice education programs ~~or schools~~" means programs ~~or schools~~ operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, for a school year comprised of 250 days of instruction distributed over 12 months. At the request of the provider, a district school board may decrease the minimum number of days of instruction by up to 10 days for teacher planning for residential programs and up to 20 days for teacher planning for nonresidential programs, subject to the approval of the Department of Juvenile Justice and the Department of Education.

Section 10. Section 1003.515, Florida Statutes, is created to read:

1003.515 The Florida Juvenile Justice Education Act.—

(1) SHORT TITLE.—This section may be cited as the "Florida Juvenile Justice Education Act."



370770

390 (2) LEGISLATIVE FINDING.—The Legislature finds that an
391 education is the single most important factor in the
392 rehabilitation of adjudicated youth who are in Department of
393 Juvenile Justice residential and nonresidential programs.

394 (3) PURPOSES.—The purposes of this section are to:

395 (a) Provide performance-based outcome measures and
396 accountability for juvenile justice education programs; and

397 (b) Improve academic and workforce-related outcomes so that
398 adjudicated and at-risk youth may successfully complete the
399 transition to and reenter the academic and workforce
400 environments.

401 (4) DEFINITION.—For purposes of this section, the term
402 “juvenile justice education programs” has the same meaning as in
403 s. 1003.01(11)(a).

404 (5) SCHOOL DISTRICT AND CONTRACTED EDUCATION PROVIDER
405 RESPONSIBILITIES.—

406 (a) A school district or private provider contracted by a
407 school district to offer education services to youth in a
408 juvenile justice education program shall:

409 1. Provide rigorous and relevant academic and workforce-
410 related curricula that will lead to industry certifications or
411 occupational completion points in an occupational area
412 identified in the Industry Certification Funding list adopted by
413 the State Board of Education, or articulate to secondary or
414 postsecondary-level coursework, as appropriate.

415 2. Support state, local, and regional economic development
416 demands.

417 3. Make high-wage and high-demand careers more accessible
418 to adjudicated and at-risk youth.



370770

419 4. Reduce rates of recidivism for adjudicated youth.

420 5. Provide access to the appropriate courses and
421 instruction to prepare youth for a standard high school diploma,
422 a special diploma, or a high school equivalency diploma, as
423 appropriate.

424 6. Provide access to virtual education courses that are
425 appropriate to meet the requirements of academic or workforce-
426 related programs and the requirements for continuing education
427 specified in the youth's transition and postrelease plans.

428 7. Provide opportunities for earning credits toward high
429 school graduation or credits that articulate to postsecondary
430 education institutions while the youth are in residential and
431 nonresidential juvenile justice facilities.

432 8. Ensure that the credits and partial credits earned by
433 the youth are transferred and included in the youth's records as
434 part of the transition plan.

435 9. Ensure that the education program consists of the
436 appropriate academic, workforce-related, or exceptional
437 education curricula and related services that directly support
438 performance outcomes, which must be specified in each youth's
439 education transition plan component as required by subsection
440 (10).

441 10. If the duration of a youth's stay in a program is less
442 than 40 days, ensure that the youth receives employability, life
443 skills, and academic remediation, as appropriate. In addition,
444 counseling and transition services must be provided which
445 mitigate the youth's identified risk factors and prepare the
446 youth for a successful reintegration into the school, community,
447 and home settings.



370770

448 11. Maintain an academic record for each youth who is
449 enrolled in a juvenile justice facility, as required by s.
450 1003.51, and ensure that the coursework, credits, partial
451 credits, occupational completion points, and industry
452 certifications earned by the youth are transferred and included
453 in the youth's transition plan pursuant to s. 985.46.

454 (b) Each school district and private provider shall ensure
455 that the following youth participate in the program:

456 1. Youth who are of compulsory school attendance age
457 pursuant to s. 1003.21.

458 2. Youth who are not of compulsory school attendance age
459 and who have not received a high school diploma or its
460 equivalent, if the youth is in a residential or nonresidential
461 juvenile justice program. Such youth must participate in the
462 education program and participate in a workforce-related
463 education program that leads to industry certification or
464 occupational completion points in an occupational area
465 identified in the Industry Certification Funding list adopted by
466 the State Board of Education. This subparagraph does not limit
467 the rights of students with disabilities, as defined under the
468 Individuals with Disabilities Education Act, who are not of
469 compulsory school attendance age and who have not received a
470 high school diploma to receive a free, appropriate public
471 education in accordance with their individualized needs.

472 3. Youth who have attained a high school diploma or its
473 equivalent and who are not employed. Such youth must participate
474 in a workforce-related education program that leads to
475 employment in an occupational area identified in the Industry
476 Certification Funding list adopted by the State Board of



370770

Education. Such youth may enroll in a state postsecondary institution to complete the workforce-related education program and are exempt from the payment of tuition and fees pursuant to s. 1009.25(1)(g).

(6) PROGRAM REQUIREMENTS.—In compliance with the strategic 5-year plan under s. 1003.491, each juvenile justice residential and nonresidential education program shall, in collaboration with the regional workforce board or economic development agency and local postsecondary institutions, determine the appropriate occupational areas for the program. Juvenile justice education programs must:

(a) Ensure that rigorous academic and workforce-related coursework is offered and meets or exceeds appropriate state-approved subject area standards, and results in the attainment of industry certification and postsecondary credit, when appropriate;

(b) Ensure instruction from individuals who hold state certifications, school district certifications pursuant to ss. 1012.39 and 1012.55(1), or industry credentials in the occupational areas in which they teach;

(c) Maximize the use of private sector personnel;

(d) Use strategies to maximize the delivery of virtual instruction;

(e) Maximize instructional efficiency for youth in juvenile justice facilities;

(f) Provide opportunities for youth to earn weighted or dual enrollment credit for higher-level courses, when appropriate;

(g) Promote credit recovery; and



370770

(h) Provide instruction that results in competency, certification, or credentials in workplace skills, including, but not limited to, communication skills, interpersonal skills, decisionmaking skills, work ethic, and the importance of attendance and timeliness in the work environment.

(7) DEPARTMENT RESPONSIBILITIES.—

(a) The department shall identify each residential and nonresidential juvenile justice education program, excluding detention programs, as having one of the following performance ratings as defined by State Board of Education rule:

1. High performance.
2. Adequate performance.
3. Failing performance.

(b) The department shall consider the level of rigor associated with the attainment of a particular outcome when assigning weight to the outcome. The department shall evaluate the following elements in determining a juvenile justice education program's performance rating:

1. One or more of the following outcomes for a youth who is 14 years of age or younger:

a. Achieving academic progress in reading and mathematics, as measured by the statewide common pre- and post-assessment adopted by the department for use in juvenile justice education programs.

b. Participating in continuing education upon release from a juvenile justice residential or nonresidential program.

c. Completing secondary coursework upon release from a juvenile justice residential or nonresidential program.

d. Attaining occupational completion points in an



370770

occupational area identified in the Industry Certification
Funding list adopted by the State Board of Education.

e. Attaining an industry certification in an occupational
area identified in the Industry Certification Funding list
adopted by the State Board of Education, if available and
appropriate.

2. One or more of the following outcomes for a youth who is
15 years of age or older:

a. Achieving academic progress in reading and mathematics,
as measured by the statewide common pre- and post-assessment
adopted by the department for use in juvenile justice education
programs.

b. Participating in continuing education upon release from
a juvenile justice residential or nonresidential program.

c. Earning secondary or postsecondary credit upon release
from a juvenile justice residential or nonresidential program.

d. Attaining a high school diploma or its equivalent upon
release from a juvenile justice residential or nonresidential
program.

e. Obtaining employment upon release from a juvenile
justice residential or nonresidential program.

f. Attaining an industry certification in an occupational
area identified in the Industry Certification Funding list
adopted by the State Board of Education.

g. Attaining occupational completion points in an
occupational area identified in the Industry Certification
Funding list adopted by the State Board of Education.

h. Participating in continuing education upon release from
a juvenile justice residential or nonresidential program in



370770

order to complete the industry certification identified in the Industry Certification Funding list adopted by the State Board of Education.

(c) By September 1, 2012, the department shall make available a common student pre- and post-assessment to measure the academic progress in reading and mathematics of youth who are assigned to juvenile justice education programs.

For purposes of performance ratings, juvenile justice residential and nonresidential education programs, excluding detention centers, shall be held accountable for the performance outcomes of youth for no more than 6 months after the release of youth from the residential or nonresidential program. This subsection does not abrogate the provisions of s. 1002.22 which relate to education records or the requirements of 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy Act.

(8) PROGRAM ACCOUNTABILITY.—

(a) The department shall, in collaboration with the Department of Juvenile Justice:

1. Monitor the education performance of youth in juvenile justice facilities.

2. Prohibit school districts or private providers that have failing performance ratings from delivering the education services.

3. Verify that a school district is operating or contracting with a private provider to deliver education services.

(b) If a school district's juvenile justice residential or nonresidential education program earns two failing performance



370770

593 ratings in any 3-year period, as provided in subsection (7), the
594 school district shall contract with a private provider that has
595 an adequate or higher performance rating or enter into an
596 agreement with a school district that has an adequate or higher
597 performance rating to deliver the education services to the
598 youth in the program.

599 (c) Except as provided in paragraph (b), the school
600 district of the county in which the residential or
601 nonresidential facility is located shall deliver education
602 services to youth in Department of Juvenile Justice programs. A
603 school district may contract with a private provider to deliver
604 the education services in lieu of directly providing the
605 education services. The contract shall include performance
606 criteria as provided in subsection (7).

607 (d) When determining educational placement for youth who
608 enroll in a school district upon release, the school district
609 must adhere to the transition plan established under s.
610 985.46(6).

611 (e) If a private provider under contract with a school
612 district maintains an adequate or high-performance rating
613 pursuant to subsection (7), the school district may not require
614 a private provider to use the school district's personnel.

615 (f) Academic instructional personnel must be certified by
616 the Department of Education; however, a nondegreed teacher of
617 career education may be certified by a local school district
618 under s. 1012.39 and may be designated as teaching out-of-field.
619 An instructor who is deemed to be an expert in a specific field
620 may be employed under s. 1012.55(1).

621 (g) Each school district must provide juvenile justice



370770

education programs access to substitute classroom teachers used
by the school district.

(9) EXITING PROGRAM.—Upon exiting a program, a youth must:

(a) Attain an industry certification or occupational
completion points in an occupational area identified in the
Industry Certification Funding list adopted by the State Board
of Education;

(b) Enroll in a program to complete the industry
certification;

(c) Be gainfully employed and earning full-time wages; or

(d) Enroll in and continue his or her education based on
the transition and postrelease plan provided in s. 958.46.

(10) EDUCATION TRANSITION PLAN COMPONENT.—

(a) The education transition plan component shall be
incorporated in the transition plan pursuant to s. 985.46(6).

(b) Each juvenile justice education program must develop an
education transition plan component during the course of a
youth's stay in a juvenile justice residential or nonresidential
program which coordinates academic and workforce services and
assists the youth in successful community reintegration upon the
youth's release.

(c) The development of the education transition plan
component shall begin upon a youth's placement in the program.
The education transition plan component must include the
academic and workforce services to be provided during the
program stay and the establishment of services to be implemented
upon release. The appropriate personnel in the juvenile justice
residential and nonresidential program, the members of the
community, the youth, and the youth's family, when appropriate,



370770

shall collaborate to develop the education transition plan component.

(d) Education planning for reintegration shall begin when placement decisions are made and continue throughout the youth's stay in order to provide for continuing education, job placement, and other necessary services. Individuals who are responsible for reintegration shall coordinate activities to ensure that the education transition plan component is successfully implemented and a youth is provided access to support services that will sustain the youth's success once he or she is no longer under the supervision of the Department of Juvenile Justice. The education transition plan component must provide for continuing education, workforce development, or meaningful job placement pursuant to the performance outcomes in subsection (7). For purposes of this section, the term "reintegration" means the process by which a youth returns to the community following release from a juvenile justice program.

(11) FACILITIES.—The district school board may not be charged any rent, maintenance, utilities, or overhead on the facilities. Maintenance, repairs, and remodeling of existing facilities shall be provided by the Department of Juvenile Justice.

(12) RULEMAKING.—The State Board of Education shall collaborate with the Department of Juvenile Justice, the Department of Economic Opportunity, school districts, and private providers to adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section which must include provisions for uniform contracts and contract requirements between school districts and private providers.



370770

Section 11. Section 1003.52, Florida Statutes, is amended to read:

1003.52 Educational services in Department of Juvenile Justice programs.—

~~(1) The Legislature finds that education is the single most important factor in the rehabilitation of adjudicated delinquent youth in the custody of Department of Juvenile Justice programs. It is the goal of the Legislature that youth in the juvenile justice system continue to be allowed the opportunity to obtain a high quality education. The Department of Education shall serve as the lead agency for juvenile justice education programs, curriculum, support services, and resources. To this end, the Department of Education and the Department of Juvenile Justice shall each designate a Coordinator for Juvenile Justice Education Programs to serve as the point of contact for resolving issues not addressed by district school boards and to provide each department's participation in the following activities:~~

~~(a) Training, collaborating, and coordinating with the Department of Juvenile Justice, district school boards, educational contract providers, and juvenile justice providers, whether state operated or contracted.~~

~~(b) Collecting information on the academic performance of students in juvenile justice programs and reporting on the results.~~

~~(c) Developing academic and career protocols that provide guidance to district school boards and providers in all aspects of education programming, including records transfer and transition.~~



370770

~~(d) Prescribing the roles of program personnel and interdepartmental district school board or provider collaboration strategies.~~

~~Annually, a cooperative agreement and plan for juvenile justice education service enhancement shall be developed between the Department of Juvenile Justice and the Department of Education and submitted to the Secretary of Juvenile Justice and the Commissioner of Education by June 30.~~

~~(2) Students participating in Department of Juvenile Justice programs pursuant to chapter 985 which are sponsored by a community-based agency or are operated or contracted for by the Department of Juvenile Justice shall receive educational programs according to rules of the State Board of Education. These students shall be eligible for services afforded to students enrolled in programs pursuant to s. 1003.53 and all corresponding State Board of Education rules.~~

~~(3) The district school board of the county in which the residential or nonresidential care facility or juvenile assessment facility is located shall provide appropriate educational assessments and an appropriate program of instruction and special education services.~~

~~(a) The district school board shall make provisions for each student to participate in basic, career education, and exceptional student programs as appropriate. Students served in Department of Juvenile Justice programs shall have access to the appropriate courses and instruction to prepare them for the GED test. Students participating in GED preparation programs shall be funded at the basic program cost factor for Department of~~



370770

~~Juvenile Justice programs in the Florida Education Finance Program. Each program shall be conducted according to applicable law providing for the operation of public schools and rules of the State Board of Education. School districts shall provide the GED exit option for all juvenile justice programs.~~

~~(b) By October 1, 2004, the Department of Education, with the assistance of the school districts, shall select a common student assessment instrument and protocol for measuring student learning gains and student progression while a student is in a juvenile justice education program. The assessment instrument and protocol must be implemented in all juvenile justice education programs in this state by January 1, 2005.~~

~~(4) Educational services shall be provided at times of the day most appropriate for the juvenile justice program. School programming in juvenile justice detention, commitment, and rehabilitation programs shall be made available by the local school district during the juvenile justice school year, as defined in s. 1003.01(11). In addition, students in juvenile justice education programs shall have access to Florida Virtual School courses. The Department of Education and the school districts shall adopt policies necessary to ensure such access.~~

~~(5) The educational program shall consist of appropriate basic academic, career, or exceptional curricula and related services which support the treatment goals and reentry and which may lead to completion of the requirements for receipt of a high school diploma or its equivalent. If the duration of a program is less than 40 days, the educational component may be limited to tutorial activities and career employability skills.~~

~~(6) Participation in the program by students of compulsory~~



370770

~~school attendance age as provided for in s. 1003.21 shall be mandatory. All students of noncompulsory school attendance age who have not received a high school diploma or its equivalent shall participate in the educational program, unless the student files a formal declaration of his or her intent to terminate school enrollment as described in s. 1003.21 and is afforded the opportunity to take the general educational development test and attain a Florida high school diploma prior to release from a facility. A youth who has received a high school diploma or its equivalent and is not employed shall participate in workforce development or other career or technical education or Florida College System institution or university courses while in the program, subject to available funding.~~

~~(7) A progress monitoring plan shall be developed for students who score below the level specified in district school board policy in reading, writing, and mathematics or below the level specified by the Commissioner of Education on statewide assessments as required by s. 1008.25. These plans shall address academic, literacy, and life skills and shall include provisions for intensive remedial instruction in the areas of weakness.~~

~~(8) Each district school board shall maintain an academic record for each student enrolled in a juvenile justice facility as prescribed by s. 1003.51. Such record shall delineate each course completed by the student according to procedures in the State Course Code Directory. The district school board shall include a copy of a student's academic record in the discharge packet when the student exits the facility.~~

~~(9) The Department of Education shall ensure that all district school boards make provisions for high school level~~



370770

~~youth to earn credits toward high school graduation while in residential and nonresidential juvenile justice facilities. Provisions must be made for the transfer of credits and partial credits earned.~~

~~(10) The district school board shall recruit and train teachers who are interested, qualified, or experienced in educating students in juvenile justice programs. Students in juvenile justice programs shall be provided a wide range of educational programs and opportunities including textbooks, technology, instructional support, and other resources available to students in public schools. Teachers assigned to educational programs in juvenile justice settings in which the district school board operates the educational program shall be selected by the district school board in consultation with the director of the juvenile justice facility. Educational programs in juvenile justice facilities shall have access to the substitute teacher pool utilized by the district school board.~~

~~(11) District school boards may contract with a private provider for the provision of educational programs to youths placed with the Department of Juvenile Justice and shall generate local, state, and federal funding, including funding through the Florida Education Finance Program for such students. The district school board's planning and budgeting process shall include the needs of Department of Juvenile Justice programs in the district school board's plan for expenditures for state categorical and federal funds.~~

~~(12) The district school board shall fund the educational program in a Department of Juvenile Justice facility at the same or higher level of funding for equivalent students in the~~



370770

district school system based on the funds generated by state funding through the Florida Education Finance Program for such students. It is the intent of the Legislature that the school district maximize its available local, state, and federal funding to a juvenile justice program.

(1)~~(a)~~ Juvenile justice educational programs shall be funded in the appropriate FEFP program based on the educational services needed by the student for Department of Juvenile Justice programs in accordance with s. 1011.62.

(2)~~(b)~~ Juvenile justice educational programs to receive the appropriate FEFP funding for Department of Juvenile Justice programs shall include those that are operated through a contract with the Department of Juvenile Justice and ~~which~~ are under purview of the Department of Juvenile Justice quality assurance standards for education.

(3)~~(c)~~ Consistent with the rules of the State Board of Education, district school boards are required to request an alternative FTE survey for Department of Juvenile Justice programs experiencing fluctuations in student enrollment.

(4)~~(d)~~ FTE count periods shall be prescribed in rules of the State Board of Education and shall be the same for programs of the Department of Juvenile Justice as for other public school programs. The summer school period for students in Department of Juvenile Justice programs shall begin on the day immediately following the end of the regular school year and end on the day immediately preceding the subsequent regular school year. Students shall be funded for no more than 25 hours per week of direct instruction.

(5)~~(e)~~ Each juvenile justice education program must receive



370770

all federal funds for which the program is eligible.

~~(13) Each district school board shall negotiate a cooperative agreement with the Department of Juvenile Justice on the delivery of educational services to youths under the jurisdiction of the Department of Juvenile Justice. Such agreement must include, but is not limited to:~~

~~(a) Roles and responsibilities of each agency, including the roles and responsibilities of contract providers.~~

~~(b) Administrative issues including procedures for sharing information.~~

~~(c) Allocation of resources including maximization of local, state, and federal funding.~~

~~(d) Procedures for educational evaluation for educational exceptionalities and special needs.~~

~~(e) Curriculum and delivery of instruction.~~

~~(f) Classroom management procedures and attendance policies.~~

~~(g) Procedures for provision of qualified instructional personnel, whether supplied by the district school board or provided under contract by the provider, and for performance of duties while in a juvenile justice setting.~~

~~(h) Provisions for improving skills in teaching and working with juvenile delinquents.~~

~~(i) Transition plans for students moving into and out of juvenile facilities.~~

~~(j) Procedures and timelines for the timely documentation of credits earned and transfer of student records.~~

~~(k) Methods and procedures for dispute resolution.~~

~~(l) Provisions for ensuring the safety of education~~



370770

~~personnel and support for the agreed-upon education program.~~

~~(m) Strategies for correcting any deficiencies found through the quality assurance process.~~

~~(14) Nothing in this section or in a cooperative agreement shall be construed to require the district school board to provide more services than can be supported by the funds generated by students in the juvenile justice programs.~~

~~(15) (a) The Department of Education in consultation with the Department of Juvenile Justice, district school boards, and providers shall establish objective and measurable quality assurance standards for the educational component of residential and nonresidential juvenile justice facilities. These standards shall rate the district school board's performance both as a provider and contractor. The quality assurance rating for the educational component shall be disaggregated from the overall quality assurance score and reported separately.~~

~~(b) The Department of Education shall develop a comprehensive quality assurance review process and schedule for the evaluation of the educational component in juvenile justice programs. The Department of Juvenile Justice quality assurance site visit and the education quality assurance site visit shall be conducted during the same visit.~~

~~(c) The Department of Education, in consultation with district school boards and providers, shall establish minimum thresholds for the standards and key indicators for educational programs in juvenile justice facilities. If a district school board fails to meet the established minimum standards, it will be given 6 months to achieve compliance with the standards. If after 6 months, the district school board's performance is still~~



370770

~~below minimum standards, the Department of Education shall exercise sanctions as prescribed by rules adopted by the State Board of Education. If a provider, under contract with the district school board, fails to meet minimum standards, such failure shall cause the district school board to cancel the provider's contract unless the provider achieves compliance within 6 months or unless there are documented extenuating circumstances.~~

~~(d) The requirements in paragraphs (a), (b), and (c) shall be implemented to the extent that funds are available.~~

~~(16) The district school board shall not be charged any rent, maintenance, utilities, or overhead on such facilities. Maintenance, repairs, and remodeling of existing facilities shall be provided by the Department of Juvenile Justice.~~

~~(17) When additional facilities are required, the district school board and the Department of Juvenile Justice shall agree on the appropriate site based on the instructional needs of the students. When the most appropriate site for instruction is on district school board property, a special capital outlay request shall be made by the commissioner in accordance with s. 1013.60. When the most appropriate site is on state property, state capital outlay funds shall be requested by the Department of Juvenile Justice provided by s. 216.043 and shall be submitted as specified by s. 216.023. Any instructional facility to be built on state property shall have educational specifications jointly developed by the district school board and the Department of Juvenile Justice and approved by the Department of Education. The size of space and occupant design capacity criteria as provided by State Board of Education rules shall be~~



370770

~~used for remodeling or new construction whether facilities are provided on state property or district school board property.~~

~~(18) The parent of an exceptional student shall have the due process rights provided for in this chapter.~~

~~(19) The Department of Education and the Department of Juvenile Justice, after consultation with and assistance from local providers and district school boards, shall report annually to the Legislature by February 1 on the progress toward developing effective educational programs for juvenile delinquents, including the amount of funding provided by district school boards to juvenile justice programs, the amount retained for administration including documenting the purposes for such expenses, the status of the development of cooperative agreements, the results of the quality assurance reviews including recommendations for system improvement, and information on the identification of, and services provided to, exceptional students in juvenile justice commitment facilities to determine whether these students are properly reported for funding and are appropriately served.~~

~~(20) The educational programs at the Arthur Dozier School for Boys in Jackson County and the Florida School for Boys in Okeechobee shall be operated by the Department of Education, either directly or through grants or contractual agreements with other public or duly accredited education agencies approved by the Department of Education.~~

~~(21) The State Board of Education may adopt any rules necessary to implement the provisions of this section, including uniform curriculum, funding, and second chance schools. Such rules must require the minimum amount of paperwork and~~



370770

~~reporting.~~

~~(22) The Department of Juvenile Justice and the Department of Education, in consultation with Workforce Florida, Inc., the statewide Workforce Development Youth Council, district school boards, Florida College System institutions, providers, and others, shall jointly develop a multiagency plan for career education which describes the funding, curriculum, transfer of credits, goals, and outcome measures for career education programming in juvenile commitment facilities, pursuant to s. 985.622. The plan must be reviewed annually.~~

Section 12. Present paragraph (g) of subsection (1) of section 1009.25, Florida Statutes, is redesignated as paragraph (h), and a new paragraph (g) is added to that subsection, to read:

1009.25 Fee exemptions.—

(1) The following students are exempt from the payment of tuition and fees, including lab fees, at a school district that provides postsecondary career programs, Florida College System institution, or state university:

(g) For purposes of completing coursework initiated while in the temporary custody of the state, youth who are eligible under s. 1003.515(5)(b)3. and who are ordered by a court to participate in a juvenile justice residential program.

Section 13. Paragraph (a) of subsection (3) of section 1010.20, Florida Statutes, is amended to read:

1010.20 Cost accounting and reporting for school districts.—

(3) PROGRAM EXPENDITURE REQUIREMENTS.—

(a) Each district shall expend at least the percent of the



370770

funds generated by each of the programs listed in this section on the aggregate total school costs for such programs:

1. Kindergarten and grades 1, 2, and 3, 90 percent.
2. Grades 4, 5, 6, 7, and 8, 80 percent.
3. Grades 9, 10, 11, and 12, 80 percent.
4. Programs for exceptional students, on an aggregate program basis, 90 percent.
5. Grades 7 through 12 career education programs, on an aggregate program basis, 80 percent.
6. Students-at-risk programs, on an aggregate program basis, 80 percent.
7. Juvenile justice programs, on an aggregate program basis, 95 ~~90~~ percent.
8. Any new program established and funded under s. 1011.62(1)(c), that is not included under subparagraphs 1.-7., on an aggregate basis as appropriate, 80 percent.

Section 14. Paragraph (f) of subsection (1) of section 1011.62, Florida Statutes, is amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(f) *Supplemental academic instruction; categorical fund.*—



370770

1. There is created a categorical fund to provide supplemental academic instruction to students in kindergarten through grade 12. This paragraph may be cited as the "Supplemental Academic Instruction Categorical Fund."

2. Categorical funds for supplemental academic instruction shall be allocated annually to each school district in the amount provided in the General Appropriations Act. These funds shall be in addition to the funds appropriated on the basis of FTE student membership in the Florida Education Finance Program and shall be included in the total potential funds of each district. These funds shall be used to provide supplemental academic instruction to students enrolled in the K-12 program. Supplemental instruction strategies may include, but are not limited to: modified curriculum, reading instruction, after-school instruction, tutoring, mentoring, class size reduction, extended school year, intensive skills development in summer school, and other methods for improving student achievement. Supplemental instruction may be provided to a student in any manner and at any time during or beyond the regular 180-day term identified by the school as being the most effective and efficient way to best help that student progress from grade to grade and to graduate.

3. Effective with the 2012-2013 ~~1999-2000~~ fiscal year, funding on the basis of FTE membership beyond the 180-day regular term shall be provided in the FEFP only for students enrolled in juvenile justice education programs or in education programs for juveniles placed in secure facilities or programs under s. 985.19. Funding for instruction beyond the regular 180-day school year for all other K-12 students shall be provided



370770

through the supplemental academic instruction categorical fund and other state, federal, and local fund sources with ample flexibility for schools to provide supplemental instruction to assist students in progressing from grade to grade and graduating.

4. The Florida State University School, as a lab school, is authorized to expend from its FEFP or Lottery Enhancement Trust Fund allocation the cost to the student of remediation in reading, writing, or mathematics for any graduate who requires remediation at a postsecondary educational institution.

5. ~~Beginning in the 1999-2000 school year,~~ Dropout prevention programs as defined in ss. 1003.515 ~~1003.52~~, 1003.53(1)(a), (b), and (c), and 1003.54 shall be included in group 1 programs under subparagraph (d)3.

Section 15. This act shall take effect upon becoming a law.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to juvenile justice education and workforce programs; amending s. 985.03, F.S.; providing a definition for the term "juvenile justice education programs" for purposes of the act; amending s. 985.46, F.S.; requiring that each juvenile committed to a juvenile justice commitment program have a transition plan upon release; requiring that the transition plan include an education transition



370770

plan component and information regarding delinquency treatment and intervention services that are accessible upon exiting the program; amending s. 985.618, F.S.; providing legislative intent regarding juvenile justice education and workforce-related programs; requiring that the Department of Juvenile Justice, in collaboration with the Department of Education, annually verify that each juvenile justice education program meets specified minimum standards; requiring that the department collaborate with certain entities to adopt rules; amending s. 985.632, F.S.; conforming provisions to changes made by the act; requiring that the Department of Education rather than the Department of Juvenile Justice ensure that there is accurate cost accounting for certain education programs; requiring that the Department of Education submit annual cost data to the Department of Juvenile Justice; requiring that the effectiveness of juvenile justice education programs be determined by implementing systematic data collection, data analysis, and evaluations; requiring that the programs be evaluated based on student performance outcomes; requiring that the Department of Juvenile Justice, in collaboration with the Department of Education and in consultation with other entities, prepare and submit an annual report to the Governor and the Legislature by a specified date; amending s. 985.721, F.S.; conforming a cross-reference; amending s. 1001.42, F.S.; conforming provisions to changes made by the



370770

1115 act; conforming a cross-reference; amending ss.
1116 1002.20 and 1002.45, F.S.; conforming cross-
1117 references; amending s. 1003.01, F.S.; revising the
1118 term "juvenile justice education programs or schools"
1119 to conform to changes made by the act; creating s.
1120 1003.515, F.S.; providing a short title; providing a
1121 legislative finding; providing purposes of the Florida
1122 Juvenile Justice Education Act; providing a definition
1123 for the term "juvenile justice education programs";
1124 providing responsibilities for school districts and
1125 private providers contracted by school districts to
1126 offer education services to youth in juvenile justice
1127 education programs; requiring that each juvenile
1128 justice residential and nonresidential program involve
1129 the regional workforce board or economic development
1130 agency and local postsecondary institutions to
1131 determine the occupational areas for the education and
1132 workforce-related program; providing requirements for
1133 education and workforce-related services in juvenile
1134 justice programs; providing responsibilities for the
1135 Department of Education; requiring that the department
1136 identify each juvenile justice residential and
1137 nonresidential education program, excluding detention
1138 programs, by performance ratings; providing criteria
1139 for determining performance ratings; requiring that
1140 the department make available a common student pre-
1141 and post-assessment to measure the academic progress
1142 in reading and mathematics of youth in juvenile
1143 justice education programs; requiring that juvenile



370770

justice residential and nonresidential education programs, excluding detention centers, be held accountable for student performance outcomes for a specified period after youth are released from the programs; providing for program accountability; requiring that the department monitor the education performance of youth, prohibit certain school district or private providers, under specified circumstances, from delivering education services, and verify that a school district is operating or contracting to deliver education services; providing for a school district's responsibilities; requiring that a youth who exits the program attain an industry certification or occupational completion points, enroll in a program to complete the industry certification, be gainfully employed, or enroll in and continue his or her education based on a transition plan; requiring that an education transition plan component be incorporated in a youth's transition plan; requiring that each juvenile justice education program develop the education transition plan component during the course of the youth's stay in a juvenile justice residential or nonresidential program; prohibiting a district school board from being charged rent, maintenance, utilities, or overhead on facilities; requiring that the Department of Juvenile Justice provide maintenance, repairs, and remodeling of existing facilities; requiring that the State Board of Education collaborate with the Department of Juvenile



370770

1173 Justice, the Department of Economic Opportunity,
1174 school districts, and private providers to adopt
1175 rules; amending s. 1003.52, F.S.; deleting provisions
1176 relating to educational services in Department of
1177 Juvenile Justice programs to conform to changes made
1178 by the act; amending s. 1009.25, F.S.; providing an
1179 exemption from the payment of postsecondary education
1180 fees and tuition for certain youth who are ordered by
1181 a court to participate in a juvenile justice
1182 residential program; amending s. 1010.20, F.S.;
1183 revising provisions relating to expenditure
1184 requirements for juvenile justice programs; amending
1185 s. 1011.62, F.S.; extending dates relating to the
1186 funding of students who are enrolled in juvenile
1187 justice education programs or in education programs
1188 for juveniles placed in secure facilities; conforming
1189 a cross-reference; providing an effective date.

By the Committees on Criminal Justice; Education Pre-K - 12; and
Education Pre-K - 12

591-03216-12

2012834c2

1 A bill to be entitled
2 An act relating to juvenile justice education and
3 workforce programs; amending s. 985.03, F.S.;
4 providing a definition for the term "juvenile justice
5 education programs" for purposes of the act; amending
6 s. 985.46, F.S.; requiring that each juvenile
7 committed to a juvenile justice commitment program
8 have a transition plan upon release; requiring that
9 the transition plan include an education transition
10 plan component and information regarding delinquency
11 treatment and intervention services that are
12 accessible upon exiting the program; amending s.
13 985.618, F.S.; providing legislative intent regarding
14 juvenile justice education and workforce-related
15 programs; requiring that the Department of Juvenile
16 Justice, in collaboration with the Department of
17 Education, annually verify that each juvenile justice
18 education program meets specified minimum standards;
19 requiring that the department collaborate with certain
20 entities to adopt rules; amending s. 985.632, F.S.;
21 conforming provisions to changes made by the act;
22 requiring that the Department of Education rather than
23 the Department of Juvenile Justice ensure that there
24 is accurate cost accounting for certain education
25 programs; requiring that the Department of Education
26 submit annual cost data to the department; requiring
27 that the effectiveness of juvenile justice education
28 programs be determined by implementing systematic data
29 collection, data analysis, and evaluations; requiring

591-03216-12

2012834c2

30 that the programs be evaluated based on student
31 performance outcomes; requiring that the Department of
32 Juvenile Justice, in collaboration with the Department
33 of Education and in consultation with other entities,
34 prepare and submit an annual report to the Governor
35 and the Legislature by a specified date; amending s.
36 985.721, F.S.; conforming a cross-reference; amending
37 s. 1001.42, F.S.; conforming provisions to changes
38 made by the act; conforming a cross-reference;
39 amending ss. 1002.20 and 1002.45, F.S.; conforming
40 cross-references; amending s. 1003.01, F.S.; revising
41 the term "juvenile justice education programs or
42 schools" to conform to changes made by the act;
43 creating s. 1003.515, F.S.; providing a short title;
44 providing a legislative finding; providing purposes of
45 the Florida Juvenile Justice Education Act; providing
46 a definition for the term "juvenile justice education
47 programs"; providing responsibilities for school
48 districts and private providers contracted by school
49 districts to offer education services to youth in
50 juvenile justice education programs; requiring that
51 each juvenile justice residential and nonresidential
52 program involve the regional workforce board or
53 economic development agency and local postsecondary
54 institutions to determine the occupational areas for
55 the education and workforce-related program; providing
56 requirements for education and workforce-related
57 services in juvenile justice programs; providing
58 responsibilities for the Department of Education;

591-03216-12

2012834c2

59 requiring that the department identify each juvenile
60 justice residential and nonresidential education
61 program, excluding detention programs, by performance
62 ratings; providing criteria for determining
63 performance ratings; requiring that the department
64 make available a common student pre- and post-
65 assessment to measure the academic progress in reading
66 and mathematics of youth in juvenile justice education
67 programs; requiring that juvenile justice residential
68 and nonresidential education programs, excluding
69 detention centers, be held accountable for student
70 performance outcomes for a specified period after
71 youth are released from the programs; providing for
72 program accountability; requiring that the department
73 monitor the education performance of youth, prohibit
74 certain school district or private providers, under
75 specified circumstances, from delivering education
76 services, and verify that a school district is
77 operating or contracting to deliver education
78 services; providing for a school district's
79 responsibilities; requiring that a youth who exits the
80 program attain an industry certification, enroll in a
81 program to complete the industry certification, be
82 gainfully employed, or enroll in and continue his or
83 her education based on a transition plan; requiring
84 that an education transition plan component be
85 incorporated in a youth's transition plan; requiring
86 that each juvenile justice education program develop
87 the education transition plan component during the

591-03216-12

2012834c2

88 course of the youth's stay in a juvenile justice
89 residential or nonresidential program; providing
90 funding requirements for the juvenile justice
91 education programs; prohibiting a district school
92 board from being charged rent, maintenance, utilities,
93 or overhead on facilities; requiring that the
94 Department of Juvenile Justice provide maintenance,
95 repairs, and remodeling of existing facilities;
96 requiring that the State Board of Education
97 collaborate with the Department of Juvenile Justice,
98 the Department of Economic Opportunity, school
99 districts, and private providers to adopt rules;
100 repealing s. 1003.52, F.S., relating to educational
101 services in Department of Juvenile Justice programs;
102 amending s. 1009.25, F.S.; providing an exemption from
103 the payment of postsecondary education fees and
104 tuition for certain youth who are ordered by a court
105 to participate in a juvenile justice residential
106 program; amending s. 1011.62, F.S.; extending dates
107 relating to the funding of students who are enrolled
108 in juvenile justice education programs or in education
109 programs for juveniles placed in secure facilities;
110 conforming a cross-reference; providing an effective
111 date.

112
113 Be It Enacted by the Legislature of the State of Florida:

114
115 Section 1. Present subsections (30) through (57) of section
116 985.03, Florida Statutes, are redesignated as subsections (31)

591-03216-12 2012834c2

through (58), respectively, and a new subsection (30) is added to that section, to read:

985.03 Definitions.—As used in this chapter, the term:

(30) "Juvenile justice education programs" has the same meaning as provided in s. 1003.01(11) (a).

Section 2. Subsection (6) is added to section 985.46, Florida Statutes, to read:

985.46 Conditional release.—

(6) Each juvenile committed to a commitment program shall have a transition plan upon release. Transition planning shall begin for each juvenile upon placement in a commitment program and shall result in an individual transition plan for each youth before he or she is released. The transition plan shall be developed with the participation of the youth, representatives of the commitment program, school district personnel, and representatives of conditional release or postcommitment probation programs, if appropriate. The transition plan shall include an education transition plan component as provided in s. 1003.515(10), as well as information regarding pertinent delinquency treatment and intervention services that are accessible upon exiting the program.

(a) For a juvenile who is released on conditional release or postcommitment probation status, the transition plan shall be incorporated into the conditions of release.

(b) For a juvenile who is not released on conditional release or postcommitment probation status, the transition plan shall be explained to the youth and provided upon release, with all necessary referrals having been made at least 30 days before the youth exits the program.

591-03216-12 2012834c2

(c) For a juvenile who participates in a nonresidential program, the transition plan shall be explained to the youth and provided upon release. For a juvenile who participates in a nonresidential program and who is released on conditional release or postcommitment probation status, the transition plan shall be incorporated into the conditions of release.

Section 3. Section 985.618, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 985.618, F.S., for present text.)

985.618 Education and workforce-related programs.—

(1) The Legislature intends for youth in juvenile justice programs to be provided a quality education that includes workforce-related skills that lead to continuing education or meaningful employment, or both, and that results in reduced rates of recidivism.

(2) The department, in collaboration with the Department of Education, shall annually verify that each juvenile justice education program, at a minimum:

(a) Provides access to virtual course offerings that maximize learning opportunities for youth.

(b) Encourages access to virtual counseling to address the educational and workforce needs of adjudicated youth.

(c) Provides instruction from individuals who hold industry credentials in the occupational areas in which they teach.

(d) Ensures student access to instruction during evenings and weekends.

(e) Considers, before placement, the age, interests, prior education, training, work experience, emotional and mental

591-03216-12 2012834c2

abilities, treatment needs, and physical capabilities of the youth and the duration of the term of placement imposed.

(f) Provides specialized instruction, related services, accommodations, and modifications as are necessary to ensure the provision of a free, appropriate public education for students with disabilities.

(g) Expends funds in a manner that directly supports the attainment of successful student outcomes as specified in s. 1003.515(7) and that allows youth to engage in real work situations whenever possible.

(3) The department shall collaborate with the Department of Education, the Department of Economic Opportunity, school districts, and private providers to adopt rules to administer this section.

Section 4. Section 985.632, Florida Statutes, is amended to read:

985.632 Quality assurance and cost-effectiveness.—

(1) It is the intent of the Legislature that the department:

(a) Ensure that information be provided to decisionmakers in a timely manner so that resources are allocated to programs of the department which achieve desired performance levels.

(b) Provide information about the cost of such programs and their differential effectiveness so that the quality of such programs can be compared and improvements made continually.

(c) Provide information to aid in developing related policy issues and concerns.

(d) Provide information to the public about the effectiveness of such programs in meeting established goals and

591-03216-12 2012834c2

objectives.

(e) Provide a basis for a system of accountability so that each client is afforded the best programs to meet his or her needs.

(f) Improve service delivery to clients.

(g) Modify or eliminate activities that are not effective.

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

(a) "Client" means any person who is being provided treatment or services by the department or by a provider under contract with the department.

(b) "Program component" means an aggregation of generally related objectives which, because of their special character, related workload, and interrelated output, can logically be considered an entity for purposes of organization, management, accounting, reporting, and budgeting.

(c) "Program effectiveness" means the ability of the program to achieve desired client outcomes, goals, and objectives.

(3) The department shall annually collect and report cost data for every program operated by the department or its contracted provider ~~or contracted by the department~~. The cost data shall conform to a format approved by the department and the Legislature. Uniform cost data shall be reported and collected for each education program operated by a school district or private provider contracted by a school district ~~state-operated and contracted programs~~ so that comparisons can be made among programs. The Department of Education shall ensure that there is accurate cost accounting for education programs operated by school districts, including those programs operated

591-03216-12

2012834c2

233 ~~by private providers under contract with school districts state-~~
 234 ~~operated services including market-equivalent rent and other~~
 235 ~~shared cost. The cost of the educational program provided to a~~
 236 ~~residential facility shall be reported and included in the cost~~
 237 ~~of a program.~~ The Department of Education shall submit an annual
 238 cost data report to the department President of the Senate, the
 239 Speaker of the House of Representatives, the Minority Leader of
 240 each house of the Legislature, the appropriate substantive and
 241 fiscal committees of each house of the Legislature, and the
 242 Governor, no later than December 1 of each year. The annual cost
 243 data shall be included in the annual report required in
 244 subsection (7). Cost-benefit analysis for juvenile justice
 245 education educational programs shall will be developed and
 246 implemented in collaboration with and in cooperation with the
 247 Department of Education, local providers, and local school
 248 districts. ~~Cost data for the report shall include data collected~~
 249 ~~by the Department of Education for the purposes of preparing the~~
 250 ~~annual report required by s. 1003.52(19).~~

251 (4) (a) The department, in consultation with the Office of
 252 Economic and Demographic Research and contract service
 253 providers, shall develop a cost-effectiveness model and apply
 254 the model to each commitment program. Program recidivism rates
 255 shall be a component of the model. The cost-effectiveness model
 256 shall compare program costs to client outcomes and program
 257 outputs. It is the intent of the Legislature that continual
 258 development efforts take place to improve the validity and
 259 reliability of the cost-effectiveness model.

260 (b) The department shall rank commitment programs based on
 261 the cost-effectiveness model and shall submit a report to the

591-03216-12

2012834c2

262 appropriate substantive and fiscal committees of each house of
 263 the Legislature by December 31 of each year.

264 (c) Based on reports of the department on client outcomes
 265 and program outputs and on the department's most recent cost-
 266 effectiveness rankings, the department may terminate a program
 267 operated by the department or a provider if the program has
 268 failed to achieve a minimum threshold of program effectiveness.
 269 This paragraph does not preclude the department from terminating
 270 a contract as provided under this section or as otherwise
 271 provided by law or contract, and does not limit the department's
 272 authority to enter into or terminate a contract.

273 (d) In collaboration with the Office of Economic and
 274 Demographic Research, and contract service providers, the
 275 department shall develop a work plan to refine the cost-
 276 effectiveness model so that the model is consistent with the
 277 performance-based program budgeting measures approved by the
 278 Legislature to the extent the department deems appropriate. The
 279 department shall notify the Office of Program Policy Analysis
 280 and Government Accountability of any meetings to refine the
 281 model.

282 (e) Contingent upon specific appropriation, the department,
 283 in consultation with the Office of Economic and Demographic
 284 Research, and contract service providers, shall:

285 1. Construct a profile of each commitment program that uses
 286 the results of the quality assurance report required by this
 287 section, the cost-effectiveness report required in this
 288 subsection, and other reports available to the department.

289 2. Target, for a more comprehensive evaluation, any
 290 commitment program that has achieved consistently high, low, or

591-03216-12 2012834c2

disparate ratings in the reports required under subparagraph 1.

3. Identify the essential factors that contribute to the high, low, or disparate program ratings.

4. Use the results of these evaluations in developing or refining juvenile justice programs or program models, client outcomes and program outputs, provider contracts, quality assurance standards, and the cost-effectiveness model.

(5) (a) Program effectiveness shall be determined by implementing systematic data collection, data analysis, and education and workforce-related program evaluations pursuant to this section and s. 1003.515.

(b) The evaluation of juvenile justice education and workforce-related programs shall be based on the performance outcomes provided in s. 1003.515(7).

(6) (5) The department shall:

(a) Establish a comprehensive quality assurance system for each program operated by the department or its contracted provider ~~operated by a provider under contract with the department~~. Each contract entered into by the department must provide for quality assurance.

(b) Provide operational definitions of and criteria for quality assurance for each specific program component.

(c) Establish quality assurance goals and objectives for each specific program component.

(d) Establish the information and specific data elements required for the quality assurance program.

(e) Develop a quality assurance manual of specific, standardized terminology and procedures to be followed by each program.

591-03216-12 2012834c2

(f) Evaluate each program operated by the department or its contracted ~~a provider under a contract with the department~~ and establish minimum thresholds for each program component. If a provider fails to meet the established minimum thresholds, such failure shall cause the department to cancel the provider's contract unless the provider achieves compliance with minimum thresholds within 6 months or unless there are documented extenuating circumstances. In addition, the department may not contract with the same provider for the canceled service for a period of 12 months. If a department-operated program fails to meet the established minimum thresholds, the department must take necessary and sufficient steps to ensure and document program changes to achieve compliance with the established minimum thresholds. If the department-operated program fails to achieve compliance with the established minimum thresholds within 6 months and if there are no documented extenuating circumstances, the department must notify the Executive Office of the Governor and the Legislature of the corrective action taken. Appropriate corrective action may include, but is not limited to:

1. Contracting out for the services provided in the program;

2. Initiating appropriate disciplinary action against all employees whose conduct or performance is deemed to have materially contributed to the program's failure to meet established minimum thresholds;

3. Redesigning the program; or

4. Realigning the program.

591-03216-12 2012834c2

The department shall submit an annual report to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, the appropriate substantive and fiscal committees of each house of the Legislature, and the Governor, no later than February 1 of each year. The annual report must contain, at a minimum, for each specific program component: a comprehensive description of the population served by the program; a specific description of the services provided by the program; cost; a comparison of expenditures to federal and state funding; immediate and long-range concerns; and recommendations to maintain, expand, improve, modify, or eliminate each program component so that changes in services lead to enhancement in program quality. The department shall ensure the reliability and validity of the information contained in the report.

(7) The department, in collaboration with the Department of Education and in consultation with the school districts and private juvenile justice education program providers, shall prepare an annual report containing the education performance outcomes, based on the criteria in s. 1003.515(7), of youth in juvenile justice education programs. The report shall delineate the performance outcomes of youth in the state, in each school district's juvenile justice education program, and for each private provider's juvenile justice education program, including the performance outcomes of all major student populations and genders, as determined by the Department of Education. The report shall address the use and successful completion of virtual instruction courses and the successful implementation of transition and reintegration plans. The report must include an

591-03216-12 2012834c2

analysis of the performance of youth over time, including, but not limited to, additional education attainment, employment, earnings, industry certification, and rates of recidivism. The report must also include recommendations for improving performance outcomes and for additional cost savings and efficiencies. The report shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2013, and each year thereafter.

~~(8)(6)~~ The department shall collect and analyze available statistical data for the purpose of ongoing evaluation of all programs. The department shall provide the Legislature with necessary information and reports to enable the Legislature to make informed decisions regarding the effectiveness of, and any needed changes in, services, programs, policies, and laws.

Section 5. Section 985.721, Florida Statutes, is amended to read:

985.721 Escapes from secure detention or residential commitment facility.—An escape from:

(1) Any secure detention facility maintained for the temporary detention of children, pending adjudication, disposition, or placement;

(2) Any residential commitment facility described in s. 985.03(46) ~~985.03(45)~~, maintained for the custody, treatment, punishment, or rehabilitation of children found to have committed delinquent acts or violations of law; or

(3) Lawful transportation to or from any such secure detention facility or residential commitment facility,

constitutes escape within the intent and meaning of s. 944.40

591-03216-12 2012834c2

and is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 6. Paragraph (b) of subsection (18) of section 1001.42, Florida Statutes, is amended to read:

1001.42 Powers and duties of district school board.—The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

(18) IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.—Maintain a state system of school improvement and education accountability as provided by statute and State Board of Education rule. This system of school improvement and education accountability shall be consistent with, and implemented through, the district's continuing system of planning and budgeting required by this section and ss. 1008.385, 1010.01, and 1011.01. This system of school improvement and education accountability shall comply with the provisions of ss. 1008.33, 1008.34, 1008.345, and 1008.385 and include the following:

(b) *Public disclosure*.—The district school board shall provide information regarding the performance of students in and ~~education~~ educational programs as required pursuant to ss. 1008.22 and 1008.385 and implement a system of school reports as required by statute and State Board of Education rule which shall include schools operating for the purpose of providing education ~~educational~~ services to youth in Department of Juvenile Justice residential and nonresidential programs, and for those programs ~~schools~~, report on the data and education ~~outcomes~~ elements specified in s. 1003.515(7) ~~1003.52(19)~~. Annual public disclosure reports shall be in an easy-to-read report card format and shall include the school's grade, high

591-03216-12 2012834c2

school graduation rate calculated without GED tests, disaggregated by student ethnicity, and performance data as specified in state board rule.

Section 7. Subsection (20) of section 1002.20, Florida Statutes, is amended to read:

1002.20 K-12 student and parent rights.—Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(20) JUVENILE JUSTICE PROGRAMS.—Students who are in juvenile justice programs have the right to receive educational programs and services in accordance with the provisions of s. 1003.515 ~~1003.52~~.

Section 8. Paragraph (b) of subsection (1) of section 1002.45, Florida Statutes, is amended to read:

1002.45 Virtual instruction programs.—

(1) PROGRAM.—

(b) Each school district that is eligible for the sparsity supplement pursuant to s. 1011.62(7) shall provide all enrolled public school students within its boundaries the option of participating in part-time and full-time virtual instruction programs. Each school district that is not eligible for the sparsity supplement shall provide at least three options for part-time and full-time virtual instruction. All school districts must provide parents with timely written notification of an open enrollment period for full-time students of at least 90 days that ends no later than 30 days before ~~prior to~~ the

591-03216-12 2012834c2

first day of the school year. The purpose of the program is to make quality virtual instruction available to students using online and distance learning technology in the nontraditional classroom. A school district virtual instruction program shall provide the following:

1. Full-time virtual instruction for students enrolled in kindergarten through grade 12.

2. Part-time virtual instruction for students enrolled in grades 9 through 12 courses that are measured pursuant to subparagraph (8)(a)2.

3. Full-time or part-time virtual instruction for students enrolled in dropout prevention and academic intervention programs under s. 1003.53, Department of Juvenile Justice education programs under s. 1003.515 ~~1003.52~~, core-curricula courses to meet class size requirements under s. 1003.03, or Florida College System institutions under this section.

Section 9. Paragraph (a) of subsection (11) of section 1003.01, Florida Statutes, is amended to read:

1003.01 Definitions.—As used in this chapter, the term:

(11)(a) "Juvenile justice education programs ~~or schools~~" means programs ~~or schools~~ operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, for a school year comprised of 250 days of instruction distributed over 12 months. At the request of the provider, a district school board may decrease the minimum number of days of instruction by up to 10 days for teacher planning for residential programs and up to 20 days for teacher planning for nonresidential programs, subject to the approval of the Department of Juvenile Justice and the Department of Education.

591-03216-12 2012834c2

Section 10. Section 1003.515, Florida Statutes, is created to read:

1003.515 The Florida Juvenile Justice Education Act.—

(1) SHORT TITLE.—This section may be cited as the "Florida Juvenile Justice Education Act."

(2) LEGISLATIVE FINDING.—The Legislature finds that an education is the single most important factor in the rehabilitation of adjudicated youth who are in Department of Juvenile Justice residential and nonresidential programs.

(3) PURPOSES.—The purposes of this section are to:

(a) Provide performance-based outcome measures and accountability for juvenile justice education programs; and

(b) Improve academic and workforce-related outcomes so that adjudicated and at-risk youth may successfully complete the transition to and reenter the academic and workforce environments.

(4) DEFINITION.—For purposes of this section, the term "juvenile justice education programs" has the same meaning as in s. 1003.01(11)(a).

(5) SCHOOL DISTRICT AND CONTRACTED EDUCATION PROVIDER RESPONSIBILITIES.—

(a) A school district or private provider contracted by a school district to offer education services to youth in a juvenile justice education program shall:

1. Provide rigorous and relevant academic and workforce-related curricula that will lead to industry certifications in an occupational area of high demand identified in the Industry Certification Funding list adopted by the State Board of Education, or articulate to secondary or postsecondary-level

591-03216-12 2012834c2

523 coursework, as appropriate.

524 2. Support state, local, and regional economic development
525 demands.

526 3. Make high-wage and high-demand careers more accessible
527 to adjudicated and at-risk youth.

528 4. Reduce rates of recidivism for adjudicated youth.

529 5. Provide access to the appropriate courses and
530 instruction to prepare youth for a standard high school diploma,
531 a special diploma, or a high school equivalency diploma, as
532 appropriate.

533 6. Provide access to virtual education courses that are
534 appropriate to meet the requirements of academic or workforce-
535 related programs and the requirements for continuing education
536 specified in the youth's transition and postrelease plans.

537 7. Provide opportunities for earning credits toward high
538 school graduation or credits that articulate to postsecondary
539 education institutions while the youth are in residential and
540 nonresidential juvenile justice facilities.

541 8. Ensure that the credits and partial credits earned by
542 the youth are transferred and included in the youth's records as
543 part of the transition plan.

544 9. Ensure that the education program consists of the
545 appropriate academic, workforce-related, or exceptional
546 education curricula and related services that directly support
547 performance outcomes, which must be specified in each youth's
548 education transition plan component as required by subsection
549 (10).

550 10. If the duration of a youth's stay in a program is less
551 than 40 days, ensure that the youth receives employability, life

591-03216-12 2012834c2

552 skills, and academic remediation, as appropriate. In addition,
553 counseling and transition services must be provided which
554 mitigate the youth's identified risk factors and prepare the
555 youth for a successful reintegration into the school, community,
556 and home settings.

557 11. Maintain an academic record for each youth who is
558 enrolled in a juvenile justice facility, as required by s.
559 1003.51, and ensure that the coursework, credits, partial
560 credits, occupational completion points, and industry
561 certifications earned by the youth are transferred and included
562 in the youth's transition plan pursuant to s. 985.46.

563 (b) Each school district and private provider shall ensure
564 that the following youth participate in the program:

565 1. Youth who are of compulsory school attendance age
566 pursuant to s. 1003.21.

567 2. Youth who are not of compulsory school attendance age
568 and who have not received a high school diploma or its
569 equivalent, if the youth is in a residential or nonresidential
570 juvenile justice program. Such youth must participate in the
571 education program and participate in a workforce-related
572 education program that leads to industry certification in an
573 occupational area of high demand. This subparagraph does not
574 limit the rights of students with disabilities, as defined under
575 the Individuals with Disabilities Education Act, who are not of
576 compulsory school attendance age and who have not received a
577 high school diploma to receive a free, appropriate public
578 education in accordance with their individualized needs.

579 3. Youth who have attained a high school diploma or its
580 equivalent and who are not employed. Such youth must participate

591-03216-12 2012834c2

581 in a workforce-related education program that leads to
 582 employment in an occupational area of high demand. Such youth
 583 may enroll in a state postsecondary institution to complete the
 584 workforce-related education program and are exempt from the
 585 payment of tuition and fees pursuant to s. 1009.25(1)(g).
 586 (6) PROGRAM REQUIREMENTS.—In compliance with the strategic
 587 5-year plan under s. 1003.491, each juvenile justice residential
 588 and nonresidential education program shall, in collaboration
 589 with the regional workforce board or economic development agency
 590 and local postsecondary institutions, determine the appropriate
 591 occupational areas for the program. Juvenile justice education
 592 programs must:
 593 (a) Ensure that rigorous academic and workforce-related
 594 coursework is offered and meets or exceeds appropriate state-
 595 approved subject area standards, and results in the attainment
 596 of industry certification and postsecondary credit, when
 597 appropriate;
 598 (b) Ensure instruction from individuals who hold industry
 599 credentials in the occupational areas in which they teach;
 600 (c) Maximize the use of private sector personnel;
 601 (d) Use strategies to maximize the delivery of virtual
 602 instruction;
 603 (e) Maximize instructional efficiency for youth in juvenile
 604 justice facilities;
 605 (f) Provide opportunities for youth to earn weighted or
 606 dual enrollment credit for higher-level courses, when
 607 appropriate;
 608 (g) Promote credit recovery; and
 609 (h) Provide instruction that results in competency,

591-03216-12 2012834c2

610 certification, or credentials in workplace skills, including,
 611 but not limited to, communication skills, interpersonal skills,
 612 decisionmaking skills, work ethic, and the importance of
 613 attendance and timeliness in the work environment.
 614 (7) DEPARTMENT RESPONSIBILITIES.—
 615 (a) The department shall identify each residential and
 616 nonresidential juvenile justice education program, excluding
 617 detention programs, as having one of the following performance
 618 ratings as defined by State Board of Education rule:
 619 1. High performance.
 620 2. Adequate performance.
 621 3. Failing performance.
 622 (b) The department shall consider the level of rigor
 623 associated with the attainment of a particular outcome when
 624 assigning weight to the outcome. The department shall evaluate
 625 the following elements in determining a juvenile justice
 626 education program's performance rating:
 627 1. One or more of the following outcomes for a youth who is
 628 14 years of age or younger:
 629 a. Achieving academic progress in reading and mathematics,
 630 as measured by the statewide common pre- and post-assessment
 631 adopted by the department for use in juvenile justice education
 632 programs, and participating in continuing education upon release
 633 from a juvenile justice residential or nonresidential program.
 634 b. Completing secondary coursework and participating in
 635 continuing education upon release from a juvenile justice
 636 residential or nonresidential program.
 637 c. Attaining occupational completion points in an
 638 occupational area of high demand identified in the Industry

591-03216-12 2012834c2

639 Certification Funding list adopted by the State Board of
 640 Education and participating in continuing education upon release
 641 from a juvenile justice residential or nonresidential program.

642 d. Attaining an industry certification in an occupational
 643 area of high demand identified in the Industry Certification
 644 Funding list adopted by the State Board of Education, if
 645 available and appropriate, and participating in continuing
 646 education upon release from a juvenile justice residential or
 647 nonresidential program.

648 2. One or more of the following outcomes for a youth who is
 649 15 years of age or older:

650 a. Achieving academic progress in reading and mathematics,
 651 as measured by the statewide common pre- and post-assessment
 652 adopted by the department for use in juvenile justice education
 653 programs, and participating in continuing education upon release
 654 from a juvenile justice residential or nonresidential program.

655 b. Earning secondary or postsecondary credit upon release
 656 from a juvenile justice facility and participating in continuing
 657 education upon release from a juvenile justice residential or
 658 nonresidential program.

659 c. Attaining a high school diploma or its equivalent and
 660 participating in continuing education at the postsecondary level
 661 upon release from a juvenile justice residential or
 662 nonresidential program.

663 d. Attaining a high school diploma or its equivalent and
 664 obtaining employment.

665 e. Attaining an industry certification in an occupational
 666 area of high demand identified in the Industry Certification
 667 Funding list adopted by the State Board of Education and

591-03216-12 2012834c2

668 obtaining employment.

669 f. Attaining occupational completion points in an
 670 occupational area of high demand and obtaining employment.

671 g. Attaining occupational completion points in an
 672 occupational area of high demand identified in the Industry
 673 Certification Funding list adopted by the State Board of
 674 Education and, upon release from a juvenile justice residential
 675 or nonresidential program, participating in continuing education
 676 in order to complete the industry certification in that
 677 occupation.

678 (c) By September 1, 2012, the department shall make
 679 available a common student pre- and post-assessment to measure
 680 the academic progress in reading and mathematics of youth who
 681 are assigned to juvenile justice education programs.

682
 683 For purposes of performance ratings, juvenile justice
 684 residential and nonresidential education programs, excluding
 685 detention centers, shall be held accountable for the performance
 686 outcomes of youth for no more than 6 months after the release of
 687 youth from the residential or nonresidential program. This
 688 subsection does not abrogate the provisions of s. 1002.22 which
 689 relate to education records or the requirements of 20 U.S.C. s.
 690 1232g, the Family Educational Rights and Privacy Act.

691 (8) PROGRAM ACCOUNTABILITY.—

692 (a) The department shall, in collaboration with the
 693 Department of Juvenile Justice:

694 1. Monitor the education performance of youth in juvenile
 695 justice facilities.

696 2. Prohibit school districts or private providers that have

591-03216-12 2012834c2

697 failing performance ratings from delivering the education
 698 services.

699 3. Verify that a school district is operating or
 700 contracting with a private provider to deliver education
 701 services.

702 (b) If a school district's juvenile justice residential or
 703 nonresidential education program earns two failing performance
 704 ratings in any 3-year period, as provided in subsection (7), the
 705 school district shall contract with a private provider that has
 706 an adequate or higher performance rating or enter into an
 707 agreement with a school district that has an adequate or higher
 708 performance rating to deliver the education services to the
 709 youth in the program.

710 (c) Except as provided in paragraph (b), the school
 711 district of the county in which the residential or
 712 nonresidential facility is located shall deliver education
 713 services to youth in Department of Juvenile Justice programs. A
 714 school district may contract with a private provider to deliver
 715 the education services in lieu of directly providing the
 716 education services. The contract shall include performance
 717 criteria as provided in subsection (7).

718 (d) When determining educational placement for youth who
 719 enroll in a school district upon release, the school district
 720 must adhere to the transition plan established under s.
 721 985.46(6).

722 (e) If a private provider under contract with a school
 723 district maintains a high-performance rating pursuant to
 724 subsection (7), the school district may not require a private
 725 provider to use the school district's personnel.

591-03216-12 2012834c2

726 (f) Academic instructional personnel must be certified by
 727 the Department of Education; however, a nondegreed teacher of
 728 career education may be certified by a local school district
 729 under s. 1012.39 and may be designated as teaching out-of-field.
 730 An instructor who is deemed to be an expert in a specific field
 731 may be employed under s. 1012.55(1).

732 (g) Each school district must provide juvenile justice
 733 education programs access to substitute classroom teachers used
 734 by the school district.

735 (9) EXITING PROGRAM.—Upon exiting a program, a youth must:

736 (a) Attain an industry certification in an occupational
 737 area of high demand identified in the Industry Certification
 738 Funding list adopted by the State Board of Education;

739 (b) Enroll in a program to complete the industry
 740 certification;

741 (c) Be gainfully employed and earning full-time wages; or

742 (d) Enroll in and continue his or her education based on
 743 the transition and postrelease plan provided in s. 958.46.

744 (10) EDUCATION TRANSITION PLAN COMPONENT.—

745 (a) The education transition plan component shall be
 746 incorporated in the transition plan pursuant to s. 985.46(6).

747 (b) Each juvenile justice education program must develop an
 748 education transition plan component during the course of a
 749 youth's stay in a juvenile justice residential or nonresidential
 750 program which coordinates academic and workforce services and
 751 assists the youth in successful community reintegration upon the
 752 youth's release.

753 (c) The development of the education transition plan
 754 component shall begin upon a youth's placement in the program.

591-03216-12 2012834c2

755 The education transition plan component must include the
 756 academic and workforce services to be provided during the
 757 program stay and the establishment of services to be implemented
 758 upon release. The appropriate personnel in the juvenile justice
 759 residential and nonresidential program, the members of the
 760 community, the youth, and the youth's family, when appropriate,
 761 shall collaborate to develop the education transition plan
 762 component.

763 (d) Education planning for reintegration shall begin when
 764 placement decisions are made and continue throughout the youth's
 765 stay in order to provide for continuing education, job
 766 placement, and other necessary services. Individuals who are
 767 responsible for reintegration shall coordinate activities to
 768 ensure that the education transition plan component is
 769 successfully implemented and a youth is provided access to
 770 support services that will sustain the youth's success once he
 771 or she is no longer under the supervision of the Department of
 772 Juvenile Justice. The education transition plan component must
 773 provide for continuing education, workforce development, or
 774 meaningful job placement pursuant to the performance outcomes in
 775 subsection (7). For purposes of this section, the term
 776 "reintegration" means the process by which a youth returns to
 777 the community following release from a juvenile justice program.

778 (11) FUNDING.—

779 (a) Youth who are participating in GED preparation programs
 780 while under the supervision of the Department of Juvenile
 781 Justice shall be funded at the basic program cost factor for
 782 juvenile justice programs in the Florida Education Finance
 783 Program (FEFP). Juvenile justice education programs shall be

591-03216-12 2012834c2

784 funded in the appropriate FEFP program based on the education
 785 services needed by the students in the programs pursuant to s.
 786 1011.62.

787 (b) Juvenile justice education programs operated through a
 788 contract with the Department of Juvenile Justice and under the
 789 purview of the department's quality assurance standards and
 790 performance outcomes shall receive the appropriate FEFP funding
 791 for juvenile justice programs.

792 (c) A district school board shall fund the education
 793 program in a juvenile justice facility at the same or higher
 794 level of funding for equivalent students in the district school
 795 system based on the funds generated through the FEFP and funds
 796 allocated from federal programs.

797 (d) Consistent with the rules of the State Board of
 798 Education, district school boards shall request an alternative
 799 full-time equivalent (FTE) survey for juvenile justice programs
 800 experiencing fluctuations in student enrollment.

801 (e) The State Board of Education shall prescribe rules
 802 relating to FTE count periods which must be the same for
 803 juvenile justice programs and other public school programs. The
 804 summer school period for students in juvenile justice programs
 805 shall begin on the day immediately preceding the subsequent
 806 regular school year. Students may be funded for no more than 25
 807 hours per week of direct instruction; however, students shall be
 808 provided access to virtual instruction in order to maximize the
 809 most efficient use of time.

810 (12) FACILITIES.—The district school board may not be
 811 charged any rent, maintenance, utilities, or overhead on the
 812 facilities. Maintenance, repairs, and remodeling of existing

591-03216-12 2012834c2

813 facilities shall be provided by the Department of Juvenile
 814 Justice.

815 (13) RULEMAKING.—The State Board of Education shall
 816 collaborate with the Department of Juvenile Justice, the
 817 Department of Economic Opportunity, school districts, and
 818 private providers to adopt rules pursuant to ss. 120.536(1) and
 819 120.54 to administer this section.

820 Section 11. Section 1003.52, Florida Statutes, is repealed.

821 Section 12. Present paragraph (g) of subsection (1) of
 822 section 1009.25, Florida Statutes, is redesignated as paragraph
 823 (h), and a new paragraph (g) is added to that subsection, to
 824 read:

825 1009.25 Fee exemptions.—

826 (1) The following students are exempt from the payment of
 827 tuition and fees, including lab fees, at a school district that
 828 provides postsecondary career programs, Florida College System
 829 institution, or state university:

830 (g) For purposes of completing coursework initiated while
 831 in the temporary custody of the state, youth who are eligible
 832 under s. 1003.515(5)(b)3. and who are ordered by a court to
 833 participate in a juvenile justice residential program.

834 Section 13. Paragraph (f) of subsection (1) of section
 835 1011.62, Florida Statutes, is amended to read:

836 1011.62 Funds for operation of schools.—If the annual
 837 allocation from the Florida Education Finance Program to each
 838 district for operation of schools is not determined in the
 839 annual appropriations act or the substantive bill implementing
 840 the annual appropriations act, it shall be determined as
 841 follows:

591-03216-12 2012834c2

842 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
 843 OPERATION.—The following procedure shall be followed in
 844 determining the annual allocation to each district for
 845 operation:

846 (f) *Supplemental academic instruction; categorical fund.*—

847 1. There is created a categorical fund to provide
 848 supplemental academic instruction to students in kindergarten
 849 through grade 12. This paragraph may be cited as the
 850 "Supplemental Academic Instruction Categorical Fund."

851 2. Categorical funds for supplemental academic instruction
 852 shall be allocated annually to each school district in the
 853 amount provided in the General Appropriations Act. These funds
 854 shall be in addition to the funds appropriated on the basis of
 855 FTE student membership in the Florida Education Finance Program
 856 and shall be included in the total potential funds of each
 857 district. These funds shall be used to provide supplemental
 858 academic instruction to students enrolled in the K-12 program.
 859 Supplemental instruction strategies may include, but are not
 860 limited to: modified curriculum, reading instruction, after-
 861 school instruction, tutoring, mentoring, class size reduction,
 862 extended school year, intensive skills development in summer
 863 school, and other methods for improving student achievement.
 864 Supplemental instruction may be provided to a student in any
 865 manner and at any time during or beyond the regular 180-day term
 866 identified by the school as being the most effective and
 867 efficient way to best help that student progress from grade to
 868 grade and to graduate.

869 3. Effective with the 2012-2013 ~~1999-2000~~ fiscal year,
 870 funding on the basis of FTE membership beyond the 180-day

591-03216-12 2012834c2

871 regular term shall be provided in the FEFP only for students
872 enrolled in juvenile justice education programs or in education
873 programs for juveniles placed in secure facilities or programs
874 under s. 985.19. Funding for instruction beyond the regular 180-
875 day school year for all other K-12 students shall be provided
876 through the supplemental academic instruction categorical fund
877 and other state, federal, and local fund sources with ample
878 flexibility for schools to provide supplemental instruction to
879 assist students in progressing from grade to grade and
880 graduating.

881 4. The Florida State University School, as a lab school, is
882 authorized to expend from its FEFP or Lottery Enhancement Trust
883 Fund allocation the cost to the student of remediation in
884 reading, writing, or mathematics for any graduate who requires
885 remediation at a postsecondary educational institution.

886 5. ~~Beginning in the 1999-2000 school year,~~ Dropout
887 prevention programs as defined in ss. 1003.515 ~~1003.52~~,
888 1003.53(1)(a), (b), and (c), and 1003.54 shall be included in
889 group 1 programs under subparagraph (d)3.

890 Section 14. This act shall take effect upon becoming a law.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: CS/SB 2096

INTRODUCER: Criminal Justice Committee; and Criminal Justice Committee

SUBJECT: Community Correction Reentry Program

DATE: February 21, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	Fav/CS
2.	Sneed	Sadberry	BJA	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

The bill requires the Department of Corrections (department) to develop an operational plan to implement a community reentry program for inmates nearing release from prison. The bill requires that inmates who are within 36 months of their release date be considered for participation in the program based upon a risk assessment process.

The bill also amends statutes in order to allow the department to expand the permissible means by which a work-release inmate can travel to and from his or her place of employment, education, or training.

This bill substantially amends section 945.091 and repeals section 945.0913 of the Florida Statutes.

II. Present Situation:

Reentry Programs for Nonviolent Offenders

Inmates who enter prison often have shortcomings in one or more areas of education, employment skills, substance abuse-free living, and mental health that contributed to their current situation. For example, almost two-thirds of Florida inmates who enter prison for any crime also have a substance abuse problem.¹ Unless addressed, these deficiencies are likely to contribute to re-offending and a return to prison.

In the past decade the executive and legislative branches of state government have acknowledged the importance of reentry services and post-release planning and transition. Various initiatives have been undertaken to improve an inmate's post-release success. However, barriers to successful reentry abound despite this commitment by policymakers to address the problem.

In May 2007, the department revised its mission statement to include assisting offenders with reentry into society in order to reduce recidivism and to lower crime rates. The department's goal was to bring down the recidivism rate from its current 32 percent to 20 percent by 2012. Although it has made some progress, it has been unable to meet that goal.

The department currently provides the following reentry programming to a segment of the inmate population:

- Substance abuse treatment programs;
- Educational and academic programs;
- Career and technical education programs; and
- Faith and character-based programs.²

Within the 15 northwest Florida counties affected by the bill, approximately 32,000 inmates are housed in 20 major correctional facilities, 12 work camps, 2 forestry camps, and 4 work release centers. The department reports that during Fiscal Year 2010-2011, 3,939 inmates were admitted to the department's custody from the affected counties and 3,955 were released to the counties. The following table indicates the admissions/releases for each county:

Admissions and Releases in FY 2010-2011 For Counties Included in Senate Proposed Bill 7180		
County	Admissions	Releases
Bay	867	724
Calhoun	43	62
Escambia	925	1009
Franklin	52	55
Gadsden	191	236
Gulf	33	28

¹ Office of Program Policy Analysis and Governmental Accountability (OPPAGA), *Corrections Rehabilitative Programs Effective, But Serve Only a Portion of the Eligible Population*, Report No. 07-14 (February 2007), p. 6.

² Florida Department of Corrections, *Recidivism Reduction Strategic Plan Fiscal Year 2009-2014*, available at <http://www.dc.state.fl.us/orginfo/FinalRecidivismReductionPlan.pdf> (last visited November 10, 2011).

Admissions and Releases in FY 2010-2011 For Counties Included in Senate Proposed Bill 7180		
County	Admissions	Releases
Holmes	55	54
Jackson	186	153
Leon	774	767
Liberty	23	33
Okaloosa	316	321
Santa Rosa	263	225
Wakulla	51	77
Walton	82	105
Washington	78	106
Total	3939	3955

Correctional Integrated Needs Assessment System

The department assesses inmates and places them into programs using the Correctional Integrated Needs Assessment System (CINAS), which is based on the “Risk-Needs-Responsivity (RNR)” principle. The RNR principle refers to predicting which inmates have a higher probability of recidivating, and providing appropriate programming and services to higher risk inmates based on their level of need. The services would be focused on “criminogenic needs,” which are factors associated with recidivism that can be changed such as lack of education, substance abuse, criminal thinking, and lack of marketable job skills. High risk offenders have multiple risk factors, and the department provides a range of services and interventions to target the specific crime producing characteristics.

The Recidivism Index (RI) is a component of CINAS developed by the department to give a score that is used to assess an inmate’s program needs, determine the inmate’s priority for intervention and services, and guide program placement. RI scores range from 1 to 5, with those in RI 1 the least likely to recidivate.

The department reports that CINAS allows it to develop and implement programs that increase the likelihood of successful reentry. It also reports that use of the RI and CINAS “avoids focusing resources on individuals ill-equipped to handle specific behavior problems, and ensures the most appropriate treatment-setting possible is being assigned, based on an inmate’s characteristics.”

The RI is administered to an inmate when he or she is received at the initial parent institution and again after 42 months, with updates conducted every 6 months thereafter to evaluate the inmate’s progress and ensure enrollment in needed programs.³

As of January 19, 2012, the department indicates that 47,824 inmates within 3 years of release had been assessed using CINAS. The number of inmates in each RI score category are as follows:

Recidivism Index Scores for CINAS-Assessed

³ Florida Department of Corrections, Analysis of SB 448.

Inmates Within 36 Months of Release		
<i>RI Score</i>	<i>Number of Inmates</i>	<i>Percentage of Assessed Inmates</i>
1	6,768	14.2%
2	7,666	16%
3	7,494	15.7%
4	15,868	33.2%
5	10,028	21%
Total	47,824	100%

Inmate Eligibility for Program Placement

The department offers programs in three core areas: academic, vocational, and substance abuse. Including all department and private facilities, there are 8,825 slots available in academic programs, 2,991 in vocational programs, and 3,228 in substance abuse programs.

Inmates with RI scores of 3 and 4 are ranked for placement in core programs if they have an identified need for a specific core program and are within 36 months of release.⁴ They are enrolled in programs based on their priority ranking number, which is itself based on a three-part weighted formula that considers the inmates: (1) program score; (2) current release date; and (3) core program-specific equalization score that is designed to move inmates more in need ahead of others.

Reentry Facilities

The department has dedicated certain facilities throughout the state to function as reentry facilities. These facilities house inmates who are within 36 months of release and who have been assigned to the facility based upon their RI score and programming needs. To the extent possible, inmates are placed in reentry facilities in the area in which they live in order to foster support from family, friends, and community volunteers. Reentry facility staff and community volunteers help inmates with housing, employment, and other needs in preparation for release.⁵ There are currently four reentry facilities, with three more scheduled to open in the near future:

- Baker Correctional Institution in Baker County (1,332 inmates)
- Sago Palm Reentry Center in Palm Beach County (384 inmates)
- Polk Correctional Institution in Polk County (1,393 inmates)
- DeMilly Correctional Institution in Polk County (342 inmates, but scheduled to be closed with functions absorbed by Polk Correctional Institution)
- Baker Reentry Facility scheduled to open in Baker County (432 inmates)
- Everglades Reentry Facility scheduled to open in Dade County (432 inmates)
- Gadsden Reentry Facility scheduled to open in Gadsden County (432 inmates)

⁴ Because of funding constraints, the department does not prioritize programming for R1, R2 or R5 inmates. This is based upon the assumption that R1 and R2 inmates have a relatively low likelihood of recidivating even without programming, and that programming is not likely to reduce the high likelihood that R5 inmates will recidivate.

⁵ In addition to other programming, the department provides the 100-Hour Transition Training Program required by s. 944.7065, F.S., for inmates who are within 12 months of their release.

The reentry facilities each have or will have a “portal of entry” in the community. This portal of entry is the designated release site for state, federal, and local jail inmates who are released to a particular county. The purpose of the portal of entry is to connect the released offender with needed services that have been identified during release planning and to help them with administrative requirements. Among other things, these services may include:

- Access to a clothing closet
- Food or meal vouchers
- Medical/disability assistance
- Assistance with employment
- Assistance with obtaining housing
- Mentoring
- Life skill training
- Felony registration
- Contact with community corrections staff if on community supervision

The portals of entry are cooperative efforts that involve the department, local law enforcement agencies, social service agencies, and community volunteers. Although they have not been operational long enough to calculate three-year recidivism rates, the department reports that a study of one-year recidivism at Baker Reentry Facility indicates some improvement over the recidivism rates before the facility was dedicated to the reentry process.

Community Work Release Centers

Work release is a transition program through which the department selects inmates to work at paid employment in the community while they serve the remainder of their sentence.⁶ The department is statutorily authorized to place an inmate in work release programs during the last 36 months of his or her sentence, but has limited that time to 14 months by rule. Inmates who are on work release have jobs in the community, but live at a non-secure correctional facility. Work release inmates are required to pay room and board and victim restitution, and to contribute to savings. The program is designed to give inmates a chance to enhance employment skills and to re-establish ties with family and the community prior to release.

The department currently has approximately 4,000 work release beds in work release facilities and transition facilities throughout the state. These are separate from the reentry facilities and from work camps, which are secure facilities under the administration of a parent correctional facility. There are four work release centers within the northwest Florida area encompassed by the bill. These are:

- Panama City Work Release Center (71 beds)
- Pensacola Work Release Center (84 beds)
- Tallahassee Work Release Center (121 beds)
- Shisa House West, a facility operated by a private provider in Tallahassee (32 beds)

Inmate Transportation at Work Release Centers

⁶ Work release is authorized by s. 945.091, F.S.

Section 945.091, F.S., specifies the means by which inmates who are in work release centers can travel to and from their jobs, educational programs, or training facilities. Such inmates can walk, bicycle, ride public transportation, or use transportation provided by a family member or employer. The statute also provides that, subject to specific appropriation, the department can transport an inmate in a state-owned vehicle if there is no other means of transportation. Section 945.0913, F.S., prohibits inmates from driving a state-owned vehicle to transport work-release inmates.

The department does not currently transport work release inmates. However, vendors who operate work release centers under contract with the department are permitted to transport inmates using vans driven by the vendor's staff.

Prior to 2003, the majority of work release inmates used department-provided transportation to travel to their places of employment. Inmate drivers were used for transporting these inmates prior to suspension of the inmate driver program in October of 2002 and subsequent enactment of Chapter 2003-141, Laws of Florida. The new law resulted in the current language in ss. 945.091, and 945.0913, F.S., that limits the methods by which work release inmates can travel.

III. Effect of Proposed Changes:

Community Reentry Program

Section 1 of the bill directs the department to develop an operational plan to implement a community reentry program for Fiscal Year 2013-2014. The program must be designed to provide residential care, custody, control, and reentry services to eligible inmates. Substance abuse treatment, housing assistance, money management training, employment assistance, vocational education, and life skills training are reentry services specifically required to be provided by the program.

The bill requires the department to consider all inmates who are within 36 months of their release date for participation in the program. Selection must be based on a risk assessment process that includes, but is not limited to, whether:

- The inmate has potential for rehabilitation and the need for reentry services;
- The reduction of risk of harm to the community after completion of the inmate's sentence which would result from his or her participation in the program is outweighed by any risk of harm to the community which would be posed by the inmate while participating in the program; and
- The inmate can be placed in the geographic area where he or she is from, or has family or identified friends, and intends to reside in the area upon release from custody.

These criteria appear to be consistent with the CINAS risk assessment tool and the Recidivism Index that the department currently uses for assessing and prioritizing reentry services.

An inmate who is selected for the program must be transferred into it not later than 24 months before his or her current release date. If the inmate is already within the 24 month window when selected, he or she must be transferred into the program as soon as a position is available.

The minimum requirements for the operational plan include description and documentation of:

- Resources needed for the program, including, but not limited to, specific buildings, grounds, and property that must be obtained or redesignated for residential community corrections facilities and reentry services.
- Placement of facilities and services in specific areas to maximize the opportunity for participating inmates to benefit from being located near where they plan to live after completion of their sentences.
- Additional staff or changes to staff qualifications necessary to operate the program.
- Contracts the program intends to use for private providers who desire to provide a portion of the reentry services and programming to eligible inmates.
- Security staffing, programming, and budgeting plans.
- The process and method for selecting an inmate to participate in the program, including any initial screening process, the criteria used in the risk assessment, and any prioritization of placement.
- Any changes in law that are necessary to implement the program.

The department is required to submit a status report and proposed budget request to the Governor, President of the Senate, and Speaker of the House of Representatives by December 1, 2012. The report must document the number of inmates that are intended to be served in Fiscal Year 2013-2014 and the funding needed to implement the plan.

Sections 2 and 3 of the bill amend s. 945.091, F.S., and repeal s. 945.0913, F.S., respectively, to remove statutory restrictions on the means by which work release center inmates travel to their jobs, school, or training. As a result, the department will have the flexibility to determine appropriate means of transportation. This is expected to result in increased opportunities for employment because many potential employers are not on public transportation routes or within walking or biking distance of work release centers.

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:

None.

C. Government Sector Impact:

The bill authorizes the Department of Corrections to develop an operational plan to implement a community reentry program. The bill requires the department to submit a status report and proposed legislative budget request for Fiscal Year 2013-2014 describing the resources needed to implement the program. The report and budget request are due by December 1, 2012. The operational plan must describe the facilities, staff, programming and other resources needed as well as any methods the department would use for selecting inmates to participate in the program. According to the department, there is no fiscal impact for development of the required operational plan, status report and legislative budget request.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Criminal Justice on February 16, 2012:**

Requires that the department develop an operational plan for a statewide community reentry program rather than a pilot program limited to the Panhandle area.

B. Amendments:

None.

By the Committees on Criminal Justice; and Criminal Justice

591-03547-12

20122096c1

A bill to be entitled

An act relating to community reentry programs;
 requiring the Department of Corrections to develop an
 operational plan to implement a community reentry
 program; requiring that the operational plan describe
 the necessary facilities, staff, budget, and methods
 for selecting inmates to participate in the reentry
 program; providing examples of reentry services;
 requiring that all inmates who are within 36 months of
 their release date be considered for participation in
 the community reentry program; providing criteria to
 assess the risk of placing an inmate in the reentry
 program; requiring that an inmate who is selected for
 participation in the reentry program be transferred
 into the program no later than 24 months before his or
 her release date; requiring that the department submit
 a report and proposed budget request to the Governor
 and Legislature by a specified date; amending s.
 945.091, F.S.; deleting a provision limiting the modes
 of transportation an inmate may use when traveling to
 and from his or her place of employment, education, or
 training; deleting a provision requiring a specific
 appropriation for the Department of Corrections to
 transport an inmate in a state-owned vehicle;
 repealing s. 945.0913, F.S., relating to a prohibition
 on the driving of inmates participating in a work-
 release program in state-owned vehicles; providing an
 effective date.

Page 1 of 5

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

591-03547-12

20122096c1

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

Section 1. Community reentry program.

(1) (a) The Department of Corrections shall develop an
 operational plan to implement a community reentry program for
 the 2013-2014 fiscal year.

(b) At a minimum, the operational plan for the program must
 describe and document:

1. The resources needed for the program, including, but not
 limited to, specific buildings, grounds, and property that must
 be obtained or redesignated for residential community reentry
 facilities and reentry services.

2. The placement of facilities and services in specific
 areas to maximize the opportunity for participating inmates to
 benefit from being located near where they plan to live after
 completion of their sentences.

3. The additional staff or changes to staff qualifications
 necessary to operate the program.

4. The contracts the program intends to use for private
 providers who desire to provide a portion of the reentry
 services and programming to eligible inmates.

5. The security staffing plan.

6. The programming plan.

7. The proposed budget.

8. The process and method for selecting an inmate to
 participate in the program, including any initial screening
 process, the criteria used in the risk assessment, and any
 prioritization of placement.

9. The changes in law that are necessary to implement the

Page 2 of 5

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

591-03547-12

20122096c1

59 program.

60 (2) (a) The program shall be designed to provide residential
 61 care, custody, control, and reentry services to eligible
 62 inmates.

63 (b) For the purpose of the program, the reentry services
 64 include, but are not limited to, substance abuse treatment,
 65 housing assistance, money management training, employment
 66 assistance, vocational education, and life skills training.

67 (3) All inmates who are within 36 months of their release
 68 date shall be considered for participation in the program. The
 69 selection shall be based upon a risk assessment process that
 70 includes, but is not limited to, whether:

71 (a) The inmate has potential for rehabilitation and the
 72 need for reentry services.

73 (b) The reduction of risk of harm to the community after
 74 completion of the inmate's sentence which would result from his
 75 or her participation in the program is outweighed by any risk of
 76 harm to the community which would be posed by the inmate while
 77 participating in the program.

78 (c) The inmate can be placed in the geographic area where
 79 he or she is from, or has family or identified friends, and
 80 intends to reside in the area upon release from custody.

81 (4) An inmate who is selected for participation must be
 82 transferred into the program not later than 24 months before his
 83 or her current release date. An inmate who is already within 24
 84 months of his or her current release date when selected must be
 85 placed into the program as soon as a position is available.

86 (5) The program may include an existing community work
 87 release program established pursuant to s. 945.091, Florida

591-03547-12

20122096c1

88 Statutes, as a service provider, but the existing program must
 89 provide enhanced reentry services to participating inmates.

90 Section 2. The Department of Corrections shall submit a
 91 status report and proposed budget request by December 1, 2012,
 92 to the Executive Office of the Governor, the President of the
 93 Senate, and the Speaker of the House of Representatives. The
 94 report must document the projected number of inmates to be
 95 served in the 2013-2014 fiscal year and the funding needed to
 96 implement the operational plan.

97 Section 3. Paragraph (b) of subsection (1) of section
 98 945.091, Florida Statutes, is amended to read:

99 945.091 Extension of the limits of confinement; restitution
 100 by employed inmates.-

101 (1) The department may adopt rules permitting the extension
 102 of the limits of the place of confinement of an inmate as to
 103 whom there is reasonable cause to believe that the inmate will
 104 honor his or her trust by authorizing the inmate, under
 105 prescribed conditions and following investigation and approval
 106 by the secretary, or the secretary's designee, who shall
 107 maintain a written record of such action, to leave the confines
 108 of that place unaccompanied by a custodial agent for a
 109 prescribed period of time to:

110 (b) Work at paid employment, participate in an education or
 111 a training program, or voluntarily serve a public or nonprofit
 112 agency or faith-based service group in the community, while
 113 continuing as an inmate of the institution or facility in which
 114 the inmate is confined, except during the hours of his or her
 115 employment, education, training, or service and traveling
 116 thereto and therefrom. ~~An inmate may travel to and from his or~~

591-03547-12

20122096c1

her place of employment, education, or training only by means of walking, bicycling, or using public transportation or transportation that is provided by a family member or employer. Contingent upon specific appropriations, the department may transport an inmate in a state-owned vehicle if the inmate is unable to obtain other means of travel to his or her place of employment, education, or training.

1. An inmate may participate in paid employment only during the last 36 months of his or her confinement, unless sooner requested by the Parole Commission or the Control Release Authority.

2. While working at paid employment and residing in the facility, an inmate may apply for placement at a contracted substance abuse transition housing program. The transition assistance specialist shall inform the inmate of program availability and assess the inmate's need and suitability for transition housing assistance. If an inmate is approved for placement, the specialist shall assist the inmate. If an inmate requests and is approved for placement in a contracted faith-based substance abuse transition housing program, the specialist must consult with the chaplain prior to such placement. The department shall ensure that an inmate's faith orientation, or lack thereof, will not be considered in determining admission to a faith-based program and that the program does not attempt to convert an inmate toward a particular faith or religious preference.

Section 4. Section 945.0913, Florida Statutes, is repealed.

Section 5. This act shall take effect July 1, 2012.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: CS/SB 1846

INTRODUCER: Criminal Justice Committee and Senator Evers

SUBJECT: Criminal Gang Prevention

DATE: February 14, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Fav/CS
2.	Sneed	Sadberry	BJA	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

The bill does the following to enhance criminal gang intervention and prevention:

- Increases the misdemeanor criminal penalties for specified trespassing offenses in school safety zones by a person convicted of gang-related offenses (becomes a first instead of a second degree misdemeanor);
- Increases the felony criminal penalties for intentionally causing, encouraging, soliciting, or recruiting a person under 13 years of age to become a gang member (becomes a second instead of a third degree felony, except if it is a second or subsequent recruiting conviction, it becomes a first degree felony);
- Authorizes a county or municipal detention facility to designate a person to be responsible for determining the gang status of inmates entering the facility as well as assessing inmates for gang activity or affiliation;
- Amends the criminal gang multiplier in s. 921.0024, F.S., so that the multiplier will be able to be applied with a finding by the judge (rather than the jury) that the defendant committed the offense for the purpose of benefitting, promoting, or furthering the interests of a criminal gang in instances where the lowest permissible sentence does not exceed the statutory maximum sentence for the offense; and

- Makes technical and conforming changes.

This bill substantially amends the following sections of the Florida Statutes: 810.0975, 874.05, 951.23, and 921.0024. Sections 435.04 and 921.0022 are amended to conform to changes made by the bill.

II. Present Situation:

School Safety Zones

A “school safety zone” is defined as being in, on, or within 500 feet of real property owned by or leased to any public or private elementary, middle, or high school or school board which is used for elementary, middle, or high school education.¹ Principals are required to notify law enforcement to prohibit persons who have no legitimate business or any other authorization from loitering in a school safety zone.²

Section 810.0975, F.S., criminalizes trespassing within a school safety zone or remaining there with no legitimate business between a certain time period as a misdemeanor offense. It is a second degree misdemeanor,³ during the school session and one hour before and after the school session, for a person to trespass within a school safety zone or to remain there when the person does not have legitimate business to conduct or any other authorization to be in the school safety zone.⁴

It is also a second degree misdemeanor for a person, with no legitimate business to conduct or having no other authorization within a school safety zone, to willfully fail to leave when requested to do so by the principal who has a reasonable belief that the person is going to commit a crime or intimidate or harass students within the school safety zone.⁵

Criminal Gang Enforcement and Prevention

Chapter 874, F.S., governs criminal gang enforcement and prevention, including in part, statutes that do the following: set forth definitions of criminal gangs, criminal gang-related activities, criminal gang member, and criminal gang associate; establish a statewide criminal gang database within the Florida Department of Law Enforcement (FDLE)⁶; provide enhanced penalties for gang-related offenses; and proscribe encouraging, soliciting, or recruiting criminal gang membership.⁷

¹ Section 810.0975(1), F.S.

² Section 810.0975(2)(a), F.S.

³ A second degree misdemeanor is punishable by potentially serving up to 60 days in county jail and paying up to \$500 in fines. Sections 775.082 and 775.083, F.S.

⁴ Section 810.0975(2)(b), F.S.

⁵ Section 810.0975(2)(c), F.S.

⁶ Pursuant to s. 874.09, F.S., the Florida Department of Law Enforcement manages a statewide criminal gang database where gang intelligence information is shared among all law enforcement agencies statewide. Information is entered into the database by local law enforcement agencies who, after carrying out any arrest of any individual whom they believe is a member or associate of a criminal gang, may create or update that individual’s electronic file within the database.

⁷ Sections 874.03, 874.09, 874.04, and 874.05, F.S.

Currently, it is a third degree felony⁸ for committing a first offense of intentionally causing, encouraging, soliciting, or recruiting another person to become a gang member if membership is dependent upon the commission or continued commission of any crime.⁹ This offense is ranked in Level 4 (22 sentencing points) of the offense severity ranking chart (ranking chart).¹⁰ However, the commission of this crime a second or subsequent time results in a second degree felony penalty,¹¹ ranked in Level 5 (28 sentencing points) of the ranking chart.

County and Municipal Detention Facilities

Section 951.23, F.S., includes the following as it relates to county and municipal detention facilities: definitions; authorization for an inmate commissary and welfare fund; prohibitions against violating jail rules; and model standards and requirements for sheriffs and chief correctional officers operating county and municipal detention facilities.¹² There is currently no statutory provision addressing gang prevention in a county or municipal detention facility.

Criminal Gang Offenses and the Sentencing Multiplier

Criminal offenses are ranked in the ranking chart from level one (least severe) to level ten (most severe) and are assigned points based on the severity of the offense. A defendant's sentence is calculated based on points, which are assigned for factors such as: the offense for which the defendant is being sentenced; victim injury; the defendant's prior record and other aggravating factors. The points are added in order to determine the "lowest permissible sentence" for the offense. The Criminal Punishment Code worksheet, found in s. 921.0024, F.S., is used to compute a defendant's total sentence points.

The Criminal Punishment Code worksheet contains a variety of sentencing multipliers that act to multiply a defendant's sentencing points by a certain number, thereby increasing the defendant's lowest permissible sentence. The worksheet currently contains a criminal gang multiplier that multiplies a defendant's sentence points by 1.5 if the defendant committed the offense for the purpose of benefitting, promoting, or furthering the interests of a criminal gang as prohibited under s. 874.04, F.S.

Section 874.04, F.S., provides that upon a finding by the factfinder that a defendant committed the charged offense for the purpose of benefitting, promoting, or furthering the interests of a criminal gang, the penalty for such offense can be enhanced. The statute specifies the extent to

⁸ A third degree felony is punishable by potentially serving up to five years in prison and paying up to \$5,000 in fines. Sections 775.082 and 775.083, F.S.

⁹ Section 874.05(1), F.S.

¹⁰ Criminal offenses are ranked in the "offense severity ranking chart" from level one (least severe) to level ten (most severe) and are assigned points based on the severity of the offense. A defendant's sentence is calculated based on points, which are assigned for factors including: the offense for which the defendant is being sentenced; victim injury; the defendant's prior record and other aggravating factors. The points are added in order to determine the "lowest permissible sentence" for the offense. If the total sentence points equals or is less than 44 points, the lowest permissible sentence is a non-state prison sanction (i.e., jail). If the total sentence points exceed 44 points, a prison sentence is the lowest permissible sentence.

¹¹ Section 874.05(2), F.S. A second degree felony is punishable by potentially serving up to 15 years in prison and paying up to \$10,000 in fines. Sections 775.082 and 775.083, F.S.

¹² Section 951.23(1), (4), (9), (10), F.S.

which such enhancement can be made and mandates each of the findings required as a basis for such enhancement to be found beyond a reasonable doubt.

As noted above, the criminal gang multiplier in the worksheet multiplies a defendant's sentence points by 1.5 if the defendant committed the offense for the purpose of benefitting, promoting, or furthering the interests of a criminal gang *as prohibited under s. 874.04, F.S.* Section 874.04, F.S., requires the factfinder (i.e., the jury) to find that a defendant committed the offense for such purposes. This limits the instances in which the criminal gang multiplier can be used to those instances in which the jury has made the required finding. If the reference to s. 874.04, F.S., were removed from the multiplier, a *judge* could make the required finding so long as the lowest permissible sentence does not exceed the statutory maximum sentence for the charged offense.¹³

III. Effect of Proposed Changes:

School Safety Zones

The bill enhances criminal penalties from a second degree misdemeanor to a first degree misdemeanor¹⁴ if a person trespasses or remains with no legitimate business to conduct or willfully fails to leave when requested to do so by the principal within a school safety zone and such person has previously been convicted of a gang-related offense under s. 874, F.S.

Criminal Gang Enforcement and Prevention

The bill also enhances criminal penalties for intentionally causing, encouraging, soliciting, or recruiting a person younger than 13 years of age to become a gang member. The penalty goes from a third degree felony to a second degree felony,¹⁵ unless it is the second or subsequent violation. If it is a second or subsequent violation of recruiting a gang member, it becomes a first degree felony¹⁶ rather than a second degree felony under the bill.

County and Municipal Detention Facilities

The bill adds a subsection to s. 951.23, F.S., authorizing a county or municipal detention facility to designate a person to be responsible for determining the gang status of inmates entering the facility as well as assessing inmates for gang activity or affiliation. Gang status and assessment are to be conducted using the criteria found in s. 874.03, F.S., which defines a criminal gang member, a criminal gang associate, and criminal gang-related activity. The bill also provides that such designated person should at least once every two weeks reconcile information with the arresting law enforcement agency and the statewide criminal gang database within FDLE.

¹³ See *Mathew v. State*, 837 So.2d 1167 (Fla. 4th DCA 2003); *Apprendi v. New Jersey*, 530 U.S. 466 (2000).

¹⁴ A first degree misdemeanor is punishable by potentially serving up to one year in jail and paying up to \$1,000 in fines. Sections 775.082 and 775.083, F.S.

¹⁵ See *supra* note 11.

¹⁶ A first degree felony is punishable by potentially serving up to 30 years in prison and paying up to \$10,000 in fines. Sections 775.082 and 775.083, F.S.

Criminal Gang-Related Offenses and Sentencing Multipliers

The bill amends the criminal gang multiplier in s. 921.0024, F.S., to specify that a defendant's sentence points are multiplied by 1.5 if the defendant committed the offense for the purpose of benefitting, promoting, or furthering the interests of a criminal gang *as defined in s. 874.03, F.S.* As a result, the multiplier will be able to be applied without a finding by *the jury* that the defendant committed the offense for the purposes of benefitting, promoting, or furthering the interests of a criminal gang so long as the lowest permissible sentence does not exceed the statutory maximum sentence for the offense.

Miscellaneous

The bill also makes some technical and conforming changes by revising the level 2 screening standards in s. 435.04, F.S., and the Criminal Punishment Code in s. 921.0975, F.S.

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:

Persons who trespass or remain with no legitimate business within a school safety zone and have a prior conviction for a gang-related offense are subject to a first degree misdemeanor penalty (serving up to potentially one year in jail and paying up to \$1,000 in fines).

Persons who intentionally recruit someone younger than 13 to become a gang member are subject to a second degree felony (serving up to potentially 15 years in prison and paying up to \$10,000 in fines), unless it is a second or subsequent offense. If it is a second or subsequent offense, it becomes a first degree felony, punishable by serving up to potentially 30 years in prison and paying up to \$10,000 in fines.

C. Government Sector Impact:

The Criminal Justice Impact Conference met on January 30, 2012 and found that this bill will have an insignificant impact on prison beds.

Enhancing the misdemeanor penalty from a second to a first degree misdemeanor may result in a fiscal impact upon local jails because of increased incarceration.

A local law enforcement agency choosing to designate a person within its county or municipal detention facility to monitor gang activity may incur some additional expenses, but the bill does not mandate this requirement on any agency.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Criminal Justice on February 9, 2012:**

Clarifies that the criminal gang multiplier may only be applied when the lowest permissible sentence does not exceed the statutory maximum sentence for the charged offense.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senator Evers

591-03231-12

20121846c1

A bill to be entitled

An act relating to criminal gang prevention; amending s. 810.0975, F.S.; providing enhanced criminal penalties for certain trespassing offenses in school safety zones by a person convicted of certain gang-related offenses; amending s. 874.05, F.S.; providing enhanced criminal penalties for a person who intentionally causes, encourages, solicits, or recruits another person under a specified age to become a criminal gang member in certain circumstances; amending s. 951.23, F.S.; authorizing county and municipal detention facilities to designate an individual to be responsible for determining the gang status of each inmate entering the facility and to assess each current inmate for gang activity or gang affiliation; providing duties of such individuals; amending ss. 435.04 and 921.0022, F.S.; conforming cross-references and assigning offense severity rankings for violations of s. 874.05, F.S.; amending s. 921.0024, F.S.; revising the criteria for application of the sentencing multiplier for offenses related to criminal gangs; providing an effective date.

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

Section 1. Section 810.0975, Florida Statutes, is amended to read:

810.0975 School safety zones; definition; trespass

Page 1 of 35

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

591-03231-12

20121846c1

prohibited; penalty.—

(1) For the purposes of this section, the term “school safety zone” means in, on, or within 500 feet of any real property owned by or leased to any public or private elementary, middle, or high school or school board and used for elementary, middle, or high school education.

(2) (a) Each principal or designee of each public or private school in this state shall notify the appropriate law enforcement agency to prohibit any person from loitering in the school safety zone who does not have legitimate business in the school safety zone or any other authorization, or license to enter or remain in the school safety zone or does not otherwise have invitee status in the designated safety zone.

(b) 1. During the period from 1 hour prior to the start of a school session until 1 hour after the conclusion of a school session, it is unlawful for any person to enter the premises or trespass within a school safety zone or to remain on such premises or within such school safety zone when that person does not have legitimate business in the school safety zone or any other authorization, license, or invitation to enter or remain in the school safety zone.

2.a. Except as provided in sub-subparagraph b., a ~~Any~~ person who violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

b. A person who violates this subsection and who has been previously convicted of any offense contained in chapter 874 commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Page 2 of 35

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

591-03231-12

20121846c1

59 (c)1. Except as provided in subparagraph 2., a ~~Any~~ person
 60 who does not have legitimate business in the school safety zone
 61 or any other authorization, license, or invitation to enter or
 62 remain in the school safety zone who shall willfully fail to
 63 remove himself or herself from the school safety zone after the
 64 principal or designee, having a reasonable belief that he or she
 65 will commit a crime or is engaged in harassment or intimidation
 66 of students entering or leaving school property, requests him or
 67 her to leave the school safety zone commits a misdemeanor of the
 68 second degree, punishable as provided in s. 775.082 or s.
 69 775.083.

70 2. A person who violates subparagraph 1. and who has been
 71 previously convicted of any offense contained in chapter 874
 72 commits a misdemeanor of the first degree, punishable as
 73 provided in s. 775.082 or s. 775.083.

74 (3) Nothing in This section does not ~~shall be construed to~~
 75 ~~abridge or infringe upon the right of any person to peaceably~~
 76 ~~assemble and protest.~~

77 (4)(3) This section does not apply to residents or persons
 78 engaged in the operation of a licensed commercial business
 79 within the school safety zone.

80 Section 2. Section 874.05, Florida Statutes, is amended to
 81 read:

82 874.05 Causing, encouraging, soliciting, or recruiting
 83 criminal gang membership.—

84 (1)(a) Except as provided in paragraph (b) ~~subsection (2)~~,
 85 a person who intentionally causes, encourages, solicits, or
 86 recruits another person to become a criminal gang member where a
 87 condition of membership or continued membership is the

591-03231-12

20121846c1

88 commission of any crime commits a felony of the third degree,
 89 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

90 (b)(2) A person who commits a second or subsequent
 91 violation of this subsection commits a felony of the second
 92 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 93 775.084.

94 (2)(a) Except as provided in paragraph (b), a person who
 95 intentionally causes, encourages, solicits, or recruits another
 96 person under 13 years of age to become a criminal gang member
 97 where a condition of membership or continued membership is the
 98 commission of any crime commits a felony of the second degree,
 99 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

100 (b) A person who commits a second or subsequent violation
 101 of this subsection commits a felony of the first degree,
 102 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

103 Section 3. Subsection (11) is added to section 951.23,
 104 Florida Statutes, to read:

105 951.23 County and municipal detention facilities;
 106 definitions; administration; standards and requirements.—

107 (11) GANG STATUS OF INMATES.—A county or municipal
 108 detention facility may designate an individual to be responsible
 109 for determining the gang status of each inmate entering the
 110 facility using the criteria in s. 874.03 and assess each current
 111 inmate for any gang activity or gang affiliation using those
 112 criteria. The individual should at least once biweekly reconcile
 113 information with the arresting law enforcement agency and the
 114 statewide criminal gang database.

115 Section 4. Paragraph (qq) of subsection (2) of section
 116 435.04, Florida Statutes, is amended to read:

591-03231-12 20121846c1

117 435.04 Level 2 screening standards.-
 118 (2) The security background investigations under this
 119 section must ensure that no persons subject to the provisions of
 120 this section have been arrested for and are awaiting final
 121 disposition of, have been found guilty of, regardless of
 122 adjudication, or entered a plea of nolo contendere or guilty to,
 123 or have been adjudicated delinquent and the record has not been
 124 sealed or expunged for, any offense prohibited under any of the
 125 following provisions of state law or similar law of another
 126 jurisdiction:

127 (qq) Section 874.05~~(1)~~, relating to encouraging or
 128 recruiting another to join a criminal gang.

129 Section 5. Paragraphs (d), (e), and (g) of subsection (3)
 130 of section 921.0022, Florida Statutes, are amended to read:

131 921.0022 Criminal Punishment Code; offense severity ranking
 132 chart.-

133 (3) OFFENSE SEVERITY RANKING CHART

134 (d) LEVEL 4

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 pedigree papers.

591-03231-12 20121846c1

137 499.0051(2) 3rd Failure to authenticate pedigree papers.
 138 499.0051(6) 2nd Knowing sale or delivery, or possession
 with intent to sell, contraband
 prescription drugs.
 139 784.07(2) (b) 3rd Battery of law enforcement officer,
 firefighter, etc.
 140 784.074(1) (c) 3rd Battery of sexually violent predators
 facility staff.
 141 784.075 3rd Battery on detention or commitment
 facility staff.
 142 784.078 3rd Battery of facility employee by
 throwing, tossing, or expelling certain
 fluids or materials.
 143 784.08(2) (c) 3rd Battery on a person 65 years of age or
 older.
 144 784.081(3) 3rd Battery on specified official or
 employee.
 145 784.082(3) 3rd Battery by detained person on visitor or
 other detainee.
 146

591-03231-12 20121846c1

147 784.083(3) 3rd Battery on code inspector.

784.085 3rd Battery of child by throwing, tossing,
projecting, or expelling certain fluids
or materials.

148 787.03(1) 3rd Interference with custody; wrongly takes
minor from appointed guardian.

149 787.04(2) 3rd Take, entice, or remove child beyond
state limits with criminal intent
pending custody proceedings.

150 787.04(3) 3rd Carrying child beyond state lines with
criminal intent to avoid producing child
at custody hearing or delivering to
designated person.

151 790.115(1) 3rd Exhibiting firearm or weapon within
1,000 feet of a school.

152 790.115(2)(b) 3rd Possessing electric weapon or device,
destructive device, or other weapon on
school property.

153 790.115(2)(c) 3rd Possessing firearm on school property.

154 800.04(7)(c) 3rd Lewd or lascivious exhibition; offender
less than 18 years.

591-03231-12 20121846c1

155 810.02(4)(a) 3rd Burglary, or attempted burglary, of an
unoccupied structure; unarmed; no
assault or battery.

156 810.02(4)(b) 3rd Burglary, or attempted burglary, of an
unoccupied conveyance; unarmed; no
assault or battery.

157 810.06 3rd Burglary; possession of tools.

158 810.08(2)(c) 3rd Trespass on property, armed with firearm
or dangerous weapon.

159 812.014(2)(c)3. 3rd Grand theft, 3rd degree \$10,000 or more
but less than \$20,000.

160 812.014 3rd Grand theft, 3rd degree, a will,
(2)(c)4.-10. firearm, motor vehicle, livestock, etc.

161 812.0195(2) 3rd Dealing in stolen property by use of the
Internet; property stolen \$300 or more.

162 817.563(1) 3rd Sell or deliver substance other than
controlled substance agreed upon,
excluding s. 893.03(5) drugs.

163 817.568(2)(a) 3rd Fraudulent use of personal
identification information.

591-03231-12 20121846c1

164 817.625(2)(a) 3rd Fraudulent use of scanning device or
reencoder.

165 828.125(1) 2nd Kill, maim, or cause great bodily harm
or permanent breeding disability to any
registered horse or cattle.

166 837.02(1) 3rd Perjury in official proceedings.

167 837.021(1) 3rd Make contradictory statements in
official proceedings.

168 838.022 3rd Official misconduct.

169 839.13(2)(a) 3rd Falsifying records of an individual in
the care and custody of a state agency.

170 839.13(2)(c) 3rd Falsifying records of the Department of
Children and Family Services.

171 843.021 3rd Possession of a concealed handcuff key
by a person in custody.

172 843.025 3rd Deprive law enforcement, correctional,
or correctional probation officer of
means of protection or communication.

173 843.15(1)(a) 3rd Failure to appear while on bail for

591-03231-12 20121846c1

felony (bond estreature or bond
jumping).

174 847.0135(5)(c) 3rd Lewd or lascivious exhibition using
computer; offender less than 18 years.

175 874.05(1)(a) 3rd Encouraging or recruiting another to
join a criminal gang.

176 893.13(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).

177 914.14(2) 3rd Witnesses accepting bribes.

178 914.22(1) 3rd Force, threaten, etc., witness, victim,
or informant.

179 914.23(2) 3rd Retaliation against a witness, victim,
or informant, no bodily injury.

180 918.12 3rd Tampering with jurors.

181 934.215 3rd Use of two-way communications device to
facilitate commission of a crime.

182 (e) LEVEL 5

183 Florida Felony
Statute Degree Description

591-03231-12 20121846c1

184 316.027(1)(a) 3rd Accidents involving personal injuries,
failure to stop; leaving scene.

185 316.1935(4)(a) 2nd Aggravated fleeing or eluding.

186 322.34(6) 3rd Careless operation of motor vehicle with
suspended license, resulting in death or
serious bodily injury.

187 327.30(5) 3rd Vessel accidents involving personal
injury; leaving scene.

188 381.0041(11)(b) 3rd Donate blood, plasma, or organs knowing
HIV positive.

189 440.10(1)(g) 2nd Failure to obtain workers' compensation
coverage.

190 440.105(5) 2nd Unlawful solicitation for the purpose of
making workers' compensation claims.

191 440.381(2) 2nd Submission of false, misleading, or
incomplete information with the purpose
of avoiding or reducing workers'
compensation premiums.

192 624.401(4)(b)2. 2nd Transacting insurance without a
certificate or authority; premium

591-03231-12 20121846c1

193 collected \$20,000 or more but less than
\$100,000.

626.902(1)(c) 2nd Representing an unauthorized insurer;
repeat offender.

194 790.01(2) 3rd Carrying a concealed firearm.

195 790.162 2nd Threat to throw or discharge destructive
device.

196 790.163(1) 2nd False report of deadly explosive or
weapon of mass destruction.

197 790.221(1) 2nd Possession of short-barreled shotgun or
machine gun.

198 790.23 2nd Felons in possession of firearms,
ammunition, or electronic weapons or
devices.

199 800.04(6)(c) 3rd Lewd or lascivious conduct; offender
less than 18 years.

200 800.04(7)(b) 2nd Lewd or lascivious exhibition; offender
18 years or older.

201 806.111(1) 3rd Possess, manufacture, or dispense fire
bomb with intent to damage any structure

591-03231-12 20121846c1

or property.

812.0145(2) (b) 2nd Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.

812.015(8) 3rd Retail theft; property stolen is valued at \$300 or more and one or more specified acts.

812.019(1) 2nd Stolen property; dealing in or trafficking in.

812.131(2) (b) 3rd Robbery by sudden snatching.

812.16(2) 3rd Owning, operating, or conducting a chop shop.

817.034(4) (a) 2. 2nd Communications fraud, value \$20,000 to \$50,000.

817.234(11) (b) 2nd Insurance fraud; property value \$20,000 or more but less than \$100,000.

817.2341(1), 3rd Filing false financial statements, (2) (a) & making false entries of material fact or (3) (a) false statements regarding property values relating to the solvency of an insuring entity.

591-03231-12 20121846c1

817.568(2) (b) 2nd Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more individuals.

817.625(2) (b) 2nd Second or subsequent fraudulent use of scanning device or reencoder.

825.1025(4) 3rd Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

827.071(4) 2nd Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.

827.071(5) 3rd Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.

839.13(2) (b) 2nd Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.

591-03231-12 20121846c1

216 843.01 3rd Resist officer with violence to person;
resist arrest with violence.

217 847.0135(5)(b) 2nd Lewd or lascivious exhibition using
computer; offender 18 years or older.

218 847.0137 3rd Transmission of pornography by
(2) & (3) electronic device or equipment.

219 847.0138 3rd Transmission of material harmful to
(2) & (3) minors to a minor by electronic device
or equipment.

220 874.05(1)(b) 2nd Encouraging or recruiting another to
~~874.05(2)~~ join a criminal gang; second or
subsequent offense.

221 874.05(2)(a) 2nd Encouraging or recruiting person under
13 to join a criminal gang.

222 893.13(1)(a)1. 2nd Sell, manufacture, or deliver cocaine
(or other s. 893.03(1)(a), (1)(b),
(1)(d), (2)(a), (2)(b), or (2)(c)4.
drugs).

223 893.13(1)(c)2. 2nd Sell, manufacture, or deliver cannabis
(or other s. 893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,

591-03231-12 20121846c1

(2)(c)7., (2)(c)8., (2)(c)9., (3), or
(4) drugs) within 1,000 feet of a child
care facility, school, or state, county,
or municipal park or publicly owned
recreational facility or community
center.

224 893.13(1)(d)1. 1st Sell, manufacture, or deliver cocaine
(or other s. 893.03(1)(a), (1)(b),
(1)(d), (2)(a), (2)(b), or (2)(c)4.
drugs) within 1,000 feet of university.

225 893.13(1)(e)2. 2nd Sell, manufacture, or deliver cannabis
or other drug prohibited under s.
893.03(1)(c), (2)(c)1., (2)(c)2.,
(2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7.,
(2)(c)8., (2)(c)9., (3), or (4) within
1,000 feet of property used for
religious services or a specified
business site.

226 893.13(1)(f)1. 1st Sell, manufacture, or deliver cocaine
(or other s. 893.03(1)(a), (1)(b),
(1)(d), or (2)(a), (2)(b), or (2)(c)4.
drugs) within 1,000 feet of public
housing facility.

227 893.13(4)(b) 2nd Deliver to minor cannabis (or other s.
893.03(1)(c), (2)(c)1., (2)(c)2.,

591-03231-12 20121846c1
 (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7.,
 (2) (c) 8., (2) (c) 9., (3), or (4) drugs).

228 893.1351(1) 3rd Ownership, lease, or rental for
 trafficking in or manufacturing of
 controlled substance.

229 (g) LEVEL 7

230 Florida Felony
 Statute Degree Description

231 316.027(1)(b) 1st Accident involving death, failure to
 stop; leaving scene.

232 316.193(3)(c)2. 3rd DUI resulting in serious bodily injury.

233 316.1935(3)(b) 1st Causing serious bodily injury or death
 to another person; driving at high
 speed or with wanton disregard for
 safety while fleeing or attempting to
 elude law enforcement officer who is in
 a patrol vehicle with siren and lights
 activated.

234 327.35(3)(c)2. 3rd Vessel BUI resulting in serious bodily
 injury.

235 402.319(2) 2nd Misrepresentation and negligence or
 intentional act resulting in great

591-03231-12 20121846c1
 bodily harm, permanent disfiguration,
 permanent disability, or death.

236 409.920 3rd Medicaid provider fraud; \$10,000 or
 (2)(b)1.a. less.

237 409.920 2nd Medicaid provider fraud; more than
 (2)(b)1.b. \$10,000, but less than \$50,000.

238 456.065(2) 3rd Practicing a health care profession
 without a license.

239 456.065(2) 2nd Practicing a health care profession
 without a license which results in
 serious bodily injury.

240 458.327(1) 3rd Practicing medicine without a license.

241 459.013(1) 3rd Practicing osteopathic medicine without
 a license.

242 460.411(1) 3rd Practicing chiropractic medicine
 without a license.

243 461.012(1) 3rd Practicing podiatric medicine without a
 license.

244 462.17 3rd Practicing naturopathy without a
 license.

591-03231-12 20121846c1

245 463.015(1) 3rd Practicing optometry without a license.

246 464.016(1) 3rd Practicing nursing without a license.

247 465.015(2) 3rd Practicing pharmacy without a license.

248 466.026(1) 3rd Practicing dentistry or dental hygiene
without a license.

249 467.201 3rd Practicing midwifery without a license.

250 468.366 3rd Delivering respiratory care services
without a license.

251 483.828(1) 3rd Practicing as clinical laboratory
personnel without a license.

252 483.901(9) 3rd Practicing medical physics without a
license.

253 484.013(1)(c) 3rd Preparing or dispensing optical devices
without a prescription.

254 484.053 3rd Dispensing hearing aids without a
license.

255 494.0018(2) 1st Conviction of any violation of ss.
494.001-494.0077 in which the total

Page 19 of 35

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

591-03231-12 20121846c1

money and property unlawfully obtained
exceeded \$50,000 and there were five or
more victims.

256 560.123(8)(b)1. 3rd Failure to report currency or payment
instruments exceeding \$300 but less
than \$20,000 by a money services
business.

257 560.125(5)(a) 3rd Money services business by unauthorized
person, currency or payment instruments
exceeding \$300 but less than \$20,000.

258 655.50(10)(b)1. 3rd Failure to report financial
transactions exceeding \$300 but less
than \$20,000 by financial institution.

259 775.21(10)(a) 3rd Sexual predator; failure to register;
failure to renew driver's license or
identification card; other registration
violations.

260 775.21(10)(b) 3rd Sexual predator working where children
regularly congregate.

261 775.21(10)(g) 3rd Failure to report or providing false
information about a sexual predator;
harbor or conceal a sexual predator.

262

Page 20 of 35

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

591-03231-12 20121846c1

782.051(3) 2nd Attempted felony murder of a person by
a person other than the perpetrator or
the perpetrator of an attempted felony.

782.07(1) 2nd Killing of a human being by the act,
procurement, or culpable negligence of
another (manslaughter).

782.071 2nd Killing of a human being or viable
fetus by the operation of a motor
vehicle in a reckless manner (vehicular
homicide).

782.072 2nd Killing of a human being by the
operation of a vessel in a reckless
manner (vessel homicide).

784.045(1)(a)1. 2nd Aggravated battery; intentionally
causing great bodily harm or
disfigurement.

784.045(1)(a)2. 2nd Aggravated battery; using deadly
weapon.

784.045(1)(b) 2nd Aggravated battery; perpetrator aware
victim pregnant.

784.048(4) 3rd Aggravated stalking; violation of
injunction or court order.

591-03231-12 20121846c1

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

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

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

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

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

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

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

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

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

790.165(2) 2nd Manufacture, sell, possess, or deliver

591-03231-12 20121846c1
 280 hoax bomb.
 790.165(3) 2nd Possessing, displaying, or threatening
 281 to use any hoax bomb while committing
 or attempting to commit a felony.
 790.166(3) 2nd Possessing, selling, using, or
 282 attempting to use a hoax weapon of mass
 destruction.
 790.166(4) 2nd Possessing, displaying, or threatening
 283 to use a hoax weapon of mass
 destruction while committing or
 attempting to commit a felony.
 790.23 1st,PBL Possession of a firearm by a person who
 284 qualifies for the penalty enhancements
 provided for in s. 874.04.
 794.08(4) 3rd Female genital mutilation; consent by a
 285 parent, guardian, or a person in
 custodial authority to a victim younger
 than 18 years of age.
 796.03 2nd Procuring any person under 16 years for
 286 prostitution.
 800.04(5)(c)1. 2nd Lewd or lascivious molestation; victim
 less than 12 years of age; offender

Page 23 of 35

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

591-03231-12 20121846c1
 287 less than 18 years.
 800.04(5)(c)2. 2nd Lewd or lascivious molestation; victim
 288 12 years of age or older but less than
 16 years; offender 18 years or older.
 806.01(2) 2nd Maliciously damage structure by fire or
 289 explosive.
 810.02(3)(a) 2nd Burglary of occupied dwelling; unarmed;
 290 no assault or battery.
 810.02(3)(b) 2nd Burglary of unoccupied dwelling;
 291 unarmed; no assault or battery.
 810.02(3)(d) 2nd Burglary of occupied conveyance;
 292 unarmed; no assault or battery.
 810.02(3)(e) 2nd Burglary of authorized emergency
 293 vehicle.
 812.014(2)(a)1. 1st Property stolen, valued at \$100,000 or
 more or a semitrailer deployed by a law
 enforcement officer; property stolen
 while causing other property damage;
 1st degree grand theft.
 812.014(2)(b)2. 2nd Property stolen, cargo valued at less
 294 than \$50,000, grand theft in 2nd

Page 24 of 35

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

591-03231-12 20121846c1

295 degree.

812.014(2)(b)3. 2nd Property stolen, emergency medical
equipment; 2nd degree grand theft.

296 812.014(2)(b)4. 2nd Property stolen, law enforcement
equipment from authorized emergency
vehicle.

297 812.0145(2)(a) 1st Theft from person 65 years of age or
older; \$50,000 or more.

298 812.019(2) 1st Stolen property; initiates, organizes,
plans, etc., the theft of property and
traffics in stolen property.

299 812.131(2)(a) 2nd Robbery by sudden snatching.

300 812.133(2)(b) 1st Carjacking; no firearm, deadly weapon,
or other weapon.

301 817.234(8)(a) 2nd Solicitation of motor vehicle accident
victims with intent to defraud.

302 817.234(9) 2nd Organizing, planning, or participating
in an intentional motor vehicle
collision.

303 817.234(11)(c) 1st Insurance fraud; property value

Page 25 of 35

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

591-03231-12 20121846c1

304 \$100,000 or more.

817.2341 1st Making false entries of material fact
(2)(b) & or false statements regarding property
(3)(b) values relating to the solvency of an
insuring entity which are a significant
cause of the insolvency of that entity.

305 825.102(3)(b) 2nd Neglecting an elderly person or
disabled adult causing great bodily
harm, disability, or disfigurement.

306 825.103(2)(b) 2nd Exploiting an elderly person or
disabled adult and property is valued
at \$20,000 or more, but less than
\$100,000.

307 827.03(3)(b) 2nd Neglect of a child causing great bodily
harm, disability, or disfigurement.

308 827.04(3) 3rd Impregnation of a child under 16 years
of age by person 21 years of age or
older.

309 837.05(2) 3rd Giving false information about alleged
capital felony to a law enforcement
officer.

310 838.015 2nd Bribery.

Page 26 of 35

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

591-03231-12 20121846c1

311 838.016 2nd Unlawful compensation or reward for
official behavior.

312 838.021(3)(a) 2nd Unlawful harm to a public servant.

313 838.22 2nd Bid tampering.

314 847.0135(3) 3rd Solicitation of a child, via a computer
service, to commit an unlawful sex act.

315 847.0135(4) 2nd Traveling to meet a minor to commit an
unlawful sex act.

316 872.06 2nd Abuse of a dead human body.

317 874.05(2)(b) 1st Encouraging or recruiting person under
13 to join a criminal gang; second or
subsequent offense.

318 874.10 1st,PBL Knowingly initiates, organizes, plans,
finances, directs, manages, or
supervises criminal gang-related
activity.

319 893.13(1)(c)1. 1st Sell, manufacture, or deliver cocaine
(or other drug prohibited under s.
893.03(1)(a), (1)(b), (1)(d), (2)(a),
(2)(b), or (2)(c)4.) within 1,000 feet

591-03231-12 20121846c1

of a child care facility, school, or
state, county, or municipal park or
publicly owned recreational facility or
community center.

320 893.13(1)(e)1. 1st Sell, manufacture, or deliver cocaine
or other drug prohibited under s.
893.03(1)(a), (1)(b), (1)(d), (2)(a),
(2)(b), or (2)(c)4., within 1,000 feet
of property used for religious services
or a specified business site.

321 893.13(4)(a) 1st Deliver to minor cocaine (or other s.
893.03(1)(a), (1)(b), (1)(d), (2)(a),
(2)(b), or (2)(c)4. drugs).

322 893.135(1)(a)1. 1st Trafficking in cannabis, more than 25
lbs., less than 2,000 lbs.

323 893.135 1st Trafficking in cocaine, more than 28
(1)(b)1.a. grams, less than 200 grams.

324 893.135 1st Trafficking in illegal drugs, more than
(1)(c)1.a. 4 grams, less than 14 grams.

325 893.135(1)(d)1. 1st Trafficking in phencyclidine, more than
28 grams, less than 200 grams.

326 893.135(1)(e)1. 1st Trafficking in methaqualone, more than

591-03231-12 20121846c1

327 200 grams, less than 5 kilograms.

893.135(1)(f)1. 1st Trafficking in amphetamine, more than
328 14 grams, less than 28 grams.

893.135 1st Trafficking in flunitrazepam, 4 grams
329 (1)(g)1.a. or more, less than 14 grams.

893.135 1st Trafficking in gamma-hydroxybutyric
330 (1)(h)1.a. acid (GHB), 1 kilogram or more, less
than 5 kilograms.

893.135 1st Trafficking in 1,4-Butanediol, 1
331 (1)(j)1.a. kilogram or more, less than 5
kilograms.

893.135 1st Trafficking in Phenethylamines, 10
332 (1)(k)2.a. grams or more, less than 200 grams.

893.1351(2) 2nd Possession of place for trafficking in
333 or manufacturing of controlled
substance.

896.101(5)(a) 3rd Money laundering, financial
334 transactions exceeding \$300 but less
than \$20,000.

896.104(4)(a)1. 3rd Structuring transactions to evade
reporting or registration requirements,

591-03231-12 20121846c1

335 financial transactions exceeding \$300
but less than \$20,000.

943.0435(4)(c) 2nd Sexual offender vacating permanent
336 residence; failure to comply with
reporting requirements.

943.0435(8) 2nd Sexual offender; remains in state after
337 indicating intent to leave; failure to
comply with reporting requirements.

943.0435(9)(a) 3rd Sexual offender; failure to comply with
338 reporting requirements.

943.0435(13) 3rd Failure to report or providing false
information about a sexual offender;
339 harbor or conceal a sexual offender.

943.0435(14) 3rd Sexual offender; failure to report and
reregister; failure to respond to
340 address verification.

944.607(9) 3rd Sexual offender; failure to comply with
341 reporting requirements.

944.607(10)(a) 3rd Sexual offender; failure to submit to
342 the taking of a digitized photograph.

944.607(12) 3rd Failure to report or providing false

591-03231-12 20121846c1

information about a sexual offender;
harbor or conceal a sexual offender.

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

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

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

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

Section 6. Paragraph (b) of subsection (1) of section
921.0024, Florida Statutes, is amended to read:

921.0024 Criminal Punishment Code; worksheet computations;
scoresheets.—

(1)

(b) WORKSHEET KEY:

Legal status points are assessed when any form of legal status
existed at the time the offender committed an offense before the
court for sentencing. Four (4) sentence points are assessed for
an offender's legal status.

591-03231-12 20121846c1

Community sanction violation points are assessed when a
community sanction violation is before the court for sentencing.
Six (6) sentence points are assessed for each community sanction
violation and each successive community sanction violation,
unless any of the following apply:

1. If the community sanction violation includes a new
felony conviction before the sentencing court, twelve (12)
community sanction violation points are assessed for the
violation, and for each successive community sanction violation
involving a new felony conviction.

2. If the community sanction violation is committed by a
violent felony offender of special concern as defined in s.
948.06:

a. Twelve (12) community sanction violation points are
assessed for the violation and for each successive violation of
felony probation or community control where:

(I) The violation does not include a new felony conviction;
and

(II) The community sanction violation is not based solely
on the probationer or offender's failure to pay costs or fines
or make restitution payments.

b. Twenty-four (24) community sanction violation points are
assessed for the violation and for each successive violation of
felony probation or community control where the violation
includes a new felony conviction.

Multiple counts of community sanction violations before the
sentencing court shall not be a basis for multiplying the

591-03231-12 20121846c1

388 assessment of community sanction violation points.

389

390 Prior serious felony points: If the offender has a primary
391 offense or any additional offense ranked in level 8, level 9, or
392 level 10, and one or more prior serious felonies, a single
393 assessment of thirty (30) points shall be added. For purposes of
394 this section, a prior serious felony is an offense in the
395 offender's prior record that is ranked in level 8, level 9, or
396 level 10 under s. 921.0022 or s. 921.0023 and for which the
397 offender is serving a sentence of confinement, supervision, or
398 other sanction or for which the offender's date of release from
399 confinement, supervision, or other sanction, whichever is later,
400 is within 3 years before the date the primary offense or any
401 additional offense was committed.

402

403 Prior capital felony points: If the offender has one or more
404 prior capital felonies in the offender's criminal record, points
405 shall be added to the subtotal sentence points of the offender
406 equal to twice the number of points the offender receives for
407 the primary offense and any additional offense. A prior capital
408 felony in the offender's criminal record is a previous capital
409 felony offense for which the offender has entered a plea of nolo
410 contendere or guilty or has been found guilty; or a felony in
411 another jurisdiction which is a capital felony in that
412 jurisdiction, or would be a capital felony if the offense were
413 committed in this state.

414

415 Possession of a firearm, semiautomatic firearm, or machine gun:
416 If the offender is convicted of committing or attempting to

591-03231-12 20121846c1

417 commit any felony other than those enumerated in s. 775.087(2)
418 while having in his or her possession: a firearm as defined in
419 s. 790.001(6), an additional eighteen (18) sentence points are
420 assessed; or if the offender is convicted of committing or
421 attempting to commit any felony other than those enumerated in
422 s. 775.087(3) while having in his or her possession a
423 semiautomatic firearm as defined in s. 775.087(3) or a machine
424 gun as defined in s. 790.001(9), an additional twenty-five (25)
425 sentence points are assessed.

426

427 Sentencing multipliers:

428

429 Drug trafficking: If the primary offense is drug trafficking
430 under s. 893.135, the subtotal sentence points are multiplied,
431 at the discretion of the court, for a level 7 or level 8
432 offense, by 1.5. The state attorney may move the sentencing
433 court to reduce or suspend the sentence of a person convicted of
434 a level 7 or level 8 offense, if the offender provides
435 substantial assistance as described in s. 893.135(4).

436

437 Law enforcement protection: If the primary offense is a
438 violation of the Law Enforcement Protection Act under s.
439 775.0823(2), (3), or (4), the subtotal sentence points are
440 multiplied by 2.5. If the primary offense is a violation of s.
441 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
442 are multiplied by 2.0. If the primary offense is a violation of
443 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
444 Protection Act under s. 775.0823(10) or (11), the subtotal
445 sentence points are multiplied by 1.5.

591-03231-12

20121846c1

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

Offense related to a criminal gang: If the offender is convicted of the primary offense and committed that offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang as defined in s. 874.03 ~~prohibited under s. 874.04~~, the subtotal sentence points are multiplied by 1.5. If applying the multiplier results in the lowest permissible sentence exceeding the statutory maximum sentence for the primary offense under chapter 775, the court may not apply the multiplier and must sentence the defendant to the statutory maximum sentence.

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

Section 7. This act shall take effect October 1, 2012.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: CS/SB 448

INTRODUCER: Criminal Justice Committee and Senator Bogdanoff

SUBJECT: Inmate Reentry

DATE: December 8, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	Fav/CS
2.	Sneed	Sadberry	BJA	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☐	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

This bill requires the Department of Corrections (department) to develop and administer a nonviolent offender reentry program. Non-violent offenders with substance abuse issues could be eligible to participate in the program with court-approval after serving at least one-half of their sentence. Upon completion, the court would reduce the incarcerative portion of the original sentence and re-sentence the offender to drug offender probation. The program is intended to divert nonviolent offenders from long periods of incarceration when a reduced period of incarceration followed by intensive substance abuse treatment may have the same deterrent effect, to rehabilitate the offender, and to reduce recidivism.

The bill creates a new section of the Florida Statutes.

II. Present Situation:

Reentry Programs for Nonviolent Offenders

The department reports that 26.5 percent of the inmates admitted to prison during Fiscal Year 2009-2010 had been convicted of a drug crime.¹ Almost two-thirds of Florida inmates who enter prison for any crime also have a substance abuse problem, and more than 80 percent of those who could benefit from treatment are released without it.² The lack of treatment is largely due to funding constraints.

The Florida TaxWatch Government Cost Savings Task Force found that “significant savings could be achieved if certain offenders were allowed to receive treatment outside of the confines of prison during the last portion of their prison sentence” and observed that “research shows that programs in the community produce twice the impact on recidivism as the same program behind the walls.”³

The department currently provides the following reentry programming to a segment of the inmate population:

- Substance abuse treatment programs;
- Educational and academic programs;
- Career and technical education programs; and
- Faith and character-based programs.⁴

Correctional Integrated Needs Assessment System

The department assesses inmates and places them into programs using the Correctional Integrated Needs Assessment System (CINAS), which is based on the “Risk-Needs-Responsivity (RNR)” principle. The RNR principle refers to predicting which inmates have a higher probability of recidivating, and providing appropriate programming and services to higher risk inmates based on their level of need. The services would be focused on “criminogenic needs,” which are factors associated with recidivism that can be changed such as lack of education, substance abuse, criminal thinking, and lack of marketable job skills. High risk offenders have multiple risk factors, and the department provides a range of services and interventions to target the specific crime producing characteristics.

The department reports that CINAS allows it to develop and implement programs that increase the likelihood of successful reentry. It also reports that use of the RNR principle and CINAS “avoids focusing resources on individuals ill-equipped to handle specific behavior problems, and

¹ Fla. Dep’t of Corrections, *Inmate Admissions*, http://www.dc.state.fl.us/pub/annual/0910/stats/im_admis.html (last visited November 10, 2011).

² Office of Program Policy Analysis and Governmental Accountability (OPPAGA), *Corrections Rehabilitative Programs Effective, But Serve Only a Portion of the Eligible Population*, Report No. 07-14 (February 2007), p. 6.

³ Florida TaxWatch, *Report and Recommendation of the Florida TaxWatch Government Cost Savings Task Force for Fiscal Year 2012-13*, available at <http://www.floridataxwatch.org/resources/pdf/Report%20GCSTF%20for%20FY2012-13.pdf> (last visited November 10, 2011).

⁴ Florida Department of Corrections, *Recidivism Reduction Strategic Plan Fiscal Year 2009-2014*, available at <http://www.dc.state.fl.us/orginfo/FinalRecidivismReductionPlan.pdf> (last visited November 10, 2011).

ensures the most appropriate treatment-setting possible is being assigned, based on an inmate's characteristics.”

CINAS is administered to an inmate when he or she is received at the initial parent institution and again after 42 months, with updates conducted every 6 months thereafter to evaluate the inmate's progress and ensure enrollment in needed programs.⁵

100-Hour Transition Training Program

In addition to other programming, the department must provide a 100-Hour Transition Training Program to inmates who are within 12 months of their release.⁶ This program offers inmates training in life management skills, job readiness, and changing criminal thinking.⁷

Drug Offender Probation

The department is also required to develop and administer a drug offender probation program that emphasizes a combination of treatment and intensive community supervision approaches and provides for supervision of offenders in accordance with a specific treatment plan.⁸ This program generally uses graduated sanctions when offenders violate program requirements by actions such as testing positive on drug tests, missing treatment sessions, or failing to report to court.⁹ These sanctions can include mandatory community service, extended probation, or jail stays. Probationers in this program are subject to probation revocation if they violate any conditions of their probation. This can result in an imposition of any sentence that may have originally been imposed before the offender was placed on probation.¹⁰ In FY 2009-10, 9,928 offenders were admitted to drug offender probation.¹¹

III. Effect of Proposed Changes:

The bill requires the department to develop and administer a nonviolent offender reentry program in a secure area within an institution or adjacent to an adult institution. This program is intended to divert nonviolent offenders from long periods of incarceration when a reduced period of incarceration followed by intensive substance abuse treatment may have the same deterrent effect, rehabilitate the offender, and reduce recidivism.

A “nonviolent offender” is defined as an offender:

- whose primary offense is a third-degree felony;
- who has never been convicted of a forcible felony as defined in s. 776.08, F.S.,¹²

⁵ Florida Department of Corrections, Analysis of SB 448.

⁶ Section 944.7065, F.S.

⁷ Florida Department of Corrections Re-Entry Programs and Education, <http://www.dc.state.fl.us/orginfo/reentry.html> (last visited November 10, 2011).

⁸ Section 948.20(1), F.S.

⁹ *Id.*

¹⁰ Section 948.06(2)(e), F.S.

¹¹ Florida Department of Corrections, *Community Supervision Admissions*, 2009-2010 Agency Statistics, available at http://www.dc.state.fl.us/pub/annual/0910/stats/csa_month.html (last visited November 10, 2011).

¹² The offenses included within the definition of “forcible felony” are treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated

- who has never been convicted of any offense that requires registration as a sexual offender pursuant to s. 943.0435, F.S.¹³; and
- who is not sentenced as a habitual felony offender under s. 775.084(1), F.S.¹⁴

In order to participate in the reentry program, a nonviolent offender must have served at least one-half of his or her original sentence and have been identified as having a need for substance abuse treatment. The department is required to screen potential program participants, and reports that 276 inmates currently meet the basic eligibility criteria for the program. Another 676 inmates would meet program criteria in the second year.¹⁵

If the offender meets the eligibility screening criteria, the department must consider other factors in deciding whether to actually select him or her for the program. These factors are the offender's criminal history and the possible rehabilitative benefits that substance abuse treatment, educational programming, vocational training, and other rehabilitative programming might have on the offender.

If the department selects a nonviolent offender to participate in the program and space is available, it must request the sentencing court to approve the offender's participation in the reentry program. The department must also notify the state attorney that the offender is being considered for placement in the reentry program. The notice must:

- Explain to the state attorney that a proposed reduced period of incarceration, followed by participation in substance abuse treatment and other rehabilitative programming, could produce the same deterrent effect otherwise expected from a lengthy incarceration; and
- State that the state attorney may notify the sentencing court in writing of any objection to placing the offender in a reentry program within 14 days of receiving the notice from the department.

stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

¹³ The offenses that require registration as a sexual offender and that are not also a forcible felony are: luring and enticing a child (s. 787.025, F.S.); unlawful sexual activity with certain minors (s. 794.05, F.S.); procuring person under the age of 18 for the purposes of prostitution (s. 796.03, F.S.); selling or buying of minors into sex trafficking or prostitution (s. 796.035, F.S.); lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age (s. 800.04, F.S.); lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person (s. 825.1025, F.S.); sexual performance by a child (s. 827.071, F.S.); protection of minors with reference to certain acts in connection with obscenity (s. 847.0133, F.S.); computer pornography (s. 847.0135), except subsection (6) (owners or operators of computer services liable); transmission of pornography by electronic device or equipment (s. 847.0137, F.S.); transmission of material harmful to minors to a minor by electronic device or equipment (s. 847.0138, F.S.); selling or buying of minors (s. 847.0145, F.S.); and sexual misconduct by a Department of Juvenile Justice employee or provider with a juvenile offender (s. 985.701, F.S.).

¹⁴ A court may sentence an offender as a habitual felony offender if: (1) the offender has previously been convicted of two or more felonies in Florida; (2) the felony was committed while the offender was under sentence for a prior conviction of a felony; (3) the felony for which the offender is being sentenced is not a violation of s. 893.13, F.S., that is related to the purchase or possession of a controlled substance; and (4) one of the two prior felony convictions is not a violation of s. 893.13, F.S., that is related to the purchase or possession of a controlled substance.

¹⁵ Florida Department of Corrections, Analysis of SB 448. However, this number is based upon criteria in the bill before it was amended to excluded habitual felony offenders.

The sentencing court is required to notify the department whether it approves or disapproves placing the offender into the reentry program within 28 days after it receives the department's request. Failure to notify the department within the 28-day period constitutes approval to place the offender into the reentry program.

The bill requires the non-violent offender reentry program to include the following components:

- Prison-based substance abuse treatment;
- General education development and adult basic education courses;
- Vocational training;
- Training in decision-making and personal development; and
- Other rehabilitation programs.

The bill also requires the department to take the following specific actions with respect to each offender in the reentry program:

- The offender must undergo a full substance abuse assessment to determine his or her substance abuse treatment needs;
- The offender must have an educational assessment, using the Test of Adult Basic Education or any other testing instrument approved by the Department of Education; and
- The offender must be enrolled in an adult education program designed to help the offender obtain a high school diploma if one has not already been obtained.
- Assessments of the offender's vocational skills and future career education must be performed as needed, and periodic reevaluations must be made to assess each offender's progress.

If a nonviolent offender becomes unmanageable while in the program, the bill authorizes the department to revoke the offender's gain-time and place the offender in disciplinary confinement in accordance with department rule. Time during which the offender is unable to participate in the reentry program is not credited toward program completion. The offender can be readmitted to the reentry program after completing the ordered discipline unless:

- The offender commits or threatens to commit a violent act;
- The department determines that the offender is unable to participate in the reentry program due to the offender's medical condition;
- The offender's sentence is modified or expires;
- The department reassigns the offender's classification status; or
- The department determines that removing the offender from the reentry program is in the best interest of the offender or the security of the institution.

The bill specifically states that it does not create a right for any offender to be placed in the program or to placement or early release under supervision. No offender can have a cause of action against the department, a court, or the state attorney related to the reentry program.

A minimum of 120 days is required to complete the program, and any portion of the offender's sentence that was served before placement in a reentry program will not count toward program completion.

The bill requires the department to submit a report to the court describing the offender's performance in the program at least 30 days before his or her scheduled program completion date. If the offender's performance was satisfactory, the court must issue an order modifying the sentence imposed and place the offender on drug offender probation subject to the offender's successful completion of the remainder of the reentry program.¹⁶ Drug offender probation may include placement in a community residential or nonresidential substance abuse treatment facility. If an offender intends to reside in a county that has established a post-adjudicatory drug court program as described in s. 397.334, F.S., he or she may be required to successfully complete the post-adjudicatory drug court program as a condition of drug offender probation.

If the nonviolent offender violates the conditions of drug offender probation, the court can revoke probation and impose any sentence that it might have originally imposed.

In addition to the above requirements, the bill also requires the department to:

- Implement the reentry program to the fullest extent feasible within available resources.
- Submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing the extent of implementation of the reentry program and outlining future goals and any recommendation the department has for future legislative action.
- Develop a system for tracking recidivism, including, but not limited to, rearrests and recommitment of nonviolent offenders who successfully complete the reentry program, and report the recidivism rate in its annual report of the program.
- Adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to administer the reentry program. These include rules of conduct for program participants, including sanctions that are appropriate to the nature and gravity of a violation of the rules.

The bill permits the department to:

- Enter into performance-based contracts with qualified individuals, agencies, or corporations for the provision of any or all of the services for the reentry program.
- Establish a system of incentives within the reentry program which the department may use to promote participation in rehabilitative programs and the orderly operation of institutions and facilities.

¹⁶ The bill provides that the term of drug offender probation may include placement in a community residential or nonresidential substance abuse treatment facility under the jurisdiction of the department or the Department of Children and Family Services or any public or private entity providing such services.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The provision of the bill stating that an offender may not have a cause of action related to the reentry program under the section cannot preclude a cause of action based upon constitutional grounds.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Because participation in the bill's nonviolent offender re-entry program hinges on an offenders' eligibility, the department's selection, limited availability of drug treatment slots, and judicial approval, the precise impact of the bill is unknown. However, the bill will likely result in cost savings to the state.

VI. Technical Deficiencies:

It is unclear whether the bill's specific provisions for removing an inmate from the supervised reentry program would prevent the department from applying more subjective criteria that it currently uses for removal from a community release program.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Criminal Justice on November 17, 2011:

- Amends the definition of “non-violent offender” to clarify that the primary offense must be a third-degree felony, and that the offender must never have been convicted of a forcible felony or any offense that requires registration as a sexual offender.
- Further amends the definition of “non-violent offender” to exclude persons who are sentenced as a habitual felony offender.
- Clarifies that the department is not required to place an offender in the program if he or she meets basic eligibility requirements and space is available, but must select any participants from among those who meet basic eligibility requirements.

- B. **Amendments:**

None.



112726

LEGISLATIVE ACTION

Senate

.
.
.
.
.
.

House

The Committee on Budget Subcommittee on Criminal and Civil
Justice Appropriations (Bogdanoff) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Nonviolent offender reentry program.—

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

(a) "Department" means the Department of Corrections.

(b) "Nonviolent offender" means an offender:

1. Whose primary offense is a felony of the third degree or
a felony offense described in s. 893.13, Florida Statutes;

2. Who has never been convicted of a forcible felony as
defined in s. 776.08, Florida Statutes;



112726

13 3. Who has never been convicted of an offense listed in s.
14 775.082(9)(a)1.r., Florida Statutes, without regard to prior
15 incarceration or release;

16 4. Who has never been convicted of an offense described in
17 chapter 847, Florida Statutes, involving a minor or a depiction
18 of a minor;

19 5. Who has never been convicted of an offense described in
20 chapter 827, Florida Statutes;

21 6. Who has never been convicted of any offense described in
22 s. 784.07, s. 784.074, s. 784.075, s. 784.076, s. 784.08, s.
23 784.083 or s. 784.085, Florida Statutes;

24 7. Who has never been convicted of any offense involving
25 the possession or use of a firearm;

26 8. Who has never been convicted of a capital felony or a
27 felony of the first or second degree;

28 9. Who has never been convicted of any offense that
29 requires a person to register as a sexual offender pursuant to
30 s. 943.0435, Florida Statutes; and

31 10. Who is not the subject of a domestic violence
32 injunction currently in force.

33 (2)(a) The department shall develop and administer a
34 reentry program for nonviolent offenders. The reentry program
35 must include prison-based substance abuse treatment, general
36 education development and adult basic education courses,
37 vocational training, training in decisionmaking and personal
38 development, and other rehabilitation programs.

39 (b) The reentry program is intended to divert nonviolent
40 offenders from long periods of incarceration when a reduced
41 period of incarceration supplemented by participation in



112726

intensive substance abuse treatment and rehabilitative programming could produce the same deterrent effect, protect the public, rehabilitate the offender, and reduce recidivism.

(c) The nonviolent offender shall serve at least 6 months in the reentry program. The offender may not count any portion of his or her sentence served before placement in the reentry program as progress toward program completion.

(d) A reentry program may be operated in a secure area in or adjacent to an adult institution.

(3) The department shall screen offenders committed to the department for eligibility criteria to participate in the reentry program. In order to be eligible, an offender must be a nonviolent offender, must have served at least one-half of his or her original sentence, and must have been identified as having a need for substance abuse treatment.

(4) The department shall select eligible offenders for the reentry program. When selecting participants for the reentry program, the department shall be guided in its selection by its evaluation of the following considerations:

(a) The offender's history of disciplinary reports;

(b) The offender's criminal history, with particular scrutiny of any charges for offenses listed in paragraph (1)(b);

(c) The severity of the offender's addiction;

(d) The offender's history of criminal behavior related to substance abuse;

(e) Whether the offender has participated or requested to participate in any General Educational Development or other educational, technical, work, vocational, or self-rehabilitation program;



112726

71 (f) The results of any risk assessment of the offender;
72 (g) The outcome of all past participation of the offender
73 in substance abuse treatment programs;
74 (h) The possible rehabilitative benefits that substance
75 abuse treatment, educational programming, vocational training,
76 and other rehabilitative programming might have on the offender;
77 and
78 (i) The likelihood that the offender's participation in the
79 program will produce the same deterrent effect, protect the
80 public, save taxpayer dollars, and prevent or delay recidivism
81 to an equal or greater extent than completion of the sentence
82 previously imposed.
83 (5) (a) If an offender volunteers to participate in the
84 reentry program, meets the eligibility criteria, is selected by
85 the department based on the considerations in subsection (4),
86 and space is available in the reentry program, the department
87 may request the sentencing court to approve the offender's
88 participation in the reentry program. The request shall be made
89 in writing and shall include a brief summation of the
90 department's evaluation under subsection (4) and a recital of
91 the documents or other information upon which the evaluation is
92 based. All documents may be delivered to the sentencing court
93 electronically.
94 (b)1. The department shall notify the state attorney that
95 the offender is being considered for placement in the reentry
96 program. The notice must include a copy of all documents
97 provided with the request to the court. The notice and all
98 documents may be delivered to the state attorney electronically
99 and may take the form of a copy of an electronic delivery to the



112726

sentencing court.

2. The notice must also state that the state attorney may notify the sentencing court in writing of any objection the state attorney might have if the nonviolent offender is placed in the reentry program. The state attorney must notify the sentencing court of his or her objections within 15 days after receiving the notice. Whether or not an objection is raised, the state attorney may provide to the sentencing court any information supplemental or contrary to the information provided by the department which may assist the court in its determination.

(c) When approving a nonviolent offender for participation in the reentry program, the sentencing court may consider any facts the court considers relevant, including, but not limited to:

1. The criteria listed in subsection (4);
2. The original sentencing report and any evidence admitted in a previous sentencing proceeding;
3. The offender's record of arrests without conviction for crimes, and any other evidence of allegations of unlawful conduct or the use of violence by the offender;
4. The offender's family ties, length of residence in the community, employment history, and mental condition;
5. The likelihood that participation in the program will produce the same deterrent effect, rehabilitate the offender, and prevent or delay recidivism to an equal or greater extent than completion of the sentence previously imposed; and
6. The likelihood that the offender will engage again in a criminal course of conduct.



112726

129 (d) The sentencing court shall notify the department in
130 writing of the court's decision to approve or disapprove the
131 requested placement of the nonviolent offender no later than 30
132 days after the court receives the department's request to place
133 the offender in the reentry program. If the court approves, the
134 notification shall list the factors upon which the court relied
135 in approving the placement. Failure to notify the department of
136 the court's decision within the 30-day period constitutes
137 disapproval to place the offender into the reentry program.

138 (6) After the nonviolent offender is admitted into the
139 reentry program, he or she shall undergo a full substance abuse
140 assessment to determine his or her substance abuse treatment
141 needs. The offender shall also have an educational assessment,
142 which shall be accomplished using the Test of Adult Basic
143 Education or any other testing instrument approved by the
144 Department of Education. Each offender who has not obtained a
145 high school diploma shall be enrolled in an adult education
146 program designed to aid the offender in improving his or her
147 academic skills and earn a high school diploma. Further
148 assessments of the offender's vocational skills and future
149 career education shall be provided to the offender as needed. A
150 periodic reevaluation shall be made in order to assess the
151 progress of each offender.

152 (7) (a) If a nonviolent offender in the reentry program
153 becomes unmanageable, the department may revoke the offender's
154 gain-time and place the offender in disciplinary confinement in
155 accordance with department rule. Except as provided in paragraph
156 (b), the offender shall be readmitted to the reentry program
157 after completing the ordered discipline. Any period of time



112726

158 during which the offender is unable to participate in the
159 reentry program shall be excluded from the specified time
160 requirements in the reentry program.

161 (b) The department may terminate an offender from the
162 reentry program if:

163 1. The offender commits or threatens to commit a violent
164 act;

165 2. The department determines that the offender is unable to
166 participate in the reentry program due to the offender's medical
167 condition;

168 3. The offender's sentence is modified or expires;

169 4. The department reassigns the offender's classification
170 status; or

171 5. The department determines that removing the offender
172 from the reentry program is in the best interest of the offender
173 or the security of the institution.

174 (8) (a) The department shall submit a report to the
175 sentencing court at least 30 days before the nonviolent offender
176 is scheduled to complete the reentry program. The report must
177 describe the offender's performance in the reentry program and
178 certify whether the performance is satisfactory. If the
179 performance is satisfactory to the department, the court shall
180 hold a hearing to determine:

181 1. Whether the offender's performance in the reentry
182 program is satisfactory to the court;

183 2. Whether the public safety will be compromised by a
184 modification of sentence; and

185 3. Any appropriate modification of sentence, which may not
186 be less than the minimum punishment required by law at the time



112726

187 of the commission of the offense or offenses for which the
188 offender was sentenced.

189 (b) After consideration of all information available to the
190 court, the court may issue an order modifying the sentence
191 imposed and may place the offender on drug offender probation,
192 as defined in s. 848.20(2), Florida Statutes, subject to the
193 department's certification of the offender's successful
194 completion of the remainder of the reentry program. The term of
195 drug offender probation may include placement in a community
196 residential or nonresidential substance abuse treatment facility
197 under the jurisdiction of the department or the Department of
198 Children and Family Services or any public or private entity
199 providing such services. The order shall include findings
200 showing that the requirements for resentencing under this
201 section are satisfied and that the public safety will not be
202 compromised. If the nonviolent offender violates the conditions
203 of drug offender probation, the court may revoke probation and
204 impose any sentence that it might have originally imposed.

205 (c) If an offender being released pursuant to paragraph (b)
206 intends to reside in a county that has established a
207 postadjudicatory drug court program as described in s. 397.334,
208 Florida Statutes, the sentencing court may require the offender
209 to successfully complete the postadjudicatory drug court program
210 as a condition of drug offender probation after considering the
211 county program's record of helping offenders avoid recidivism.
212 The original sentencing court shall relinquish jurisdiction of
213 the offender's case to the postadjudicatory drug court program
214 until the offender is no longer active in the program, the case
215 is returned to the sentencing court due to the offender's



112726

termination from the program for failure to comply with the terms thereof, or the offender's sentence is completed. If transferred to a postadjudicatory drug court program, the offender shall comply with all conditions and orders of the program.

(9) The department shall implement the reentry program to the fullest extent feasible within available resources.

(10) The department shall submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing the extent of implementation of the reentry program; the number of participants selected, approved, and successfully completing the program; a reasonable estimate or description of the additional public costs incurred and any public funds saved with respect to each participant; and a brief description of each sentence modification and a brief description of the subsequent criminal history, if any, of each participant following any modification of sentence under this section. The report shall also outline future goals and any recommendation the department has for future legislative action.

(11) The department may enter into performance-based contracts with qualified persons, agencies, or corporations to provide any or all of the services for the reentry program; however, an offender may not be released from the custody of the department under this section except pursuant to a judicial order modifying a sentence.

(12) A nonviolent offender in the reentry program is subject to rules of conduct established by the department and may have sanctions imposed, including, but not limited to, GPS monitoring, loss of privileges, restrictions, disciplinary



112726

confinement, alteration of release plans, or other program
modifications in keeping with the nature and gravity of the
program violation. Administrative or protective confinement, as
necessary, may be imposed.

(13) This section does not create or confer any right of
any inmate to placement in the reentry program or any right to
placement or early release under supervision of any type. An
inmate does not have a cause of action under this section
against the department, a court, or the state attorney related
to the reentry program. This subsection is not severable from
the remaining provisions of this section. If this subsection is
determined by any state or federal court to be not fully
enforceable this section is repealed.

(14) The department may establish a system of incentives
within the reentry program which the department may use to
promote participation in rehabilitative programs and the orderly
operation of institutions and facilities.

(15) The department shall develop a system for tracking
recidivism, including, but not limited to, rearrests and
recommitment of nonviolent offenders who successfully complete
the reentry program, and shall report the recidivism rate in its
annual report of the program.

(16) The department shall adopt rules pursuant to ss.
120.536(1) and 120.54, Florida Statutes, as are necessary to
administer the reentry program.

Section 2. This act shall take effect October 1, 2012.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:



112726

274
275 Delete everything before the enacting clause
276 and insert:

277 A bill to be entitled
278 An act relating to inmate reentry; defining the terms
279 "department" and "nonviolent offender"; directing the
280 Department of Corrections to develop and administer a
281 reentry program for nonviolent offenders which is
282 intended to divert nonviolent offenders from long
283 periods of incarceration; requiring that the program
284 include intensive substance abuse treatment and
285 rehabilitative programming; providing for the minimum
286 length of service in the program; providing that any
287 portion of a sentence before placement in the program
288 does not count as progress toward program completion;
289 specifying eligibility criteria for a nonviolent
290 offender to be placed into the reentry program;
291 directing the court to screen and select eligible
292 offenders for the program based on specified
293 considerations; directing the department to notify the
294 nonviolent offender's sentencing court in order to
295 obtain approval before the nonviolent offender is
296 placed into the reentry program; requiring the
297 department to notify the state attorney; authorizing
298 the state attorney to file objections to placing the
299 offender into the reentry program within a specified
300 period; requiring the sentencing court to notify the
301 department of the court's decision to approve or
302 disapprove the requested placement within a specified



112726

period; providing that failure of the court to timely
notify the department of the court's decision
constitutes disapproval of the requested placement;
requiring the nonviolent offender to undergo an
education assessment and a full substance abuse
assessment if admitted into the reentry program;
requiring the offender to be enrolled in an adult
education program in specified circumstances;
requiring that assessments of vocational skills and
future career education be provided to the offender;
requiring that certain reevaluation be made
periodically; providing that the nonviolent offender
is subject to the disciplinary rules of the
department; specifying the reasons for which the
offender may be terminated from the reentry program;
requiring that the department submit a report to the
sentencing court at least 30 days before the
nonviolent offender is scheduled to complete the
reentry program; setting forth the issues to be
addressed in the report; requiring the sentencing
court to hold a hearing to consider modifying the
sentence imposed and authorizing the court to place
the nonviolent offender on drug offender probation if
the nonviolent offender's performance is satisfactory;
authorizing the court to revoke probation and impose
the original sentence in specified circumstances;
authorizing the court to require the offender to
complete a postadjudicatory drug court program in
specified circumstances; directing the department to



112726

implement the reentry program using available
resources; requiring the department to submit an
annual report to the Governor and Legislature
detailing the extent of implementation of the reentry
program; specifying information to be provided and
outlining future goals and recommendations;
authorizing the department to enter into contracts
with qualified individuals, agencies, or corporations
for services for the reentry program; authorizing the
department to impose administrative or protective
confinement as necessary; authorizing the department
to establish a system of incentives within the reentry
program which the department may use to promote
participation in rehabilitative programs and the
orderly operation of institutions and facilities;
providing that the act does not create a right to
placement in the reentry program or any right to
placement or early release under supervision of any
type; providing that the act does not create a cause
of action related to the program; directing the
department to develop a system for tracking
recidivism, including, but not limited to, rearrests
and recommitment of nonviolent offenders who
successfully complete the reentry program, and to
report on recidivism in its annual report of the
program; directing the department to adopt rules;
providing an effective date.

By the Committee on Criminal Justice; and Senator Bogdanoff

591-00994-12

2012448c1

1 A bill to be entitled
 2 An act relating to inmate reentry; defining the terms
 3 "department" and "nonviolent offender"; directing the
 4 Department of Corrections to develop and administer a
 5 reentry program for nonviolent offenders which is
 6 intended to divert nonviolent offenders from long
 7 periods of incarceration; requiring that the program
 8 include intensive substance abuse treatment and
 9 rehabilitative programming; providing for the minimum
 10 length of service in the program; providing that any
 11 portion of a sentence before placement in the program
 12 does not count as progress toward program completion;
 13 specifying eligibility criteria for a nonviolent
 14 offender to be placed into the reentry program;
 15 directing the department to notify the nonviolent
 16 offender's sentencing court to obtain approval before
 17 the nonviolent offender is placed into the reentry
 18 program; requiring the department to notify the state
 19 attorney; authorizing the state attorney to file
 20 objections to placing the offender into the reentry
 21 program within a specified period; requiring the
 22 sentencing court to notify the department of the
 23 court's decision to approve or disapprove the
 24 requested placement within a specified period;
 25 providing that failure of the court to timely notify
 26 the department of the court's decision constitutes
 27 approval of the requested placement; requiring the
 28 nonviolent offender to undergo an education assessment
 29 and a full substance abuse assessment if admitted into

Page 1 of 9

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

591-00994-12

2012448c1

30 the reentry program; requiring the offender to be
 31 enrolled in an adult education program in specified
 32 circumstances; requiring that assessments of
 33 vocational skills and future career education be
 34 provided to the offender; requiring that certain
 35 reevaluation be made periodically; providing that the
 36 nonviolent offender is subject to the disciplinary
 37 rules of the department; specifying the reasons for
 38 which the offender may be terminated from the reentry
 39 program; requiring that the department submit a report
 40 to the sentencing court at least 30 days before the
 41 nonviolent offender is scheduled to complete the
 42 reentry program; setting forth the issues to be
 43 addressed in the report; requiring the sentencing
 44 court to issue an order modifying the sentence imposed
 45 and place the nonviolent offender on drug offender
 46 probation if the nonviolent offender's performance is
 47 satisfactory; authorizing the court to revoke
 48 probation and impose the original sentence in
 49 specified circumstances; authorizing the court to
 50 require the offender to complete a postadjudicatory
 51 drug court program in specified circumstances;
 52 directing the department to implement the reentry
 53 program using available resources; requiring the
 54 department to submit an annual report to the Governor
 55 and Legislature detailing the extent of implementation
 56 of the reentry program and outlining future goals and
 57 recommendations; authorizing the department to enter
 58 into contracts with qualified individuals, agencies,

Page 2 of 9

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

591-00994-12

2012448c1

or corporations for services for the reentry program; authorizing the department to impose administrative or protective confinement as necessary; authorizing the department to establish a system of incentives within the reentry program which the department may use to promote participation in rehabilitative programs and the orderly operation of institutions and facilities; providing that the act does not create a right to placement in the reentry program or any right to placement or early release under supervision of any type; providing that the act does not create a cause of action related to the program; directing the department to develop a system for tracking recidivism, including, but not limited to, rearrests and recommitment of nonviolent offenders who successfully complete the reentry program, and to report on recidivism in its annual report of the program; directing the department to adopt rules; providing an effective date.

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

Section 1. Nonviolent offender reentry program.-

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

(a) "Department" means the Department of Corrections.

(b) "Nonviolent offender" means an offender:

1. Whose primary offense is a felony of the third degree;

2. Who has never been convicted of a forcible felony as defined in s. 776.08, Florida Statutes;

591-00994-12

2012448c1

3. Who has never been convicted of any offense that requires a person to register as a sexual offender pursuant to s. 943.0435, Florida Statutes; and

4. Who is not sentenced as a habitual felony offender pursuant to s. 775.084(1), Florida Statutes.

(2) (a) The department shall develop and administer a reentry program for nonviolent offenders. The reentry program must include prison-based substance abuse treatment, general education development and adult basic education courses, vocational training, training in decisionmaking and personal development, and other rehabilitation programs.

(b) The reentry program is intended to divert nonviolent offenders from long periods of incarceration when a reduced period of incarceration followed by participation in intensive substance abuse treatment and rehabilitative programming could produce the same deterrent effect, rehabilitate the offender, and reduce recidivism.

(c) The nonviolent offender shall serve at least 120 days in the reentry program. The offender may not count any portion of his or her sentence served before placement in the reentry program as progress toward program completion.

(d) A reentry program may be operated in a secure area in or adjacent to an adult institution.

(3) (a) The department shall screen offenders committed to the department for eligibility to participate in the reentry program. In order to be eligible, an offender must be a nonviolent offender, must have served at least one-half of his or her original sentence, and must have been identified as having a need for substance abuse treatment. When selecting

591-00994-12 2012448c1

117 participants for the reentry program, the department shall
 118 consider the offender's criminal history and the possible
 119 rehabilitative benefits that substance abuse treatment,
 120 educational programming, vocational training, and other
 121 rehabilitative programming might have on the offender.

122 (b) If an offender meets the eligibility criteria, is
 123 selected by the department, and space is available in the
 124 reentry program, the department shall request the sentencing
 125 court to approve the offender's participation in the reentry
 126 program.

127 (c)1. The department shall notify the state attorney that
 128 the offender is being considered for placement in the reentry
 129 program. The notice must explain to the state attorney that a
 130 proposed reduced period of incarceration, followed by
 131 participation in substance abuse treatment and other
 132 rehabilitative programming, could produce the same deterrent
 133 effect otherwise expected from a lengthy incarceration.

134 2. The notice must also state that the state attorney may
 135 notify the sentencing court in writing of any objection the
 136 state attorney might have if the nonviolent offender is placed
 137 in the reentry program. The state attorney must notify the
 138 sentencing court of his or her objections within 14 days after
 139 receiving the notice.

140 (d) The sentencing court shall notify the department in
 141 writing of the court's decision to approve or disapprove the
 142 requested placement of the nonviolent offender no later than 28
 143 days after the court receives the department's request to place
 144 the offender in the reentry program. Failure to notify the
 145 department of the court's decision within the 28-day period

591-00994-12 2012448c1

146 constitutes approval to place the offender into the reentry
 147 program.

148 (4) After the nonviolent offender is admitted into the
 149 reentry program, he or she shall undergo a full substance abuse
 150 assessment to determine his or her substance abuse treatment
 151 needs. The offender shall also have an educational assessment,
 152 which shall be accomplished using the Test of Adult Basic
 153 Education or any other testing instrument approved by the
 154 Department of Education. Each offender who has not obtained a
 155 high school diploma shall be enrolled in an adult education
 156 program designed to aid the offender in improving his or her
 157 academic skills and earn a high school diploma. Further
 158 assessments of the offender's vocational skills and future
 159 career education shall be provided to the offender as needed. A
 160 periodic reevaluation shall be made in order to assess the
 161 progress of each offender.

162 (5) (a) If a nonviolent offender in the reentry program
 163 becomes unmanageable, the department may revoke the offender's
 164 gain-time and place the offender in disciplinary confinement in
 165 accordance with department rule. Except as provided in paragraph
 166 (b), the offender shall be readmitted to the reentry program
 167 after completing the ordered discipline. Any period of time
 168 during which the offender is unable to participate in the
 169 reentry program shall be excluded from the specified time
 170 requirements in the reentry program.

171 (b) The department may terminate an offender from the
 172 reentry program if:

173 1. The offender commits or threatens to commit a violent
 174 act;

591-00994-12

2012448c1

2. The department determines that the offender is unable to participate in the reentry program due to the offender's medical condition;

3. The offender's sentence is modified or expires;

4. The department reassigns the offender's classification status; or

5. The department determines that removing the offender from the reentry program is in the best interest of the offender or the security of the institution.

(6) (a) The department shall submit a report to the court at least 30 days before the nonviolent offender is scheduled to complete the reentry program. The report must describe the offender's performance in the reentry program. If the performance is satisfactory, the court shall issue an order modifying the sentence imposed and place the offender on drug offender probation subject to the offender's successful completion of the remainder of the reentry program. The term of drug offender probation may include placement in a community residential or nonresidential substance abuse treatment facility under the jurisdiction of the department or the Department of Children and Family Services or any public or private entity providing such services. If the nonviolent offender violates the conditions of drug offender probation, the court may revoke probation and impose any sentence that it might have originally imposed.

(b) If an offender being released pursuant to paragraph (a) intends to reside in a county that has established a postadjudicatory drug court program as described in s. 397.334, Florida Statutes, the sentencing court may require the offender

591-00994-12

2012448c1

to successfully complete the postadjudicatory drug court program as a condition of drug offender probation. The original sentencing court shall relinquish jurisdiction of the offender's case to the postadjudicatory drug court program until the offender is no longer active in the program, the case is returned to the sentencing court due to the offender's termination from the program for failure to comply with the terms thereof, or the offender's sentence is completed. If transferred to a postadjudicatory drug court program, the offender shall comply with all conditions and orders of the program.

(7) The department shall implement the reentry program to the fullest extent feasible within available resources.

(8) The department shall submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing the extent of implementation of the reentry program and outlining future goals and any recommendation the department has for future legislative action.

(9) The department may enter into performance-based contracts with qualified individuals, agencies, or corporations for the provision of any or all of the services for the reentry program.

(10) A nonviolent offender in the reentry program is subject to rules of conduct established by the department and may have sanctions imposed, including loss of privileges, restrictions, disciplinary confinement, alteration of release plans, or other program modifications in keeping with the nature and gravity of the program violation. Administrative or protective confinement, as necessary, may be imposed.

591-00994-12

2012448c1

(11) This section does not create or confer any right to any inmate to placement in the reentry program or any right to placement or early release under supervision of any type. No inmate may have a cause of action under this section against the department, a court, or the state attorney related to the reentry program.

(12) The department may establish a system of incentives within the reentry program which the department may use to promote participation in rehabilitative programs and the orderly operation of institutions and facilities.

(13) The department shall develop a system for tracking recidivism, including, but not limited to, rearrests and recommitment of nonviolent offenders who successfully complete the reentry program, and shall report the recidivism rate in its annual report of the program.

(14) The department shall adopt rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to administer the reentry program.

Section 2. This act shall take effect October 1, 2012.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: CS/SB 462

INTRODUCER: Judiciary Committee and Senator Bogdanoff

SUBJECT: Terms of Courts

DATE: February 21, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Cibula	JU	Fav/CS
2.	Harkness	Sadberry	BJA	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

This bill repeals multiple provisions related to the judiciary. The repealed provisions relate to:

- Regular terms of court for the Florida Supreme Court;
- Terms of the circuit courts;
- A judge's attendance at the first day of a term;
- A judge's stated reason for nonattendance;
- The penalty for nonattendance of a judge;
- Adjournment of court upon nonattendance of a judge;
- Calling the docket at end of a term;
- Requiring the clerk of circuit court, or his or her deputy clerk, to reside at the county seat or within two miles of the county seat;
- Term of the district courts of appeal;
- A requirement that criminal trials be heard in the term of court prior to civil cases; and
- A requirement that persons in custody be arraigned and tried in the term of court unless good cause is shown.

This bill repeals the following sections of the Florida Statutes: 25.051, 26.21, 26.22, 26.23, 26.24, 26.25, 26.26, 26.27, 26.28, 26.29, 26.30, 26.31, 26.32, 26.33, 26.34, 26.35, 26.36, 26.361, 26.362, 26.363, 26.364, 26.365, 26.37, 26.38, 26.39, 26.40, 26.42, 35.10, 35.11, 907.05, and 907.055.

This bill creates two provisions related to the Judiciary. Section 43.43, F.S., allows the Supreme Court to set terms of court for the Supreme Court, district courts of appeal, and circuit courts. Section 43.44, F.S., allows an appellate court to may withdraw a mandate within 120 days after its issuance.

This bill amends multiple statutes that currently use the language of terms of court. The changes consist of conforming provisions made to the following sections of the Florida Statutes: 26.46, 27.04, 30.12, 30.15, 34.13, 35.05, 38.23, 112.19, 206.215, 450.121, 831.10, 831.17, 877.08, 902.19, 903.32, 905.01, 905.09, 905.095, 914.03, 924.065, and 932.47.

II. Present Situation:

Article V of the Florida Constitution establishes the judicial branch of government, including prescribing the various courts in which the judicial power is vested. The Florida State Courts System consists of all officers, employees, and divisions of the entities noted below.¹

- The Supreme Court, the highest state appellate court, has seven justices and statewide jurisdiction. The Chief Justice is the administrator of the state courts system. The Court also regulates admission of lawyers to The Florida Bar and the discipline of judges and lawyers.
- The district courts of appeal, the state appellate courts, have jurisdiction within the limits of their five geographic districts and are served by approximately 61 judges.
- The circuit courts, the highest level trial court in each of the 20 judicial circuits, are served by approximately 599 judges. The circuit courts hear, for example, felony cases, family law matters, and civil cases in which the matter in controversy exceeds \$15,000.
- The county courts, the lowest level trial courts, having at least one judge in each county, are served by approximately 322 judges. The county courts hear, for example, misdemeanor cases, small claims cases, and civil cases in which the matter in controversy does not exceed \$15,000.

Terms of court were developed to ensure that circuit judges showed up to conduct court business in past times when riding the circuit involved traversing potentially difficult terrain from one county seat to the next.² Terms of court were required by the state constitution³ until Article V was substantially rewritten in 1957.

¹ Office of Program Policy Analysis and Government Accountability, Fla. Legislature, Government Program Summaries, *State Courts System* (last updated Dec. 30, 2011), <http://www.oppaga.state.fl.us/profiles/1072/> (last visited Jan. 29, 2012).

² See George S. Reynolds III, *The First One Hundred Years 1868-1968*, <http://www.leoncountyfl.gov/2ndcircuit/index.php?Page=FirstHundred.php> (describing the history of the Second Judicial Circuit, including how the terms of court provided for the circuit judge to travel down the Apalachicola River, and were changed to accommodate the arrival of steamboat service along the river) (last visited Dec. 8, 2011).

³ Article V, s. 8 of the Constitution of 1885 included this sentence: "Such Judge shall hold at least two terms of his court in each county within his Circuit every year, at such times and places as shall be prescribed by law, and may hold special terms."

Current law mandates a minimum of two terms of court for the Supreme Court, circuit courts, and district courts of appeal, each. Enacted in 1957, s. 25.051, F.S., requires the Supreme Court to hold two terms in each year, in the Supreme Court Building, commencing respectively on the first day of January and July, or the first day thereafter if that is a Sunday or holiday. Sections 26.21-26.365, F.S., require at least two regular terms of the circuit court to be held in each county each year and allow for special terms as needed. There is a separate statute for each of the 20 circuits which provides for the starting day of each term. Enacted in 1957, ss. 35.10 and 35.11, F.S., require the district courts of appeal to hold two regular terms each year at their headquarters and allow for special terms as needed. The regular terms of the district courts of appeal shall commence on the second Tuesday in January and July.

Today, terms of court seem an archaic concept. Circuit judges come and go from each of the counties as needed, and far more often than once every six months. Reference to terms of court is still relevant, however, for two purposes: designating the terms of local grand juries and limiting withdrawal of an appellate mandate. Historically, although not explicitly required by statute, the terms of a grand jury coincide with the term of the court. In the appellate courts, the terms of court limit an appellate court's ability to withdraw a mandate,⁴ a rare procedure.

In addition to repealing statutes establishing the terms of court, this bill repeals a number of statutory provisions incidental to the terms of court concept. The present situation for the relevant provisions is discussed in the "Effect of Proposed Changes" section of this bill analysis, below.

III. Effect of Proposed Changes:

Repeal of Terms of Court

The bill repeals the statutes that set out the court system's regular and special terms of court. This includes the repeal of s. 25.051, F.S., requiring the Supreme Court to hold two terms in each year; ss. 26.21-26.365, F.S., requiring at least two regular terms of the circuit court to be held in each county each year and allowing for special terms as needed; and ss. 35.10 and 35.11, F.S., requiring the district courts of appeal to hold two regular terms each year and allowing for special terms as needed.

According to the Office of the State Courts Administrator (OSCA), a simple repeal of appellate terms of court would have the unintended consequences of "impair(ing) the ability of appellate courts to finalize cases," and "leav(ing) trial court chief judges without explicit authority to convene grand juries."⁵ However, proposed ss. 43.43 and 43.44, F.S., avoid these technical complications, in addition to establishing a uniform timeframe for withdrawal of a mandate by an appellate court.

⁴ A mandate is "[a]n order from an appellate court directing a lower court to take a specified action." Black's Law Dictionary (9th ed. 2009).

⁵ Fla. Office of the State Courts Administrator, *2011 Judicial Impact Statement: SB 1398*, Mar. 3, 2011 (on file with the Senate Committee on Judiciary).

Authorization of Florida Supreme Court over Terms

Section 9 creates s. 43.43, F.S., authorizing the Florida Supreme Court to establish terms of court for the Supreme Court and for the lower courts, if the Court wishes. Finalization of cases is addressed in this authorization of “the supreme court to establish, by rule, new terms of court, to authorize the district courts of appeal and circuit courts to independently set their own terms, or to dispense with terms of court altogether.”⁶

Convening Grand Juries

Present Situation: Section 905.01, F.S., currently permits circuit court chief judges to “dispense with the convening of grand juries by written order directing clerks of court not to summon jurors.”⁷

Effect of the Bill: Section 19 amends s. 905.01, F.S., addressing the authority to convene grand juries. Specifically, the bill requires circuit court chief judges to regularly order the convening of grand juries for terms of six months.

Timeframe for Withdrawal of Mandate by Appellate Court

Present Situation: Under current law, a mandate may only be withdrawn during the current term of the appellate court. In effect, some appellate court opinions are subject to withdrawal for nearly six months while others may be subject to withdrawal only for a few days. The Florida Supreme Court in 1932, explained the scope and limits of the power to withdraw:

But, be that as it may, a majority of the court have reached the conclusion that the correct rule, which should be recognized and applied in such situation, is that the jurisdiction of this court, like the jurisdiction of courts generally, persists to the end of the term, and then terminates, but that, during the term at which a judgment of this court is rendered, this court has jurisdiction and power which it may exercise, as the circumstances and justice of the case may require, to reconsider, revise, reform, or modify its own judgments for the purpose of making the same accord with law and justice, and that it has power to recall its own mandate for the purpose of enabling it to exercise such jurisdiction and power in a proper case.⁸

Effect of the Bill: Section 10 creates s. 43.44, F.S., which provides that an appellate court may withdraw a mandate for up to 120 days after it is filed with a lower court.

Repeal of Incidental Provisions

This bill repeals a number of statutory provisions incidental to the terms of court concept.

⁶ Fla. Office of the State Courts Administrator, *2012 Judicial Impact Statement: SB 462*, Oct. 27, 2011 (on file with the Senate Committee on Judiciary).

⁷ *Id.*

⁸ *Chapman v. St. Stephens Protestant Episcopal Church, Inc.*, 138 So. 630, 632 (Fla. 1932). The *Chapman* case specifically provides that the power to withdraw a mandate may be limited by statute.

Judge to Attend First Day of Term

Present Situation: Initially enacted in 1849, s. 26.37, F.S., requires every judge of a circuit court, unless prevented by sickness or other providential causes, to attend the first day of each term of the circuit court. If the judge fails to attend, he or she is subject to a \$100 deduction from his or her salary.

Effect of the Bill: Section 1 repeals s. 26.37, F.S.

Judge's Reason for Nonattendance

Present Situation: Initially enacted in 1849, s. 26.38, F.S., requires a judge who misses the first day of each term to state the reasons for such failure in writing to be handed to the clerk of the court.

Effect of the Bill: Section 1 repeals s. 26.38, F.S.

Penalty for Nonattendance of Judge

Present Situation: Initially enacted in 1849, s. 26.39, F.S., requires the clerk of court to notify the Chief Financial Officer (CFO) of the state when a judge fails to attend the first day of the term of court. The CFO is then directed to deduct \$100 from the judge's pay for every such default.

Effect of the Bill: Section 1 repeals s. 26.39, F.S.

Adjournment of Court upon Nonattendance

Present Situation: Enacted in 1828, s. 26.40, F.S., requires that, whenever a judge does not attend on the first day of any term, the court shall stand adjourned until 12 o'clock on the second day. If the judge does not attend court at that time, the clerk must continue all causes and adjourn the court to such time as the judge may appoint or to the next regular term.

Effect of the Bill: Section 1 repeals s. 26.40, F.S.

Calling Docket at End of Term

Present Situation: Enacted in 1828, s. 26.42, F.S., requires a judge, after other court business of the term has been completed, to call the remaining cases on the docket and make such orders and entries as necessary.

Effect of the Bill: Section 1 repeals s. 26.42, F.S.

Order of Cases Tried in Circuit Court

Present Situation: Enacted in 1939, s. 907.05, F.S., requires that criminal trials be heard in the term of court prior to civil cases, if they can be tried without injury to the interests of the state or defendant.

Effect of the Bill: Section 1 repeals s. 907.05, F.S.

Trial of Persons in Custody

Present Situation: Enacted in 1939, s. 907.055, F.S., requires that persons in custody be arraigned and tried in the term of court when the indictment or information for a felony is filed, unless good cause is shown for a continuance.

Effect of the Bill: Section 1 repeals s. 907.055, F.S.

Conforming Provisions

This bill amends multiple statutes that currently use the language of terms of court. Sections 2-8 and 11-24 of the bill consist of conforming provisions made to the following sections of the Florida Statutes: 26.46, regarding jurisdiction of a resident judge; 27.04, regarding witnesses in a criminal case; 30.12, regarding the power to appoint a sheriff; 30.15, regarding powers, duties, and obligations of the sheriff; 34.13, regarding methods of prosecution; 35.05, regarding the headquarters of a district court of appeal; 38.23, regarding contempt of court; 112.19, regarding law enforcement officers; 206.215, regarding court costs; 450.121, regarding child labor law; 831.10, regarding forged bills; 831.17, regarding second or subsequent offenses for possession of counterfeit coins; 877.08, regarding coin-operated machines; 902.19, regarding when a prosecutor is liable for costs; 903.32, regarding defects in a criminal bond; 905.01, regarding grand jury terms; 905.09, regarding discharge and recall of a grand jury; 905.095, regarding extension of a grand jury term; 914.03, regarding attendance of witnesses; 924.065, regarding appearance bonds; and 932.47, F.S., regarding an information filed by a prosecuting attorney.

Effective Date

The bill provides an effective date of January 1, 2013.

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:

None.

C. Government Sector Impact:

The Office of the State Courts Administrator reports that it is not expecting the bill to have an impact on court workload and “little effect on judicial time.”⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Judiciary on February 9, 2012:

The CS makes a technical change to clarify that appellate courts issue “opinions and orders.” The CS establishes a 6 month time period during which subsequent violations of certain counterfeiting laws will be subject to additional punishment. Additionally, the CS alters a requirement related to how long a witness in a criminal case must remain available for trial.

B. Amendments:

None.

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

⁹ Fla. Office of the State Courts Administrator, *supra* note 5.



103418

LEGISLATIVE ACTION

Senate

.
.
.
.
.
.

House

The Committee on Budget Subcommittee on Criminal and Civil
Justice Appropriations (Bogdanoff) recommended the following:

Senate Amendment (with title amendment)

Between lines 160 and 161
insert:

Section 11. Paragraph (i) is added to subsection (1) of
section 48.193, Florida Statutes, to read:

48.193 Acts subjecting person to jurisdiction of courts of
state.—

(1) Any person, whether or not a citizen or resident of
this state, who personally or through an agent does any of the
acts enumerated in this subsection thereby submits himself or
herself and, if he or she is a natural person, his or her



103418

personal representative to the jurisdiction of the courts of this state for any cause of action arising from the doing of any of the following acts:

(i) Unless the parties have agreed otherwise by contract, mandating or ordering an entity that is incorporated in this state or that has its principal place of business in this state to act as a collection agent to collect monetary or other payments from any person or entity, regardless of whether that person or entity is a resident of this state. The courts of this state may limit the application of, refuse to enforce, or enjoin the application of any such collection practice that it finds to be inequitable, impracticable, or impossible.

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

And the title is amended as follows:

Delete line 60
and insert:

withdraw a mandate within 120 days after its issuance;
amending s. 48.193, F.S.; providing additional grounds
for subjecting a person to the jurisdiction of the
courts of this state;

By the Committee on Judiciary; and Senator Bogdanoff

590-03254-12

2012462c1

1 A bill to be entitled
 2 An act relating to terms of courts; repealing s.
 3 25.051, F.S., relating to regular terms of the Supreme
 4 Court; repealing s. 26.21, F.S., relating to terms of
 5 the circuit courts; repealing s. 26.22, F.S., relating
 6 to terms of the First Judicial Circuit; repealing s.
 7 26.23, F.S., relating to terms of the Second Judicial
 8 Circuit; repealing s. 26.24, F.S., relating to terms
 9 of the Third Judicial Circuit; repealing s. 26.25,
 10 F.S., relating to terms of the Fourth Judicial
 11 Circuit; repealing s. 26.26, F.S., relating to terms
 12 of the Fifth Judicial Circuit; repealing s. 26.27,
 13 F.S., relating to terms of the Sixth Judicial Circuit;
 14 repealing s. 26.28, F.S., relating to terms of the
 15 Seventh Judicial Circuit; repealing s. 26.29, F.S.,
 16 relating to terms of the Eighth Judicial Circuit;
 17 repealing s. 26.30, F.S., relating to terms of the
 18 Ninth Judicial Circuit; repealing s. 26.31, F.S.,
 19 relating to terms of the Tenth Judicial Circuit;
 20 repealing s. 26.32, F.S., relating to terms of the
 21 Eleventh Judicial Circuit; repealing s. 26.33, F.S.,
 22 relating to terms of the Twelfth Judicial Circuit;
 23 repealing s. 26.34, F.S., relating to terms of the
 24 Thirteenth Judicial Circuit; repealing s. 26.35, F.S.,
 25 relating to terms of the Fourteenth Judicial Circuit;
 26 repealing s. 26.36, F.S., relating to terms of the
 27 Fifteenth Judicial Circuit; repealing s. 26.361, F.S.,
 28 relating to terms of the Sixteenth Judicial Circuit;
 29 repealing s. 26.362, F.S., relating to terms of the

Page 1 of 12

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

590-03254-12

2012462c1

30 Seventeenth Judicial Circuit; repealing s. 26.363,
 31 F.S., relating to terms of the Eighteenth Judicial
 32 Circuit; repealing s. 26.364, F.S., relating to terms
 33 of the Nineteenth Judicial Circuit; repealing s.
 34 26.365, F.S., relating to terms of the Twentieth
 35 Judicial Circuit; repealing s. 26.37, F.S., relating
 36 to requiring a judge to attend the first day of each
 37 term of the circuit court; repealing s. 26.38, F.S.,
 38 relating to a requirement for a judge to state a
 39 reason for nonattendance; repealing s. 26.39, F.S.,
 40 relating to the penalty for nonattendance of the
 41 judge; repealing s. 26.40, F.S., relating to
 42 adjournment of the circuit court upon nonattendance of
 43 the judge; repealing s. 26.42, F.S., relating to
 44 calling all cases on the docket at the end of each
 45 term; repealing s. 35.10, F.S., relating to regular
 46 terms of the district courts of appeal; repealing s.
 47 35.11, F.S., relating to special terms of the district
 48 courts of appeal; repealing s. 907.05, F.S., relating
 49 to a requirement that criminal trials be heard in the
 50 term of court prior to civil cases; repealing s.
 51 907.055, F.S., relating to a requirement that persons
 52 in custody be arraigned and tried in the term of court
 53 unless good cause is shown; amending ss. 26.46, 27.04,
 54 30.12, 30.15, 34.13, 35.05, and 38.23, F.S.;
 55 conforming provisions to changes made by the act;
 56 creating s. 43.43, F.S.; allowing the Supreme Court to
 57 set terms of court for the Supreme Court, district
 58 courts of appeal, and circuit courts; creating s.

Page 2 of 12

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

590-03254-12

2012462c1

43.44, F.S.; providing that appellate courts may withdraw a mandate within 120 days after its issuance; amending ss. 112.19, 206.215, 450.121, 831.10, 831.17, 877.08, 902.19, 903.32, 905.01, 905.09, 905.095, 914.03, 924.065, and 932.47, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Sections 25.051, 26.21, 26.22, 26.23, 26.24, 26.25, 26.26, 26.27, 26.28, 26.29, 26.30, 26.31, 26.32, 26.33, 26.34, 26.35, 26.36, 26.361, 26.362, 26.363, 26.364, 26.365, 26.37, 26.38, 26.39, 26.40, 26.42, 35.10, 35.11, 907.05, and 907.055, Florida Statutes, are repealed.

Section 2. Section 26.46, Florida Statutes, is amended to read:

26.46 Jurisdiction of resident judge after assignment.—When a circuit judge is assigned to another circuit, none of the circuit judges in such other circuit shall, because of such assignment, be deprived of or affected in his or her jurisdiction other than to the extent essential so as not to conflict with the authority of the temporarily assigned circuit judge as to the particular case or cases or class of cases, ~~or in presiding at the particular term or part of term named or specified in the assignment.~~

Section 3. Section 27.04, Florida Statutes, is amended to read:

27.04 Summoning and examining witnesses for state.—The

590-03254-12

2012462c1

state attorney shall have summoned all witnesses required on behalf of the state; and he or she is allowed the process of his or her court to summon witnesses from throughout the state to appear before the state attorney ~~in or out of term time~~ at such convenient places in the state attorney's judicial circuit and at such convenient times as may be designated in the summons, to testify before him or her as to any violation of the law upon which they may be interrogated, and he or she is empowered to administer oaths to all witnesses summoned to testify by the process of his or her court or who may voluntarily appear before the state attorney to testify as to any violation or violations of the law.

Section 4. Section 30.12, Florida Statutes, is amended to read:

30.12 Power to appoint sheriff.—Whenever any sheriff in the state shall fail to attend, in person or by deputy, ~~any term of~~ the circuit court or county court of the county, from sickness, death, or other cause, the judge attending said court may appoint an interim a sheriff, who shall assume all the responsibilities, perform all the duties, and receive the same compensation as if he or she had been duly appointed sheriff, ~~for only the said term of nonattendance court and no longer.~~

Section 5. Paragraph (c) of subsection (1) of section 30.15, Florida Statutes, is amended to read:

30.15 Powers, duties, and obligations.—

(1) Sheriffs, in their respective counties, in person or by deputy, shall:

(c) Attend all sessions ~~terms~~ of the circuit court and county court held in their counties.

590-03254-12

2012462c1

Section 6. Subsection (2) of section 34.13, Florida Statutes, is amended to read:

34.13 Method of prosecution.—

(2) Upon the finding of indictments by the grand jury for crimes cognizable by the county court, the clerk of the court, without any order therefor, shall docket the same on the trial docket of the county court ~~on or before the first day of its next succeeding term.~~

Section 7. Subsection (2) of section 35.05, Florida Statutes, is amended to read:

35.05 Headquarters.—

(2) A district court of appeal may designate other locations within its district as branch headquarters for the conduct of the business of the court ~~in special or regular term~~ and as the official headquarters of its officers or employees pursuant to s. 112.061.

Section 8. Section 38.23, Florida Statutes, is amended to read:

38.23 ~~Contempt~~ ~~Contempts~~ defined.—A refusal to obey any legal order, mandate or decree, made or given by any judge ~~either in term time or in vacation~~ relative to any of the business of ~~the said court~~, after due notice thereof, is shall ~~be considered a contempt, punishable and punished~~ accordingly. ~~But nothing said or written, or published, in vacation, to or of any judge, or of any decision made by a judge, shall in any case be construed to be a contempt.~~

Section 9. Section 43.43, Florida Statutes, is created to read:

43.43 Terms of courts.—The Supreme Court may establish

590-03254-12

2012462c1

terms of court for the Supreme Court, the district courts of appeal, and the circuit courts; may authorize district courts of appeal and circuit courts to establish their own terms of court; or may dispense with terms of court.

Section 10. Section 43.44, Florida Statutes, is created to read:

43.44 Mandate of an appeals court.—An appellate court has the jurisdiction and power, as the circumstances and justice of the case may require, to reconsider, revise, reform, or modify its own opinions and orders for the purpose of making the same accord with law and justice. Accordingly, an appellate court has the power to recall its own mandate for the purpose of allowing it to exercise such jurisdiction and power in a proper case. A mandate may not be recalled more than 120 days after it has been issued.

Section 11. Paragraph (b) of subsection (1) of section 112.19, Florida Statutes, is amended to read:

112.19 Law enforcement, correctional, and correctional probation officers; death benefits.—

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

(b) "Law enforcement, correctional, or correctional probation officer" means any officer as defined in s. 943.10(14) or employee of the state or any political subdivision of the state, including any law enforcement officer, correctional officer, correctional probation officer, state attorney investigator, or public defender investigator, whose duties require such officer or employee to investigate, pursue, apprehend, arrest, transport, or maintain custody of persons who are charged with, suspected of committing, or convicted of a

590-03254-12

2012462c1

crime; and the term includes any member of a bomb disposal unit whose primary responsibility is the location, handling, and disposal of explosive devices. The term also includes any full-time officer or employee of the state or any political subdivision of the state, certified pursuant to chapter 943, whose duties require such officer to serve process or to attend a session ~~terms~~ of a circuit or county court as bailiff.

Section 12. Subsection (2) of section 206.215, Florida Statutes, is amended to read:

206.215 Costs and expenses of proceedings.—

(2) The clerks of the courts performing duties under the provisions aforesaid shall receive the same fees as prescribed by the general law for the performance of similar duties, and witnesses attending any investigation pursuant to subpoena shall receive the same mileage and per diem as if attending as a witness before the circuit court ~~in term time~~.

Section 13. Subsection (4) of section 450.121, Florida Statutes, is amended to read:

450.121 Enforcement of Child Labor Law.—

(4) Grand juries ~~shall~~ have inquisitorial powers to investigate violations of this chapter; also, trial court judges shall specially charge the grand jury, ~~at the beginning of each term of the court,~~ to investigate violations of this chapter.

Section 14. Section 831.10, Florida Statutes, is amended to read:

831.10 Second conviction of uttering forged bills.—A person previously ~~Whoever, having been~~ convicted of violating the offense mentioned in s. 831.09 who is again convicted of that ~~the like~~ offense committed after the former conviction, ~~and on~~

590-03254-12

2012462c1

~~whoever is at the same term of the court convicted upon~~ three distinct charges of such offense committed within a 6-month period, shall be deemed a common utterer of counterfeit bills, and shall be punished as provided in s. 775.084.

Section 15. Section 831.17, Florida Statutes, is amended to read:

831.17 Violation of s. 831.16; second or subsequent conviction.—A person previously ~~Whoever having been~~ convicted of violating either of the offenses mentioned in s. 831.16 ~~who,~~ is again convicted of violating that statute either of the same offenses, committed after the former conviction on, ~~and whoever~~ ~~is at the same term of the court convicted upon~~ three distinct charges of such offense committed within a 6-month period ~~said offenses,~~ commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 16. Subsection (4) of section 877.08, Florida Statutes, is amended to read:

877.08 Coin-operated vending machines and parking meters; defined; prohibited acts, penalties.—

(4) Whoever violates ~~the provisions of~~ subsection (3) a second or subsequent time commits, ~~and is convicted of such second separate offense,~~ either at the same term or a subsequent term of court, ~~shall be guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 17. Subsection (1) of section 902.19, Florida Statutes, is amended to read:

902.19 When prosecutor liable for costs.—

(1) If ~~When~~ a person makes a complaint before a county court judge that a crime has been committed and is recognized by

590-03254-12

2012462c1

the county court judge to appear before ~~at the next term~~ of the court having jurisdiction to give evidence of the crime and fails to appear, the person ~~is shall be~~ liable for all costs occasioned by his or her complaint, and the county court judge may enter ~~obtain~~ a judgment and execution for the costs as in other cases.

Section 18. Subsection (2) of section 903.32, Florida Statutes, is amended to read:

903.32 Defects in bond.—

(2) If no day, or an impossible day, is stated in a bond for the defendant's appearance before a trial court judge for a hearing or trial, the defendant shall be bound to appear 10 days after receipt of notice to appear by the defendant, the defendant's counsel, or any surety on the undertaking. ~~If no day, or an impossible day, is stated in a bond for the defendant's appearance for trial, the defendant shall be bound to appear on the first day of the next term of court that will commence more than 3 days after the undertaking is given.~~

Section 19. Section 905.01, Florida Statutes, is amended to read:

905.01 Number and procurement of grand jury; replacement of member; term of grand jury.—

(1) The grand jury shall consist of not fewer than 15 nor more than 21 persons. The provisions of law governing the qualifications, disqualifications, excusals, drawing, summoning, supplying deficiencies, compensation, and procurement of petit jurors apply to grand jurors. In addition, an elected public official is not eligible for service on a grand jury.

(2) The chief judge of any circuit court may provide for

590-03254-12

2012462c1

the replacement of any grand juror who, for good cause, is unable to complete the term of the grand jury. Such replacement shall be made by appropriate order of the chief judge from the list of prospective jurors from which the grand juror to be replaced was selected.

(3) The chief judge of each any circuit court shall regularly order ~~may dispense with~~ the convening of the grand jury for a at any term of 6 months ~~court by filing a written order with the clerk of court directing that a grand jury not be summoned.~~

Section 20. Section 905.09, Florida Statutes, is amended to read:

905.09 Discharge and recall of grand jury.—A grand jury that has been dismissed may be recalled at any time during the same term of the grand jury court.

Section 21. Section 905.095, Florida Statutes, is amended to read:

905.095 Extension of grand jury term.—Upon petition of the state attorney or the foreperson of the grand jury acting on behalf of a majority of the grand jurors, the circuit court may extend the term of a grand jury impaneled under this chapter beyond the term ~~of court~~ in which it was originally impaneled. A grand jury whose term has been extended as provided herein shall have the same composition and the same powers and duties it had during its original term. If in the event the term of the grand jury is extended under this section, it shall be extended for a time certain, not to exceed a total of 90 days, and only for the purpose of concluding one or more specified investigative matters initiated during its original term.

590-03254-12 2012462c1

291 Section 22. Section 914.03, Florida Statutes, is amended to
292 read:

293 914.03 Attendance of witnesses.—A witness summoned by a
294 grand jury ~~or in a criminal case~~ shall remain in attendance
295 until excused by the grand jury. A witness summoned in a
296 criminal case shall remain available for attendance until the
297 case for which he or she was summoned is disposed of or until he
298 or she is excused by the court. A witness who departs without
299 permission of the court shall be in criminal contempt of court.
300 ~~A witness shall attend each succeeding term of court until the~~
301 ~~case is terminated.~~

302 Section 23. Subsection (2) of section 924.065, Florida
303 Statutes, is amended to read:

304 924.065 Denial of motion for new trial or arrest of
305 judgment; appeal bond; supersedeas.—

306 (2) An appeal may ~~shall~~ not be a supersedeas to the
307 execution of the judgment, sentence, or order until the
308 appellant has entered into a bond with at least two sureties to
309 secure the payment of the judgment, fine, and any future costs
310 that may be adjudged by the appellate court. The bond shall be
311 conditioned on the appellant's personally answering and abiding
312 by the final order, sentence, or judgment of the appellate court
313 and, if the action is remanded, on the appellant's appearing
314 before ~~at the next term of~~ the court in which the case was
315 originally determined and not departing without leave of court.

316 Section 24. Section 932.47, Florida Statutes, is amended to
317 read:

318 932.47 Informations filed by prosecuting attorneys.—
319 Informations may be filed by the prosecuting attorney of the

590-03254-12 2012462c1

320 circuit court with the clerk of the circuit court ~~in vacation or~~
321 ~~in term~~ without leave of the court first being obtained.

322 Section 25. This act shall take effect January 1, 2013.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: SB 1200

INTRODUCER: Senator Bogdanoff

SUBJECT: Sexual Offenders and Sexual Predators

DATE: February 6, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	Favorable
2.	Sneed	Sadberry	BJA	Pre-meeting
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill amends various statutes relating to sexual predator and sexual offender registration and notification requirements. It bases some requirements on homelessness, rather than transient status, and requires sexual predators and sexual offenders who are homeless to update the location where they sleep or seek shelter monthly at the sheriff's office. Currently, sexual predators and sexual offenders are required to update their information every quarter.

The bill also changes an element of the enhanced crime of loitering or prowling to apply when a sexual offender or sexual predator commits the offense within 300 feet of a place where children congregate. Currently, the statute applies only when the offense was committed within 300 feet of a place where children were congregating at the time of the offense.

This bill substantially amends sections 775.21, 856.022, 943.0435, 944.606, 944.607, 985.481, and 985.4815 of the Florida Statutes.

II. Present Situation:

Sexual Predator and Sexual Offender Reporting Requirements

The distinction between a sexual predator and a sexual offender is based on the offense, the date the offense occurred or when sanctions were completed, and whether the person was previously convicted of a sexual offense. Conviction of committing or attempting to commit any of the following offenses would require registration as either a sexual offender or a sexual predator¹:

¹ The criteria for designation as a sexual predator is found in s. 775.21, F.S. The criteria for registration as a sexual offender is found in s. 943.0435, F.S.

- Kidnapping, false imprisonment, or luring or enticing a child where the victim is a minor and the defendant is not the victim's parent (ss. 787.01, 787.02, and 787.025(2)(c), F.S.).
- Sexual battery (s. 794.011, F.S., except false accusation of another under subsection (10)).
- Sexual activity by a person who is 24 years old or older with a minor who is 16 or 17 years old (s. 794.05, F.S.).
- Procuring a person under the age of 18 for prostitution (s. 796.03, F.S.).
- Selling or buying of minors into sex trafficking or prostitution (s. 796.035, F.S.).
- Lewd or lascivious offenses upon or in the presence of a person under the age of 16 (s. 800.04, F.S.).
- Lewd or lascivious offenses upon an elderly or disabled person (s. 825.1025, F.S.).
- Enticing, promoting, or possessing images of sexual performance by a child (s. 827.071, F.S.).
- Distribution of obscene materials to a minor (s. 847.0133, F.S.).
- Computer pornography (s. 847.0135, F.S., except owners or operators of computer services liable under subsection (6)).
- Selling or buying of minors for child pornography (s. 847.0145, F.S.).
- Sexual misconduct by a Department of Juvenile Justice (DJJ) employee with a juvenile offender (s. 985.701(1), F.S.).
- Violating a similar law of another jurisdiction.

Designation as a sexual predator requires either: (1) conviction of one of the enumerated offenses after having previously been convicted of one of the offenses, or (2) conviction of a capital, life, or first-degree felony violation of s. 787.01, F.S., or s. 787.02, F.S.; where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, F.S.; s. 800.04, F.S.; s. 847.0145, F.S.; or conviction for violating a similar law of another jurisdiction. Sexual predator status can only be conferred as the result of offenses committed on or after October 1, 1993.

The requirement to register as a sexual offender is triggered by conviction of committing or attempting, soliciting, or conspiring to commit one of the offenses, transmission of child pornography by electronic device (s. 847.0137, F.S.), or transmission of material harmful to minors to a minor by electronic device (s. 847.0138, F.S.). It applies only when the offender was released from the sanction for the offense on or after October 1, 1997.

A sexual predator or sexual offender is required to comply with a number of statutory requirements.² Those in custody will be registered by the agency by which they are held. Persons under the supervision of the Department of Corrections (DOC) or the Department of Juvenile Justice (DJJ) must register with the respective department. All others must register at the county sheriff's office within 48 hours of either: (1) being designated as a sexual predator; (2) convicted of an offense that requires registration as a sexual offender; or (3) establishing a residence in the county.

² The specific offender reporting requirements and law enforcement reporting and notification requirements are found in ss. 775.21, 943.0435, 944.606, 944.607, 985.481, and 985.4815, F.S.

A variety of personal identifying information must be provided to the sheriff's office as part of the registration process. This information includes the address of a legal residence or temporary residence or the address, location or description of a transient residence, any electronic mail address, and any instant message name.

The sheriff's office provides this information to the Florida Department of Law Enforcement (FDLE) for inclusion in the statewide database. The offender or predator must also register at a driver's license office within 48 hours of the initial registration at the sheriff's department.

After the initial registration, both sexual predators and sexual offenders must report to the sheriff's office during their birth month to update the information. Sexual predators are required to report every quarter thereafter, while sexual offenders are required to report every six months.

Both sexual predators and sexual offenders must report any change of permanent, temporary, or transient residence within the state to the driver's license office within 48 hours. If a new permanent, temporary, or transient residence is not established, the sheriff's office must be given the address for the residence or other location that will be occupied until a new residence is established. Transient residence is defined as:

... a place or county where a person lives, remains, or is located for a period of 5 or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.³

The predator or offender must also report his or her intent to establish a residence in another state or jurisdiction within 48 hours of the intended change. However, this notice must be given in person to the county sheriff, not to the driver's license office.

The county sheriff or municipal police chief must notify child care centers and schools within a one-mile radius of the sexual predator's permanent, temporary, or transient residence within 48 hours of the notification by the predator. In addition, the sheriff or police chief is required to notify the community of the presence of the predator in an appropriate manner, which is often by posting on the sheriff's website. Both notices must include the predator's address, including the name of the municipality or county.

DOC and DJJ are required to provide FDLE with information including the offender's intended residence address, if known six months prior to release from custody or commitment. The agencies must also provide FDLE with the current or intended permanent, temporary, or transient address, if known during the time of incarceration or residential commitment.

Loitering and Prowling

"Loitering and prowling" is a second degree misdemeanor prohibited by s. 856.021, F.S. The elements required to be proven for conviction are that the defendant loitered or prowled in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that

³ Section 775.21(2)(m), F.S.

warranted justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity. Among circumstances that may be considered in determining whether such alarm or immediate concern is warranted is the fact that the person takes flight upon appearance of a law enforcement officer, refuses to identify him or herself, or manifestly endeavors to conceal him or herself or any object. Because it is a misdemeanor, all elements of the offense must be committed in the officer's presence prior to arrest. An unusual requirement of the statute is that the law enforcement officer must give the suspect an opportunity to dispel any alarm or immediate concern by requesting the suspect to identify him or herself and to explain his or her presence or conduct.

Section 856.022, F.S., increases the penalty for loitering and prowling to a first degree misdemeanor if it is proven that:

- (1) The offender committed loitering or prowling;
- (2) At the time, the offender was within 300 feet of a place where children were congregating;

The offender was previously convicted of a crime that is a qualifying offense for designation as either a sexual offender or a sexual predator, and the victim was under 18 years of age at the time. This includes offenders who are designated as a sexual offender or a sexual predator as well as those who are not so designated for some reason. However, it does not include offenders who have been removed from the registration requirements pursuant to s. 943.04354, F.S., who have been pardoned, or whose conviction was set aside in a post-conviction proceeding.

III. Effect of Proposed Changes:

Provisions Relating to Registration and Notification Requirements

Sections 1 and 3-7 of the bill amend statutes relating to registration and notification requirements for sexual predators and sexual offenders.

Section 1 of the bill amends s. 775.21, F.S., the Florida Sexual Predators Act, to remove the definition of "transient residence" and add a definition of "homelessness." As defined in the bill, homelessness means "... a temporary condition and social category of people without a dwelling who are unable to maintain adequate housing" and the term dwelling "includes, but is not limited to, a place where a person sleeps or seeks shelter." The bill's definition of homelessness is more inclusive than the current statute's definition of transient residence, which applies only to places where the predator stayed for a total of at least 5 days during a calendar year. The broader term "homelessness" would apply to persons who move from place to place even if they are not in one place for more than five days in the year. The department has estimated that approximately 75 homeless sexual predators or sexual offenders are on community supervision statewide.⁴

This section of the bill makes amendments throughout s. 775.21, F.S., to replace references to establishing or maintaining a transient residence with references to establishing or maintaining homeless status. It also changes current references to a sexual predator's transient residence to refer to a place where the predator sleeps or seeks shelter.

⁴ Department of Corrections Analysis of Senate Bill 1178 (2011).

Two new provisions are included in addition to changes related to referring to homelessness rather than transiency:

- Section 775.21(6)(a), F.S., adds a requirement that a homeless predator must go to the sheriff's office in person each month to update the location where he or she sleeps or seeks shelter. The homeless predator would still be subject to the requirement in s. 775.21(8), F.S., to report to the sheriff's office annually during his or her birth month and every third month thereafter to update all registration information. It is presumed that both the monthly report and the quarterly update requirements could be met in the same visit.
- Failure to meet the monthly reporting requirement or falsely claiming to be homeless are made violations of the registration requirement, which is a second degree felony offense.

Section 3 amends s. 944.0435, F.S., which relates to sexual offenders, to be consistent with the amendments s. 775.21, F.S., in section 1 of the bill relating to sexual predators.

Sections 4-8 make consistent amendments to ss. 943.0435, 944.606, 944.607, 985.481, and 985.4815, F.S., in order to refer to homelessness rather than transiency.

Loitering and Prowling in Close Proximity to Children

Section 2 of the bill amends s. 856.022, F.S., to change an element of the enhanced loitering or prowling statute. Currently, an element of the enhanced offense is that it applies only if the offender was loitering or prowling within 300 feet of a place where children were congregating at the time of the offense. The bill amends the statute to apply to offenses committed within 300 feet of a place where children congregate, without the requirement for children to be congregating at the time of the offense.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The amendment to the wording of the enhanced loitering or prowling offense in Section 2 of the bill raises due process concerns. Proving a violation of s. 856.022, F.S., currently requires that, in committing loitering or prowling, the offender must have been within 300 feet of a place where children were congregating. The bill's proposed change of the statutory language from "a place where children were congregating" to "a place where

children congregate” elevates concerns that the offender may not reasonably be able to ascertain that he or she is within a prohibited area. It is recommended that consideration be given to requiring that the offender be within 300 feet of a place where children “regularly congregate” or “regularly congregate or were congregating at the time of the offense.”

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

On February 9, 2012, the Criminal Justice Impact Conference determined that the bill will have an indeterminate fiscal impact upon the cost of housing inmates within the Department of Corrections.

The Department of Corrections has reported that the increase in reporting frequency and the new offense of falsely reporting homelessness by a sexual predator or sexual offender could increase community supervision violations.

FDLE estimates that the provisions of the bill would require 2 additional FTEs and implementation costs for programming and translation. They estimate that this will cost \$152,957 in the first year, with annual recurring costs of \$115,106.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

By Senator Bogdanoff

25-00653-12

20121200__

A bill to be entitled

An act relating to sexual offenders and sexual predators; amending s. 775.21, F.S.; defining the term "homelessness" and deleting the definition of the term "transient residence"; conforming provisions to the revisions in terminology made by the act; amending s. 856.022, F.S.; clarifying provisions concerning loitering by certain offenders; amending ss. 943.0435, 944.606, 944.607, 985.481, and 985.4815, F.S.; conforming provisions to the revisions in terminology made by the act; requiring specified monthly registration by homeless offenders and predators; providing that failure to comply with such registration is a violation of specified provisions; providing an effective date.

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

Section 1. Paragraphs (i), (j), (k), (l), and (m) of subsection (2), paragraph (c) of subsection (4), paragraph (a) of subsection (5), paragraphs (a), (f), (g), (i), and (j) of subsection (6), paragraph (a) of subsection (7), and paragraph (a) of subsection (8) of section 775.21, Florida Statutes, are amended to read:

775.21 The Florida Sexual Predators Act.—

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

(i) "Homelessness" means a temporary condition and social category of people without a dwelling who are unable to maintain adequate housing. The term "dwelling" includes, but is not

25-00653-12

20121200__

limited to, a place where a person sleeps or seeks shelter.

~~(j)-(i)~~ "Instant message name" means an identifier that allows a person to communicate in real time with another person using the Internet.

~~(k)-(j)~~ "Institution of higher education" means a career center, community college, college, state university, or independent postsecondary institution.

~~(l)-(k)~~ "Permanent residence" means a place where the person abides, lodges, or resides for 5 or more consecutive days.

~~(m)-(i)~~ "Temporary residence" means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 5 or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state.

~~(m) "Transient residence" means a place or county where a person lives, remains, or is located for a period of 5 or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.~~

(4) SEXUAL PREDATOR CRITERIA.—

(c) If an offender has been registered as a sexual predator by the Department of Corrections, the department, or any other law enforcement agency and if:

1. The court did not, for whatever reason, make a written

25-00653-12 20121200__

finding at the time of sentencing that the offender was a sexual predator; or

2. The offender was administratively registered as a sexual predator because the Department of Corrections, the department, or any other law enforcement agency obtained information that indicated that the offender met the criteria for designation as a sexual predator based on a violation of a similar law in another jurisdiction,

the department shall remove that offender from the department's list of sexual predators and, for an offender described under subparagraph 1., shall notify the state attorney who prosecuted the offense that met the criteria for administrative designation as a sexual predator, and, for an offender described under this paragraph, shall notify the state attorney of the county where the offender establishes or maintains a permanent or temporary, ~~or transient~~ residence or homeless status. The state attorney shall bring the matter to the court's attention in order to establish that the offender meets the criteria for designation as a sexual predator. If the court makes a written finding that the offender is a sexual predator, the offender must be designated as a sexual predator, must register or be registered as a sexual predator with the department as provided in subsection (6), and is subject to the community and public notification as provided in subsection (7). If the court does not make a written finding that the offender is a sexual predator, the offender may not be designated as a sexual predator with respect to that offense and is not required to register or be registered as a sexual predator with the

25-00653-12 20121200__

department.

(5) SEXUAL PREDATOR DESIGNATION.—An offender is designated as a sexual predator as follows:

(a)1. An offender who meets the sexual predator criteria described in paragraph (4)(d) is a sexual predator, and the court shall make a written finding at the time such offender is determined to be a sexually violent predator under chapter 394 that such person meets the criteria for designation as a sexual predator for purposes of this section. The clerk shall transmit a copy of the order containing the written finding to the department within 48 hours after the entry of the order;

2. An offender who meets the sexual predator criteria described in paragraph (4)(a) who is before the court for sentencing for a current offense committed on or after October 1, 1993, is a sexual predator, and the sentencing court must make a written finding at the time of sentencing that the offender is a sexual predator, and the clerk of the court shall transmit a copy of the order containing the written finding to the department within 48 hours after the entry of the order; or

3. If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender who establishes or maintains a permanent or temporary, ~~or transient~~ residence or homeless status in this state meets the sexual predator criteria described in paragraph (4)(a) or paragraph (4)(d) because the offender was civilly committed or committed a similar violation in another jurisdiction on or after October 1, 1993, the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney of the county where the offender

25-00653-12 20121200
 117 establishes or maintains a permanent ~~or, temporary, or transient~~
 118 residence or homeless status of the offender's presence in the
 119 community. The state attorney shall file a petition with the
 120 criminal division of the circuit court for the purpose of
 121 holding a hearing to determine if the offender's criminal record
 122 or record of civil commitment from another jurisdiction meets
 123 the sexual predator criteria. If the court finds that the
 124 offender meets the sexual predator criteria because the offender
 125 has violated a similar law or similar laws in another
 126 jurisdiction, the court shall make a written finding that the
 127 offender is a sexual predator.

128
 129 When the court makes a written finding that an offender is a
 130 sexual predator, the court shall inform the sexual predator of
 131 the registration and community and public notification
 132 requirements described in this section. Within 48 hours after
 133 the court designating an offender as a sexual predator, the
 134 clerk of the circuit court shall transmit a copy of the court's
 135 written sexual predator finding to the department. If the
 136 offender is sentenced to a term of imprisonment or supervision,
 137 a copy of the court's written sexual predator finding must be
 138 submitted to the Department of Corrections.

139 (6) REGISTRATION.—

140 (a) A sexual predator must register with the department
 141 through the sheriff's office by providing the following
 142 information to the department:

143 1. Name; social security number; age; race; sex; date of
 144 birth; height; weight; hair and eye color; photograph; address
 145 of legal residence and address of any current temporary

25-00653-12 20121200
 146 residence, within the state or out of state, including a rural
 147 route address and a post office box; if no permanent or
 148 temporary address, a specific sleeping location or location
 149 where he or she is seeking shelter ~~any transient residence~~
 150 within the state, which the person must update in person once
 151 each month with the sheriff's office of the county in which he
 152 or she is located as long as he or she has no permanent or
 153 temporary address; address, location or description, and dates
 154 of any current or known future temporary residence, specific
 155 sleeping location, or location where he or she is or will be
 156 seeking shelter within the state or out of state; any electronic
 157 mail address and any instant message name required to be
 158 provided pursuant to subparagraph (g)4.; home telephone number
 159 and any cellular telephone number; date and place of any
 160 employment; date and place of each conviction; fingerprints; and
 161 a brief description of the crime or crimes committed by the
 162 offender. A post office box may ~~shall~~ not be provided in lieu of
 163 a physical residential address.

164 a. If the sexual predator's place of residence is a motor
 165 vehicle, trailer, mobile home, or manufactured home, as defined
 166 in chapter 320, the sexual predator shall also provide to the
 167 department written notice of the vehicle identification number;
 168 the license tag number; the registration number; and a
 169 description, including color scheme, of the motor vehicle,
 170 trailer, mobile home, or manufactured home. If a sexual
 171 predator's place of residence is a vessel, live-aboard vessel,
 172 or houseboat, as defined in chapter 327, the sexual predator
 173 shall also provide to the department written notice of the hull
 174 identification number; the manufacturer's serial number; the

25-00653-12 20121200__

name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

b. If the sexual predator is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment or employment status. Each change in enrollment or employment status shall be reported in person at the sheriff's office, or the Department of Corrections if the sexual predator is in the custody or control of or under the supervision of the Department of Corrections, within 48 hours after any change in status. The sheriff or the Department of Corrections shall promptly notify each institution of the sexual predator's presence and any change in the sexual predator's enrollment or employment status.

2. Any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers when available.

(f) Within 48 hours after the registration required under paragraph (a) or paragraph (e), a sexual predator who is not incarcerated and who resides in the community, including a sexual predator under the supervision of the Department of Corrections, shall register in person at a driver's license office of the Department of Highway Safety and Motor Vehicles and shall present proof of registration. At the driver's license office the sexual predator shall:

25-00653-12 20121200__

1. If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sexual predator shall identify himself or herself as a sexual predator who is required to comply with this section, provide his or her place of permanent ~~or~~ temporary, ~~or transient~~ residence, specific sleeping location, or location where he or she is seeking shelter, including a rural route address and a post office box, and submit to the taking of a photograph for use in issuing a driver's license, renewed license, or identification card, and for use by the department in maintaining current records of sexual predators. A post office box may ~~shall~~ not be provided in lieu of a physical residential address. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver's

25-00653-12 20121200

license or identification card as required by this section. The driver's license or identification card issued to the sexual predator must be in compliance with s. 322.141(3).

3. Provide, upon request, any additional information necessary to confirm the identity of the sexual predator, including a set of fingerprints.

(g)1. Each time a sexual predator's driver's license or identification card is subject to renewal, and, without regard to the status of the predator's driver's license or identification card, within 48 hours after any change of the predator's residence or change in the predator's name by reason of marriage or other legal process, the predator shall report in person to a driver's license office and shall be subject to the requirements specified in paragraph (f). The Department of Highway Safety and Motor Vehicles shall forward to the department and to the Department of Corrections all photographs and information provided by sexual predators. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles is authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual predators as provided in this section.

2. A sexual predator who vacates a permanent ~~or~~ temporary, ~~or transient~~ residence, specific sleeping location, or location where he or she is seeking shelter and fails to establish or maintain another permanent ~~or~~ temporary, ~~or transient~~ residence, specific sleeping location, or location where he or she is seeking shelter shall, within 48 hours after vacating the permanent ~~or~~ temporary, ~~or transient~~ residence, specific

25-00653-12 20121200

sleeping location, or location where he or she is seeking shelter, report in person to the sheriff's office of the county in which he or she is located. A sexual predator who remains homeless must report in person once a month and register a specific sleeping location or location where he or she is seeking shelter. The sexual predator shall specify the date upon which he or she intends to or did vacate such residence. The sexual predator must provide or update all of the registration information required under paragraph (a). The sexual predator must provide an address for the residence or other place that he or she is or will be located during the time in which he or she fails to establish or maintain a permanent or temporary residence or, if in a homelessness status, must report his or her new sleeping location.

3. A sexual predator who remains at a permanent ~~or~~ temporary, ~~or transient~~ residence, specific sleeping location, or location where he or she is seeking shelter after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the predator indicated he or she would or did vacate such residence, report in person to the sheriff's office to which he or she reported pursuant to subparagraph 2. for the purpose of reporting his or her address at such residence. A sexual predator who fails to update this registration once each month as required in subparagraph 2. violates this registration requirement. This registration is in addition to any other registration mandated by this section. If the predator claims to be homeless but actually has a residence or place to live, he or she commits a violation of this section. When the sheriff receives the report, the sheriff shall promptly

25-00653-12 20121200
 291 convey the information to the department. An offender who makes
 292 a report as required under subparagraph 2. but fails to make a
 293 report as required under this subparagraph commits a felony of
 294 the second degree, punishable as provided in s. 775.082, s.
 295 775.083, or s. 775.084.

296 4. A sexual predator must register any electronic mail
 297 address or instant message name with the department prior to
 298 using such electronic mail address or instant message name on or
 299 after October 1, 2007. The department shall establish an online
 300 system through which sexual predators may securely access and
 301 update all electronic mail address and instant message name
 302 information.

303 (i) A sexual predator who intends to establish a permanent
 304 or, temporary, or transient residence or homeless status in
 305 another state or jurisdiction other than the State of Florida
 306 shall report in person to the sheriff of the county of current
 307 residence within 48 hours before the date he or she intends to
 308 leave this state to establish residence in another state or
 309 jurisdiction. The sexual predator must provide to the sheriff
 310 the address, municipality, county, and state of intended
 311 residence. The sheriff shall promptly provide to the department
 312 the information received from the sexual predator. The
 313 department shall notify the statewide law enforcement agency, or
 314 a comparable agency, in the intended state or jurisdiction of
 315 residence of the sexual predator's intended residence. The
 316 failure of a sexual predator to provide his or her intended
 317 place of residence is punishable as provided in subsection (10).

318 (j) A sexual predator who indicates his or her intent to
 319 establish a permanent or, temporary, or transient residence or

25-00653-12 20121200
 320 homelessness status in another state or jurisdiction other than
 321 the State of Florida and later decides to remain in this state
 322 shall, within 48 hours after the date upon which the sexual
 323 predator indicated he or she would leave this state, report in
 324 person to the sheriff to which the sexual predator reported the
 325 intended change of residence, and report his or her intent to
 326 remain in this state. If the sheriff is notified by the sexual
 327 predator that he or she intends to remain in this state, the
 328 sheriff shall promptly report this information to the
 329 department. A sexual predator who reports his or her intent to
 330 establish a permanent or, temporary, or transient residence or
 331 homelessness status in another state or jurisdiction, but who
 332 remains in this state without reporting to the sheriff in the
 333 manner required by this paragraph, commits a felony of the
 334 second degree, punishable as provided in s. 775.082, s. 775.083,
 335 or s. 775.084.

336 (7) COMMUNITY AND PUBLIC NOTIFICATION.—

337 (a) Law enforcement agencies must inform members of the
 338 community and the public of a sexual predator's presence. Upon
 339 notification of the presence of a sexual predator, the sheriff
 340 of the county or the chief of police of the municipality where
 341 the sexual predator establishes or maintains a permanent or
 342 temporary residence shall notify members of the community and
 343 the public of the presence of the sexual predator in a manner
 344 deemed appropriate by the sheriff or the chief of police. Within
 345 48 hours after receiving notification of the presence of a
 346 sexual predator, the sheriff of the county or the chief of
 347 police of the municipality where the sexual predator temporarily
 348 or permanently resides shall notify each licensed child care

25-00653-12 20121200
 349 facility, elementary school, middle school, and high school
 350 within a 1-mile radius of the temporary or permanent residence
 351 of the sexual predator of the presence of the sexual predator.
 352 Information provided to members of the community and the public
 353 regarding a sexual predator must include:

- 354 1. The name of the sexual predator;
- 355 2. A description of the sexual predator, including a
 356 photograph;
- 357 3. The sexual predator's current permanent or temporary,
 358 and transient addresses, specific sleeping location, or location
 359 where he or she is seeking shelter, and descriptions of
 360 registered locations that have no specific street address,
 361 including the name of the county or municipality if known;

362 4. The circumstances of the sexual predator's offense or
 363 offenses; and

364 5. Whether the victim of the sexual predator's offense or
 365 offenses was, at the time of the offense, a minor or an adult.

366
 367 This paragraph does not authorize the release of the name of any
 368 victim of the sexual predator.

369 (8) VERIFICATION.—The department and the Department of
 370 Corrections shall implement a system for verifying the addresses
 371 of sexual predators. The system must be consistent with the
 372 provisions of the federal Adam Walsh Child Protection and Safety
 373 Act of 2006 and any other federal standards applicable to such
 374 verification or required to be met as a condition for the
 375 receipt of federal funds by the state. The Department of
 376 Corrections shall verify the addresses of sexual predators who
 377 are not incarcerated but who reside in the community under the

25-00653-12 20121200
 378 supervision of the Department of Corrections and shall report to
 379 the department any failure by a sexual predator to comply with
 380 registration requirements. County and local law enforcement
 381 agencies, in conjunction with the department, shall verify the
 382 addresses of sexual predators who are not under the care,
 383 custody, control, or supervision of the Department of
 384 Corrections. Local law enforcement agencies shall report to the
 385 department any failure by a sexual predator to comply with
 386 registration requirements.

387 (a) A sexual predator must report in person each year
 388 during the month of the sexual predator's birthday and during
 389 every third month thereafter to the sheriff's office in the
 390 county in which he or she resides or is otherwise located to
 391 reregister. The sheriff's office may determine the appropriate
 392 times and days for reporting by the sexual predator, which shall
 393 be consistent with the reporting requirements of this paragraph.
 394 Reregistration shall include any changes to the following
 395 information:

- 396 1. Name; social security number; age; race; sex; date of
 397 birth; height; weight; hair and eye color; address of any
 398 permanent residence and address of any current temporary
 399 residence, within the state or out of state, including a rural
 400 route address and a post office box; if no permanent or
 401 temporary address, a specific sleeping location or location
 402 where he or she is seeking shelter ~~any transient residence~~
 403 within the state; address, location or description, and dates of
 404 any current or known future temporary residence, specific
 405 sleeping location, or location where he or she is or will be
 406 seeking shelter within the state or out of state; any electronic

25-00653-12 20121200
 407 mail address and any instant message name required to be
 408 provided pursuant to subparagraph (6)(g)4.; home telephone
 409 number and any cellular telephone number; date and place of any
 410 employment; vehicle make, model, color, and license tag number;
 411 fingerprints; and photograph. A post office box may ~~shall~~ not be
 412 provided in lieu of a physical residential address.

413 2. If the sexual predator is enrolled, employed, or
 414 carrying on a vocation at an institution of higher education in
 415 this state, the sexual predator shall also provide to the
 416 department the name, address, and county of each institution,
 417 including each campus attended, and the sexual predator's
 418 enrollment or employment status.

419 3. If the sexual predator's place of residence is a motor
 420 vehicle, trailer, mobile home, or manufactured home, as defined
 421 in chapter 320, the sexual predator shall also provide the
 422 vehicle identification number; the license tag number; the
 423 registration number; and a description, including color scheme,
 424 of the motor vehicle, trailer, mobile home, or manufactured
 425 home. If the sexual predator's place of residence is a vessel,
 426 live-aboard vessel, or houseboat, as defined in chapter 327, the
 427 sexual predator shall also provide the hull identification
 428 number; the manufacturer's serial number; the name of the
 429 vessel, live-aboard vessel, or houseboat; the registration
 430 number; and a description, including color scheme, of the
 431 vessel, live-aboard vessel, or houseboat.

432 Section 2. Subsection (3) of section 856.022, Florida
 433 Statutes, is amended to read:

434 856.022 Loitering or prowling by certain offenders in close
 435 proximity to children; penalty.-

25-00653-12 20121200
 436 (3) A person described in subsection (1) commits loitering
 437 and prowling by a person convicted of a sexual offense against a
 438 minor if, in committing loitering and prowling, he or she was
 439 within 300 feet of a place where children congregate ~~were~~
 440 ~~congregating~~.

441 Section 3. Paragraph (c) of subsection (1), subsection (2),
 442 paragraphs (a), (b), and (c) of subsection (4), subsections (7),
 443 (8), and (10), and paragraph (c) of subsection (14) of section
 444 943.0435, Florida Statutes, are amended to read:

445 943.0435 Sexual offenders required to register with the
 446 department; penalty.-

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

448 (c) "Permanent residence," "temporary residence," and
 449 "homelessness" ~~"transient residence"~~ have the same meaning
 450 ascribed in s. 775.21.

451 (2) A sexual offender shall:

452 (a) Report in person at the sheriff's office:

453 1. In the county in which the offender establishes or
 454 maintains a permanent or temporary, ~~or transient~~ residence or
 455 homelessness status within 48 hours after:

456 a. Establishing a permanent or temporary, ~~or transient~~
 457 residence or a specific sleeping location or location where he
 458 or she is seeking shelter in this state; or

459 b. Being released from the custody, control, or supervision
 460 of the Department of Corrections or from the custody of a
 461 private correctional facility; or

462 2. In the county where he or she was convicted within 48
 463 hours after being convicted for a qualifying offense for
 464 registration under this section if the offender is not in the

25-00653-12 20121200
 465 custody or control of, or under the supervision of, the
 466 Department of Corrections, or is not in the custody of a private
 467 correctional facility.

468
 469 Any change in the information required to be provided pursuant
 470 to paragraph (b), including, but not limited to, any change in
 471 the sexual offender's permanent ~~or, temporary, or transient~~
 472 residence or homelessness status, name, any electronic mail
 473 address and any instant message name required to be provided
 474 pursuant to paragraph (4)(d), after the sexual offender reports
 475 in person at the sheriff's office, shall be accomplished in the
 476 manner provided in subsections (4), (7), and (8).

477 (b) Provide his or her name; date of birth; social security
 478 number; race; sex; height; weight; hair and eye color; tattoos
 479 or other identifying marks; occupation and place of employment;
 480 address of permanent or legal residence or address of any
 481 current temporary residence, within the state or out of state,
 482 including a rural route address and a post office box; if no
 483 permanent or temporary address, a specific sleeping location or
 484 location where he or she is seeking shelter ~~any transient~~
 485 ~~residence~~ within the state, which the person must update in
 486 person once each month with the sheriff's office of the county
 487 in which he or she is located as long as he or she has no
 488 permanent or temporary address, address, location or
 489 description, and dates of any current or known future temporary
 490 residence, specific sleeping location, or location where he or
 491 she is or will be seeking shelter within the state or out of
 492 state; home telephone number and any cellular telephone number;
 493 any electronic mail address and any instant message name

25-00653-12 20121200
 494 required to be provided pursuant to paragraph (4)(d); date and
 495 place of each conviction; and a brief description of the crime
 496 or crimes committed by the offender. A post office box may ~~shall~~
 497 not be provided in lieu of a physical residential address.

498 1. If the sexual offender's place of residence is a motor
 499 vehicle, trailer, mobile home, or manufactured home, as defined
 500 in chapter 320, the sexual offender shall also provide to the
 501 department through the sheriff's office written notice of the
 502 vehicle identification number; the license tag number; the
 503 registration number; and a description, including color scheme,
 504 of the motor vehicle, trailer, mobile home, or manufactured
 505 home. If the sexual offender's place of residence is a vessel,
 506 live-aboard vessel, or houseboat, as defined in chapter 327, the
 507 sexual offender shall also provide to the department written
 508 notice of the hull identification number; the manufacturer's
 509 serial number; the name of the vessel, live-aboard vessel, or
 510 houseboat; the registration number; and a description, including
 511 color scheme, of the vessel, live-aboard vessel, or houseboat.

512 2. If the sexual offender is enrolled, employed, or
 513 carrying on a vocation at an institution of higher education in
 514 this state, the sexual offender shall also provide to the
 515 department through the sheriff's office the name, address, and
 516 county of each institution, including each campus attended, and
 517 the sexual offender's enrollment or employment status. Each
 518 change in enrollment or employment status shall be reported in
 519 person at the sheriff's office, within 48 hours after any change
 520 in status. The sheriff shall promptly notify each institution of
 521 the sexual offender's presence and any change in the sexual
 522 offender's enrollment or employment status.

25-00653-12

20121200__

When a sexual offender reports at the sheriff's office, the sheriff shall take a photograph and a set of fingerprints of the offender and forward the photographs and fingerprints to the department, along with the information provided by the sexual offender. The sheriff shall promptly provide to the department the information received from the sexual offender.

(4) (a) Each time a sexual offender's driver's license or identification card is subject to renewal, and, without regard to the status of the offender's driver's license or identification card, within 48 hours after any change in the offender's permanent ~~or~~, temporary, ~~or transient~~ residence, specific sleeping location, or location where he or she is seeking shelter or change in the offender's name by reason of marriage or other legal process, the offender shall report in person to a driver's license office, and shall be subject to the requirements specified in subsection (3). The Department of Highway Safety and Motor Vehicles shall forward to the department all photographs and information provided by sexual offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles is authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual offenders as provided in this section and ss. 943.043 and 944.606.

(b) A sexual offender who vacates a permanent ~~or~~, temporary, ~~or transient~~ residence, specific sleeping location, or location where he or she is seeking shelter and fails to establish or maintain another permanent ~~or~~, temporary, ~~or~~

25-00653-12

20121200__

~~transient~~ residence, specific sleeping location, or location where he or she is seeking shelter shall, within 48 hours after vacating the permanent ~~or~~, temporary, ~~or transient~~ residence, specific sleeping location, or location where he or she is seeking shelter, report in person to the sheriff's office of the county in which he or she is located. A sexual offender who remains homeless must report in person once a month to the sheriff's office of the county in which he or she is located and register a specific sleeping location or location where he or she is seeking shelter. The sexual offender shall specify the date upon which he or she intends to or did vacate such residence. The sexual offender must provide or update all of the registration information required under paragraph (2) (b). The sexual offender must provide an address for the residence or other place that he or she is or will be located during the time in which he or she fails to establish or maintain a permanent or temporary residence.

(c) A sexual offender who remains at a permanent ~~or~~, temporary, ~~or transient~~ residence, specific sleeping location, or location where he or she is seeking shelter after reporting his or her intent to vacate such residence, specific sleeping location, or location where he or she is seeking shelter shall, within 48 hours after the date upon which the offender indicated he or she would or did vacate such residence, specific sleeping location, or location where he or she is seeking shelter, report in person to the agency to which he or she reported pursuant to paragraph (b) for the purpose of reporting his or her address at such residence, specific sleeping location, or location where he or she is seeking shelter. A sexual offender who fails to update

25-00653-12 20121200
 581 this registration once each month as required in paragraph (b)
 582 violates this registration requirement. This registration is in
 583 addition to any other registration mandated by this section. If
 584 the offender claims to be homeless but actually has a residence
 585 or place to live, he or she commits a violation of this section.
 586 When the sheriff receives the report, the sheriff shall promptly
 587 convey the information to the department. An offender who makes
 588 a report as required under paragraph (b) but fails to make a
 589 report as required under this paragraph commits a felony of the
 590 second degree, punishable as provided in s. 775.082, s. 775.083,
 591 or s. 775.084.

592 (7) A sexual offender who intends to establish a permanent
 593 or, temporary, or transient residence or homelessness status in
 594 another state or jurisdiction other than the State of Florida
 595 shall report in person to the sheriff of the county of current
 596 residence, specific sleeping location, or location where he or
 597 she is seeking shelter within 48 hours before the date he or she
 598 intends to leave this state to establish residence or
 599 homelessness status in another state or jurisdiction. The
 600 notification must include the address, municipality, county, and
 601 state of intended residence, specific sleeping location, or
 602 location where he or she is seeking shelter. The sheriff shall
 603 promptly provide to the department the information received from
 604 the sexual offender. The department shall notify the statewide
 605 law enforcement agency, or a comparable agency, in the intended
 606 state or jurisdiction of residence or homelessness status of the
 607 sexual offender's intended residence, specific sleeping
 608 location, or location where he or she is seeking shelter. The
 609 failure of a sexual offender to provide his or her intended

25-00653-12 20121200
 610 place of residence, specific sleeping location, or location
 611 where he or she is seeking shelter is punishable as provided in
 612 subsection (9).

613 (8) A sexual offender who indicates his or her intent to
 614 establish a permanent or, temporary, or transient residence or
 615 homelessness status in another state or jurisdiction other than
 616 the State of Florida and later decides to remain in this state
 617 shall, within 48 hours after the date upon which the sexual
 618 offender indicated he or she would leave this state, report in
 619 person to the sheriff to which the sexual offender reported the
 620 intended change of permanent or, temporary, or transient
 621 residence or homelessness status, and report his or her intent
 622 to remain in this state. The sheriff shall promptly report this
 623 information to the department. A sexual offender who reports his
 624 or her intent to establish a permanent or, temporary, or
 625 transient residence or homelessness status in another state or
 626 jurisdiction but who remains in this state without reporting to
 627 the sheriff in the manner required by this subsection commits a
 628 felony of the second degree, punishable as provided in s.
 629 775.082, s. 775.083, or s. 775.084.

630 (10) The department, the Department of Highway Safety and
 631 Motor Vehicles, the Department of Corrections, the Department of
 632 Juvenile Justice, any law enforcement agency in this state, and
 633 the personnel of those departments; an elected or appointed
 634 official, public employee, or school administrator; or an
 635 employee, agency, or any individual or entity acting at the
 636 request or upon the direction of any law enforcement agency is
 637 immune from civil liability for damages for good faith
 638 compliance with the requirements of this section or for the

25-00653-12 20121200
 639 release of information under this section, and shall be presumed
 640 to have acted in good faith in compiling, recording, reporting,
 641 or releasing the information. The presumption of good faith is
 642 not overcome if a technical or clerical error is made by the
 643 department, the Department of Highway Safety and Motor Vehicles,
 644 the Department of Corrections, the Department of Juvenile
 645 Justice, the personnel of those departments, or any individual
 646 or entity acting at the request or upon the direction of any of
 647 those departments in compiling or providing information, or if
 648 information is incomplete or incorrect because a sexual offender
 649 fails to report or falsely reports his or her current place of
 650 permanent or temporary, ~~or transient~~ residence, specific
 651 sleeping location, or location where he or she is seeking
 652 shelter.

653 (14)

654 (c) The sheriff's office may determine the appropriate
 655 times and days for reporting by the sexual offender, which shall
 656 be consistent with the reporting requirements of this
 657 subsection. Reregistration shall include any changes to the
 658 following information:

659 1. Name; social security number; age; race; sex; date of
 660 birth; height; weight; hair and eye color; address of any
 661 permanent residence and address of any current temporary
 662 residence, within the state or out of state, including a rural
 663 route address and a post office box; if no permanent or
 664 temporary address, a specific sleeping location or location
 665 where he or she is seeking shelter ~~any transient residence~~
 666 within the state; address, location or description, and dates of
 667 any current or known future temporary residence, specific

25-00653-12 20121200
 668 sleeping location, or location where he or she is or will be
 669 seeking shelter within the state or out of state; any electronic
 670 mail address and any instant message name required to be
 671 provided pursuant to paragraph (4)(d); home telephone number and
 672 any cellular telephone number; date and place of any employment;
 673 vehicle make, model, color, and license tag number;
 674 fingerprints; and photograph. A post office box may ~~shall~~ not be
 675 provided in lieu of a physical residential address.

676 2. If the sexual offender is enrolled, employed, or
 677 carrying on a vocation at an institution of higher education in
 678 this state, the sexual offender shall also provide to the
 679 department the name, address, and county of each institution,
 680 including each campus attended, and the sexual offender's
 681 enrollment or employment status.

682 3. If the sexual offender's place of residence is a motor
 683 vehicle, trailer, mobile home, or manufactured home, as defined
 684 in chapter 320, the sexual offender shall also provide the
 685 vehicle identification number; the license tag number; the
 686 registration number; and a description, including color scheme,
 687 of the motor vehicle, trailer, mobile home, or manufactured
 688 home. If the sexual offender's place of residence is a vessel,
 689 live-aboard vessel, or houseboat, as defined in chapter 327, the
 690 sexual offender shall also provide the hull identification
 691 number; the manufacturer's serial number; the name of the
 692 vessel, live-aboard vessel, or houseboat; the registration
 693 number; and a description, including color scheme, of the
 694 vessel, live-aboard vessel or houseboat.

695 4. Any sexual offender who fails to report in person as
 696 required at the sheriff's office, or who fails to respond to any

25-00653-12 20121200
 address verification correspondence from the department within 3 weeks of the date of the correspondence or who fails to report electronic mail addresses or instant message names, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 4. Paragraph (a) of subsection (3) of section 944.606, Florida Statutes, is amended to read:

944.606 Sexual offenders; notification upon release.—

(3)(a) The department must provide information regarding any sexual offender who is being released after serving a period of incarceration for any offense, as follows:

1. The department must provide: the sexual offender's name, any change in the offender's name by reason of marriage or other legal process, and any alias, if known; the correctional facility from which the sexual offender is released; the sexual offender's social security number, race, sex, date of birth, height, weight, and hair and eye color; address of any planned permanent residence or temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, a specific sleeping location or location where he or she is seeking shelter ~~any transient residence~~ within the state; address, location or description, and dates of any known future temporary residence, specific sleeping location, or location where he or she is or will be seeking shelter within the state or out of state; date and county of sentence and each crime for which the offender was sentenced; a copy of the offender's fingerprints and a digitized photograph taken within 60 days before release; the date of release of the sexual offender; any electronic mail address and

25-00653-12 20121200
 any instant message name required to be provided pursuant to s. 943.0435(4)(d); and home telephone number and any cellular telephone number. The department shall notify the Department of Law Enforcement if the sexual offender escapes, absconds, or dies. If the sexual offender is in the custody of a private correctional facility, the facility shall take the digitized photograph of the sexual offender within 60 days before the sexual offender's release and provide this photograph to the Department of Corrections and also place it in the sexual offender's file. If the sexual offender is in the custody of a local jail, the custodian of the local jail shall register the offender within 3 business days after intake of the offender for any reason and upon release, and shall notify the Department of Law Enforcement of the sexual offender's release and provide to the Department of Law Enforcement the information specified in this paragraph and any information specified in subparagraph 2. that the Department of Law Enforcement requests.

2. The department may provide any other information deemed necessary, including criminal and corrections records, nonprivileged personnel and treatment records, when available.

Section 5. Paragraph (a) of subsection (4), paragraph (b) of subsection (6), and paragraph (c) of subsection (13) of section 944.607, Florida Statutes, are amended to read:

944.607 Notification to Department of Law Enforcement of information on sexual offenders.—

(4) A sexual offender, as described in this section, who is under the supervision of the Department of Corrections but is not incarcerated must register with the Department of Corrections within 3 business days after sentencing for a

25-00653-12 20121200__

755 registrable offense and otherwise provide information as
 756 required by this subsection.

757 (a) The sexual offender shall provide his or her name; date
 758 of birth; social security number; race; sex; height; weight;
 759 hair and eye color; tattoos or other identifying marks; any
 760 electronic mail address and any instant message name required to
 761 be provided pursuant to s. 943.0435(4) (d); permanent or legal
 762 residence and address of temporary residence within the state or
 763 out of state while the sexual offender is under supervision in
 764 this state, including any rural route address or post office
 765 box; if no permanent or temporary address, a specific sleeping
 766 location or location where he or she is seeking shelter ~~any~~
 767 ~~transient residence~~ within the state, which the person must
 768 update in person once each month with the sheriff's office of
 769 the county in which he or she is located as long as he or she
 770 has no permanent or temporary address; and address, location or
 771 description, and dates of any current or known future temporary
 772 residence, specific sleeping location, or location where he or
 773 she is or will be seeking shelter within the state or out of
 774 state. The Department of Corrections shall verify the address of
 775 each sexual offender in the manner described in ss. 775.21 and
 776 943.0435. The department shall report to the Department of Law
 777 Enforcement any failure by a sexual predator or sexual offender
 778 to comply with registration requirements.

779 (6) The information provided to the Department of Law
 780 Enforcement must include:

781 (b) The sexual offender's most current address, place of
 782 permanent ~~or~~ temporary, ~~or transient~~ residence, specific
 783 sleeping location, or location where he or she is seeking

25-00653-12 20121200__

784 shelter within the state or out of state, and address, location
 785 or description, and dates of any current or known future
 786 temporary residence, specific sleeping location, or location
 787 where he or she is or will be seeking shelter within the state
 788 or out of state, while the sexual offender is under supervision
 789 in this state, including the name of the county or municipality
 790 in which the offender permanently or temporarily resides, or has
 791 homelessness status ~~a transient residence~~, and address, location
 792 or description, and dates of any current or known future
 793 temporary residence within the state or out of state, and, if
 794 known, the intended place of permanent ~~or~~ temporary, ~~or~~
 795 ~~transient~~ residence, specific sleeping location, or location
 796 where he or she is seeking shelter, and address, location or
 797 description, and dates of any current or known future specific
 798 sleeping location or location where he or she is seeking shelter
 799 ~~temporary residence~~ within the state or out of state upon
 800 satisfaction of all sanctions;

801

802 If any information provided by the department changes during the
 803 time the sexual offender is under the department's control,
 804 custody, or supervision, including any change in the offender's
 805 name by reason of marriage or other legal process, the
 806 department shall, in a timely manner, update the information and
 807 provide it to the Department of Law Enforcement in the manner
 808 prescribed in subsection (2).

809 (13)

810 (c) The sheriff's office may determine the appropriate
 811 times and days for reporting by the sexual offender, which shall
 812 be consistent with the reporting requirements of this

25-00653-12 20121200

subsection. Reregistration shall include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, a specific sleeping location or location where he or she is seeking shelter ~~any transient residence~~; address, location or description, and dates of any current or known future temporary residence, specific sleeping location, or location where he or she is or will be seeking shelter within the state or out of state; any electronic mail address and any instant message name required to be provided pursuant to s. 943.0435(4)(d); date and place of any employment; vehicle make, model, color, and license tag number; fingerprints; and photograph. A post office box may ~~shall~~ not be provided in lieu of a physical residential address.

2. If the sexual offender is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status.

3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme,

25-00653-12 20121200

of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel or houseboat.

4. Any sexual offender who fails to report in person as required at the sheriff's office, or who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence, or who fails to report electronic mail addresses or instant message names, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 6. Paragraph (a) of subsection (3) of section 985.481, Florida Statutes, is amended to read:

985.481 Sexual offenders adjudicated delinquent; notification upon release.—

(3) (a) The department must provide information regarding any sexual offender who is being released after serving a period of residential commitment under the department for any offense, as follows:

1. The department must provide the sexual offender's name, any change in the offender's name by reason of marriage or other legal process, and any alias, if known; the correctional facility from which the sexual offender is released; the sexual offender's social security number, race, sex, date of birth, height, weight, and hair and eye color; address of any planned

25-00653-12 20121200

871 permanent residence or temporary residence, within the state or
 872 out of state, including a rural route address and a post office
 873 box; if no permanent or temporary address, a specific sleeping
 874 location or location where he or she is seeking shelter ~~any~~
 875 ~~transient residence~~ within the state; address, location or
 876 description, and dates of any known future temporary residence,
 877 specific sleeping location, or location where he or she is or
 878 will be seeking shelter within the state or out of state; date
 879 and county of disposition and each crime for which there was a
 880 disposition; a copy of the offender's fingerprints and a
 881 digitized photograph taken within 60 days before release; the
 882 date of release of the sexual offender; and home telephone
 883 number and any cellular telephone number. The department shall
 884 notify the Department of Law Enforcement if the sexual offender
 885 escapes, absconds, or dies. If the sexual offender is in the
 886 custody of a private correctional facility, the facility shall
 887 take the digitized photograph of the sexual offender within 60
 888 days before the sexual offender's release and also place it in
 889 the sexual offender's file. If the sexual offender is in the
 890 custody of a local jail, the custodian of the local jail shall
 891 register the offender within 3 business days after intake of the
 892 offender for any reason and upon release, and shall notify the
 893 Department of Law Enforcement of the sexual offender's release
 894 and provide to the Department of Law Enforcement the information
 895 specified in this subparagraph and any information specified in
 896 subparagraph 2. which the Department of Law Enforcement
 897 requests.

898 2. The department may provide any other information
 899 considered necessary, including criminal and delinquency

25-00653-12 20121200

900 records, when available.

901 Section 7. Paragraph (a) of subsection (4), paragraph (a)
 902 of subsection (6), and paragraph (b) of subsection (13) of
 903 section 985.4815, Florida Statutes, are amended to read:

904 985.4815 Notification to Department of Law Enforcement of
 905 information on juvenile sexual offenders.—

906 (4) A sexual offender, as described in this section, who is
 907 under the supervision of the department but who is not committed
 908 must register with the department within 3 business days after
 909 adjudication and disposition for a registrable offense and
 910 otherwise provide information as required by this subsection.

911 (a) The sexual offender shall provide his or her name; date
 912 of birth; social security number; race; sex; height; weight;
 913 hair and eye color; tattoos or other identifying marks;
 914 permanent or legal residence and address of temporary residence
 915 within the state or out of state while the sexual offender is in
 916 the care or custody or under the jurisdiction or supervision of
 917 the department in this state, including any rural route address
 918 or post office box; if no permanent or temporary address, a
 919 specific sleeping location or location where he or she is
 920 seeking shelter ~~any transient residence~~; address, location or
 921 description, and dates of any current or known future temporary
 922 residence, specific sleeping location, or location where he or
 923 she is or will be seeking shelter within the state or out of
 924 state; and the name and address of each school attended. The
 925 department shall verify the address of each sexual offender and
 926 shall report to the Department of Law Enforcement any failure by
 927 a sexual offender to comply with registration requirements.

928 (6) (a) The information provided to the Department of Law

25-00653-12

20121200__

929 Enforcement must include the following:

930 1. The information obtained from the sexual offender under
931 subsection (4).

932 2. The sexual offender's most current address and place of
933 permanent ~~or, temporary, or transient~~ residence, specific
934 sleeping location, or location where he or she is seeking
935 shelter within the state or out of state, and address, location
936 or description, and dates of any current or known future
937 temporary residence, specific sleeping location, or location
938 where he or she is or will be seeking shelter within the state
939 or out of state, while the sexual offender is in the care or
940 custody or under the jurisdiction or supervision of the
941 department in this state, including the name of the county or
942 municipality in which the offender permanently or temporarily
943 resides, or has a specific sleeping location or location where
944 he or she is seeking shelter ~~transient residence~~, and address,
945 location or description, and dates of any current or known
946 future temporary residence, specific sleeping location, or
947 location where he or she is or will be seeking shelter within
948 the state or out of state; and, if known, the intended place of
949 permanent ~~or, temporary, or transient~~ residence, specific
950 sleeping location, or location where he or she is or will be
951 seeking shelter, and address, location or description, and dates
952 of any current or known future temporary residence, specific
953 sleeping location, or location where he or she is or will be
954 seeking shelter within the state or out of state upon
955 satisfaction of all sanctions.

956 3. The legal status of the sexual offender and the
957 scheduled termination date of that legal status.

25-00653-12

20121200__

958 4. The location of, and local telephone number for, any
959 department office that is responsible for supervising the sexual
960 offender.

961 5. An indication of whether the victim of the offense that
962 resulted in the offender's status as a sexual offender was a
963 minor.

964 6. The offense or offenses at adjudication and disposition
965 that resulted in the determination of the offender's status as a
966 sex offender.

967 7. A digitized photograph of the sexual offender, which
968 must have been taken within 60 days before the offender was
969 released from the custody of the department or a private
970 correctional facility by expiration of sentence under s.
971 944.275, or within 60 days after the onset of the department's
972 supervision of any sexual offender who is on probation,
973 postcommitment probation, residential commitment, nonresidential
974 commitment, licensed child-caring commitment, community control,
975 conditional release, parole, provisional release, or control
976 release or who is supervised by the department under the
977 Interstate Compact Agreement for Probationers and Parolees. If
978 the sexual offender is in the custody of a private correctional
979 facility, the facility shall take a digitized photograph of the
980 sexual offender within the time period provided in this
981 subparagraph and shall provide the photograph to the department.

982 (13)

983 (b) The sheriff's office may determine the appropriate
984 times and days for reporting by the sexual offender, which shall
985 be consistent with the reporting requirements of this
986 subsection. Reregistration shall include any changes to the

25-00653-12 20121200__

following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, a specific sleeping location or location where he or she is seeking shelter ~~any transient residence; address, location or description,~~ and dates of any current or known future temporary residence, specific sleeping location, or location where he or she is or will be seeking shelter within the state or out of state; name and address of each school attended; date and place of any employment; vehicle make, model, color, and license tag number; fingerprints; and photograph. A post office box may ~~shall~~ not be provided in lieu of a physical residential address.

2. If the sexual offender is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status.

3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel,

25-00653-12 20121200__

live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

4. Any sexual offender who fails to report in person as required at the sheriff's office, or who fails to respond to any address verification correspondence from the department within 3 weeks after the date of the correspondence, commits a felony of the third degree, punishable as provided in ss. 775.082, 775.083, and 775.084.

Section 8. This act shall take effect July 1, 2012.

STATEMENT OF BILLY VAUGHN
FLORIDA SENATE -- FEBRUARY 28, 2012

Thank you Mr. Chairman and committee members for giving me an opportunity to speak to you today regarding this important bill about the application of foreign laws in American courts. My name is Billy Vaughn. I have lived in Stuart, Florida for fourteen years and I've come to Tallahassee specifically to share my view on the above mentioned bill. I am not here on behalf of any group other than my family. I am a husband, father, and grandfather. My wife and I have raised our children to love America and its Constitution. Our family believes the Constitution is one of the most perfect governmental documents ever penned by man. American law is derived from it and American judges and courts are bound by it...or at least they should be.

American men and women have shed their life's blood, first to secure the freedom guaranteed by it, and since, to retain those freedoms.

The United States Constitution and American law stood alone, as proficient, for all Americans for over two hundred years. I repeat; it stood alone for all men, women, boys, and girls; any ethnicity or religion (Jew, Muslim, Christian, or none of the above). As America has properly opened its doors of opportunity to many cultures it is imperative that America does not open its doors to the unique and incompatible laws of any of these foreign cultures, ever.

Undoubtedly, any foreign law would rip at the very heart of our Republic. We live in a Republic where our warriors go off willingly to fight and lay down their lives because they love what is behind them more than they hate what is in front of them.

I'd like to tell you about one of those warriors. I'd also like to tell you about the only member of my family no longer able to express his love for the Republic, the Constitution, and American law. This warrior and this family member are one in the same; my son, SOC Naval Special Warfare, a member of SEAL Team VI, Aaron Carson Vaughn. {PICTURE OF AARON}

Let me tell you a true story...

August 5, 2011 fell on a Friday. For most in our country it was a normal Friday; last work day of the week, looking forward to the weekend, time off, enjoying family or friends. All of us were going about our life in a normal way. But at about 8:30am EST a group of rough, fearless men, the best of the best America, no, the world has to offer, were in the midst of a very different day. These men were part of the top 300 of the less than 3,000. This group was getting ready for their night's work. You see, in the place they were living and working it was already Friday evening. These men's duty, responsibility and desire was to go out and visit violence on extremely evil men who seek to destroy all that the fearless, rough men loved and had left behind. These American heroes went out, climbed into their ride, and flew off to work.

It was about 5:09pm EST, August 5th in America, but 2:39am August 6th where they worked; about 7,000 miles away from those they loved, in the Tangi River Valley, Wardak Province of Afghanistan.

Two RPGs were fired out of the dark, into the dark toward the chopper delivering these men for work. The first one missed, but the second made contact in a one in a million shot. The RPG hit a rotor blade on the aft pylon of the chopper. The CH-47 Chinook tore itself apart almost immediately, ending the lives of the 30 rough, fearless men on board, 22 of whom were elite members of SEAL Team Six, one of whom was my son, Aaron.

But you see, those men did not lose that night.

For those men loved their country and those they left behind more than they feared the death that lay in their path. They had already done immeasurable damage to the enemy before this last mission. You may say they did not complete their mission but I would argue that they did.

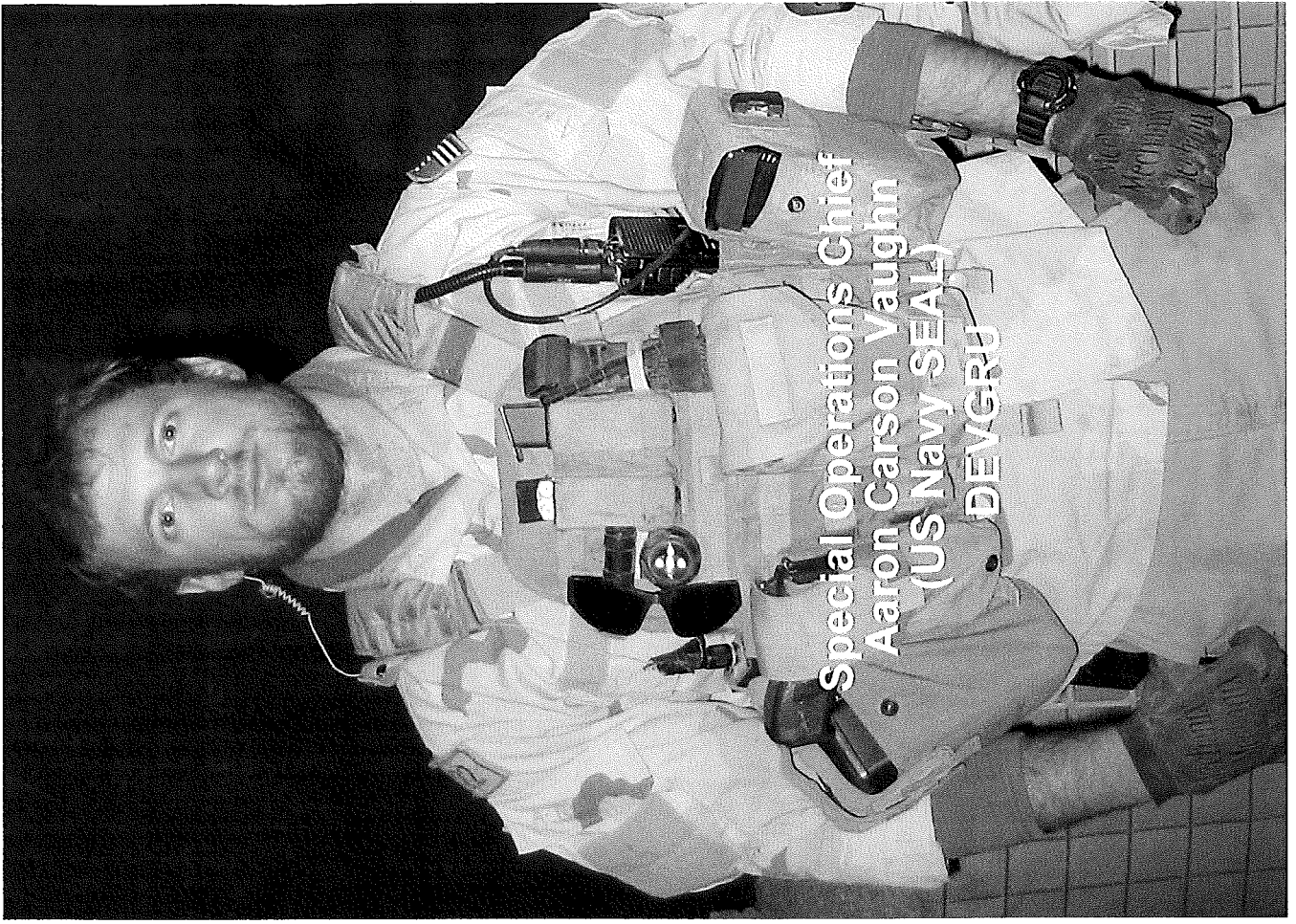
For had they not died that night, you and I would have never known the story of Extortion 17 and the 30 rough, fearless Americans who gave their life's blood to buy our freedom. They probably did not know (and you and I certainly did not know) that Extortion 17's real mission that night may have been to wake a sleeping nation at risk in an evil world.

Aaron left behind a wife Kimberly, two children, Reagan and Chamberlain and two sisters Ana and Tara. He died fighting those who would love to change our freedom to something else.

Aaron died fighting an enemy that oppresses its women, children, and many others in their society; an enemy who kills people over a burned "book." Aaron loved life, but he loved liberty more. He gave his life so that those he loved most could be guaranteed freedom.

Honorable committee members, I implore you, for the sake of our great country, for the sake of our great State Constitution, for the sake of the strong citizens of Florida and for the sake of warriors like Aaron, please do the right thing and make this bill become the law in our wonderful State of Florida.

END

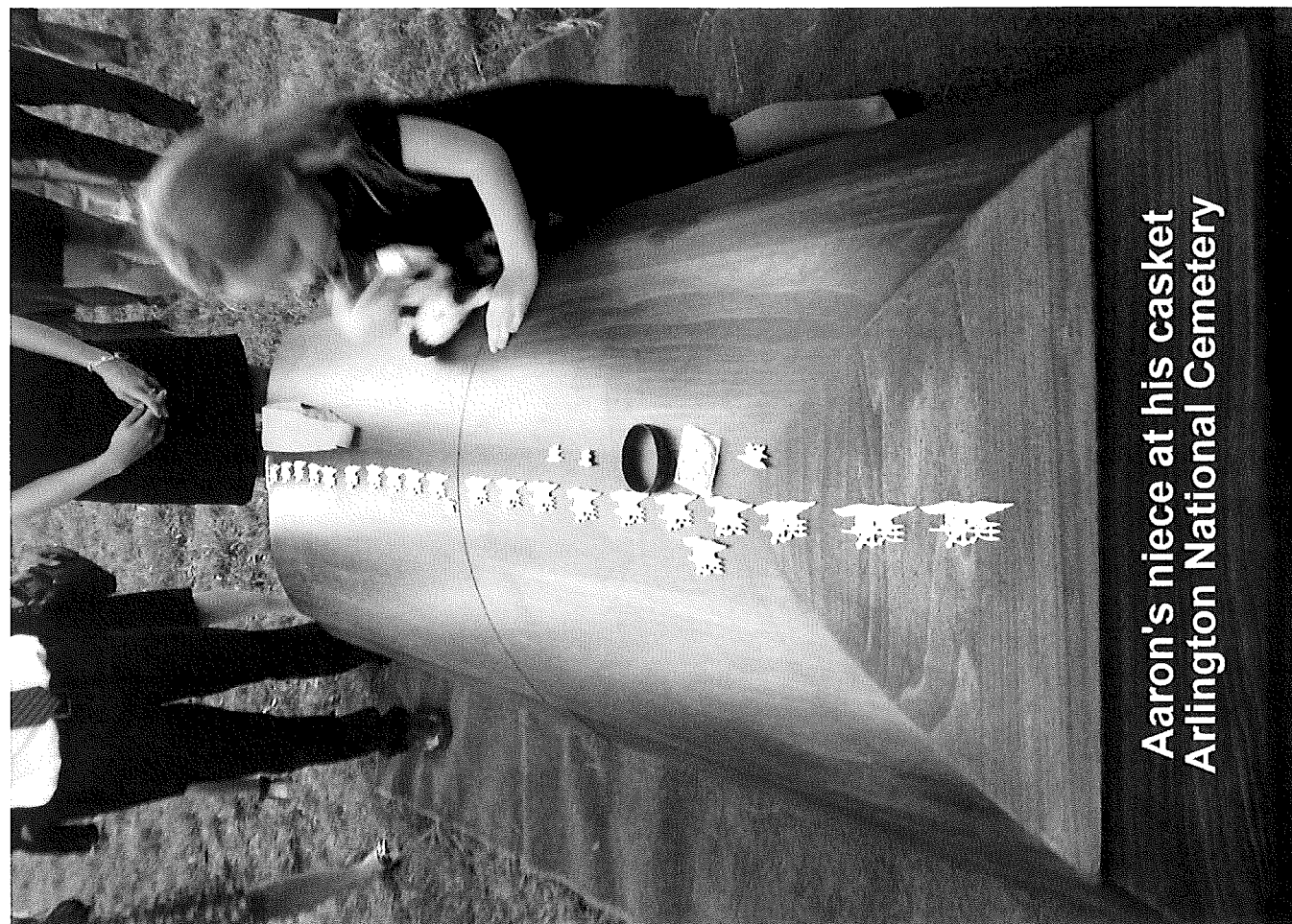


Special Operations Chief
Aaron Carson Vaughn
(US Navy SEAL)
DEVGRU





Aaron & his mom at Disney
Christmas, 2010



Aaron's niece at his casket
Arlington National Cemetery

THE FLORIDA SENATE

APPEARANCE RECORD

2-28-12

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

Meeting Date

Topic COST OF PROSECUTION/REPRESENTATIONBill Number 210

(if applicable)

Name MONICA HOFHEINZ

Amendment Barcode

(if applicable)

Job Title ASSISTANT STATE ATTORNEYAddress 201 SE 6th St.Phone 954 831-8543

Street

FORT LAUDERDALE, FL

City

State

Zip

E-mail

Speaking: ☒ For ☐ Against ☐ InformationRepresenting FLORIDA PROSECUTORSAppearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

2/28/12

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

Meeting Date

Topic Costs in Criminal CasesBill Number 210

(if applicable)

Name Nancy Daniels

Amendment Barcode

(if applicable)

Job Title Public Defender, 2nd Judicial CircuitAddress Leon County Courthouse, 301 S. Monroe St.Phone 850 606-1010

Street

Tallahassee

City

FL

State

32308

Zip

E-mail nancy.danielsSpeaking: ☒ For ☐ Against ☐ InformationRepresenting Florida Public Defender AssociationAppearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____ Bill Number 210
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City State Zip
Speaking: ☐ For ☒ Against ☒ Information
Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____ Bill Number 210
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City State Zip
Speaking: ☐ For ☒ Against ☒ Information
Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

2/20/2012

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

Meeting Date

Topic Juvenile ExpunctionBill Number 940Name Jorge Chamizo

Amendment Barcode _____ (if applicable)

Job Title AttorneyAddress 108 S. Monroe St.Phone (850) 681-0024Street Tallahassee, FL 32301E-mail jorge@flapartners.com

City _____ State _____ Zip _____

Speaking: ☒ For ☐ Against ☐ InformationRepresenting Fla Assoc of Criminal Defense LawyersAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

2/28/12
~~expun~~

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

Meeting Date

Topic expunction of juvenile recordsBill Number 940Name Nancy Daniels

Amendment Barcode _____ (if applicable)

Job Title Public Defender, 2nd CircuitAddress Leon County Courthouse, 301 S. MonroePhone 850 606-1010Street Tallahassee FL 32301E-mail nancy.daniels@

City _____ State _____ Zip _____

Speaking: ☒ For ☐ Against ☐ InformationRepresenting Florida Public Defender AssociationAppearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____ Bill Number 940
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705
City State Zip
Speaking: ☐ For ☐ Against ☒ Information
Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____ Bill Number 940
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705
City State Zip
Speaking: ☐ For ☐ Against ☒ Information
Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic SB834 / w/amendment

Bill Number 834 (if applicable)

Name Cathy Craig Myers

Amendment Barcode 370770 (if applicable)

Job Title Executive Director

Address 1207 Hay St

Phone 850 671 3442

Street Tallahassee FL 32301

E-mail Cathy@fjja.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Juvenile Justice Association

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28/12

Meeting Date

Topic Juv. Justice Education Reform

Bill Number 834 (if applicable)

Name MARY MARX

Amendment Barcode 370770 (if applicable)

Job Title President + CEO

Address 1 W. Adams Ste 301

Phone 904-421-8585

Street Jacksonville FL 32202

E-mail mary.marx@pacecenter.org

Speaking: ☒ For ☐ Against ☐ Information

Representing PACE Center for Girls

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/12

Meeting Date

Topic SB 834

Bill Number SB 834
(if applicable)

Name George Perta

Amendment Barcode _____
(if applicable)

Job Title Director of Education

Address 1212 Sandhurst Drive
Street

Phone 850 380 1504

Tallahassee FL 32312
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing GS, Youth Services

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____

Bill Number 888
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☒ Against ☒ Information

Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/12
Meeting Date

Topic Protection of Vulnerable Persons Bill Number 1816
Name Jennifer Drift Amendment Barcode 596294
Job Title Fixer Director
Address 1820 E. Park Avenue, Suite 100 Phone (850) 297-2000
Street Tallahassee State FL Zip 32301 E-mail jdrift@fcsr.org
City
Speaking: ☒ For ☐ Against ☐ Information
Representing Florida Council Against Sexual Violence
Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/12
Meeting Date

Topic _____ Bill Number 1816
Name Lauren Book Amendment Barcode 596294
Job Title CEO/Founder of Lauren's Kids
Address 825 Eagle View Dr. Phone (305) 360-6422
Street Tallahassee State FL Zip 32311 E-mail _____
City
Speaking: ☒ For ☐ Against ☐ Information
Representing Lauren's Kids
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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28/12

Meeting Date

Topic Protection of Vulnerable PersonsBill Number 1816
(if applicable)Name Emery GaineAmendment Barcode 596 294
(if applicable)Job Title Director of Victim ServicesAddress The CapitolPhone 245-0140

Street

Tallahassee

City

State

Zip

E-mail emery.gaine@myfloridalegal.comSpeaking: ☐ For ☐ Against ☒ InformationRepresenting Attorney Generals OfficeAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28/12

Meeting Date

Topic Protection of Vulnerable ChildrenBill Number SB 1816
(if applicable)Name Ron BookAmendment Barcode _____
(if applicable)

Job Title _____

Address 104 West Jefferson St

Phone _____

Street

TCH

City

State

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ InformationRepresenting Lauren's KidsAppearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____ Bill Number 1816
(if applicable)

Name BRIAN PITTS Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street

SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City State Zip

Speaking: ☒ ^{in part} For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____ Bill Number 1816
(if applicable)

Name BRIAN PITTS Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street

SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City State Zip

Speaking: ☒ ^{in part} For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28/12

Meeting Date

Topic Lobbying Bill Number 876 (if applicable)

Name Hon. Carlos J. Martinez Amendment Barcode _____ (if applicable)

Job Title Public Defender

Address 1320 NW 14th Street Phone 305.545.1900

Miami FL 33125 E-mail cmartinez@pdmiami.com

City State Zip

Speaking: ☐ For ☒ Against ☐ Information

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.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____ Bill Number 876 (if applicable)

Name BRIAN PITTS Amendment Barcode _____ (if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM

City State Zip

Speaking: ☐ For ☒ Against ☒ Information

Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/12
Meeting Date

Topic Protection of Minors Bill Number SB 964
Name Mary Coffee Amendment Barcode _____
Job Title Planning and Policy Administrator (if applicable)
Address 2331 Phillips Rd Phone 850 410-8784
Tallahassee FL 32308 E-mail MaryCoffee@le.state.fl
City State Zip

Speaking: ☐ For ☐ Against ☒ Information

Representing Florida Department of Law Enforcement

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/12
Meeting Date

Topic Protection of Minors Bill Number 964
Name CAROLYN SNURKOWSKI Amendment Barcode _____
Job Title Associate Deputy Attorney General (if applicable)
Address TAG CAPITOL Phone 850-444-3566
TALLAHASSEE State Zip
City

Speaking: ☐ For ☐ Against ☒ Information

Representing Attorney Generals 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.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/12
Meeting Date

Topic Landlord-Tenant

Bill Number 1830
(if applicable)

Name Arthur Rosenberg

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 3000 Biscayne Blvd, #102

Phone 850-509-2085

Miami FL 33137
City State Zip

E-mail arthur@floridalegal.org

Speaking: ☐ For ☒ Against ☐ Information

Representing FLORIDA LEGAL SERVICES

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/12
Meeting Date

Topic Landlord Tenant

Bill Number 1830
(if applicable)

Name Alice Vickers

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 623 Beard St.

Phone 850 556-3121

Tallahassee FL 32303
City State Zip

E-mail alice@fcan.org

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida Consumer Action 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.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28/12

Meeting Date

Topic Local Requirements Dangerous DogsBill Number 1322

(if applicable)

Name Kate MacFall

Amendment Barcode

(if applicable)

Job Title

Address 2144 Delta Way

Street

Tallahassee, Fl.

City

32303

State

Zip

Phone 850 508 1001

E-mail

Speaking: ☒ For ☐ Against ☐ InformationRepresenting ASPCAAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

2/28/12

Date

1322

Bill Number

Barcode

Name CORINNE MIXONPhone 222-2591Address 119 East Park Ave

Street

Tallahassee

City

FL

State

32301

Zip

E-mail corinne@mixonandassociates.comJob Title LobbyistSpeaking: ☒ For ☐ Against ☐ InformationAppearing at request of Chair ☐Subject Local Requirements/Dangerous DogsRepresenting Florida Veterinary Medical AssociationLobbyist registered with Legislature: ☒ Yes ☐ No

Pursuant to s. 11.061, Florida Statutes, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from _____ .m. to _____ .m.

S-001 (04/14/10)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-28-12

Meeting Date

Topic Dog by Norman

Bill Number 1322
(if applicable)

Name DENISE LASTER

Amendment Barcode _____
(if applicable)

Job Title _____

Address PO Box 1440

Phone 8132404567

Street

Lake FL 33548

City

State

Zip

E-mail lasterinc@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

Representing BEST Friends Animal Society

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28

Meeting Date

Topic Copper Theft

Bill Number 1324
(if applicable)

Name John Holley

Amendment Barcode _____
(if applicable)

Job Title _____

Address _____
Street

Phone _____

City

State

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Power & Light

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/12
Meeting Date

Topic Stalking Bill Number 950
Name Ann Perko Amendment Barcode _____
Job Title Senior Family Law Attorney
Address 2425 Torreya Dr Phone 850-385-7900
Tallahassee, FL 32303 E-mail anna@floridalegal.org
City State Zip
Speaking: ☒ For ☐ Against ☐ Information
Representing Florida Legal Services
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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

02/28/12
Meeting Date

Topic Stalking Bill Number 950
Name Leisa Wiseman Amendment Barcode _____
Job Title Director, Communications & Public Policy
Address 425 Office Plaza Dr Phone 850/425-2749
Tallahassee, FL 32317 E-mail wiseman-leisa@
City State Zip fcaadv.org
Speaking: ☒ For ☐ Against ☐ Information
Representing Florida Coalition Against Domestic Violence
Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____ Bill Number 950
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705
City State Zip
Speaking: ☒ For ^{in part} ☐ Against ☒ Information
Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____ Bill Number 950
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705
City State Zip
Speaking: ☒ For ^{in part} ☐ Against ☒ Information
Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/12
Meeting Date

Topic Community Re-entry Programs Bill Number 2096
Name Nancy Daniels Amendment Barcode _____
Job Title Public Defender, 2nd Judicial Circuit (if applicable)
Address Leon County Courthouse, 301 S. Monroe Phone 850 606-1010
Tallahassee FL 32301 E-mail nancy.daniels@
City State Zip fld2.com
Speaking: ☒ For ☐ Against ☐ Information
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.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

28 FEB 2012

Meeting Date

Topic COPPER THEFT

Bill Number 1324
(if applicable)

Name MIKE BJORKLUND (B-YERK-LUND)

Amendment Barcode _____
(if applicable)

Job Title DIR. OF LEG. AFFAIRS

Address _____

Phone 877-6166

Street

City

State

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing FL ELECTRIC COOPERATIVES ASSOC.

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012
Meeting Date

Topic _____ Bill Number 1268
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705
City State Zip
Speaking: ☒ For ☐ Against ☒ Information
Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012
Meeting Date

Topic _____ Bill Number 1268
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705
City State Zip
Speaking: ☒ For ☐ Against ☒ Information
Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28

Meeting Date

Topic _____

Bill Number CS/CS/SB 1166
(if applicable)

Name Fred Baggett

Amendment Barcode _____
(if applicable)

Job Title _____

Address 101 E. College Ave.

Phone 425 851 2

Street

Tall.

City

State

32301

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Fl. Assoc. of Court Clerks

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2.28.12

Meeting Date

Topic Relating to Nuisance Abatement

Bill Number SB1580

(if applicable)

Name Wayne Finley

Amendment Barcode

(if applicable)

Job Title Legislative Advocate

Address Mayor's Office POB 2842

Phone 813.767.5503

St. Petersburg FL 33731

E-mail wayne.finley@stpete.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Mayor Bill Foster + the City of St. Petersburg

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic Possession Firearms During Commission of CrimesBill Number CS/SB 1272

(if applicable)

Name Steve Russell

Amendment Barcode _____

(if applicable)

Job Title State Attorney - 20th CircuitAddress 2000 Main St.

Street

Fi Myers

City

FL

State

33902

Zip

Phone 239-533-1101E-mail srussell@sa0.cir20.orgSpeaking: ☒ For ☐ Against ☐ InformationRepresenting FPAA - FL Prosecuting Attys Assoc.Appearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28/12

Meeting Date

Topic Possession of Firearm (Felony)Bill Number SB 1272

(if applicable)

Name GARY BRADFORD

Amendment Barcode _____

(if applicable)

Job Title LobbyistAddress 300 E Broward St

Street

Tallahassee

City

FL

State

32301

Zip

Phone 800-733-3722E-mail GBRADFORD1958@yahoo.comSpeaking: ☒ For ☐ Against ☐ InformationRepresenting FLORIDA PBAAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2.28.12

Meeting Date

Topic Possession of Firearm

Bill Number 1272

(if applicable)

Name Erik Eagan

Amendment Barcode

(if applicable)

Job Title Lieutenant

Address R 123 W Indiana Av

Phone 386-736-5961

Street

Deland

FL

32724

E-mail eeagan@vksd.us

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing Volusia County Sheriff's Office and FSA

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28/12

Meeting Date

Topic Possession of a Firearm-Destructive Device

Bill Number 1272

(if applicable)

Name Dawn Reisinger

Amendment Barcode

(if applicable)

Job Title Corporal

Address PO Box 3371

Phone 813-247-8000

Street

Tampa

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing Hillsborough 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.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-28-12

Meeting Date

Topic Firearm by a felon

Name Frank Henderson

Job Title _____

Bill Number 1272
(if applicable)

Amendment Barcode _____
(if applicable)

Address Tall

Phone _____

City

State

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Sheriffs Assoc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____

Bill Number 1272
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURGFLORIDA33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☒ Against ☒ Information

Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-28-12

Meeting Date

Topic False Info to LEO Bill Number SB 858
 Name Dennis W. Ward Amendment Barcode _____
 Job Title State Attorney 16^E Judicial Circuit - Key West
 Address 530 Whitehead Street Phone 305-292-3400
Key West Florida 33040 E-mail dward@keyssa.org
 City State Zip
 Speaking: ☒ For ☐ Against ☐ Information
 Representing FPAA -

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Topic GIVING FALSE INFORMATION TO LEO Bill Number 858
 Name JIM PREVITERA Amendment Barcode _____
 Job Title COLONEL
 Address PO Box 3371 Phone 813-247-8310
Tampa, FL 33601 E-mail _____
 City State Zip
 Speaking: ☒ For ☐ Against ☐ Information
 Representing FSB/HILLSBOROUGH 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.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____ Bill Number 858
(if applicable)

Name BRIAN PITTS Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street

SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City State Zip

Speaking: ☒ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____ Bill Number 858
(if applicable)

Name BRIAN PITTS Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street

SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City State Zip

Speaking: ☒ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____ Bill Number 2096
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705
City State Zip
Speaking: ☒ ^{in part} For ☐ Against ☒ Information
Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____ Bill Number 2096
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705
City State Zip
Speaking: ☒ ^{in part} For ☐ Against ☒ Information
Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/20/2012

Meeting Date

Topic Inmate Reentry

Bill Number 448
(if applicable)

Name Jorge Chamorro

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 108 S. Monroe Street

Phone (850) 681-0024

Tallahassee, FL 32301

E-mail jorge@flapartner.com

City State Zip

Speaking: ☒ For ☐ Against ☐ Information

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.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

28 Feb 2012

Meeting Date

Topic Inmate Reentry (Waive in Support)

Bill Number SB 448
(if applicable)

Name Jill Gran

Amendment Barcode _____
(if applicable)

Job Title Consultant

Address 2808 Mahan Dr

Phone _____

Tallahassee FL 32308

E-mail jillcg@yahoo.com

City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Alcohol & Drug Abuse Association (Waive in Support)

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 (10/20/11)

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

2/28/12

Date

448

Bill Number

Name Nancy DanielsPhone 850 606-1010Address Leon County Courthouse, 301 S. MonroeE-mail Nancy.daniels

Street

Tallahassee

FL

32301

City

State

Zip

@ flpd21.comJob Title PublicDefender, 2nd CircuitSpeaking: ☒ For ☐ Against ☐ InformationAppearing at request of Chair ☐

Subject _____

Representing Florida Public Defender AssociationLobbyist registered with Legislature: ☐ Yes ☒ No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from _____ .m. to _____ .m.

S-001 (08/2005)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Topic Re-entryBill Number 448 (if applicable)Name JIM PREVITERA

Amendment Barcode _____ (if applicable)

Job Title ColonelAddress PO Box 3371Phone 813-247 8310

Street

TAMPA, FL

33601

City

State

Zip

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____ Bill Number 448
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705
City State Zip
Speaking: ☐ For ☒ Against ☒ Information
Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/201

Meeting Date

Topic _____ Bill Number 448
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705
City State Zip
Speaking: ☐ For ☒ Against ☒ Information
Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____ Bill Number 462
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705
City State Zip
Speaking: ☒ For ☐ Against ☒ Information
Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____ Bill Number 462
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705
City State Zip
Speaking: ☒ For ☐ Against ☒ Information
Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 2/28/12

Topic Sexual Offenders and Sexual Predators Bill Number SB 1200
(if applicable)

Name Mary Coffee Amendment Barcode _____
(if applicable)

Job Title Planning and Policy Administrator

Address 2331 Phillips Rd Phone 850 410-8784
Tallahassee FL 32308 E-mail marycoffee@flde.state.fl.us
 City State Zip

Speaking: ☐ For ☐ Against ☒ Information

Representing Florida Department of Law Enforcement

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 2/28/12

Topic Local Admin. Action to Abolish Nuisance Bill Number SB 1580
(if applicable)

Name Ryan Padgett Amendment Barcode _____
(if applicable)

Job Title Asst. General Counsel

Address P.O. Box 1757 Phone 850 - 222 - 9684
Tallahassee, FL 32302 E-mail rpadgett@flcities.com
 City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing Fla. League of Cities

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____ Bill Number 1846
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705
City State Zip
Speaking: ☐ For ☒ Against ☒ Information
Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic _____ Bill Number 1846
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705
City State Zip
Speaking: ☐ For ☒ Against ☒ Information
Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28/12
Meeting Date

Topic SB 1360 / Application of foreign law Bill Number SB 1360 (if applicable)

Name Ahmed Bedier Amendment Barcode _____ (if applicable)

Job Title President, United Voices for America

Address 7320 E Fletcher Ave Phone 813-421-1107

Tampa FL 33637 E-mail _____

City State Zip

Speaking: ☐ For ☒ Against ☒ Information

Representing _____

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28/12
Meeting Date

Topic Application of Foreign Law in Criminals Bill Number SB 1360 (if applicable)

Name Z. J. Hafeez Amendment Barcode _____ (if applicable)

Job Title Attorney

Address 6103 Marbella Blvd Phone 813-892-8701

Apollo Beach FL 33572 E-mail zj@badawi-law.com

City State Zip

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date

Topic Application of Foreign Law Bill Number 1360
Name Rev. Charles McKenzie Amendment Barcode _____
Job Title Ordained Minister (if applicable)
Address 1312 Sugar Maple Lane Phone (941) 592-0045
Street Brandon, Florida 33511 E-mail RevCSMcKenzie@aol.com
City State Zip
Speaking: ☐ For ☒ Against ☐ Information
Representing Rainbow PUSH Coalition
Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/23/12

Meeting Date

Topic Anti-Foreign Law Bill Bill Number SB1360
Name MS. HIBA ABDUL RAHIM Amendment Barcode _____
Job Title COMMUNITY ORGANIZER (if applicable)
Address 2301 PACTY BAYOU ISLAND DR. Phone _____
Street ANAMAT CITY FL 32405 E-mail _____
City State Zip
Speaking: ☐ For ☒ Against ☐ Information
Representing _____
Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/23/12

Meeting Date

Topic ANTI-FOREIGN LAW BILL Bill Number SB 1360
(if applicable)
Name DR. MUSAB AL-YAHIA Amendment Barcode _____
(if applicable)
Job Title DR (MEDICAL DOCTOR)
Address 1925 UNIVERSITY ST. Phone _____
Street
PENSACOLA FL 32504 E-mail _____
City State Zip
Speaking: ☐ For ☒ Against ☐ Information
Representing ISLAMIC COMMUNITY OF NORTHWEST FLORIDA / MUSLIM CAPITAL DAY
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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date

Topic APPLICATION OF FOREIGN LAW Bill Number SB 1360
(if applicable)
Name ANDRE Amendment Barcode _____
(if applicable)
Job Title PR MEDICAL PRACTICE MANAGER
Address 2401 STANFORD RD # 622 Phone 850 327 8772
Street
PANAMA CITY FL 32405 E-mail serve130mpregma@com
City State Zip
Speaking: ☐ For ☒ Against ☐ Information
Representing _____
Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28/2012

Meeting Date

Topic Application of Foreign Law Bill Number SB 1360
 Name Anhar Ibrahim Amendment Barcode _____
 Job Title Student, Community Organizer
 Address 6020 Drexel rd Phone (850) 529-5436
Pensacola FL 32504 E-mail ah1@students.uwf.edu
 City State Zip
 Speaking: ☐ For ☒ Against ☐ Information
 Representing Muslim Capitol Day / Islamic center of NW FL
 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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Topic App of Foreign Law Bill Number SB 1360
 Name Brandy Drummond Amer Amendment Barcode _____
 Job Title Flight Attendant / Student
 Address 7905 Whitmire Drive Phone (850) 288-2218
Pensacola FL 32514 E-mail _____
 City State Zip
 Speaking: ☐ For ☒ Against ☒ Information
 Representing Islamic Community of Northwest Florida
 Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/12
Meeting Date

Topic Application of Foreign Law in Certain Cases Bill Number SB 1360
(if applicable)
Name Raneem Salman Amendment Barcode _____
(if applicable)
Job Title Student
Address Jenks ave. Phone _____
Street
Panama City, Florida 32405 E-mail rsalman01@hotmail.com
City State Zip
Speaking: ☐ For ☒ Against ☐ Information
Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date

Topic Application of Foreign Law Bill Number SB 1360
(if applicable)
Name Tamiko Baker Amendment Barcode _____
(if applicable)
Job Title physical therapist assoc.
Address 11232 SW 57th Ave Phone 352-237-6063
Street
Ocala, FL 34476 E-mail _____
City State Zip
Speaking: ☐ For ☒ Against ☐ Information
Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/12
Meeting Date

Topic Application of Foreign Law

Bill Number SB 1360
(if applicable)

Name Dr. RIAAD RAHMAN

Amendment Barcode _____
(if applicable)

Job Title physician

Address 3110 SE 17th Ct

Phone 352-207-0123

Ocala FL 34471
City State Zip

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-28-12
Meeting Date

Topic APPLICATION OF FOREIGN LAW

Bill Number SB 1360
(if applicable)

Name OMAR AMER

Amendment Barcode _____
(if applicable)

Job Title PILOT

Address 7905 WHITMIRE DR

Phone _____

PENSACOLA FL 32514
City State Zip

E-mail amerom83@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

02-28-12
Meeting Date

Topic Application for Foreign Law
RELIGIOUS FREEDOM

Bill Number SB 1360
(if applicable)

Name SYED YOUSUF

Amendment Barcode _____
(if applicable)

Job Title _____

Address 142 VILLADI ESTER
HEATHROW FL 32746
City State Zip

Phone 407-431-5396

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☒ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-28-12
Meeting Date

Topic Application of
Foreign Law
HB 1209 / SB 1360

Bill Number HB 1209 / SB 1360
(if applicable)

Name MOHAMMAD YUNUS

Amendment Barcode _____
(if applicable)

Job Title DOCTOR

Address 404 E HWY 90
BONIFAY FL 32425
City State Zip

Phone 850-703-0611

E-mail DRYUNUS@Juno.com

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28/12
Meeting Date

Topic Application of Foreign Law

Bill Number SB 1360

(if applicable)

Name Natalie Dillon

Amendment Barcode _____

(if applicable)

Job Title _____

Address 1308 Mountain View Drive

Phone _____

Street

Tampa

Fl.

State

33612

Zip

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Topic Application of Foreign Law

Bill Number SB 1360

(if applicable)

Name Speeda Hall

Amendment Barcode _____

(if applicable)

Job Title Customer Service

Address P.O. Box 292264 33687

Phone 813-907-5433

Street

Tampa

Fl.

State

33687

Zip

E-mail Speedah1@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28/12
Meeting Date

Topic Application of Foreign Law Bill Number SB 1360
 Name ~~DEBRA~~ Fadi EL-Nubani Amendment Barcode _____
 Job Title Student
 Address 4850 SW 100th St Phone 352-207-0123
Ocala FL 34476 E-mail _____
 City State Zip

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28/2012
Meeting Date

Topic Application of Foreign Law Bill Number SB 1360
 Name Hassan Loutfi Amendment Barcode _____
 Job Title Student
 Address 315 Bahia Circle Phone 352 233 9433
Ocala FL 34472 E-mail hloutfi@mail.usf.edu
 City State Zip

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 2/28/11

Topic Application of Foreign Law Bill Number SB1360 (if applicable)

Name Stephen Lamberjack Amendment Barcode _____ (if applicable)

Job Title Mental Health Tech

Address 15612 Gulf Blvd Phone 727-482-8704

Redington Beach FL 33708 E-mail slamberjack@mail1.usf.edu

City State Zip

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date _____

Topic SB1360 Application of foreign Law Bill Number SB1360 (if applicable)

Name Syed S. Iqbal Amendment Barcode _____ (if applicable)

Job Title -

Address 10604 Cory Lake Dr Phone 813-735-9540

Tampa FL 33647 E-mail Saifiqbal14@yahoo.co

City State Zip

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/12
Meeting Date

Topic Application of Foreign Law

Bill Number SB 1360
(if applicable)

Name Lela Bloodsworth

Amendment Barcode _____
(if applicable)

Job Title Psychotherapist / Mediator

Address 475 Central Ave Ste 300 C

Phone (727) 348-7323

St. Petersburg FL 33701
City State Zip

E-mail lela.bloodsworth@interventive.com

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-28-12
Meeting Date

Topic Application of Foreign Law in Cuban Cases

Bill Number SB 1360
(if applicable)

Name ARIF FAREED

Amendment Barcode _____
(if applicable)

Job Title FINANCIAL ADVISOR

Address 747 TIMBERWILDE AVE

Phone 407-687-2188

WINTER SPRINGS FL 32708
City State Zip

E-mail arif.fareed@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Application of Foreign Law Bill Number SB 1360
(if applicable)

Name TAMAR KATZ Amendment Barcode _____
(if applicable)

Job Title _____

Address _____ Phone _____
Street

City _____ State _____ Zip _____

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date Oppose

Topic Anti-Religion Bill Bill Number SB 1360
(if applicable)

Name Jamail Rehmani Amendment Barcode _____
(if applicable)

Job Title Event Coordinator

Address 18002 Richmond Pl Dr Phone 954 562 7722
Street

City Tampa State FL Zip 33647

E-mail jamail@legnet.com

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/12
Meeting Date

Topic Application of Foreign law

Name Razaan Mohammad

Job Title Student

Address 901 Palisade Road

Pensacola, FL
City State Zip

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/12
Meeting Date

Topic Application of Foreign Law

Name Tarek Richard Abouadi, ESQ

Job Title Attorney

Address 407 Lake Howell Rd 112

Maitland, FL 32751
City State Zip

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Application of Foreign Law

Feb. 28/12
Meeting Date

Topic HB 1209 / SB 1360

Bill Number 1360
(if applicable)

Name MUNA al-Aseer

Amendment Barcode
(if applicable)

Job Title Occupational Therapist

Address 3820 Belgewater Blvd
Street

Phone 813-850-1330

Riverview
City State Zip

E-mail

Speaking: ☐ For ☒ Against ☐ Information

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/28/12
Meeting Date

Topic Application of Foreign Law

Bill Number SB 1360
(if applicable)

Name Asem Gilawashi

Amendment Barcode
(if applicable)

Job Title Student

Address 3937 Geneva Circle
Street

Phone 850-691-6798

Panama City FL 32405
City State Zip

E-mail Asem97@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2/28/12

Topic Application of Foreign Law Bill Number SB 1206 (if applicable)

Name MAIAK FAKHOORY Amendment Barcode _____ (if applicable)

Job Title Student

Address PO BOX 4428 Phone (352) 266-1268

Street OCALA State FL Zip 34478

City _____ E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 28th February, 2012

Topic Application of Foreign Law Bill Number HB 1207/SB 1360 (if applicable)

Name Mohammad Qanit Takareel Amendment Barcode _____ (if applicable)

Job Title Student

Address 2801, SW Archer Road, Apartment 207B Phone 352-361-2299

Street Gainesville State Florida Zip 32608

City _____ E-mail qanit.takareel@hobuail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

02/28/12

Meeting Date

Topic Application of foreign Law Bill Number SB 1360
(if applicable)

Name Mohammad Tina Amendment Barcode _____
(if applicable)

Job Title Student

Address 4400 SW 20th Ave. Phone 561-352-9077
Street

Gainesville, FL 32607 E-mail mohammadt@ufl.edu
City State Zip

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Topic Application for foreign law Bill Number SB 1360
(if applicable)

Name Abraham Asfour Amendment Barcode _____
(if applicable)

Job Title Student

Address 3200 neutral Dr Phone 305-445-8500
Street

City State Zip

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/12

Meeting Date

Topic Application of foreign law Bill Number SB 1360
Name Yousef Mohamed Amendment Barcode _____
Job Title Student (if applicable)
Address Dundee Lane 1240 Phone (850) 252-2293
Street City State Zip
Lynn Haven FL 32444
E-mail Scarydude440@yahoo.com
Speaking: ☐ For ☒ Against ☐ Information
Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/28/12

Meeting Date

Topic Application of Foreign Law Bill Number SB 1360
Name Ahmad Saleem Amendment Barcode _____
Job Title _____ (if applicable)
Address 8227 Lake Serene Dr Phone _____
Street City State Zip
Orlando FL 32836
E-mail pres@msaknights.com
Speaking: ☐ For ☒ Against ☐ Information
Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

2/28/2012

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

Meeting Date

Topic Application of Foreign LawBill Number SB 1360
(if applicable)Name Gamal GasserAmendment Barcode _____
(if applicable)Job Title Systems EngineerAddress 5911 Berta Dr.Phone 848-248-1364

Street

TampaFL33617

City

State

Zip

E-mail gamalgasser@yahoo.comSpeaking: ☐ For ☒ Against ☐ Information

Representing _____

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

2-28-12

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

Meeting Date

Topic Foreign law in FL courtsBill Number HB 1209, SB 1360
(if applicable)Name Hal C. WhitleyAmendment Barcode _____
(if applicable)Job Title retiredAddress 1126 N FletcherPhone 904 335-1665

Street

Fernandina Bch., FL

City

State

Zip

E-mail halcwhitley@yahoo.comSpeaking: ☒ For ☐ Against ☐ InformationRepresenting selfAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-28-12
Meeting Date

Topic NO Foreign Law in American Courts

Bill Number SB1360
(if applicable)

Name Billy C. Vaughn, Jr.

Amendment Barcode _____
(if applicable)

Job Title Self Employed

Address 1753 SW Locks Road

Phone 772-485-2251

Stuart FL 34997
City State Zip

E-mail For our son1@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

02/28/2012
Meeting Date

Topic ANTI FOREIGN LAW

Bill Number SB1360
(if applicable)

Name QUDUS BALOGUN

Amendment Barcode _____
(if applicable)

Job Title Health Information Tech

Address 3302 Sawtooth Drive

Phone 850-339-5984

Tallahassee FL 32303
City State Zip

E-mail tbalogun@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida Muslims

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

28 FEB 2012

Meeting Date

Topic FOREIGN LAWS

Bill Number SB 1360 / HB 209
(if applicable)

Name ANN LINDHOLM

Amendment Barcode _____
(if applicable)

Job Title _____

Address PO BOX 30861

Phone 817 919 0379

Street

SAN. GA 31410

E-mail _____

City

State

Zip

Speaking: ☒ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-28-2012

Meeting Date

Topic FOREIGN LAW

Bill Number SB 1360
(if applicable)

Name NINA HAZIN

Amendment Barcode _____
(if applicable)

Job Title _____

Address 10020 SE 42 AVE

Phone _____

Street

OCLIA FL 34480

E-mail _____

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Application of Foreign Law Bill Number SB 1360
Name Tania Ashe Amendment Barcode _____
Job Title _____
Address _____ Phone _____
City Orlando State FL Zip _____ E-mail _____
Speaking: ☒ For ☒ Against ☐ Information
Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2/28/12

Topic Application of Foreign Law Bill Number SB 1360
Name Mervat Jaban Amendment Barcode _____
Job Title housewife
Address _____ Phone 352-598-6830
City Ocala State FL Zip 34476 E-mail _____
Speaking: ☐ For ☒ Against ☐ Information
Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

CourtSmart Tag Report

Room: LL 37
Caption: Budget Criminal and Civil Justice Subcommittee

Case: T

Type:
Judge:

Started: 2/28/2012 11:55:14 AM

Ends: 2/28/2012 1:30:52 PM

Length: 01:35:39

11:55:24 AM Meeting called to order and Roll Call.
11:55:37 AM Opening remarks by Chair.
11:56:10 AM Senator Wise recognized to present CS/SB 210.
11:56:21 AM Senator Wise presents CS/SB 210.
11:57:10 AM Senator Joyner recognized.
11:57:23 AM Senator Wise responds.
11:57:41 AM Nancy Daniels, Public Defender and Monica Hofeiniz, State Attorneys Office waive in support.
11:58:14 AM Brian Pitts recognized.
11:59:59 AM CS/SB 210 passes favorably.
12:00:10 PM Senator Wise recognized to present SB 940.
12:01:49 PM Nancy Daniels and Jorge Chamizo waive in support.
12:02:14 PM Brian Pitts recognized.
12:03:29 PM Senator Joyner and Senator Smith comment on bill.
12:03:57 PM SB 940 passes favorably.
12:04:07 PM Senator Wise recognized to present CS/CS/SB 834.
12:05:56 PM Senator Evers moves we adopt strike all amendment.
12:06:11 PM Cathy Craig Myers, Executive Director, FL Juvenile Justice Assoc., waives in support.
12:06:21 PM Mary Marx, PACE Center for Girls, waives in support.
12:06:31 PM George Pertra, G4S. Youth Services, waives in support.
12:06:38 PM Brian Pitts recognized.
12:08:56 PM Bill passes as a CS.
12:09:05 PM Senator Benacquisto recognized to present CS/SB 964.
12:09:56 PM Senator Joyner recognized.
12:10:42 PM Senator Benacquisto responds.
12:12:14 PM Senator Joyner for follow up.
12:12:49 PM Senator Benacquisto responds.
12:12:58 PM Senator Joyner recognized for follow up.
12:13:32 PM Scott Clodfelter , Criminal Justice staff recognized to respond.
12:14:10 PM Bill temporarily postponed.
12:14:10 PM Senator Benacquisto recognized to present CS/SB 1816.
12:16:41 PM Senator Benacquisto speaks to amendments.
12:17:15 PM Senator Joyner recognized.
12:17:59 PM Senator Benacquisto responds.
12:18:35 PM Senator Joyner asks about million dollar fine.
12:18:46 PM Senator Benacquisto responds.
12:19:52 PM Senator Bennett recognized.
12:20:49 PM Senator Bogdanoff speaks to SB 1360 speaker cards and cautions speakers to be brief.
12:21:13 PM Ron Book, Lauren's Kids, recognized.
12:22:45 PM Jennifer Dratt, Florida Council Against Sexual Violence, waives in support.
12:22:49 PM Lauren Book, Lauren's Kids, waives in support.
12:23:02 PM Emery Gainey, Attorney General's Office, waives in support.
12:23:22 PM Brian Pitts, Justice to Jesus, recognized.
12:25:19 PM Bill passes.
12:25:33 PM Senator Benacquisto recognized for CS/SB 876.
12:26:00 PM Honorable Carolos J. Martinez, Florida Public Defender Assoc., recognized in opposition.
12:29:50 PM Chair Bogdanoff responds.
12:30:30 PM Brian Pitts recognized.
12:31:04 PM Senator Joyner recognized.
12:31:57 PM CS/SB 876 passes.
12:32:05 PM Committee moves back to CS/CS/SB 964.
12:32:29 PM Mary Coffee, FDLE, recognized for information
12:32:42 PM Carolyn Snurkowski, Associate Deputy Attorney General, AG's Office, recognized..

12:32:46 PM Senator Joyner recognized.
 12:34:13 PM CS/CS/FS 964 passes favorably.
 12:34:25 PM Senator Flores recognized to present CS/SB 1830.
 12:37:58 PM Senator Smith recognized.
 12:38:18 PM Senator Flores responds.
 12:38:48 PM Senator Joyner recognized.
 12:39:18 PM Senator Flores responds.
 12:39:37 PM Senator Joyner recognized.
 12:39:58 PM Senator Flores in response.
 12:40:37 PM Senator Joyner in follow up.
 12:40:47 PM Senator Flores responds.
 12:41:38 PM Senator Joyner responds.
 12:42:51 PM Senator Flores responds.
 12:43:13 PM Alice Vickers, Florida Consumer Action Network, recognized for comment (in opposition).
 12:44:25 PM Arthur Rosenberg, Florida Legal Services, recognized in opposition.
 12:46:09 PM Bill passes as a CS.
 12:46:31 PM Senator Bennett makes motion to be shown favorable on SB 210, 940 and 834.
 12:46:43 PM Senator Thrasher makes motion to be shown favorable on SB 210, 940 and 834.
 12:47:01 PM Senator Norman's aide recognized to present SB 1322.
 12:47:41 PM Senator Smith recognized.
 12:47:50 PM Follow up and response.
 12:48:18 PM Corrine Mixon, Florida Veterinary Medical Association, waives in support.
 12:48:23 PM Kate McFall, ASPCA, waives in support.
 12:49:42 PM Denise Lasher, Best Friends Animal Society, recognized.
 12:50:33 PM Senator Smith recognized for comment.
 12:51:54 PM Bill fails.
 12:52:03 PM Senator Norman's aide recognized to present CS/SB 1324.
 12:52:53 PM John Holley, Florida Power and Light and Mike Bjorklun, Florida Electric Cooperatives Assoc., waive in support.
 12:53:06 PM Senator Smith recognized for comment.
 12:53:24 PM Bill passes favorably.
 12:53:32 PM Senator Storms makes motion for yes vote on 210, 940, 834 and 876 and no on 1816 and 964.
 12:54:17 PM Senator Simmons recognized to present CS/SB 950.
 12:54:44 PM Late filed amendment introduced and explained.
 12:55:15 PM Senator Joyner recognized for comment.
 12:55:28 PM Senator Simmons responds.
 12:56:10 PM Ann Perko, Florida Legal Services and Leisa Wiseman, FL Coalition Against Domestic Violence waive in support.
 12:56:39 PM Nancy Daniels, Public Defender, waives in support. (Nancy Daniels called to note called on wrong bill.)
 12:56:41 PM Brian Pitts, Justice to Jesus, recognized.
 12:57:52 PM Senator Bennett motions to move bill.
 12:58:24 PM Bills passes.
 12:58:31 PM Tab 10 - SB 1268 presented by Senator Simmons.
 12:58:55 PM Brian Pitts waives in support.
 12:59:19 PM Bill passes.
 12:59:25 PM Tab 11 - CS/CS/SB 1166 - Senator Simmons recognized.
 12:59:46 PM Senator Storms recognized.
 1:00:30 PM Senator Simmons responds.
 1:01:39 PM Fred Baggett, Florida Assoc. of Court Clerks, waives in support.
 1:02:02 PM Bills passes.
 1:02:10 PM Jennifer Wilson, aide to Senator Latvala, recognized to present CS/SB 1272.
 1:03:18 PM Senator Joyner recognized.
 1:03:46 PM Ms. Wilson responds.
 1:04:28 PM Senator Smith recognized.
 1:04:37 PM Ms. Wilson responds to Senator Smith.
 1:05:07 PM Senator Smith responds in follow up.
 1:05:28 PM Motion to temporarily postpone bill to address Senator Smith's concerns.
 1:05:44 PM Jennifer Wilson recognized to present CS/SB 1580.
 1:06:35 PM Wayne Finley, Mayor Bill Foster & City of St. Petersburg and Ryan Padgett waive in support.
 1:07:09 PM Bills passes favorably.
 1:07:19 PM Back on CS/SB 1272.
 1:07:37 PM Steve Russell, FPAA, Gary Bradford, Florida PBA, Erik Egan, Volusia Co. Sheriff's Office and FSA, Dawn

Reisinger, Hillsborough County Sheriff's Dept and Frank Messersmith, FSA, waive in support.

1:08:12 PM Brian Pitts waives in opposition.

1:08:32 PM Bills passes favorably.

1:08:45 PM Senator Negron's office recognized to present SB 858.

1:09:16 PM Dennis Ward, FPAA and Jim Previtera, FSA/Hillsborough County Sheriff's Office and Brian Pitts waive in support.

1:10:02 PM Bill passes.

1:10:08 PM Senator Bennett makes motion to reconsider SB 1322 and leave pending.

1:10:45 PM Bills pending in committee.

1:11:06 PM Tab 18 - SB 2096 presented by Scott Clodfelter.

1:12:16 PM Brian Pitts recognized for comment.

1:13:44 PM Bill passes.

1:13:49 PM CS/SB 1846 presented by Senator Evers.

1:15:08 PM Brian Pitts recognized.

1:15:49 PM Bills passes favorably.

1:15:57 PM Senator Bogdanoff recognized to present CS/SB 448.

1:18:07 PM Senator Storms recognized.

1:18:30 PM Senator Bogdanoff replies.

1:18:53 PM Handwritten amendment presented.

1:19:03 PM Senator Storms responds.

1:19:45 PM Senator Bogdanoff responds.

1:20:09 PM Jim Previtera waives in support.

1:20:19 PM Nancy Daniel waives in support.

1:20:30 PM Jorge Chamizo and Jill Gran waives in support.

1:20:45 PM Senator Bennett makes motion to move the bill.

1:21:12 PM Bills passes.

1:21:19 PM CS/SB 462 presented by Senator Bogdanoff.

1:21:37 PM Brian Pitts recognized.

1:21:46 PM Senator Storms recognized.

1:22:40 PM Bill passes favorably.

1:22:54 PM Senator Bogdanoff recognized to present SB 1200.

1:23:48 PM Mary Coffee waives in support.

1:24:00 PM Senator Storms makes statement.

1:26:14 PM Bills passes favorably.

1:26:20 PM Senator Joyner makes motion to be shown as no on SB 1816.

1:26:38 PM Representative Metz recognized to present SB 1360.

1:27:12 PM Chair Bogdanoff calls names of persons who submitted an appearance card in opposition to the bill.

1:29:38 PM Senator Bennett makes motion for time certain for 1:29; Senator Joyner objects to motion.

1:30:10 PM Bills passes.

1:30:19 PM Chair Bogdanoff addresses people in audience regarding SB 1360.

1:30:30 PM Senator Thrasher moves we rise.

1:30:38 PM Meeting adjourned.