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

388258	A	S	RCS	CJ, Hays	Delete L.16 - 17:	02/16 06:28 PM

SB 1096 by **Hays**; (Similar to H 1477) Public Records/Registration Information/Sexual Predators and Sexual Offenders

439460	A	S	RCS	CJ, Hays	Delete L.20 - 27:	02/16 06:28 PM

CS/CS/SB 1184 by **TR, AG, Norman**; (Similar to H 0513) Department of Agriculture and Consumer Services

832178	A	S	RCS	CJ, Hays	btw L.164 - 165:	02/16 06:28 PM

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

SB 1712 by **Storms**; (Similar to CS/H 1045) Mental Health

490656	A	S	RCS	CJ, Hays	Delete L.121 - 122:	02/16 06:28 PM
551900	AA	S	RCS	CJ, Hays	Delete L.8:	02/16 06:28 PM
346066	A	S	RCS	CJ, Hays	Delete L.127 - 129:	02/16 06:28 PM
955046	A	S	RCS	CJ, Hays	Delete L.255 - 264:	02/16 06:28 PM
230838	A	S	RCS	CJ, Hays	Delete L.322:	02/16 06:28 PM
864278	AA	S	RCS	CJ, Hays	Delete L.8:	02/16 06:28 PM
744718	A	S	RCS	CJ, Hays	Delete L.326 - 329:	02/16 06:28 PM

SB 1800 by **Altman**; (Compare to CS/CS/H 0455) Criminal Offenders

247798	D	S	RCS	CJ, Dean	Delete everything after	02/16 06:28 PM

CS/SB 1886 by **ED, Wise**; (Similar to H 1445) Zero Tolerance for Crime and Victimization in Schools

970566	A	S	RCS	CJ, Bennett	Delete L.56 - 92:	02/16 06:28 PM
789806	A	S	WD	CJ, Margolis	Delete L.71 - 74:	02/16 06:28 PM
603972	A	S	RCS	CJ, Bennett	Delete L.119 - 132:	02/16 06:28 PM
436198	A	S	RCS	CJ, Bennett	Delete L.144:	02/16 06:28 PM

SB 234 by **Fasano (CO-INTRODUCERS) Evers**; (Similar to CS/H 0137) Offenses Against Unborn Children

824496	A	S	FAV	CJ, Bennett	Delete L.43 - 47:	02/16 06:28 PM
693226	A	S	FAV	CJ, Bennett	btw L.100 - 101:	02/16 06:28 PM

SB 2096 by **CJ**; Community Correction Reentry Programs

210454	A	S	RCS	CJ, Evers	Delete L.31 - 93:	02/16 06:28 PM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Evers, Chair
Senator Dean, Vice Chair

MEETING DATE: Thursday, February 16, 2012
TIME: 10:30 a.m.—12:45 p.m.
PLACE: *Mallory Horne Committee Room,* 37 Senate Office Building

MEMBERS: Senator Evers, Chair; Senator Dean, Vice Chair; Senators Bennett, Hays, Margolis, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 876** Benacquisto (Similar 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 presence or from the area within the victim's reach or control; providing criminal penalties, etc. CJ 02/16/2012 Fav/CS BC	Fav/CS Yeas 6 Nays 0
2	**SB 1096** Hays (Similar H 1477)	Public Records/Registration Information/Sexual Predators and Sexual Offenders; Creating a public records exemption for the electronic mail address and physical address information provided to the Department of Law Enforcement by a person requesting access to the automatic notification system of registration information regarding sexual predators and sexual offenders; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity, etc. CJ 02/16/2012 Fav/CS GO BC	Fav/CS Yeas 5 Nays 0
3	**CS/CS/SB 1184** Transportation / Agriculture / Norman (Similar H 513, CS/S 154, Compare CS/H 1021, CS/CS/H 1399, CS/S 1866)	Department of Agriculture and Consumer Services; Prohibiting certain governmental entities from charging stormwater management assessments or fees on certain bona fide farm operations except under certain circumstances; revising the Florida Uniform Traffic Control Law to authorize the use of citrus harvesting equipment and citrus fruit loaders to transport certain agricultural products and to authorize the use of certain motor vehicles to transport citrus; revising the powers and duties of the Department of Agriculture and Consumer Services to enforce laws and rules relating to the use of commercial stock feeds; authorizing the department to adopt rules establishing certain standards for regulating commercial feed or feedstuff, etc. AG 01/23/2012 Fav/CS TR 02/07/2012 Fav/CS CJ 02/16/2012 Fav/CS BC	Fav/CS Yeas 5 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**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 BC	Favorable Yeas 5 Nays 0
5	**SB 1712** Storms (Similar CS/H 1045)	Mental Health; Authorizing, in certain circumstances, continuation of psychotherapeutic medication for individuals receiving such medication in a jail before admission to a psychiatric or forensic facility; requiring forensic evaluator training for mental health experts appointed to evaluate defendants for competency to proceed or for sanity at the time of the commission of the offense; requiring the Department of Children and Family Services to maintain and annually provide the courts with a forensic evaluator registry; standardizing the protocols, procedures, and criteria used in reporting expert findings in determining competency in juvenile cases; revising requirements related to the forensic evaluator training program that appointed experts must complete; requiring experts after a specified date to have completed such training, etc. CJ 02/16/2012 Fav/CS CF BC	Fav/CS Yeas 6 Nays 0
6	**SB 1800** Altman (Compare CS/CS/H 455, H 7047, S 1812)	Criminal Offenders; Providing that voluntary disclosure of specified information waives a disclosure exemption for such information; requiring that a sexual predator who is unable to secure or update a driver license or identification card within a specified period must report specified information to the local sheriff’s office within a specified period after such change with confirmation that he or she also reported such information to the Department of Highway Safety and Motor Vehicles; requiring a sexual predator released in a homeless or transient status to report in person to the sheriff’s office in the county in which he or she is located within a specified period; requiring a specified national search of registration information regarding sexual predators and sexual offenders prior to appointment or employment of persons by state agencies and governmental subdivisions, etc. CJ 02/16/2012 Fav/CS TR BC	Fav/CS Yeas 6 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	**CS/SB 1886** Education Pre-K - 12 / Wise (Similar H 1445)	Zero Tolerance for Crime and Victimization in Schools; Requiring that each district school board adopt a policy for reporting to a law enforcement agency acts that pose a serious threat to school safety; requiring that acts that do not pose a serious threat to school safety be handled within the school's disciplinary system; requiring that a child accused of a misdemeanor offense not be arrested and formally processed in the juvenile justice system; requiring each district school board to implement a training program for school administrators and teachers regarding the negative consequences and future effects of an arrest of a juvenile and of the existing in-school alternatives to discipline a student for committing petty acts of misconduct without involving a law enforcement agency, etc. ED 01/24/2012 Not Considered ED 01/30/2012 Fav/CS CJ 02/16/2012 Fav/CS	Fav/CS Yeas 6 Nays 0
8	**SB 234** Fasano (Similar CS/H 137)	Offenses Against Unborn Children; Cites this act as the "Florida Unborn Victims of Violence Act"; amending provisions relating to vehicular homicide; defining the term "unborn child" for specified purposes; revising terminology to refer to "unborn child" rather than "viable fetus"; providing legislative intent; providing that certain offenses relating to the killing of an unborn child by injury to the mother do not require specified knowledge or intent or death of the mother, etc. CJ 02/16/2012 TR BC	Amendments Adopted - Temporarily Postponed
9	**SB 2096** Criminal Justice	Community Correction Reentry Programs; Requiring the Department of Corrections to develop an operational plan to implement a pilot community corrections reentry program in certain designated counties; requiring that all inmates who are within 36 months of their release date be considered for participation in the pilot community corrections reentry program; 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, etc. CJ 02/16/2012 Fav/CS BC	Fav/CS Yeas 5 Nays 0

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION

Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointments to the offices indicated.

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
	Capital Collateral Regional Counsel - Middle Region		
10	Jennings, John "Bill" W. ()	09/30/2012	Recommend Confirm Yeas 5 Nays 0
	Parole Commission		
11	Cohen, Bernard R., Sr. (Tallahassee)	06/30/2014	Recommend Confirm Yeas 5 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	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 Criminal Justice Committee

BILL: CS/SB 876

INTRODUCER: Criminal Justice Committee and Senator Benacquisto

SUBJECT: Robbery by Sudden Snatching

DATE: February 16, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	**Fav/CS**
2.			BC	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	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:

Robbery By Sudden Snatching
Section 812.131, F.S., provides that it is a third degree felony[1] 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 felony[3] 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

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[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.

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[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. Changes to the original bill in the Committee on Criminal Justice should not effect that estimate.

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.

388258

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2012	.	
	.	
	.	
	.	

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

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 16 - 17
4 and insert:
5
6 money or other property from the victim's person <u>or from the</u>
7 <u>area within the victim's immediate reach or control</u>, with intent
8
9 ========== T I T L E A M E N D M E N T ==========
10 And the title is amended as follows:
11
12 Delete line 6

388258

13 and insert:
14
15 from the area within the victim's immediate reach or

By Senator Benacquisto

27-00723-12 2012876__

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 presence or from the area within the victim's 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 presence or from the area within the victim's 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

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

27-00723-12 2012876__

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.

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

THE FLORIDA SENATE
Tallahassee, Florida 32399-1100

COMMITTEES:
Communications, Energy, and Public Utilities, *Chair*
Budget - Subcommittee on General Government Appropriations, *Vice Chair*
Budget
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Education Pre-K - 12
Governmental Oversight and Accountability
Reapportionment
Transportation

SENATOR LIZBETH BENACQUISTO
27th District

December 6, 2011

The Honorable Greg Evers
Senate Criminal Justice, Chair
308 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 876 – Robbery by Sudden Snatching

Dear Mr. Chair:

Please allow this letter to serve as my respectful request to agenda SB 876, Robbery by Sudden Snatching, for a public hearing at your earliest convenience.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

Lizbeth Benacquisto
Senate District 27

Cc: Amanda Cannon

REPLY TO:
❒ 12165 West Forest Hill Boulevard, Suite 1B, Wellington, Florida 33414 (561) 753-2440
❒ 17595 South Tamiami Trail, Suite 200-9, Fort Myers, Florida 33908 (239) 433-6599
❒ 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5356

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: CS/SB 1096

INTRODUCER: Criminal Justice Committee and Senator Hays

SUBJECT: Public Records/Registration Information/Sexual Predators and Sexual Offenders

DATE: February 16, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	**Fav/CS**
2.			GO	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

The bill creates an exemption from the public records requirements of s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution for any electronic mail address or physical address information provided to the Florida Department of Law Enforcement (Department) by a person who requests access to the Department's automatic notification system, unless otherwise required by law. A statement of public necessity is provided and a Sunset Review is required by the bill. Because this bill creates a new public-records exemption, it requires a two-thirds vote of each house of the Legislature for passage.[1]

This bill substantially amends section 943.44353 of the Florida Statutes.

[1] Section 24(c), Art. I of the State Constitution.

II. Present Situation:

Sexual Offender and Sexual Predator Registry, Automatic Notification and Access to Information

The Florida Department of Law Enforcement maintains the statewide registry of all sexual predators and sexual offenders. It also maintains a searchable website containing the names and addresses of all sexual predators and offenders as well as a toll-free telephone number.

Section 943.44353, F.S., requires the Department to maintain a system to provide automatic notification of registration information regarding sexual predators and sexual offenders to the public. The system is known as the Offender Alert System (OAS).

Schools, public housing agencies, agencies responsible for conducting employment-related background checks, social service entities responsible for protecting minors in the child welfare system, and certain other organizations have access to this system. Additionally, individuals have access to the notification system.

The OAS is an email subscription service which allows citizens to receive an email if a sexual predator/offender moves within a prescribed radius of a selected address. It also allows subscribers to track a predator/offender's movements.

To sign up for the OAS, persons provide their email address. To track registrant activity related to a specific location (i.e., home, school, day care center), they must also provide a physical address(es) so their interests can be tailored accordingly.

Public Records Exemptions

Florida has a long history of providing public access to the records of governmental and other public entities. The Legislature enacted its first law affording access to public records in 1892. In 1992, Florida voters approved an amendment to the State Constitution which raised the statutory right of access to public records to a constitutional level.

Section 24(a), art. I, of the State Constitution, provides that:

Every person has the right to inspect or copy any public records made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

The Public Records Law is contained in chapter 119, F.S., and specifies conditions under which the public must be given access to governmental records. Section 119.07(1)(a), F.S., provides

that every person who has custody of a public record[2] must permit the record to be inspected and examined by any person, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record. Unless specifically exempted, all agency[3] records are to be available for public inspection.

Section 119.011(12), F.S., defines the term "public record" to include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are "intended to perpetuate, communicate, or formalize knowledge."[4] All such materials, regardless of whether they are in final form, are open for public inspection unless made exempt.[5]

Only the Legislature is authorized to create exemptions to open government requirements.[6] Exemptions must be created by general law and such law must specifically state the public necessity justifying the exemption. Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law.[7] A bill enacting an exemption[8] may not contain other substantive provisions although it may contain multiple exemptions relating to one subject.[9]

There is a difference between records that the Legislature exempts from public inspection and those that the Legislature makes confidential and exempt from public inspection. If a record is made confidential with no provision for its release so that its confidential status will be maintained, such record may not be released by an agency to anyone other than the person or entities designated in the statute.[10] If a record is simply exempt from mandatory disclosure requirements, an agency is not prohibited from disclosing the record in all circumstances.[11]

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[2] Section 119.011(12), F.S., defines "public records" to include "all documents, papers, letters, maps, books, tapes, photographs, film, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency."

[3] Section 119.011(2), F.S., defines "agency" as "…any state, county, district, authority, or municipal officer, department, division, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."

[4] *Shevin v. Byron, Harless, Shafer, Reid, and Assocs., Inc.*, 379 So. 2d 633, 640(Fla. 1980).

[5] *Wait v. Florida Power & Light Company*, 372 So.2d 420 (Fla. 1979).

[6] Article I, s. 24(c) of the State Constitution.

[7] *Memorial Hospital-West Volusia v. News-Journal Corporation*, 729 So.2d 373, 380 (Fla. 1999); *Halifax Hospital Medical Center v. News-Journal Corporation*, 724 So.2d 567 (Fla. 1999).

[8] Section 119.15(4)(b), F.S., provides that an existing exemption may be considered a new exemption if the exemption is expanded to cover additional records.

[9] Section 24(c), Art. I of the State Constitution

[10] Attorney General Opinion 85-62, August 1, 1985.

[11] *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So.2d. 289 (Fla. 1991).

Open Government Sunset Review Act

The Open Government Sunset Review Act[12] provides for the systematic review of an exemption from the Public Records Act in the fifth year after its enactment. The act states that an exemption may be created, revised, or maintained only if it serves an identifiable public purpose and if the exemption is no broader than necessary to meet the public purpose it serves.[13] An identifiable public purpose is served if the exemption meets one of three specified criteria and if the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption.[14] An exemption meets the statutory criteria if it:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protects information of a sensitive personal nature concerning individuals, the release of which … would be defamatory … or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals; or
- Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which … would injure the affected entity in the marketplace.[15]

The act also requires the Legislature to consider six questions that go to the scope, public purpose, and necessity of the exemption.[16]

Exemption Created by Chapter 2011-85, Laws of Florida

During the 2011 Legislative Session, the Legislature enacted s. 119.071(5)(j)1., F.S., effective July 1, 2011, which provides in pertinent part:

> "Any information furnished by a person to an agency for the purpose of being provided with emergency notification by the agency, including the person's name, address, telephone number, e-mail address, or other electronic communication address, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to information held by an agency, before, on, or after the effective date of this exemption."

In setting forth the public necessity for passage of the above exemption, section 2 of Chapter 2011-85, Laws of Florida, provides:

> "The Legislature finds that it is a public necessity to exempt from public records requirements any information furnished by a person to an agency for the purpose

[12] Section 119.15, F.S.
[13] Section 119.15(6)(b), F.S.
[14] *Id*.
[15] *Id*.
[16] Section 119.15(6)(a), F.S.

> of being provided with emergency notification by the agency. Through the use of current technology, agencies may contact members of the public by a variety of electronic means, including cellular telephones and electronic mail, to alert them of imminent natural and manmade disasters, medical emergencies, criminal emergencies, and other dangerous conditions. Public safety is significantly enhanced through the use of such emergency notification programs, and expansion of such programs further increases public safety. A public records exemption for information furnished to an agency for this purpose will encourage greater participation in emergency notification programs by alleviating concerns about disclosure of information that could be used for criminal purposes. For these reasons, the public records exemption provided in this act is necessary for the effective implementation of and broad participation in emergency notification programs conducted by agencies."[17]

Opinion of the Attorney General

The Department raised privacy and public safety concerns related to the information provided by subscribers to the OAS in a request for the opinion of the Attorney General on the following question: Are the email addresses and corresponding home, school, and other "watched addresses of concern" with the FDLE Offender Alert System exempt from disclosure under s. 119.071(5)(j), F.S. (Chapter 2011-85)?

General Bondi's response stated, in part:

> The Legislature has characterized the presence of a sexual predator in a community as an extreme threat to public safety requiring notification and the release of information relating to a sexual offender's presence in the community to be in furtherance of the governmental interests in public safety.[18] Moreover, as clearly reflected in the statement of necessity for section 119.071(5)(j), Florida Statutes, the Legislature was concerned with encouraging public participation in emergency notification programs by ensuring that the information submitted by the public to participate in such programs was protected. …
>
> The Florida Offender Alert System clearly addresses the Legislature's concern with the public safety threat posed by the presence of sexual predators and sexual offenders in the community by alerting persons who have requested notification of the immediate danger posed by such individuals moving into their neighborhoods. In the statement of necessity for Chapter 2011-85, Laws of Florida, the Legislature repeatedly expressed its intent that the bill is directed toward public safety and seeks to encourage public participation in such notification alert systems. Thus, the inclusion of the Florida Offender Alert System would appear to be consistent with the expressed legislative intent for the adoption of the exemption.[19]

[17] Chapter 2011-85, Laws of Florida
[18] See s. 775.21(3)(a) and s. 943.0435(12), F.S., respectively.
[19] Op.Att'yGen.Fla. 11-16(2011).

III. Effect of Proposed Changes:

The bill creates an exemption from the public records requirements of s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution for any electronic mail address or physical address information provided to the Department by a person who requests access to the automatic notification system (OAS). The bill provides that such information may be disclosed under other specific provisions of law. The exemption is made retroactive and is subject to an Open Government Sunset Review by October 1, 2017 or it will stand repealed.

A statement of public necessity is provided in Section 2 of the bill. It states:

> Section 2. The Legislature finds that it is a public necessity to exempt from public records requirements the electronic mail address and physical address information furnished to the Department of Law Enforcement by persons requesting access to the automatic notification system of registration information regarding sexual predators and sexual offenders. A public records exemption for such information furnished to the department will encourage greater access to the notification system by alleviating concerns about disclosure of electronic mail and physical location information that could be used for criminal purposes. Public safety is significantly enhanced through the use of the department's notification system. For these reasons, the public records exemption provided by this act is necessary for effective and broad participation in the notification system by those seeking notification.

The bill takes effect on July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement
Section 24(c), Art. I of the State Constitution requires a two-thirds vote of each house of the Legislature for passage of a newly created public-records or public-meetings exemption. Because this bill creates a new public-records exemption, it requires a two-thirds vote for passage.

Subject Requirement
Section 24(c), Art. I of the State Constitution requires the Legislature to create public-records or public-meetings exemptions in legislation separate from substantive law changes. This bill complies with that requirement.

Public Necessity Statement
Section 24(c), Art. I of the State Constitution requires a public necessity statement for a newly-created public-records or public-meetings exemption. Because this bill creates a new public-records exemption, it includes a public necessity statement.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. 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:
Provides that other specific provisions of law may override the exemption. This provision in the bill is intended to eliminate unintended impediments to law enforcement investigations.

B. Amendments:

None.

439460

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2012	.	
	.	
	.	
	.	

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

1 **Senate Amendment**
2
3 Delete lines 20 - 27
4 and insert:
5 (3)(a) Any information regarding an electronic mail address
6 or physical address provided to the department by a person in
7 order for that person to use or access the automatic Florida
8 Offender Alert notification system is confidential and exempt
9 from s. 119.07(1) and s. 24 (a), Art. I of the State
10 Constitution unless such information is specifically made public
11 or is specifically required to be disclosed by other provisions
12 of law. This confidential and exempt status applies

439460

13 retroactively to all such information retained by the department
14 before July 1, 2012.

By Senator Hays

20-00946-12 20121096__

A bill to be entitled

An act relating to public records; amending s. 943.44353, F.S.; creating a public records exemption for the electronic mail address and physical address information provided to the Department of Law Enforcement by a person requesting access to the automatic notification system of registration information regarding sexual predators and sexual offenders; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity; providing an effective date.

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

Section 1. Subsection (3) is added to section 943.44353, Florida Statutes, to read:

943.44353 Automatic notification of registration information regarding sexual predators and offenders.—

(3)(a) Any electronic mail address or physical address information provided to the department by a person, other than a sexual predator and sexual offender, who requests access to the automatic notification system is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to any electronic mail address or physical address information held by the department before, on, or after July 1, 2012.

(b) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15, and shall stand

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

20-00946-12 20121096__

repealed on October 2, 2017, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity to exempt from public records requirements the electronic mail address and physical address information furnished to the Department of Law Enforcement by persons requesting access to the automatic notification system of registration information regarding sexual predators and sexual offenders. A public records exemption for such information furnished to the department will encourage greater access to the notification system by alleviating concerns about disclosure of electronic mail and physical location information that could be used for criminal purposes. Public safety is significantly enhanced through the use of the department's notification system. For these reasons, the public records exemption provided by this act is necessary for effective and broad participation in the notification system by those seeking notification.

Section 3. This act shall take effect July 1, 2012.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on General Government Appropriations, *Chair*
Agriculture
Banking and Insurance
Budget
Budget - Subcommittee on Higher Education Appropriations
Children, Families, and Elder Affairs
Reapportionment

SENATOR D. ALAN HAYS
20th District

January 12, 2012

Senator Greg Evers, Chair
Criminal Justice Committee
308 Senate Office Building
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

RE: SB 1096 Relating to Public Records/Registration Information/Sexual Predators and Sexual Offenders

Dear Chair Evers:

I respectfully request my above bill be heard before your committee. I believe the citizens of this state will benefit from this legislation.

Thank you in advance for your consideration, and please contact me if you have any questions.

Sincerely,

D. Alan Hays, DMD

D. Alan Hays, DMD
State Senator
District 20

CC: **Amanda Cannon**, *Staff Director*
Sue Arnold, *Committee Administrative Assistant*

REPLY TO:
❒ 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
❒ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: CS/CS/CS/SB 1184

INTRODUCER: Criminal Justice Committee; Transportation Committee; Agriculture Committee and Senator Norman

SUBJECT: Department of Agriculture and Consumer Services

DATE: February 16, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhavein	Buford	AG	**Fav/CS**
2.	Weidenbenner	Buford	TR	**Fav/CS**
3.	Erickson	Cannon	CJ	**Fav/CS**
4.			BC	
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

The bill includes the following provisions related to agriculture:

- Prohibits governmental entities from charging an assessment or fee for stormwater management on a *bona fide* farm operation on land classified as agricultural under certain circumstances. The bill replaces the word "county" with "governmental entity" in the provisions described above which has the effect of expanding, from only counties to counties, municipalities, and regional governmental entities.
- Authorizes the use of citrus harvesting equipment and citrus fruit loaders to transport citrus between farms on public state highways without violating the public highway use restriction for the purpose of qualifying for the motor fuel tax refund.
- Requires that the portion of fuel sales tax collected from a county sheriff's office be returned to the sheriff's office to offset ongoing fuel costs.
- Authorizes a sheriff's office, if licensed as a local government user, to take a credit on the monthly diesel fuel tax return not to exceed the county fuel tax and fuel sales tax on those gallons which would otherwise be eligible for refund.

- Requires that the portion of the county fuel tax paid by a sheriff's office be returned to the sheriff's office to offset ongoing fuel costs.
- Authorizes the Department of Agriculture and Consumer Services (department) to enforce the state laws and rules relating to the use of commercial feed stocks. It requires the department to adopt rules establishing standards for the sale, use, and distribution of commercial feed or feedstuff. If adopted, such standards must be developed in consultation with the Commercial Feed Technical Council.

This bill also includes the following provisions related to licensed security officers:

- Makes it a first degree misdemeanor for a person to engage in any activity for which ch. 493, F.S., requires a license if the person does not hold the required license. However, a second or subsequent violation is a third degree felony and the department may seek the imposition of a civil penalty not to exceed $10,000. This offense does not apply if the person engages in unlicensed activity within 90 days after the expiration date of the person's license.
- Makes it a third degree felony for a person, while impersonating a security officer, private investigator, recovery agent, or other person required to have a license under ch. 493, F.S., to knowingly and intentionally force another person to assist the impersonator in an activity within the scope of duty of a professional licensed under ch. 493, F.S. However, it is a second degree felony if a person commits this violation during the course of committing a felony, and a first degree felony if a person commits this violation during the course of committing a felony that results in death or serious bodily injury to another human being.
- Authorizes an armed licensed security officer and armed licensed security agency manager, in uniform, to temporarily detain a person on the premises of a critical infrastructure facility ascertaining the person's identity and the circumstances of the activity that is the basis for the temporary detention if the security officer or security agency manager has probable cause to believe the person has committed or is committing a crime against the client of the security officer or security agency manager or the client's patron. The bill provides procedures for notifying law enforcement and transferring the detained person.
- Authorizes the security officer or security agency manager to search the person temporarily detained if they observe that the person is armed with a firearm, concealed weapon, or any destructive device that poses a threat to the safety of the security officer or security agency manager, or the detainee admits to the security officer or security agency manager that he or she is armed with a weapon.

This bill substantially amends sections 163.3162, 206.41, 206.625, 316.515, 493.6120, 570.07 and 580.036 of the Florida Statutes and creates an undesignated section of the Florida Statutes.

II. Present Situation:

Stormwater Utility Fees

A number of counties have adopted stormwater utility fees to provide a funding source for stormwater management and water quality programs, and have imposed these fees on agricultural lands even though the land owner has a permitted stormwater management system or has implemented BMPs. The revenue generated directly supports maintenance and upgrade of existing storm drain systems, development of drainage plans, flood control measures, water-

quality programs, administrative costs, and sometimes construction of major capital improvements. This may create a duplicative financial burden for the agricultural operation that is already paying to manage its own permitted stormwater management system, yet has to pay again for a county program.

Agricultural Lands and Practices Act

In 2003, the Legislature passed the Agricultural Lands and Practices Act, codified in s. 163.3162, F.S., to prohibit counties from adopting any duplicative ordinance, resolution, regulation, rule, or policy that limits activity of a *bona fide* farm or farm operation on agricultural land if such activity is regulated through best management practices (BMPs), interim measures, or by an existing state, regional, or federal regulatory program. Prior to the enactment of this legislation, some counties had enacted measures to regulate various agricultural operations in the state which were duplicative and more restrictive than those already dictated through BMPs or an existing governmental regulatory program. While the Agricultural Land and Practices Act banned the adoption of future local government restrictive measures, it did not explicitly prohibit the enforcement of existing local government measures.

In 2011, the Legislature overrode the veto of HB 7103, which passed the House and Senate during the 2010 Legislative Session. HB 7103, in part, amended s. 163.3162(3)(b), F.S., to provide that a county cannot charge an assessment or fee for stormwater management on a *bona fide* farm operation on land classified as agricultural if the farm operation has a National Pollutant Discharge Elimination System (NPDES) permit, environmental resources permit (ERP), or works-of-the-district permit or implements best management practices (BMPs). In addition, HB 7103 amended s. 163.3162(3)(c), F.S., to provide that each county that, before March 1, 2009, adopted a stormwater utility ordinance or resolution, adopted an ordinance or resolution establishing a municipal services benefit unit, or adopted a resolution stating the county's intent to use the uniform method of collection for such stormwater ordinances, can continue to charge an assessment or fee for stormwater management on a *bona fide* farm operation on agricultural land, if the ordinance or resolution provides credits against the assessment or fee on a *bona fide* farm operation for the water quality or flood control benefit of:

- The implementation of BMPs;
- The stormwater quality and quantity measures required as part of the NPDES permit, ERP, or works-of-the-district permit; or
- The implementation of BMPs or alternative measures, which the landowner demonstrates to the county to be of equivalent or greater stormwater benefit than the BMPs adopted by the Department of Environmental Protection, Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program, or stormwater quality and quantity measures required as part of an NPDES permit, ERP, or works-of-the-district permit.

Since the veto override of HB 7103, the City of Palm Coast has adopted and implemented a stormwater fee that affects thousands of acres of timber and agricultural lands.

Motor Fuel Taxes

Agricultural, aquacultural, commercial fishing, or commercial aviation permit holders who have paid the local option fuel tax, an additional tax designated as the "State Comprehensive Enhanced Transportation System Tax," or fuel sales tax are entitled to a refund of a portion of the fuel tax levied under ss. 206.41(1)(g) and 206.41(c), F.S. For the purpose of establishing what activities qualify for the tax refund, "agricultural and aquacultural purposes" means "motor fuel used in any tractor, vehicle, or other farm equipment that is used exclusively on a farm or for processing farm products on the farm, and no part of which fuel is used in any vehicle or equipment driven or operated upon the public highways of this state…."[1] This restriction from being driven or operated upon Florida public highways does not apply to the movement of a farm vehicle or farm equipment between farms. It also does not include citrus harvesting equipment and citrus fruit loaders to the types of equipment that can move between farms on public highways and not violate the public highway use restriction for the purpose of qualifying for the motor fuel tax refund.

Section 206.625, F.S., requires that the county fuel tax imposed by s. 206.41(1)(b), F.S., collected from a municipality or county on motor fuel for use in a motor vehicle operated by it be returned to the governing body of each such municipality or county for construction, reconstruction, and maintenance of roads and streets within the respective municipality or county. It also requires that the county fuel tax collected from a school district, or by a private contractor operating school buses for a school district, on motor fuel for use in a motor vehicle operated by such district or private contractor be returned to the governing body of each such school district for construction, reconstruction, and maintenance of roads and streets within the school district required as a result of new school construction or renovation of existing schools.

Uniform Traffic Control Law

Chapter 316, F.S., establishes the Florida Uniform Traffic Control Law. Section 316.515(5)(a), F.S., provides that, certain agricultural equipment such as straight trucks, agricultural tractors, and cotton module movers, not exceeding 50 feet in length, or any combination of up to and including three implements of husbandry, including the towing power unit, and any single agricultural trailer with a load thereon or any agricultural implements attached to a towing power unit, or a self-propelled agricultural implement or an agricultural tractor, is authorized to transport peanuts, grains, soybeans, cotton, hay, straw, or other perishable farm products from their point of production to the first point of change of custody or of long-term storage, and for the purpose of returning to such point of production, or for the purpose of moving such tractors, movers, and implements from one point of agricultural production to another, by a person engaged in the production of any such product or custom hauler, if such vehicle or combination of vehicles otherwise complies with this section of law. The Florida Uniform Traffic Control Law does not currently authorize the use of citrus harvesting equipment and citrus fruit loaders to the list of machinery authorized to transport certain perishable agricultural products or to authorize the use of certain motor vehicles to transport citrus.

[1] Section 206.41(4)(c)2., F.S.

Private Security, Private Investigative, and Recovery Services

The Division of Licensing within the department is responsible for the regulation of licensing of private security, private investigative, and recovery services.[2] Section 493.6101(19), F.S., defines a "security officer" as:

> any individual who, for consideration, advertises as providing or performs bodyguard services or otherwise guards persons or property; attempts to prevent theft or unlawful taking of goods, wares, and merchandise; or attempts to prevent the misappropriation or concealment of goods, wares or merchandise, money, bonds, stocks, choses in action, notes, or other documents, papers, and articles of value or procurement of the return thereof. The term also includes armored car personnel and those personnel engaged in the transportation of prisoners.

Section 493.6101(16), F.S., defines a "private investigator" as "any individual who, for consideration, advertises as providing or performs private investigation." Private investigation is defined as an investigation to obtain information on any of the following matters:

- Crime or wrongs done or threatened against the United States or any state or territory of the United States, when operating under express written authority of the governmental official responsible for authorizing such investigation.
- The identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation, or character of any society, person, or group of persons.
- The credibility of witnesses or other persons.
- The whereabouts of missing persons, owners of unclaimed property or escheated property, or heirs to estates.
- The location or recovery of lost or stolen property.
- The causes and origin of, or responsibility for, fires, libels, slanders, losses, accidents, damage, or injuries to real or personal property.
- The business of securing evidence to be used before investigating committees or boards of award or arbitration or in the trial of civil or criminal cases and the preparation therefore.[3]

Section 493.6101(21), F.S., defines a "recovery agent" as "any individual who, for consideration, advertises as providing or performs repossessions." Section 493.6101(20), F.S., defines "recovery agency" as "any person who, for consideration, advertises as providing or is engaged in the business of performing repossessions." Section 493.6101(22), F.S., defines "repossession" as recovery of motor vehicles, motor boats, airplanes, personal watercraft, all-terrain vehicles, farm equipment, industrial equipment, and motor homes "by an individual who is authorized by the legal owner, lienholder, or lessor to recover, or to collect money payment in lieu of recovery

[2] The responsibility for regulating private investigative, private security, and recovery industries was assigned to the Department of State in 1965. In 2002, the Division of Licensing of the Department of State was transferred to the Department of Agriculture and Consumer Services, including the Concealed Weapons Permit Program. *See* ss. 1, 3-10, ch. 2002-295, L.O.F.

[3] Section 493.6101(17), F.S.

of, that which has been sold or leased under a security agreement that contains a repossession clause."

Certain individuals are exempt from the licensing requirements for private security and private investigative services. These individuals include local, state, and federal law enforcement officers, licensed insurance investigators, and individuals solely, exclusively, and regularly employed as unarmed investigators and security officers "in connection with the business of his or her employer, when there exists an employer-employee relationship."[4]

Section 493.6106(1), F.S, establishes criteria for granting licenses for security, private investigative, and repossession services. Individuals seeking a license must clear a criminal background check as well as meet specific training and experience requirements, which vary by the type of license. In addition, the applicant must meet the following criteria:

- Be at least 18 years of age.
- Be of good moral character.
- Not have been adjudicated incapacitated, unless capacity has been judicially restored.
- Not have been involuntarily placed in a treatment facility for the mentally ill, unless competency has been judicially restored.
- Not have been diagnosed as having an incapacitating mental illness, unless a psychologist or psychiatrist licensed in this state certifies that she or he does not currently suffer from the mental illness.
- Not be a chronic and habitual user of alcoholic beverages to the extent that her or his normal faculties are impaired.
- Not have been committed under ch. 397, F.S., former ch. 396, F.S., or a similar law in any other state.
- Not have been found to be a habitual offender under s. 856.011(3), F.S., or a similar law in any other state.
- Not have had two or more convictions under s. 316.193, F.S., or a similar law in any other state within the 3-year period immediately preceding the date the application was filed, unless the individual establishes that she or he is not currently impaired and has successfully completed a rehabilitation course.
- Not have been committed for controlled substance abuse or have been found guilty of a crime under ch. 893, F.S., or a similar law relating to controlled substances in any other state within a 3-year period immediately preceding the date the application was filed, unless the individual establishes that she or he is not currently abusing any controlled substance and has successfully completed a rehabilitation course.
- Be a citizen or permanent legal resident alien of the United States or have appropriate authorization issued by the United States Citizenship and Immigration Services of the United States Department of Homeland Security.

[4] Section 493.6102(1)-(4), F.S.

License Classifications

Chapter 493, F.S., provides for numerous classifications of licenses within the three general categories of licenses, as follows:[5]

PRIVATE INVESTIGATION	
Agency	Class "A"
Private Investigator	Class "C"
Armed Private Investigator	Class "C" & Class "G"
Branch Office	Class "AA"
Manager	Class "C" or Class "MA" or Class "M"
Intern	Class "CC"
PRIVATE SECURITY	
Agency	Class "B"
Security Officer	Class "D"
Armed Security Officer	Class "D" & Class "G"
Branch Office	Class "BB"
Manager	Class "MB" or Class "M"
REPOSSESSION ACTIVITY	
Agency	Class "R"
Recovery Agent	Class "E"
Branch Office	Class "RR"
Manager	Class "MR" or Class "E"
Intern	Class "EE"
COMBINED PRIVATE INVESTIGATION AND SECURITY	
Agency	Class "A" & Class "B"
Branch Office	Class "AB"
Manager	Class "M"
SCHOOLS	
Security Officer School or Training Facility	Class "DS"
Security Officer Instructor	Class "DI"
Recovery Agent School or Training Facility	Class "RS"
Recovery Agent Instructor	Class "RI"
FIREARMS	
Instructor	Class "K"
Statewide Firearm License	Class "G"
MANAGERS	
Private Investigative Agency or Branch	Class "C", "MA", or "M"
Private Security Agency or Branch	Class "MB" or "M"
Recovery Agency or Branch	Class "E" or "MR"
Armed Manager	Appropriate Manager's License and Class "G"

D, MB, and G Licenses

Generally, an applicant for a Class "D" security officer license must complete a minimum of 40 hours of professional training at a school or training facility licensed by the department, which establishes by rule the general content and number of hours of each subject area to be taught. Class MB security officers may manage a security agency. Class G officers have special firearms training requirements and are authorized to carry their firearms on duty.

[5] *See* 5N-1.116(1), F.A.C.

Detention by Certified Seaport Security Officers

Class D and Class G security officers who are employed at seaports and who are given the power to detain persons are further required to be certified under the Maritime Transportation Security Act or s. 311.121, F.S.

The statutorily-specified certification curriculum for the seaport security officer training program includes no less than 218 hours of initial certification training that conforms to or exceeds model courses approved by the Federal Maritime Act under Section 109 of the Federal Maritime Transportation Security Act of 2002 for facility personnel with specific security duties.

Pursuant to s. 311.124, F.S., these particular Class D or G security officers are given the power to detain persons for a reasonable period of time if they have "probable cause to believe that a person is trespassing … in a designated restricted area" pending the arrival of a law enforcement officer.[6] In addition, this action does not "render the security officer criminally or civilly liable for false arrest, false imprisonment, or unlawful detention." Furthermore, the seaport security officer must, upon detaining a person for trespass, immediately call a certified law enforcement officer to the scene.

To date, the department has not issued any revised licenses to a Class "D" security officer stating that the person is certified as a seaport security officer.

Impersonating a Licensee

Section 493.6118(1), F.S., authorizes the department to "take disciplinary action" against "any unlicensed person engaged in activities regulated" in ch. 493, F.S., related to private security, private investigative, and recovery services. Grounds for such disciplinary action include:

- Conducting activities regulated under ch. 493, F.S., without a license or with a revoked or suspended license.
- Impersonating, or permitting or aiding and abetting an employee to impersonate, a law enforcement officer.
- Knowingly violating, advising, encouraging, or assisting the violation of any statute, court order, capias, warrant, injunction, or cease and desist order, in the course of business regulated under ch. 493, F.S.
- Violating any provision of ch. 493, F.S.

When the department finds any of the above violations it may impose an administrative fine not to exceed $1,000 for every count or separate offense.[7] Section 493.6120, F.S., provides that any person who violates any provision of ch. 493, F.S., with one exception,[8] commits a first degree

[6] "Restricted area" is defined by 33 C.F.R. part 105. See also s. 311.12, F.S.
[7] Section 493.6118(2)(c), F.S.
[8] The exception is in s. 493.6405, F.S. This section deals with the sale of motor vehicles, mobile homes, motorboats, aircraft, personal watercraft, all-terrain vehicles, farm equipment, or industrial equipment by a recovery agent or intern, and provides that a violation is a third degree felony.

misdemeanor.[9] The department is authorized to institute judicial proceedings in the appropriate circuit court seeking enforcement of ch. 493, F.S., or any rule or order of the department.[10]

The Power to Detain

Section 901.151(2)-(4), F.S., provides:

- Whenever any law enforcement officer of this state encounters any person under circumstances which reasonably indicate that such person has committed, is committing, or is about to commit a violation of the criminal laws of this state or the criminal ordinances of any municipality or county, the officer may temporarily detain such person for the purpose of ascertaining the identity of the person temporarily detained and the circumstances surrounding the person's presence abroad which led the officer to believe that the person had committed, was committing, or was about to commit a criminal offense.[11]
- No person shall be temporarily detained [under the provisions of s. 901.151(2), F.S.] longer than is reasonably necessary to effect the purposes of that subsection. Such temporary detention shall not extend beyond the place where it was first effected or the immediate vicinity thereof.
- If at any time after the onset of the temporary detention authorized by s. 901.151(2), F.S., probable cause for arrest of the person shall appear, the person shall be arrested. If, after an inquiry into the circumstances which prompted the temporary detention, no probable cause for the arrest of the person shall appear, the person shall be released.

Section 812.015(3)(a), F.S., authorizes a law enforcement officer, a merchant, a farmer, or a transit agency's employee or agent, who has probable cause to believe that a retail theft, farm theft, or trespass, has been committed by a person and, in the case of retail or farm theft, that the property can be recovered by taking the offender into custody may, for the purpose of attempting to effect such recovery or for prosecution, take the offender into custody and detain the offender in a reasonable manner for a reasonable length of time. In the event the merchant, merchant's employee, farmer, or a transit agency's employee or agent takes the person into custody, a law enforcement officer shall be called to the scene immediately after the person has been taken into custody. Detention provisions are also applicable to transit fare evasion.

Section 509.143, F.S., authorizes innkeepers and food service establishment operators to "take a person into custody and detain that person" if there is probable cause to believe the person is engaging in disorderly conduct that threatens the safety of the person or others. In these situations, a law enforcement agency must be immediately contacted.

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[9] A first degree misdemeanor is punishable by up to 1 year in a county jail and a fine of up to $1,000 may also be imposed. See ss. 775.082 and 775.083, F.S.

[10] Section 493.6121(6), F.S.

[11] "This standard is consonant with the holding in *Terry v. Ohio*, 392 U.S. 1, 21, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968), which requires 'specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.' For reasonable suspicion justifying a detention to exist, 'the detaining officers must have a particularized and objective basis for suspecting the particular person stopped of criminal activity.' *United States v. Cortez*, 449 U.S. 411, 417–18, 101 S.Ct. 690, 66 L.Ed.2d 621 (1981)." *Tillman v. State*, 934 So.2d 1263, 1273 (Fla.2006).

"Citizen's Arrest"

A citizen has a common law right to make a "citizen's arrest" for a felony or a breach of the peace committed in his presence. The citizen may make such an arrest and justify his failure to obtain a warrant by proving the person's guilt.[12]

Commercial Feed and Feedstuff

The department is authorized by s. 570.07, F.S., to enforce the laws and rules of the state relating to the registration, labeling, inspection, sale, composition, formulation, wholesale and retail distribution, and analysis of commercial stock feeds. It does not currently have the authority to enforce laws and rules relating to the use of commercial feed and feedstuff. The department's Feed Section is responsible for the enforcement and administration of the Florida Commercial Feed Law, chapter 580, F.S., and chapter 5E-3, Florida Administrative Code. Section 580.036, F.S., authorizes the department to adopt rules pursuant to chapter 120, F.S., to enforce the provisions of chapter 580, F.S., and provides that such rules must be consistent with the rules and standards of the United States Food and Drug Administration and United States Department of Agriculture, when applicable. This bill would authorize the department to adopt rules establishing standards for the sale, use, and distribution of commercial feed or feedstuff to ensure usage that is consistent with animal health, safety, and welfare and, to the extent that meat, poultry, and other animal products may be affected by commercial feed or feedstuff, with the safety of these products for human consumption.

III. Effect of Proposed Changes:

Section 1 amends s. 163.3162, F.S., to replace most references to the word "county" in the Agricultural Lands and Practices Act with the term "governmental entity." It adds a definition to this section for the term and specifies that it has the same meaning as provided in s. 164.1031, F.S., where "governmental entity" is defined to include local and regional government entities. These changes have the effect of expanding from just counties to counties, municipalities, and regional governments, the types of governmental entities that are not authorized to charge an assessment or fee for stormwater management on a *bona fide* farm operation on land classified as agricultural, under certain circumstances.

Section 2 amends s. 206.41, F.S., to:

- Require that the portion of fuel sales tax collected from a county sheriff's office be returned to the sheriff's office to offset ongoing fuel costs.
- Authorize a sheriff's office, if licensed as a local government user, to take a credit on the monthly diesel fuel tax return not to exceed the county fuel tax and fuel sales tax on those gallons which would otherwise be eligible for refund.
- Add citrus harvesting equipment and citrus fruit loaders to the types of equipment that can move between farms on public highways in the state without violating the public highway use restriction, thereby qualifying for the motor fuel tax refund provided in this section.

[12] *Phoenix v. State*, 455 So.2d 1024 (Fla.1984).

Section 3 amends s. 206.625, F.S., to require that the portion of the county fuel tax paid by a sheriff's office be returned to the sheriff's office to offset ongoing fuel costs.

Section 4 amends s. 316.515, F.S., to revise the Florida Uniform Traffic Control Law to allow the use of citrus harvesting equipment and citrus fruit loaders, not exceeding 50 feet in length, to the list of machinery that are authorized to transport certain perishable farm products between farms. It also includes citrus in the list of perishable farm products specified in statute that are authorized to be transported by equipment specified in this section.

Section 5 amends s. 493.6120, F.S., to make it a first degree misdemeanor for a person to engage in any activity for which ch. 493, F.S., requires a license if the person does not hold the required license. However, a second or subsequent violation is a third degree felony[13] and the department may seek the imposition of a civil penalty not to exceed $10,000. This offense does not apply if the person engages in unlicensed activity within 90 days after the expiration date of the person's license.

This statute is also amended to make it a third degree felony for a person, while impersonating a security officer, private investigator, recovery agent, or other person required to have a license under ch. 493, F.S., to knowingly and intentionally force another person to assist the impersonator in an activity within the scope of duty of a professional licensed under ch. 493, F.S. However, it is a second degree felony[14] if a person commits this violation during the course of committing a felony, and a first degree felony if a person commits this violation during the course of committing a felony that results in death or serious bodily injury to another human being.[15]

Section 6 creates an undesignated section of the Florida Statutes to provide that an on duty, uniformed armed licensed security officer or armed licensed security agency manager, may temporarily detain a person on the premises of a critical infrastructure facility if the security officer or security agency manager has probable cause to believe that the person has committed or is committing a crime against the client of the security officer or security agency manager or the client's patron. The person may be temporarily detained for the purpose of ascertaining the person's identity and the circumstances of the activity that is the basis for the temporary detention. The security officer or security agency manager must notify the law enforcement agency as soon as reasonably possible. The temporary detention must be done solely for the purpose of detaining the person before the arrival of a law enforcement officer. Custody of this person must be immediately transferred to the responding law enforcement officer unless the law enforcement officer requests the security officer to assist in detaining the person.

The security officer or security agency manager may search the person temporarily detained if the security officer or security agency manager observes that the person is armed with a firearm, concealed weapon, or any destructive device that poses a threat to the safety of the security

[13] A third degree felony is punishable by up to 5 years in state prison and a fine of up to $5,000 may also be imposed. See ss. 775.082 and 775.083, F.S.
[14] A second degree felony is punishable by up to 15 years in state prison and a fine of up to $10,000 may also be imposed. See ss. 775.082 and 775.083, F.S.
[15] A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to $10,000 may also be imposed. See ss. 775.082 and 775.083, F.S.

officer or security agency manager, or the detainee admits to the security officer or security agency manager that he or she is armed with a weapon. The security officer or security agency manager is required to seize any weapon discovered and transfer the weapon to the responding law enforcement officer.

This section defines the term "critical infrastructure facility" to mean any one of the following, *if* it employs measures such as fences, barriers, or guard posts that are designed to exclude unauthorized personnel *and* is determined by a state or federal authority to be so vital to the state that the incapacity or destruction of the facility would have a debilitating impact on security, state economic stability, state public health or safety, or any combination of those matters:

- A chemical manufacturing facility.
- A refinery.
- An electrical power plant as defined in s. 403.031, F.S., including a substation, switching station, electrical control center, or electric transmission or distribution facility.
- A water intake structure, water treatment facility, wastewater treatment plant, or pump station.
- A natural gas transmission compressor station.
- A liquid natural gas terminal or storage facility.
- A telecommunications central switching office.
- A deep water port or railroad switching yard.
- A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas.
- A public transportation facility as defined in s. 343.62, F.S.

In addition, a security officer or security agency manager must perform duties required under this new section in a uniform that bears at least one patch or emblem visible at all times clearly identifying the employing agency.

Section 7 amends s. 570.07, F.S., to authorize the department to enforce the laws and rules of the state relating to the use of commercial stock feed.

Section 8 amends s. 580.036, F.S., to authorize the department to adopt rules establishing standards for the sale, use, and distribution of commercial feed or feedstuff to ensure usage that is consistent with animal health, safety, and welfare and, to the extent that meat, poultry, and other animal products may be affected by commercial feed or feedstuff, with the safety of these products for human consumption. These standards, if adopted, must be developed in consultation with the Commercial Feed Technical Council.

Section 9 provides that this act shall take effect July 1, 2012.

Other Potential Implications:

While a person may know that physical barriers and signage indicate that trespassing may be unlawful, they may be unaware that they are in a "critical infrastructure facility" where security

personnel would have the lawful authority to detain and search them, if otherwise warranted. The designation of "critical infrastructure facility" is not necessarily public information.

Sections 4 and 5 of the bill are identical to Sections 1 and 2 of CS/SB 154. On February 1, 2012, CS/SB 154 was approved by the Budget Subcommittee on General Government Appropriations.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because the bill prohibits a governmental entity from imposing an assessment or fee for stormwater management on certain lands. However, because this legislation has not yet been reviewed by the Revenue Estimating Conference, it is unclear if the reduction in revenues meets the threshold of the mandate or if an exemption applies.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

It is unclear at this point whether the limited searches and seizures which security officers and security agency managers are authorized to make under the bill would raise any Fourth Amendment issues. Since the bill is not law and current law does not specifically provide such search and seizure authorization (e.g., s. 311.124, F.S., which is relevant to seaport security officers, only authorizes temporary *detention* of a person in certain circumstances), there is no relevant and controlling Fourth Amendment case regarding searches and seizures by security officers or security agency managers. However, security officers and security agency managers should be aware that any evidence they seize may be later used as evidence in a criminal case and should be handled accordingly.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

In 2009, the Revenue Estimating Conference (conference) made the following comment regarding identical legislation that is in Section 1 of the bill: "Provisions of this bill that prohibit a county or municipality from imposing an assessment or fee for stormwater management on certain lands will have a negative indeterminate impact on local government revenues as determined by the conference."

B. Private Sector Impact:

The bill provides relief to agricultural producers who are being assessed with stormwater management fees by certain governmental entities.

The bill provides relief to citrus producers who pay certain taxes on motor fuel for use in citrus harvesting equipment or citrus fruit loaders.

C. Government Sector Impact:

By providing a tax refund for fuel taxes on citrus harvesting equipment or citrus fruit loaders, the state will experience a loss of sales tax revenue. Because the bill has not yet been reviewed by the Revenue Estimating Conference, the fiscal impact on state government is indeterminate at this time.

It is unknown at this time what impact, if any, there will be on state or local government by provisions of the bill that:

- Require that the portion of fuel sales tax collected from a county sheriff's office be returned to the sheriff's office to offset ongoing fuel costs.
- Authorize a sheriff's office, if licensed as a local government user, to take a credit on the monthly diesel fuel tax return not to exceed the county fuel tax and fuel sales tax on those gallons which would otherwise be eligible for refund.
- Require that the portion of the county fuel tax paid by a sheriff's office be returned to the sheriff's office to offset ongoing fuel costs.

The bill creates misdemeanor and felony offenses for specific unlicensed activity violations of ch. 493, F.S., as it relates to private investigations, private security, and repossession services. The bill authorizes the department to impose a civil penalty when a person commits a second or subsequent offense not to exceed $10,000. All fines collected are to be deposited into the Fine and Forfeiture Fund by the clerk of the court in the county where the offense occurred, pursuant to s. 775.083, F.S. All revenues received by the clerk in the Fine and Forfeiture fund from court-related fees, fines, costs, and service charges are considered state funds and shall be remitted monthly to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission. The amount of fines to be potentially generated by the provisions of this bill are unknown at this time.

Section 4 of the bill contains penalty provisions. Sections 4 is identical to Section 1 of SB 154 (and CS/SB 154). The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not reviewed this bill, but it has reviewed SB 154 and estimated that SB 154 would have an insignificant 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/CS/CS by Criminal Justice on February 16, 2012:

- Requires that the portion of fuel sales tax collected from a county sheriff's office be returned to the sheriff's office to offset ongoing fuel costs.
- Authorizes a sheriff's office, if licensed as a local government user, to take a credit on the monthly diesel fuel tax return not to exceed the county fuel tax and fuel sales tax on those gallons which would otherwise be eligible for refund.
- Requires that the portion of the county fuel tax paid by a sheriff's office be returned to the sheriff's office to offset ongoing fuel costs.

CS/CS by Transportation on February 7, 2012:

CS/CS/SB 1184 is different from CS/SB 1184 in that it:

- Provides criminal and civil penalties for unlicensed persons engaging in activities for which a license is required under ch. 493, F.S.; and
- Provides a criminal penalty for a person who knowingly and intentionally forces another person to assist in activities for which a license is required under ch. 493, F.S, while impersonating a professional licensed under that chapter; and
- Authorizes certain armed, licensed security officers to detain a person on the premises of a critical infrastructure facility under circumstances described; and
- Provides procedures for notifying law enforcement and transferring the detained person; and
- Authorizes search of the detained person under certain conditions; and
- Defines the term "critical infrastructure facility"; and
- Requires certain persons licensed under ch. 493, F.S., to wear uniforms.

CS by Agriculture on January 23, 2012:

Committee Substitute for Senate Bill 1184 is different from Senate Bill 1184 in that it:

- Deletes Section 6 of SB 1184 which prohibits a person to knowingly enter any nonpublic area of a farm and, without prior written consent to record sounds or images of the farm or farm operations, with certain exceptions. It also provided that violations would be punishable by a term of imprisonment not exceeding one year or a fine of $1,000. This deleted section of the bill had an effective date of October 1, 2012.

B. Amendments:

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2012	.	
	.	
	.	
	.	

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

1 **Senate Amendment (with directory and title amendments)**
2
3 Between lines 164 and 165
4 insert:
5 (f) The portion of the tax imposed by paragraph (1)(g)
6 which results from the collection of fuel sales tax paid by a
7 county sheriff's office for fuel used in motor vehicles operated
8 by the sheriff's office shall be returned to the sheriff's
9 office. The sheriff's office shall use the proceeds to offset
10 ongoing fuel costs. A sheriff's office, if licensed as a local
11 government user, may take a credit on the monthly diesel fuel
12 tax return not to exceed the tax imposed under paragraphs (1)(b)

832178

13 and (g) on those gallons which would otherwise be eligible for
14 refund.
15 Section 3. Subsection (3) is added to section 206.625,
16 Florida Statutes, to read:
17 206.625 Return of tax to municipalities, counties, and
18 school districts.—
19 (3) Those portions of the county fuel tax imposed by s.
20 206.41(1)(b) which result from the collection of the taxes paid
21 by a county sheriff's office for fuel used in motor vehicles
22 operated by the sheriff's office shall be returned to the
23 sheriff's office. The sheriff's office shall use the proceeds to
24 offset ongoing fuel costs.
25
26 ====== D I R E C T O R Y C L A U S E A M E N D M E N T ======
27 And the directory clause is amended as follows:
28 Delete line 132
29 and insert:
30 206.41, Florida Statutes, is amended, and paragraph (f) is added
31 to that subsection, to read:
32
33 ================ T I T L E A M E N D M E N T ================
34 And the title is amended as follows:
35 Delete line 12
36 and insert:
37 such purposes; requiring that the portion of fuel
38 sales tax collected from a county sheriff's office be
39 returned to the sheriff's office to offset the ongoing
40 fuel costs; authorizing a sheriff's office that is
41 licensed as a local government user to take a credit

832178

42 on the monthly diesel fuel tax return under prescribed
43 conditions; amending s. 206.625, F.S.; requiring that
44 the portion of the county fuel tax paid by a county
45 sheriff’s office be returned to offset ongoing fuel
46 costs; amending s. 316.515, F.S.; revising the

By the Committees on Transportation; and Agriculture; and Senator Norman

596-03129-12 20121184c2

A bill to be entitled

An act relating to the Department of Agriculture and Consumer Services; amending s. 163.3162, F.S.; defining the term "governmental entity"; prohibiting certain governmental entities from charging stormwater management assessments or fees on certain bona fide farm operations except under certain circumstances; providing for applicability; amending s. 206.41, F.S.; revising the definition of the term "agricultural and aquacultural purposes" for purposes of the required refund of state taxes imposed on motor fuel used for such purposes; amending s. 316.515, F.S.; revising the Florida Uniform Traffic Control Law to authorize the use of citrus harvesting equipment and citrus fruit loaders to transport certain agricultural products and to authorize the use of certain motor vehicles to transport citrus; amending s. 493.6120, F.S.; providing that a person who engages in any activity for which ch. 493, F.S., requires a license, but who acts without having a license, commits a misdemeanor of the first degree; providing that such person commits a felony of the third degree for a second or subsequent offense of engaging in activities without a license; authorizing the Department of Agriculture and Consumer Services to impose a civil penalty not to exceed a specified amount; providing that penalties do not apply if the person engaged in unlicensed activity within 90 days after the expiration date of the person's license; providing that a person who, while

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596-03129-12 20121184c2

impersonating a security officer, private investigator, recovery agent, or other person required to have a license under ch. 493, F.S., knowingly and intentionally forces another person to assist the impersonator in an activity within the scope of duty of a professional licensed under ch. 493, F.S., commits a felony of the third degree; providing that a person who impersonates a security officer or other designated officer during the commission of a felony commits a felony of the second degree; providing that a person who impersonates a security officer or other designated officer during the commission of a felony that results in death or serious bodily injury to another human being commits a felony of the first degree; authorizing a licensed security officer or a licensed security agency manager to detain a person on the premises of a critical infrastructure facility in certain circumstances; requiring the security officer to notify the law enforcement agency as soon as possible; requiring that custody of any person temporarily detained be immediately transferred to the responding law enforcement officer; providing for an exception to the immediate transfer; providing that the responsibilities of the security officer are limited to specified locations; prohibiting a security officer from detaining a person longer than is reasonably necessary; authorizing the security officer to search the person detained under certain circumstances; defining the term "critical

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59 infrastructure facility"; providing identification
60 requirements for certain licensed security officers;
61 amending s. 570.07, F.S.; revising the powers and
62 duties of the Department of Agriculture and Consumer
63 Services to enforce laws and rules relating to the use
64 of commercial stock feeds; amending s. 580.036, F.S.;
65 authorizing the department to adopt rules establishing
66 certain standards for regulating commercial feed or
67 feedstuff; requiring the department to consult with
68 the Commercial Feed Technical Council in the
69 development of such rules; providing an effective
70 date.
71
72 Be It Enacted by the Legislature of the State of Florida:
73
74 Section 1. Paragraph (d) is added to subsection (2) of
75 section 163.3162, Florida Statutes, and paragraphs (b), (c), and
76 (i) of subsection (3) of that section are amended to read:
77 163.3162 Agricultural Lands and Practices.—
78 (2) DEFINITIONS.—As used in this section, the term:
79 (d) "Governmental entity" has the same meaning as provided
80 in s. 164.1031.
81 (3) DUPLICATION OF REGULATION.—Except as otherwise provided
82 in this section and s. 487.051(2), and notwithstanding any other
83 law, including any provision of chapter 125 or this chapter:
84 (b) A governmental entity ~~county~~ may not charge an
85 assessment or fee for stormwater management on a bona fide farm
86 operation on land classified as agricultural land pursuant to s.
87 193.461, if the farm operation has a National Pollutant

88 Discharge Elimination System permit, environmental resource
89 permit, or works-of-the-district permit or implements best
90 management practices adopted as rules under chapter 120 by the
91 Department of Environmental Protection, the Department of
92 Agriculture and Consumer Services, or a water management
93 district as part of a statewide or regional program.
94 (c) For each governmental entity ~~county~~ that, before March
95 1, 2009, adopted a stormwater utility ordinance or resolution,
96 adopted an ordinance or resolution establishing a municipal
97 services benefit unit, or adopted a resolution stating the
98 governmental entity's ~~county's~~ intent to use the uniform method
99 of collection pursuant to s. 197.3632 for such stormwater
100 ordinances, the governmental entity ~~county~~ may continue to
101 charge an assessment or fee for stormwater management on a bona
102 fide farm operation on land classified as agricultural pursuant
103 to s. 193.461, if the ordinance or resolution provides credits
104 against the assessment or fee on a bona fide farm operation for
105 the water quality or flood control benefit of:
106 1. The implementation of best management practices adopted
107 as rules under chapter 120 by the Department of Environmental
108 Protection, the Department of Agriculture and Consumer Services,
109 or a water management district as part of a statewide or
110 regional program;
111 2. The stormwater quality and quantity measures required as
112 part of a National Pollutant Discharge Elimination System
113 permit, environmental resource permit, or works-of-the-district
114 permit; or
115 3. The implementation of best management practices or
116 alternative measures which the landowner demonstrates to the

117 governmental entity ~~county~~ to be of equivalent or greater
118 stormwater benefit than those provided by implementation of best
119 management practices adopted as rules under chapter 120 by the
120 Department of Environmental Protection, the Department of
121 Agriculture and Consumer Services, or a water management
122 district as part of a statewide or regional program, or
123 stormwater quality and quantity measures required as part of a
124 National Pollutant Discharge Elimination System permit,
125 environmental resource permit, or works-of-the-district permit.
126 (i) The provisions of this subsection that limit a
127 governmental entity's ~~county's~~ authority to adopt or enforce any
128 ordinance, regulation, rule, or policy, or to charge any
129 assessment or fee for stormwater management, apply only to a
130 bona fide farm operation as described in this subsection.
131 Section 2. Paragraph (c) of subsection (4) of section
132 206.41, Florida Statutes, is amended to read:
133 206.41 State taxes imposed on motor fuel.—
134 (4)
135 (c)1. Any person who uses any motor fuel for agricultural,
136 aquacultural, commercial fishing, or commercial aviation
137 purposes on which fuel the tax imposed by paragraph (1)(e),
138 paragraph (1)(f), or paragraph (1)(g) has been paid is entitled
139 to a refund of such tax.
140 2. For the purposes of this paragraph, "agricultural and
141 aquacultural purposes" means motor fuel used in any tractor,
142 vehicle, or other farm equipment which is used exclusively on a
143 farm or for processing farm products on the farm, and no part of
144 which fuel is used in any vehicle or equipment driven or
145 operated upon the public highways of this state. This

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146 restriction does not apply to the movement of a farm vehicle, ~~or~~
147 farm equipment, citrus harvesting equipment, or citrus fruit
148 loaders between farms. The transporting of bees by water and the
149 operating of equipment used in the apiary of a beekeeper shall
150 be also deemed an agricultural purpose.
151 3. For the purposes of this paragraph, "commercial fishing
152 and aquacultural purposes" means motor fuel used in the
153 operation of boats, vessels, or equipment used exclusively for
154 the taking of fish, crayfish, oysters, shrimp, or sponges from
155 salt or fresh waters under the jurisdiction of the state for
156 resale to the public, and no part of which fuel is used in any
157 vehicle or equipment driven or operated upon the highways of
158 this state; however, the term may in no way be construed to
159 include fuel used for sport or pleasure fishing.
160 4. For the purposes of this paragraph, "commercial aviation
161 purposes" means motor fuel used in the operation of aviation
162 ground support vehicles or equipment, no part of which fuel is
163 used in any vehicle or equipment driven or operated upon the
164 public highways of this state.
165 Section 3. Paragraph (a) of subsection (5) of section
166 316.515, Florida Statutes, is amended to read:
167 316.515 Maximum width, height, length.—
168 (5) IMPLEMENTS OF HUSBANDRY AND FARM EQUIPMENT;
169 AGRICULTURAL TRAILERS; FORESTRY EQUIPMENT; SAFETY REQUIREMENTS.—
170 (a) Notwithstanding any other provisions of law, straight
171 trucks, agricultural tractors, citrus harvesting equipment,
172 citrus fruit loaders, and cotton module movers, not exceeding 50
173 feet in length, or any combination of up to and including three
174 implements of husbandry, including the towing power unit, and

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175 any single agricultural trailer with a load thereon or any
176 agricultural implements attached to a towing power unit, or a
177 self-propelled agricultural implement or an agricultural
178 tractor, is authorized for the purpose of transporting peanuts,
179 grains, soybeans, citrus, cotton, hay, straw, or other
180 perishable farm products from their point of production to the
181 first point of change of custody or of long-term storage, and
182 for the purpose of returning to such point of production, or for
183 the purpose of moving such tractors, movers, and implements from
184 one point of agricultural production to another, by a person
185 engaged in the production of any such product or custom hauler,
186 if such vehicle or combination of vehicles otherwise complies
187 with this section. The Department of Transportation may issue
188 overlength permits for cotton module movers greater than 50 feet
189 but not more than 55 feet in overall length. Such vehicles shall
190 be operated in accordance with all safety requirements
191 prescribed by law and rules of the Department of Transportation.
192 Section 4. Section 493.6120, Florida Statutes, is amended
193 to read:
194 493.6120 Violations; penalty.—
195 (1)(a) Except as provided in paragraph (c), a person who
196 engages in any activity for which this chapter requires a
197 license and who does not hold the required license commits a
198 misdemeanor of the first degree, punishable as provided in s.
199 775.082 or s. 775.083.
200 (b) A second or subsequent violation of paragraph (a) is a
201 felony of the third degree, punishable as provided in s.
202 775.082, s. 775.083, or s. 775.084, and the department may seek
203 the imposition of a civil penalty not to exceed $10,000.

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204 (c) Paragraph (a) does not apply if the person engages in
205 unlicensed activity within 90 days after the date of the
206 expiration of his or her license.
207 (2)(a) A person who, while impersonating a security
208 officer, private investigator, recovery agent, or other person
209 required to have a license under this chapter, knowingly and
210 intentionally forces another person to assist the impersonator
211 in an activity within the scope of duty of a professional
212 licensed under this chapter commits a felony of the third
213 degree, punishable as provided in s. 775.082, s. 775.083, or s.
214 775.084.
215 (b) A person who violates paragraph (a) during the course
216 of committing a felony commits a felony of the second degree,
217 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
218 (c) A person who violates paragraph (a) during the course
219 of committing a felony that results in death or serious bodily
220 injury to another human being commits a felony of the first
221 degree, punishable as provided in s. 775.082, s. 775.083, or s.
222 775.084.
223 (3)~~(1)~~ A ~~Any~~ person who violates any provision of this
224 chapter, except s. 493.6405, subsection (1), or subsection (2),
225 commits a misdemeanor of the first degree, punishable as
226 provided in s. 775.082 or s. 775.083.
227 (4)~~(2)~~ A ~~Any~~ person who is convicted of any violation of
228 this chapter is ~~shall~~ not ~~be~~ eligible for licensure for a period
229 of 5 years.
230 (5)~~(3)~~ A ~~Any~~ person who violates or disregards any cease
231 and desist order issued by the department commits a misdemeanor
232 of the first degree, punishable as provided in s. 775.082 or s.

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

233 775.083. In addition, the department may seek the imposition of
234 a civil penalty not to exceed $5,000.
235 (6) ~~(4)~~ A ~~Any~~ person who was an owner, officer, partner, or
236 manager of a licensed agency at the time of any activity that is
237 the basis for revocation of the agency or branch office license
238 and who knew or should have known of the activity, shall have
239 his or her personal licenses or approval suspended for 3 years
240 and may not have any financial interest in or be employed in any
241 capacity by a licensed agency during the period of suspension.
242 Section 5. Protecting critical infrastructure facilities.—
243 (1) A licensed security officer who possesses a valid Class
244 "G" license, or a licensed security agency manager who possesses
245 a valid Class "G" license, who is on duty, in uniform, providing
246 security services on the premises of a critical infrastructure
247 facility, and who has probable cause to believe that a person
248 has committed or is committing a crime against the client, or
249 the client's patron, of the licensed security officer or the
250 licensed security agency manager, may temporarily detain the
251 person for the purpose of ascertaining his or her identity and
252 the circumstances of the activity that is the basis for the
253 temporary detention. The security officer or security agency
254 manager may detain the person in a reasonable manner until the
255 responding law enforcement officer arrives at the premises of
256 the client and is in the presence of the detainee.
257 (2) When temporarily detaining a person, the licensed
258 security officer or security agency manager shall notify the
259 appropriate law enforcement agency as soon as reasonably
260 possible. Temporary detention of a person by a licensed security
261 officer or security agency manager must be done solely for the

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

262 purpose of detaining the person before the arrival of a law
263 enforcement officer. Custody of any person being temporarily
264 detained shall be immediately transferred to the responding law
265 enforcement officer.
266 (3) A licensed security officer or security agency manager
267 may not detain a person under this section after the arrival of
268 a law enforcement officer unless the law enforcement officer
269 requests the security officer or security agency manager to
270 continue detaining the person. The responsibilities of the
271 licensed security officer or security agency manager do not
272 extend beyond the place where the person was first detained or
273 in the immediate vicinity.
274 (4) A person may not be temporarily detained under this
275 section longer than is reasonably necessary to effect the
276 purposes of this section.
277 (5) If a licensed security officer or security agency
278 manager, while detaining a person under this section, observes
279 that the person temporarily detained is armed with a firearm, a
280 concealed weapon, or a destructive device that poses a threat to
281 the safety of the security officer or security agency manager,
282 or any person for whom the security officer or security agency
283 manager is responsible for providing protection, or if the
284 detainee admits to having a weapon in his or her possession, the
285 security officer or security agency manager may conduct a search
286 of the person and his or her belongings only to the extent
287 necessary for the purpose of disclosing the presence of a
288 weapon. If the search reveals such a weapon, the weapon shall be
289 seized and transferred to the responding law enforcement
290 officer.

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

291 (6) As used in this section, the term "critical
292 infrastructure facility" means any one of the following, if it
293 employs measures such as fences, barriers, or guard posts that
294 are designed to exclude unauthorized persons and is determined
295 by a state or federal authority to be so vital to the state that
296 the incapacity or destruction of the facility would have a
297 debilitating impact on security, state economic stability, state
298 public health or safety, or any combination of those matters:
299 (a) A chemical manufacturing facility;
300 (b) A refinery;
301 (c) An electrical power plant as defined in s. 403.031,
302 Florida Statutes, including a substation, switching station,
303 electrical control center, or electric transmission or
304 distribution facility;
305 (d) A water intake structure, water treatment facility,
306 wastewater treatment plant, or pump station;
307 (e) A natural gas transmission compressor station;
308 (f) A liquid natural gas terminal or storage facility;
309 (g) A telecommunications central switching office;
310 (h) A deepwater port or railroad switching yard;
311 (i) A gas processing plant, including a plant used in the
312 processing, treatment, or fractionation of natural gas; or
313 (j) A public transportation facility as defined in s.
314 343.62, Florida Statutes.
315 (7) A Class "D" or Class "MB" licensee shall perform duties
316 regulated under this section in a uniform that bears at least
317 one patch or emblem visible at all times clearly identifying the
318 employing agency.
319 Section 6. Paragraph (c) of subsection (16) of section

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320 570.07, Florida Statutes, is amended to read:
321 570.07 Department of Agriculture and Consumer Services;
322 functions, powers, and duties.—The department shall have and
323 exercise the following functions, powers, and duties:
324 (16) To enforce the state laws and rules relating to:
325 (c) Registration, labeling, inspection, sale, use,
326 composition, formulation, wholesale and retail distribution, and
327 analysis of commercial stock feeds and registration, labeling,
328 inspection, and analysis of commercial fertilizers;
329
330 In order to ensure uniform health and safety standards, the
331 adoption of standards and fines in the subject areas of
332 paragraphs (a)-(n) is expressly preempted to the state and the
333 department. Any local government enforcing the subject areas of
334 paragraphs (a)-(n) must use the standards and fines set forth in
335 the pertinent statutes or any rules adopted by the department
336 pursuant to those statutes.
337 Section 7. Paragraph (g) is added to subsection (2) of
338 section 580.036, Florida Statutes, to read:
339 580.036 Powers and duties.—
340 (2) The department is authorized to adopt rules pursuant to
341 ss. 120.536(1) and 120.54 to enforce the provisions of this
342 chapter. These rules shall be consistent with the rules and
343 standards of the United States Food and Drug Administration and
344 the United States Department of Agriculture, when applicable,
345 and shall include:
346 (g) Establishing standards for the sale, use, and
347 distribution of commercial feed or feedstuff to ensure usage
348 that is consistent with animal health, safety, and welfare and,

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

349 to the extent that meat, poultry, and other animal products may
350 be affected by commercial feed or feedstuff, with the safety of
351 these products for human consumption. Such standards, if
352 adopted, must be developed in consultation with the Commercial
353 Feed Technical Council created under s. 580.151.
354 Section 8. This act shall take effect July 1, 2012.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

2/16/2012
Meeting Date

Topic: Gas tax exemption - Sheriffs

Bill Number: 1184 (if applicable)

Name: Peggy Goff & Sarrah Carroll

Amendment Barcode: 832178 (if applicable)

Job Title: Asst. Exec. Directors

Address: 2617 Mahan Drive
Street

Tall. FL 32308
City State Zip

Phone: 877-2165

E-mail: pgoff@flsheriffs.org

Speaking: [x] For [ ] Against [x] Information

Representing: Florida Sheriffs Association

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

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

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

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

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)

03/16/12
Meeting Date

Topic: State Fuel Tax Remittance to Sheriffs

Bill Number: 1184

Name: Lisa M. Hurley

Amendment Barcode: Hays (832178) (if applicable)

Job Title:

Address: 100 S. Monroe St.
Street

Tallahassee Fl 32301
City State Zip

Phone: 850.922.4300

E-mail: lhurley@fl-counties.com

Speaking: [x] For [ ] Against [ ] Information Amendment.

Representing: Fl Assoc. of Counties

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

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

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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)

2-16-12
Meeting Date

Topic: Agriculture

Bill Number: 1184 *(if applicable)*

Name: Cindy Littlejohn

Amendment Barcode: *(if applicable)*

Job Title: —

Address: 310 W. College Ave
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: 222-7535

E-mail: cindy@littlejohnmann.com

Speaking: [X] For [ ] Against [ ] Information

Representing: Plum Creek Timber

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

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

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

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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)

2/16/12
Meeting Date

Topic: Agriculture

Bill Number: 1184 (if applicable)

Name: Alan Shelby

Amendment Barcode: _____ (if applicable)

Job Title: Govt. Rel. Dir.

Address: 402 E. Jefferson St.
Street

Tall — FL — 32301
City — State — Zip

Phone: 222-5646

E-mail: alan@forestfla.org

Speaking: [X] For [ ] Against [ ] Information

Representing: Florida Forestry Assn.

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

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

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

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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)

2/16/12
Meeting Date

Topic: Stormwater Fees

Bill Number: 1184 *(if applicable)*

Name: Ryan Matthews

Amendment Barcode: _____ *(if applicable)*

Job Title: legislative advocate

Address: PO Box 1757
Street

Tallahassee, FL 32302
City, State, Zip

Phone: 850 222 9684

E-mail: rmatthews@flcities.com

Speaking: ☐ For ☑ Against ☐ Information

Representing: FL 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)

02/16/2012
Meeting Date

Topic: AGRICULTURE

Bill Number: SB 1184 (if applicable)

Name: HOWARD E. "GENE" ADAMS

Amendment Barcode: (if applicable)

Job Title: ATTORNEY

Address: 215 SOUTH MONROE ST., 2ND FLOOR
Street

TALLAHASSEE, FLA. 32301
City, State, Zip

Phone: 850-222-3533

E-mail: GENE@PENNINGTONLAW.COM

Speaking: [X] For [ ] Against [ ] Information

Representing: FLA. FEED ASSOCIATION

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

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

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

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S-001 (10/20/11)

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 Criminal Justice Committee

BILL: CS/SB 1324

INTRODUCER: Commerce and Tourism Committee and Senator Norman

SUBJECT: Theft of Copper

DATE: February 7, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Juliachs	Hrdlicka	CM	**Fav/CS**
2.	Dugger	Cannon	CJ	**Favorable**
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	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 recyclers[1] and purchase transactions[2] 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.

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[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

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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.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, *Vice Chair*
Budget - Subcommittee on Finance and Tax
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Health Regulation
Military Affairs, Space, and Domestic Security
Transportation

JOINT COMMITTEE:
Legislative Auditing Committee, *Alternating Chair*

SENATOR JIM NORMAN
12th District

January 11, 2012

The Honorable Greg Evers, Chair
Senate Criminal Justice
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Evers:

My Senate Bill 1324, an act relating to Theft of Copper has been referred to your committee. I respectfully request that this bill be placed on the first possible agenda for a hearing.

Should you or your staff have any questions, please do not hesitate to contact me or my chief aide, Ben Kelly.

Sincerely,

Jim Norman, Senator
12th District

JN:dlc

cc: Amanda Cannon, Staff Director – Senate Criminal Justice

REPLY TO:
❒ 14031 North Dale Mabry Boulevard, Tampa, Florida 33618 (813) 265-6260
❒ 214 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5068

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

16 FEB 12
Meeting Date

Topic: COPPER THEFT

Bill Number: 1324 *(if applicable)*

Name: MIKE BJORKLUND

Amendment Barcode: _____ *(if applicable)*

Job Title: DIR. OF LEG. AFFAIRS

Address: 2916 APALACHEE PKWY
Street

TALL 32301
City *State* *Zip*

Phone: 877-6166

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.

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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)

2/16/12
Meeting Date

Topic: Metal Theft

Bill Number: 1324 (if applicable)

Name: Keyna Cory

Amendment Barcode: _____ (if applicable)

Job Title: Senior Lobbyist

Address: 110 E. College Ave
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 8506811065

E-mail: keynacory@pdaconsultants.com

Speaking: [X] For [ ] Against [ ] Information

Representing: AIF

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

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

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

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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)

2-16-12
Meeting Date

Topic: Metal Theft

Bill Number: 1324 *(if applicable)*

Name: Richard Reeves

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 201 S. Monroe Suite 300
Street

_____ 32301
City *State* *Zip*

Phone: 513 0004

E-mail: _____

Speaking: [✓] For [ ] Against [ ] Information

Representing: Gulf Power

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

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

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

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)

2/16
Meeting Date

Topic: Copper Theft

Bill Number: 1324 *(if applicable)*

Name: John Holley

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: _____
Street

_____
City *State* *Zip*

Phone: _____

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)

02/16/2012
Meeting Date

Topic: METAL THEFT

Bill Number: SB 1324 *(if applicable)*

Name: ERIC WESTFALL

Amendment Barcode: *(if applicable)*

Job Title: LIEUTENANT

Address: 123 W. INDIANA AVE
Street

DELAND, FL 32720
City *State* *Zip*

Phone:

E-mail:

Speaking: [X] For [ ] Against [ ] Information

Representing: FLORIDA SHERIFF'S ASSOCIATION / SHERIFF BEN JOHNSON

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

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

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

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)

2-16-2012
Meeting Date

Topic: Metal theft

Bill Number: 1324 *(if applicable)*

Name: Donna Simmons

Amendment Barcode: _____ *(if applicable)*

Job Title: Dir, State Gov't Relations

Address: 106 E College Ave, Ste 630
Street

TLH, FL 32312
City *State* *Zip*

Phone: 681 6785

E-mail: _____

Speaking: [x] For [ ] Against [ ] Information

Representing: TECO Energy

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

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

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

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

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)

2/16/12
Meeting Date

Topic: Metal Theft

Bill Number: 1324 (if applicable)

Name: Amy Mercer

Amendment Barcode: (if applicable)

Job Title: Director

Address: 924 N. Gadsden St.
Street

Tall. Fl 32303
City State Zip

Phone: 219-3631

E-mail: amercer

Speaking: [X] For [ ] Against [ ] Information

Representing: Florida Police Chiefs Assoc.

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

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

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

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

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)

2/16/12
Meeting Date

Topic: Metal Theft

Bill Number: SB 1324 *(if applicable)*

Name: Melanie DiMuzio

Amendment Barcode: — *(if applicable)*

Job Title: Grassroots Coordinator

Address: 106 E. College Ave, #800
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone: 850-510-9435

E-mail: melanie.dimuzio@pgnmail.com

Speaking: [x] For [ ] Against [ ] Information

Representing: Progress Energy Florida

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

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

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

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

S-001 (10/20/11)

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 Criminal Justice Committee

BILL: CS/SB 1712

INTRODUCER: Criminal Justice Committee and Senator Storms

SUBJECT: Mental Health

DATE: February 16, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	**Fav/CS**
2.			CF	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

The bill amends certain statutes that govern mental health issues with criminal defendants and juveniles charged with delinquent acts. Defendants whose competency to proceed is in question or found by a court to be lacking, are committed to the Department of Children and Family Services (department) for "competency training" in an effort to restore them to competency. If a defendant meets the definition of mental retardation or autism, the Agency for Persons with Disabilities generally serves their needs in this process. Defendants who are found not guilty by reason of insanity are likewise committed to the department.

The bill provides for the continuation of treatment with psychotropic drugs, under limited circumstances, by the department for defendants and forensic clients that have been administered such treatment in a jail prior to relocation to a department facility.

The bill requires that experts who wish to be named on the registry of witnesses who may be appointed by the court to evaluate and render an opinion as to a defendant's competency or sanity complete forensic evaluator training. The department is required by the bill to maintain an active registry for the courts. The bill applies the same training and registry requirements for experts and the department in juvenile cases.

The bill specifies a timeframe within which a hearing must be held on matters of competency and continued commitment.

The bill provides for standard report and recommendation criteria in reports issued by experts called upon to evaluate juveniles.

This bill substantially amends the following sections of the Florida Statutes: 916.107, 916.111, 916.115, 916.13, 916.15, and 985.19.

II. Present Situation:

The Due Process Clause of the 14th Amendment prohibits the states from trying and convicting defendants who are incompetent to stand trial.[1] The states must have procedures in place that adequately protect the defendant's right to a fair trial which includes his or her participation in all material stages of the process.[2] Specifically, defendants (and juveniles charged with having committed felony-level delinquent acts) must be able to appreciate the range and nature of the charges and penalties that may be imposed, and must be able to understand the adversarial nature of the legal process and disclose to counsel facts pertinent to the proceedings at issue. Defendants also must manifest appropriate courtroom behavior and be able to testify relevantly.[3]

If a defendant is suspected of being incompetent, the court or counsel for the defendant or the state may file a motion for examination to have the defendant's cognitive state assessed. If the motion is well-founded the court will appoint experts to evaluate the defendant's cognitive state. The defendant's competency is then determined by the judge in a subsequent hearing. If the defendant is found to be competent, the criminal proceeding resumes. If, however, the defendant is found to be incompetent to proceed, competency must be restored before the criminal proceeding may resume.[4]

Restoration of Competency

Competency restoration is designed to help defendants meaningfully participate in their own defense. The Department of Children and Family Services has oversight of felony defendants who are found incompetent to proceed due to mental illness, while the Agency for Persons with Disabilities is charged with oversight of felony defendants who are incompetent to proceed due to developmental disabilities.[5] The department is directed by statute to provide competency training for juveniles who have been found incompetent to proceed to trial as a result of mental illness, mental retardation or autism.[6]

---

[1] See *Pate v. Robinson*, 383 U.S. 375, 86 S.Ct. 836, 15 L.Ed. 815 (1966); *Bishop v. U.S.*, 350 U.S.961, 76 S.Ct. 440, 100 L.Ed. 835 (1956); *Jones v. State*, 740 So.2d 520 (Fla. 1999).
[2] *Id.* See also Rule 3.210(a)(1), Fla.R.Crim.P., Rule 8.095(d)(1), Fla.R.Juv.P.
[3] *Id.* See also s. 916.12, 916.3012, and 985.19, F.S.
[4] Rule 3.210(b), 3.211, 3.212, Fla.R.Crim.P.; Rule 8.095(a)(1)-(6), Fla.R.Juv.P.
[5] Ch. 916, F.S.
[6] s. 985.19(4), F.S.

If the court determines that the defendant is a danger to himself or others, it may involuntarily commit the defendant to a secure forensic facility.[7] Defendants may be placed on conditional release to receive competency restoration training in the community if the court finds they do not pose a risk to public safety.[8]

Once a defendant is determined to have regained his or her competence to proceed, the court is notified and a hearing is set for the judge to determine the defendant's competency.[9] If the court finds the defendant to be competent, the criminal proceeding resumes. If, however, the court finds the defendant incompetent to proceed, the defendant is returned to a forensic facility or community restoration on conditional release until competency is restored.[10]

Competency restoration training and mental health services are provided in four state forensic facilities, that have a total of 1,098 beds (two facilities are state-operated and two are operated under contract with a private provider).[11] The department served 2,581 adults who were committed for competency restoration services during FY 2010-11.[12] The department reports that 412 juveniles received competency training during FY 2010-11.[13]

Qualifications of Competency Experts

Section 916.115 (1)(a), F.S., provides that experts appointed by the court to conduct competency evaluations shall, to the extent possible, have completed forensic evaluator training approved by the department and each shall be a psychiatrist, licensed psychologist, or physician. The department is required by s. 916.115 (1)(b), F.S., to maintain and annually provide the courts with a list of available mental health professionals who have completed the approved training as experts. However, current law does not require attendance at a department-authorized training or training renewal.

In the juvenile system, the court appoints mental health experts to conduct competency evaluations although there does not appear to be a specific requirement in the juvenile competency statute that the expert be a psychiatrist, licensed psychologist, or physician as is the case in the adult system.[14] As in the adult system, the department provides the court a list of experts who have completed a department-approved training program but there is no statute that requires any attendance or on-going forensic training for the purpose of competency evaluation and reporting.[15] The Agency for Persons with Disabilities conducts the evaluations and makes the reports to the court regarding juveniles who meet the definition of "retardation" or "autism."[16] Although there is a requirement in s. 916.301(2)(b)1., F.S., that the expert appointed to examine adult defendants be a psychologist, the juvenile statute does not make such a specification.

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[7] s. 916.13, F.S.
[8] s. 916.17, F.S.
[9] Rule 3.212, Fla.R.Crim.P.
[10] *Id*.
[11] Information provided by the department, January 5, 2012. (Note: The department's analysis was provided on House Bill 1045 which is similar to Senate Bill 1712. Report is on file with Senate Criminal Justice staff.)
[12] *Id*.
[13] *Id*.
[14] s. 985.19(1)(b), F.S.
[15] s. 985.19(1)(d), F.S.
[16] s. 985.19(1)(e), F.S.

Hearing to Determine Restoration of Competency or Need for Continued Commitment
When the court adjudicates a defendant incompetent to proceed and the defendant is committed to the department to be restored to competency, or if the defendant has been found not guilty by reason of insanity and committed to the department, the defendant is returned to court periodically for a review and report on his or her condition.[17] Generally, a review is conducted:

- No later than 6 months after the date of admission;
- At the end of any extended period of commitment;
- At any time upon the facility administrator's communication to the court that the defendant no longer meets commitment criteria; or
- Upon counsel's Motion for Review having been granted.

Rules of Criminal and Juvenile Procedure require that a hearing be held within 30 days of the court's receiving the administrator's pre-hearing report.[18] There is no corresponding statutory time constraint on the court conducting a hearing.

The court also retains jurisdiction for purposes of dismissing charges if a defendant has not become competent within 5 years.[19]

Psychotropic Medication
Forensic clients of the department, which includes defendants who have been committed to the department for competency restoration or because they have been found not guilty by reason of insanity, must be treated with dignity and respect. The department, however, is responsible for providing treatment deemed necessary to fulfill its obligation under the statutes governing competency restoration and mental illness.

Forensic clients are, therefore, asked to give express and informed consent for treatment.[20] When treatment is refused, it may nonetheless be provided in an emergency situation for periods of up to 48 hours (excluding weekends and holidays, subject to review in 48-hour increments by a physician until a court rules) unless or until the department obtains a court order authorizing continued treatment.[21]

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 916.107(3), F.S., to allow for psychotherapeutic medication that has been administered to a department client who was previously administered the medication at the jail to be ordered by the department's admitting physician. The department physician's opinion must be that abrupt cessation of the medication could cause a risk to the client's health and safety. The jail physician is required to provide a current medication order at the time of the client's transfer to the forensic or civil facility.

[17] ss. 916.13(2), 916.15(3) and 916.302(2)(a), F.S. See also s. 985.19(4)(e), (5) and (6), F.S., related to the court's jurisdiction and reporting requirements in juvenile cases.
[18] Rules 3.212 and 3.218, Fla.R.Crim.P.; Rule 8.095(a)(5), Fla.R.Juv.P. See also Rule 8.095(e), Fla.R.Juv.P.
[19] s. 916.145, 916.303, F.S. Regarding dismissal of charges of juvenile delinquency, see s. 985.19(5)(c), F.S.
[20] s. 916.107(3), F.S.
[21] *Id.*

Section 2 amends s. 916.111, F.S., to require forensic evaluator training for experts appointed by the courts to evaluate defendants who appear to be incompetent to proceed or who may have been insane at the time of the criminal offense with which they are charged.

A department-approved course or one given by a state wide professional association of physicians accredited to provide educational activities for specified types of credit must be provided at least annually. Beginning in July of 2013 an expert who is on the expert forensic evaluator registry must have completed or repeated training within the previous 5 years (no earlier than June 30, 2008) or the expert will be removed from the registry and may not conduct evaluations for the courts. The bill requires that training be completed every five years by forensic evaluators who want to remain on the department's registry.

Experts on the registry must maintain documentation of course completion and provide the department with up-to-date contact information.

Section 3 makes a conforming technical change to s. 916.115, F.S., to refer to the "forensic evaluator registry" (rather than "list") to be maintained and provided to the courts.

Section 4 amends s. 916.13(2), F.S., to insert a statutory requirement which mirrors the court Rule requirement that a competency hearing be held within 30 days of the court receiving notification that the defendant no longer meets the criteria for continued commitment.

Section 5 amends s. 916.15, F.S., to require a commitment hearing be held within 30 days of the court receiving notification that the defendant no longer meets the criteria for continued commitment.

Section 6 of the bill amends s. 985.19, F.S., to establish criteria that a forensic evaluator must use when reporting to the court as to whether a child is competent to proceed. If the child is determined to be incompetent, the evaluator must provide a mental disorder that forms the basis of the incompetency. The evaluator must also present a summary of findings that includes:

- The date and length of time of the face to face diagnostic clinical interview;
- A statement that identifies the mental health disorder;
- A statement of how the child would benefit from competency restoration in the community or in a residential setting;
- An assessment of treatment length, and whether the juvenile will attain competence in the future; and
- A description of appropriate mental health treatment and education.

It also requires the expert training required of forensic experts in Section 2 of the bill for experts on the registry who may render opinions as to competency and commitment in adult court.

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.

D. Other Constitutional Issues:

The 30-day court hearing time restrictions for certain competency and commitment hearings (Sections 4 and 5 of the bill) may be viewed as a Separation of Powers issue. It could be argued to be a procedural matter that falls within the power of the court, rather than a substantive matter of the law, a legislative matter. The issue may not arise, however, as the statutory change set forth in the bill mirrors the current court rules.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The department reports that the current cost for forensic evaluator training, for nonprofit or state government employees, is $445 or $395.[22]

C. Government Sector Impact:

It is unclear from the department's report whether the state pays for forensic evaluator training for state government employees, but if this is the case, it is not likely to be a new fiscal impact.[23]

The department reports that it expects no new fiscal impact as a result of the bill.[24]

The Department of Juvenile Justice reports an indeterminate fiscal impact.[25]

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[22] Information provided by the department, January 5, 2012. (Note: The department's analysis was provided on House Bill 1045 which is similar to Senate Bill 1712. Report is on file with Senate Criminal Justice staff.)
[23] *Id.*
[24] *Id.*
[25] January 18, 2012 report from the Department of Juvenile Justice is on file with Senate Criminal Justice Committee staff.

The Agency for Persons with Disabilities reports that the bill is not expected to have any fiscal impact on the Agency.[26]

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:

- Amendment 490656 as amended by 551900 requires that the forensic evaluator training course shall be *either* department-approved *or* be given by a state wide professional association of physicians that is accredited to provide specified types of educational credits. Amendment 230838 as amended by 864278 sets forth the same requirements in a different section of the bill.
- Amendment 346066 clarifies that forensic experts whose names appear on the department's registry must complete the forensic evaluator training course every five years in order to remain on the registry. Amendment 744718 provides the same clarification in a different section of the bill.
- Amendment 955046 changes two references to a specific edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association to a general reference to the "most recent edition."

B. Amendments:

None.

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

[26] January 24, 2012 email from APD staff on file with the Senate Criminal Justice Committee.

490656

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2012	.	
	.	
	.	
	.	

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

1 **Senate Amendment**
2
3 Delete lines 121 - 122
4 and insert:
5 (3) A forensic evaluator training course approved by the
6 Department or given by a state wide professional association of
7 physicians in Florida accredited to provide educational
8 activities designated for AMA PRA Category I credit must be
9 provided at least annually to ensure that
10

551900

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2012	.	
	.	
	.	
	.	

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

1 **Senate Amendment to Amendment (490656)**
2
3 Delete line 8
4 and insert:
5 activities designated for AMA PRA Category I credit or AOA
6 Category 1-A credit must be

346066

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2012	.	
	.	
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	.	

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

1 **Senate Amendment**
2
3 Delete lines 127 - 129
4 and insert:
5 required training course within the previous 5 years. Once
6 trained, experts must retake the required training course every
7 5 years in order to remain on the registry. Those who have not
8 completed the training course or have not retaken the training
9 course within 5 years must be removed from the registry and may
10 not conduct competency evaluations for the courts.

955046

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2012	.	
	.	
	.	
	.	

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

1 **Senate Amendment**
2
3 Delete lines 255 - 264
4 and insert:
5 Statistical Manual of Mental Disorders of the American
6 Psychiatric Association and must be presented in a section of
7 his or her competency evaluation report that shall be identified
8 as a summary of findings. This section must include:
9 1. The day, month, year, and length of time of the face-to-
10 face diagnostic clinical interview to determine the child's
11 mental condition.
12 2. A statement that identifies the mental disorder causing

955046

13 the child's incompetence. In reporting on the mental disorder,
14 the evaluator shall use the clinical name and associated
15 diagnostic code found in the most recent edition of the
16 Diagnostic and Statistical Manual of Mental Disorders of the
17 American Psychiatric Association.

230838

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2012	.	
	.	
	.	
	.	

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

1 **Senate Amendment**
2
3 Delete line 322
4 and insert:
5 Department of Children and Family Services or given by a state
6 wide professional association of physicians in Florida
7 accredited to provide educational activities designated for AMA
8 PRA Category I credit. Court appointed experts must also comply
9 with these
10

864278

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2012	.	
	.	
	.	
	.	

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

1 **Senate Amendment to Amendment (230838)**
2
3 Delete line 8
4 and insert:
5 PRA Category I credit or AOA Category 1-A credit. Court
6 appointed experts must also comply

744718

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2012	.	
	.	
	.	
	.	

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

1 **Senate Amendment**
2
3 Delete lines 326 - 329
4 and insert:
5 course within the previous 5 years. Once trained, an expert must
6 retake the required training course every 5 years in order to
7 remain on the registry. An expert who has not completed the
8 required training course or has not retaken the training course
9 within 5 years must be removed from the registry and may not
10 conduct competency evaluations for the courts.

By Senator Storms

10-01329B-12 20121712__

A bill to be entitled

An act relating to mental health; amending s. 916.107, F.S.; authorizing, in certain circumstances, continuation of psychotherapeutic medication for individuals receiving such medication in a jail before admission to a psychiatric or forensic facility; amending s. 916.111, F.S.; requiring forensic evaluator training for mental health experts appointed to evaluate defendants for competency to proceed or for sanity at the time of the commission of the offense; amending s. 916.115, F.S.; requiring the Department of Children and Family Services to maintain and annually provide the courts with a forensic evaluator registry; amending s. 916.13, F.S.; providing timeframes for competency hearings to be held; amending s. 916.15, F.S.; providing timeframes for commitment hearings to be held; amending s. 985.19, F.S.; standardizing the protocols, procedures, and criteria used in reporting expert findings in determining competency in juvenile cases; revising requirements related to the forensic evaluator training program that appointed experts must complete; requiring experts after a specified date to have completed such training; providing an effective date.

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

Section 1. Paragraph (a) of subsection (3) of section 916.107, Florida Statutes, is amended to read:

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

10-01329B-12 20121712__

916.107 Rights of forensic clients.—

(3) RIGHT TO EXPRESS AND INFORMED CONSENT.—

(a) A forensic client shall be asked to give express and informed written consent for treatment. If a client refuses such treatment as is deemed necessary and essential by the client's multidisciplinary treatment team for the appropriate care of the client, such treatment may be provided under the following circumstances:

1. In an emergency situation in which there is immediate danger to the safety of the client or others, such treatment may be provided upon the written order of a physician for a period not to exceed 48 hours, excluding weekends and legal holidays. If, after the 48-hour period, the client has not given express and informed consent to the treatment initially refused, the administrator or designee of the civil or forensic facility shall, within 48 hours, excluding weekends and legal holidays, petition the committing court or the circuit court serving the county in which the facility is located, at the option of the facility administrator or designee, for an order authorizing the continued treatment of the client. In the interim, the need for treatment shall be reviewed every 48 hours and may be continued without the consent of the client upon the continued written order of a physician who has determined that the emergency situation continues to present a danger to the safety of the client or others.

2. In a situation other than an emergency situation, the administrator or designee of the facility shall petition the court for an order authorizing necessary and essential treatment for the client.

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

59 a. If the client has been receiving psychotherapeutic
60 medication at the jail at the time of transfer to the forensic
61 or civil facility and lacks the capacity to make an informed
62 decision regarding mental health treatment at the time of
63 admission, the admitting physician may order continued
64 administration of the psychotherapeutic medication if, in the
65 clinical judgment of the physician, abrupt cessation of the
66 psychotherapeutic medication could cause a risk to the health
67 and safety of the client during the time a court order to
68 medicate is pursued. The jail physician shall provide a current
69 psychotherapeutic medication order at the time of transfer to
70 the forensic or civil facility.
71 b. The court order shall allow such treatment for up to ~~a~~
72 ~~period not to exceed~~ 90 days after ~~following~~ the date of the
73 entry of the order. Unless the court is notified in writing that
74 the client has provided express and informed consent in writing
75 or that the client has been discharged by the committing court,
76 the administrator or designee shall, before ~~prior to~~ the
77 expiration of the initial 90-day order, petition the court for
78 an order authorizing the continuation of treatment for another
79 90 days ~~90-day period~~. This procedure shall be repeated until
80 the client provides consent or is discharged by the committing
81 court.
82 3. At the hearing on the issue of whether the court should
83 enter an order authorizing treatment for which a client was
84 unable to or refused to give express and informed consent, the
85 court shall determine by clear and convincing evidence that the
86 client has mental illness, retardation, or autism, that the
87 treatment not consented to is essential to the care of the

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

88 client, and that the treatment not consented to is not
89 experimental and does not present an unreasonable risk of
90 serious, hazardous, or irreversible side effects. In arriving at
91 the substitute judgment decision, the court must consider at
92 least the following factors:
93 a. The client’s expressed preference regarding treatment;
94 b. The probability of adverse side effects;
95 c. The prognosis without treatment; and
96 d. The prognosis with treatment.
97
98 The hearing shall be as convenient to the client as may be
99 consistent with orderly procedure and shall be conducted in
100 physical settings not likely to be injurious to the client’s
101 condition. The court may appoint a general or special magistrate
102 to preside at the hearing. The client or the client’s guardian,
103 and the representative, shall be provided with a copy of the
104 petition and the date, time, and location of the hearing. The
105 client has the right to have an attorney represent him or her at
106 the hearing, and, if the client is indigent, the court shall
107 appoint the office of the public defender to represent the
108 client at the hearing. The client may testify or not, as he or
109 she chooses, and has the right to cross-examine witnesses and
110 may present his or her own witnesses.
111 Section 2. Section 916.111, Florida Statutes, is amended to
112 read:
113 916.111 Training of mental health experts.—
114 (1) The evaluation of defendants for competency to proceed
115 or for sanity at the time of the commission of the offense shall
116 be conducted in such a way as to ensure uniform application of

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

117 the criteria enumerated in Rules 3.210 and 3.216, Florida Rules
118 of Criminal Procedure.
119 (2) Appointed experts shall have completed forensic
120 evaluator training as specified in this section.
121 (3) A forensic evaluator training course approved by the
122 department must be provided at least annually to ensure that
123 mental health professionals have the opportunity to be placed on
124 the department's forensic evaluator registry.
125 (a) Beginning July 1, 2013, if an expert chooses to remain
126 on the registry, he or she must have completed or retaken the
127 required training course within the previous 5 years. Those who
128 have not completed the training course must be removed from the
129 registry and may not conduct evaluations for the courts.
130 (b) A mental health professional who has completed the
131 training course within the previous 5 years must maintain
132 documentation of completion of the required training course and
133 provide current contact information to the department.
134 (4) The department shall develop, and may contract with
135 accredited institutions:
136 (a) ~~(1)~~ To provide:
137 1. ~~(a)~~ A plan for training mental health professionals to
138 perform forensic evaluations and to standardize the criteria and
139 procedures to be used in these evaluations;
140 2. ~~(b)~~ Clinical protocols and procedures based upon the
141 criteria of Rules 3.210 and 3.216, Florida Rules of Criminal
142 Procedure; and
143 3. ~~(c)~~ Training for mental health professionals in the
144 application of these protocols and procedures in performing
145 forensic evaluations and providing reports to the courts; and

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

146 (b) ~~(2)~~ To compile and maintain the necessary information
147 for evaluating the success of this program, including the number
148 of persons trained, the cost of operating the program, and the
149 effect on the quality of forensic evaluations as measured by
150 appropriateness of admissions to state forensic facilities and
151 to community-based care programs.
152 Section 3. Paragraph (b) of subsection (1) of section
153 916.115, Florida Statutes, is amended to read:
154 916.115 Appointment of experts.—
155 (1) The court shall appoint no more than three experts to
156 determine the mental condition of a defendant in a criminal
157 case, including competency to proceed, insanity, involuntary
158 placement, and treatment. The experts may evaluate the defendant
159 in jail or in another appropriate local facility or in a
160 facility of the Department of Corrections.
161 (b) The department shall maintain and annually provide the
162 courts with a forensic evaluator registry ~~list~~ of available
163 mental health professionals who have completed the approved
164 training as experts.
165 Section 4. Subsection (2) of section 916.13, Florida
166 Statutes, is amended to read:
167 916.13 Involuntary commitment of defendant adjudicated
168 incompetent.—
169 (2) A defendant who has been charged with a felony and who
170 has been adjudicated incompetent to proceed due to mental
171 illness, and who meets the criteria for involuntary commitment
172 ~~to the department~~ under ~~the provisions of~~ this chapter, may be
173 committed to the department, and the department shall retain and
174 treat the defendant.

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

175 (a) Within ~~No later than~~ 6 months after the date of
176 admission and at the end of any period of extended commitment,
177 or at any time the administrator or designee has ~~shall have~~
178 determined that the defendant has regained competency to proceed
179 or no longer meets the criteria for continued commitment, the
180 administrator or designee shall file a report with the court
181 pursuant to the applicable Florida Rules of Criminal Procedure.
182 (b) A competency hearing must be held within 30 days after
183 a court receives notification that the defendant is competent to
184 proceed or no longer meets the criteria for continued
185 commitment.
186 Section 5. Subsection (5) is added to section 916.15,
187 Florida Statutes, to read:
188 916.15 Involuntary commitment of defendant adjudicated not
189 guilty by reason of insanity.—
190 (5) The commitment hearing must be held within 30 days
191 after the court receives notification that the defendant no
192 longer meets the criteria for continued commitment.
193 Section 6. Subsection (1) of section 985.19, Florida
194 Statutes, is amended, subsection (7) is renumbered as subsection
195 (8), and a new subsection (7) is added to that section, to read:
196 985.19 Incompetency in juvenile delinquency cases.—
197 (1) If, at any time prior to or during a delinquency case,
198 the court has reason to believe that the child named in the
199 petition may be incompetent to proceed with the hearing, the
200 court on its own motion may, or on the motion of the child's
201 attorney or state attorney must, stay all proceedings and order
202 an evaluation of the child's mental condition.
203 (a) Any motion questioning the child's competency to

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

204 proceed must be served upon the child's attorney, the state
205 attorney, the attorneys representing the Department of Juvenile
206 Justice, and the attorneys representing the Department of
207 Children and Family Services. Thereafter, any motion, notice of
208 hearing, order, or other legal pleading relating to the child's
209 competency to proceed with the hearing must be served upon the
210 child's attorney, the state attorney, the attorneys representing
211 the Department of Juvenile Justice, and the attorneys
212 representing the Department of Children and Family Services.
213 (b) All determinations of competency must ~~shall~~ be made at
214 a hearing, with findings of fact based on an evaluation of the
215 child's mental condition made by at least ~~not less than~~ two but
216 not ~~nor~~ more than three experts appointed by the court. ~~The~~
217 ~~basis for the determination of incompetency must be specifically~~
218 ~~stated in the evaluation. In addition, a recommendation as to~~
219 ~~whether residential or nonresidential treatment or training is~~
220 ~~required must be included in the evaluation.~~ Experts appointed
221 by the court to determine the mental condition of a child shall
222 be allowed reasonable fees for services rendered. State
223 employees may be paid expenses pursuant to s. 112.061. The fees
224 shall be taxed as costs in the case.
225 (c) A child is competent to proceed if the child has
226 sufficient present ability to consult with counsel with a
227 reasonable degree of rational understanding and the child has a
228 rational and factual understanding of the present proceedings.
229 (d) The basis for the determination of a child's mental
230 condition must be specifically stated in the expert's competency
231 evaluation report and must include written findings that:
232 1. Identify the specific matters referred for evaluation.

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

2. Identify the sources of information used by the expert.

3. Describe the procedures, techniques, and diagnostic tests used in the examination to determine the basis of the child's mental condition.

4. Address the child's capacity to:

a. Appreciate the charges or allegations against the child.

b. Appreciate the range and nature of possible penalties that may be imposed in the proceedings against the child, if applicable.

c. Understand the adversarial nature of the legal process.

d. Disclose to counsel facts pertinent to the proceedings at issue.

e. Display appropriate courtroom behavior.

f. Testify relevantly.

5. Present the factual basis for the expert's clinical findings and opinions of the child's mental condition.

(e) If the evaluator determines the child to be incompetent to proceed to trial, the evaluator must report on the mental disorder that forms the basis of the incompetency.

(f) The expert's factual basis of his or her clinical findings and opinions must be supported by the diagnostic criteria found in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association (DSM-IV) and must be presented in a section of his or her competency evaluation report that shall be identified as a summary of findings. This section must include:

1. The day, month, year, and length of time of the face-to-face diagnostic clinical interview to determine the child's mental condition.

2. A statement that identifies the DSM-IV clinical name and associated diagnostic code for the specific mental disorder that forms the basis of the child's incompetency.

3. A statement of how the child would benefit from competency restoration services in the community or in a secure residential treatment facility.

4. An assessment of the probable duration of the treatment to restore competence, and the probability that the child will attain competence to proceed in the foreseeable future.

5. A description of recommended treatment or education appropriate for the mental disorder.

(g) ~~(c)~~ All court orders determining incompetency must include specific written findings by the court as to the nature of the incompetency and whether the child requires a secure or nonsecure treatment or training environment ~~environments~~.

(h) ~~(d)~~ For competency ~~incompetency~~ evaluations related to mental illness, the Department of Children and Family Services shall maintain and annually provide the courts with a forensic evaluator registry ~~list~~ of available mental health professionals who have completed the approved ~~a~~ training as experts pursuant to this section ~~program approved by the Department of Children and Family Services to perform the evaluations~~.

(i) ~~(e)~~ For competency ~~incompetency~~ evaluations related to mental retardation or autism, the court shall order the Agency for Persons with Disabilities to examine the child to determine if the child meets the definition of "retardation" or "autism" in s. 393.063 and provide a clinical opinion as to~~, if so,~~ whether the child is competent to proceed with delinquency proceedings.

291 ~~(f) A child is competent to proceed if the child has~~
292 ~~sufficient present ability to consult with counsel with a~~
293 ~~reasonable degree of rational understanding and the child has a~~
294 ~~rational and factual understanding of the present proceedings.~~
295 ~~The report must address the child's capacity to:~~
296 ~~1. Appreciate the charges or allegations against the child.~~
297 ~~2. Appreciate the range and nature of possible penalties~~
298 ~~that may be imposed in the proceedings against the child, if~~
299 ~~applicable.~~
300 ~~3. Understand the adversarial nature of the legal process.~~
301 ~~4. Disclose to counsel facts pertinent to the proceedings~~
302 ~~at issue.~~
303 ~~5. Display appropriate courtroom behavior.~~
304 ~~6. Testify relevantly.~~
305 (j) ~~(g)~~ Immediately upon the filing of the court order
306 finding a child incompetent to proceed, the clerk of the court
307 shall notify the Department of Children and Family Services and
308 the Agency for Persons with Disabilities and fax or hand deliver
309 to the department and to the agency a referral packet that
310 includes, at a minimum, the court order, the charging documents,
311 the petition, and the court-appointed evaluator's reports.
312 (k) ~~(h)~~ After placement of the child in the appropriate
313 setting, the Department of Children and Family Services in
314 consultation with the Agency for Persons with Disabilities, as
315 appropriate, must, within 30 days after placement of the child,
316 prepare and submit to the court a treatment or training plan for
317 the child's restoration of competency. A copy of the plan must
318 be served upon the child's attorney, the state attorney, and the
319 attorneys representing the Department of Juvenile Justice.

320 (7) Effective July 1, 2013, court-appointed experts must
321 have completed forensic evaluator training approved by the
322 Department of Children and Family Services and comply with these
323 additional requirements:
324 (a) If an expert chooses to remain on the registry, the
325 expert must have completed or retaken the required training
326 course within the previous 5 years. An expert who has not
327 completed the required training within the previous 5 years must
328 be removed from the registry and may not conduct competency
329 evaluations for the courts.
330 (b) A mental health professional who has completed the
331 training course within the previous 5 years must maintain
332 documentation of having completed the required training and
333 provide current contact information to the Department of
334 Children and Family Services.
335 Section 7. This act shall take effect July 1, 2012.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Children, Families, and Elder Affairs, *Chair*
Budget - Subcommittee on Criminal and Civil Justice
Appropriations
Community Affairs
Military Affairs, Space, and Domestic Security
Reapportionment
Transportation

SENATOR RONDA STORMS
10th District

January 17, 2012

Senator Greg Evers, Chair
Senate Committee on Criminal Justice
308 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Evers:

Senate Bill 1712, relating to *Mental Health,* has been referred to your committee for its first committee of reference.

I would greatly appreciate you placing SB 1712 on the Criminal Justice committee's agenda at your earliest convenience. Please do not hesitate to contact me should you have any questions.

Thank you for your consideration of this request.

Sincerely,

Senator Ronda Storms
Florida State Senate
10th District

Cc: Ms. Amanda Cannon, Staff Director
510 Knott Building

REPLY TO:
❒ Lithia Oaks Business Center, 421 Lithia Pinecrest Road, Brandon, Florida 33511 (813) 651-2189 FAX: (813) 651-2188
❒ 413 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5072
Internet Address: storms.ronda.web@flsenate.gov

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-16-12
Meeting Date

Waive in support of amendments

Topic: Mental Health

Bill Number: 1712

Name: Rebecca O'Hara

Amendment Barcode: 230838 Hays (if applicable)
490656 Hays (if applicable)

Job Title: V.P. Govt Affairs

Address: 113 E. College Ave
Street

Talla. FL 32301
City *State* *Zip*

Phone: 339 6211

E-mail: rohara@flmedical.org

Speaking: [X] For [ ] Against [ ] Information

Representing: Fla Medical Assn

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

2-16-2012
Date

WAIVE TIME
IN SUPPORT

SB 1712
Bill Number

551900/84278
Barcode

Name STEPHEN R. WINN

Phone 878-7384

Address 2007 APALACHEE PARKWAY
Street

E-mail

TALLAHASSEE FL 32301
City State Zip

Job Title EX. DIR.

Speaking: [X] For [ ] Against [ ] Information

Appearing at request of Chair [ ]

Subject MENTAL HEALTH

Representing FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

Lobbyist registered with Legislature: [X] 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)

2/16/12
Meeting Date

Topic: mental Health

Bill Number: SB 1712 *(if applicable)*

Name: Aimee Diaz Lyon

Amendment Barcode: #490656 #230838 *(if applicable)*

Job Title:

Address: 215 South Monroe Street
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: 205-9000

E-mail:

Speaking: [X] For [ ] Against [ ] Information

Representing: Florida Psychiatric Society

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

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

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

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

S-001 (10/20/11)

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 Criminal Justice Committee

BILL: CS/SB 1800

INTRODUCER: Criminal Justice Committee and Senator Altman

SUBJECT: Criminal Offenders

DATE: February 16, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	**Fav/CS**
2.			TR	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

Major features of the bill include the following:

- Modifies various registration, reregistration, and reporting provisions relevant to sexual predators and sexual offenders to:
  - Add sex trafficking and other sex offenses to criteria or definitions that qualify a person as a sexual predator or sexual offender.
  - Require that Internet identifiers, palm prints, passports, professional license information, immigration status information, volunteer status at a Florida institution of higher education, and other information be provided, produced, or reported, as specified in the bill.
  - Require sexual predators or sexual offenders to register all Internet identifiers with the FDLE before using them.
  - Require a sexual predator or sexual offender who is unable to secure or update a driver license or identification card with the Department of Highway Safety and Motor Vehicles (DHSMV) to report any change of residence or change of name by reason of marriage or other legal process within 48 hours after the change.

  - Require a sexual predator or sexual offender who intends to establish a residence in another state or jurisdiction to report in person to the sheriff of the county of current residence within 21 days before his or her planned departure date if the intended residence of 5 days or more is outside the United States and to provide to the sheriff the address and country of intended residence.
  - Authorize sexual offenders to petition for removal of the registration requirement after a specified time period and subject to other specified criteria being met.
  - Remove a current requirement that the petitioning sexual offender demonstrate to the court that he or she has not been arrested for any crime since release.
  - Modify various penalty sections to punish a sexual predator or sexual offender who fails to report that he or she remains in Florida after reporting an intent to leave Florida, fails to provide required Internet identifier information, or knowingly provides false registration information by act or omission.
- Provides that a third or subsequent violation of s. 800.03, F.S. (vulgar or indecent exposure or exhibition of person's sexual organs and public nakedness in a place not provided or set apart for that purpose), is a third degree felony.
- Provides that when determining whether to release a defendant on bail or other conditions, and what that bail or those conditions may be, the court shall consider whether the defendant, other than a defendant whose only criminal charge is a traffic misdemeanor offense under ch. 316, F.S., is required to register as a sexual offender or a sexual predator; and, if so, he or she is not eligible for release on bail or surety bond until the first appearance on the case in order to ensure the full participation of the prosecutor and the protection of the public.
- Provides that a state agency or governmental subdivision, before making any decision to appoint or employ a person to work, whether for compensation or as a volunteer, at any park, playground, day care center, or other place where children regularly congregate, must conduct a search of that person's name or other identifying information through the Dru Sjodin National Sex Offender Public Website maintained by the United States Department of Justice.
- Modifies current qualifying criteria and procedures relevant to proceedings to remove the requirement to register as a sexual predator or sexual offender, including, but not limited to, the age requirement relevant to the victim of the qualifying offense.
- Authorizes the court to order any probationer or community controllee who is required to register as a sexual predator or sexual offender to undergo an evaluation, at the probationer or community controllee's expense, by a qualified practitioner to determine whether such person needs sexual offender treatment. If the qualified practitioner determines the treatment is needed and recommends it, the probationer or community controllee must successfully complete and pay for it.
- Provides that, in addition to all other conditions imposed, for a releasee who is subject to conditional release for a crime that was committed on or after October 1, 2012, and who has been convicted at any time of a specified sexual offense or a similar offense in another jurisdiction, the Parole Commission must order electronic monitoring for the duration of the releasee's supervision.
- Requires the court to order, in addition to any other requirements of s. 948.30, F.S., mandatory electronic monitoring as a condition of probation or community control supervision for a probationer or community controllee whose crime was committed on or after October 1, 2012, and who is placed on probation or community control for a specified

sexual offense or who has previously been convicted of a specified sexual offense or a similar offense in another jurisdiction.

This bill substantially amends sections 775.21, 903.046, 922.0022, 943.0435, 943.04351, 943.04354, 943.0437, 944.606, 944.607, 947.005, 947.1405, 948.30, 948.31, 985.481, and 985.4815, Florida Statutes.

II. Present Situation:

Registration of Sexual Predators and Sexual Offenders: General Information

Florida requires registration of any person who has been convicted or adjudicated delinquent of a specified sexual offense or offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender. The registration laws, which also require reregistration and provide for public and community notification of certain information about sexual predators and sexual offenders, span several different chapters and numerous statutes, and are implemented through the combined efforts of the Florida Department of Law Enforcement (FDLE), all Florida sheriffs, the Department of Corrections (DOC), the Department of Juvenile Justice (DJJ), the DHSMV, and the Department of Children and Family Services (DCF).[1]

A person who meets sexual predator qualifying criteria is designated by a court as a sexual predator. A person who meets sexual offender qualifying criteria is classified as a sexual offender (no court designation). Aside from sexual predator qualifying criteria, there are a few other provisions that apply only to sexual predators, such as the prohibition against working or volunteering at places where children regularly congregate.

Requirements for in-person registration and reregistration (discussed below) are similar for sexual predators and sexual offenders but frequency of reregistration depends on the qualifying offense. Registration requirements may also differ based on a special status, i.e., the sexual predator or sexual offender is in the DOC's control or custody or under its supervision; is in residential commitment under the DJJ or under DJJ's supervision; or is in civil commitment under the DCF as a sexually violent predator. These agencies are required to report certain information on sexual predators and sexual offenders to the FDLE and other persons or entities.

Certain information on sexual predators and sexual offenders is a public record and there are various provisions authorizing or requiring public or community notification of this information. The FDLE, through its agency website, provides a searchable database that contains information about sexual predators and sexual offenders.[2] Further, local law enforcement agencies provide access to this information, typically through a link to the state public registry maintained by the FDLE.

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[1] The FDLE is the central repository for registration information. It also maintains the state public registry and ensures Florida's compliance with federal laws. The Florida sheriffs handle in-person registration and reregistration.

[2] "Florida Sexual Offenders and Predators," Florida Department of Law Enforcement, http://offender.fdle.state.fl.us/offender/homepage.do;jsessionid=Z57sCH6qxtkuph8ZJOqpXg__ (last visited on February 7, 2012).

SORNA

The federal Sex Offender Registration and Notification Act (SORNA), which is Title I of the Adam Walsh Protection and Safety Act of 2006 (AWA),[3] attempts to make all states' laws uniform with respect to requirements (or "minimum" standards) that Congress has judged to be necessary to be included in states' laws. The U.S. Department of Justice (DOJ) maintains the Dru Sjodin National Sex Offender Public Website.[4] While states are free to choose not to substantially implement SORNA, the AWA provides for sanctioning noncomplying states through a partial reduction in Byrne Justice Assistance Grant funding. The DOJ has determined that Florida has substantially implemented[5] SORNA.[6] Florida was the third state to do so.[7]

Registration and Reregistration Requirements

At the FDLE's website,[8] the following information is provided to sexual predators and sexual offenders regarding registration, reregistration, and other requirements:

- A sexual predator or sexual offender must report in person to the local sheriff's office to register his or her temporary, transient, or permanent address and other information specified in statute within 48 hours of establishing or maintaining a residence in Florida; within 48 hours of release from custody and/or supervision of the DOC, DCF, or DJJ; or in the county of conviction, within 48 hours of conviction if not under custody and/or supervision of the DOC.
- At initial registration, a sexual predator or sexual offender must provide the following information to the FDLE: name; date of birth; social security number; race; sex; height; weight; hair and eye color; photograph; home telephone number and any cellular telephone number; any electronic mail address and any instant message name (as required by statute); address of legal residence; address of any current temporary residence, or if no permanent or temporary residence, any transient residence within Florida; dates of any current or known future temporary residence within Florida or out of state; occupation and place of employment; date and place of each conviction; fingerprints; and a brief description of the crime or crimes committed.
- Within 48 hours after the initial report required (as previously stated), a sexual predator or sexual offender must report in person to the driver license office of the DHSMV and provide

[3] P.L. 109-248 (July 27, 2006).
[4] "Dru Sjodin National Sex Offender Public Website," http://www.nsopw.gov/Core/Portal.aspx (last visited on February 7, 2012).
[5] This standard is satisfied if a jurisdiction carries out the requirements of SORNA as interpreted and explained in the DOJ's guidelines on SORNA. It does not mean that the jurisdiction has necessarily followed SORNA or the DOJ's guidelines on SORNA in all respects.
[6] "Jurisdictions that have substantially implemented SORNA," Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, U.S. Department of Justice, http://www.ojp.usdoj.gov/smart/newsroom_jurisdictions_sorna.htm (last visited on February 6, 2012).
[7] "Governor Crist Announces Florida's Implementation of the Adam Walsh Act" (May 18, 2010), Florida Department of Law Enforcement, https://www.fdle.state.fl.us/Content/News/May-2010/Governor-Crist-Announces-Florida%e2%80%99s-Implementation-.aspx (last visited on February 6, 2012).
[8] "Important Information," Florida Department of Law Enforcement, http://offender.fdle.state.fl.us/offender/Important.jsp#General (last visited on February 6, 2012), discussing provisions of ss. 775.21 and 943.0435, F.S.

proof of initial registration as a sexual predator or sexual offender to secure or renew a valid Florida driver license or identification card displaying one of the following designations: "775.21, F.S." or "943.0435, F.S.," unless a driver license or identification card with such designation was previously secured or updated. A sexual offender must also submit to the taking of a photograph for use by the FDLE in maintaining current records of sexual offenders.

- Each time the driver license or identification card is subject to renewal, or within 48 hours after any change in permanent, temporary, or transient residence or change in name made by marriage or other legal process, a sexual predator or sexual offender must report in person to a driver license office to update the driver license or identification card and ensure that it displays the designations (as previously identified).
- If enrolled, employed, or carrying on a vocation at a Florida institution of higher education, a sexual predator or sexual offender must provide the name, address, and county of each institution, including each campus, enrollment, or employment status, and each change in enrollment or employment status (i.e. commencement or termination) in person at the sheriff's office. If a sexual offender is supervised by the DOC or the DJJ, this information must be reported to the sexual offender's probation office, within 48 hours after any change in status.
- A sexual predator or sexual offender must report any electronic mail address or instant message name, prior to using the address or name, during registration/reregistration or by providing all updates through the online system maintained by the FDLE.
- If a sexual predator or sexual offender vacates a permanent, temporary, or transient residence and does not have another permanent, temporary, or transient residence, he or she must report in person to the sheriff's office in the county where he or she is located within 48 hours. If a sexual predator or sexual offender reports that he or she has vacated a permanent, temporary, or transient residence and then remains at that residence, he or she must report in person to the sheriff's office where he or she reported vacating the residence. Failure to report this information is a second degree felony. The address will be verified by county, state, or local law enforcement agencies.
- If a sexual predator or sexual offender intends on establishing a permanent, temporary, or transient residence in another state or in a jurisdiction other than Florida, he or she must report in person to the sheriff's office of the county of current residence within 48 hours before the date that he or she intends to leave Florida to establish residence in another state or jurisdiction. If the sexual predator or sexual offender reporting this information later decides to remain in Florida, he or she must report in person to the sheriff's office to which he or she reported the intention of leaving Florida within 48 hours after the intended departure date. Failure to report this information is a second degree felony.
- A sexual predator or sexual offender must report in person either twice a year (during the birth month and during the sixth month following the birth month) or four times a year (once during the birth month and every third month thereafter), depending upon his or her offense/designation, to the sheriff's office in the county in which he or she resides or is otherwise located to reregister. All sexual predators and sexual offenders convicted for offenses specified in s. 943.0435(14), F.S., and juvenile sexual offenders required to register pursuant to s. 943.0435(1)(a)1.d., F.S., are required to reregister four times a year. All other sexual offenders are required to reregister twice a year.

- If a sexual predator or sexual offender lives in another state but works or attends school in Florida, he or she must register the work or school address as a temporary address within 48 hours by reporting in person to the local sheriff's office.
- A sexual predator or sexual offender must respond to any address verification correspondence from the FDLE within three weeks of the date of the correspondence.
- If employed, carrying on a vocation, a student, or becoming a resident of another state, a sexual predator or sexual offender may have a requirement to register under the laws of that state.
- A sexual predator or sexual offender must maintain registration for the duration of his or her life.[9]

Reporting of Information Regarding Sexual Predators and Sexual Offenders

Section 944.606, F.S., in part, requires the DOC to report to the FDLE certain personal information regarding a sexual offender who is being released after serving a period of incarceration. Similarly, agency reporting requirements exists in other statutes:

- Section 944.607, F.S., in part, requires the DOC to report to the FDLE certain personal information regarding a sexual offender who is in the DOC's custody or control or under its supervision, or in the custody of a private correctional facility.
- Section 985.481, F.S., in part, requires the DJJ to report to the FDLE certain personal information regarding a sexual offender released from residential commitment under the DJJ.
- Section 985.4815, F.S., in part, requires the DJJ to report to the FDLE certain personal information regarding a sexual offender under DJJ supervision but who is not committed.

Public Registry Searches Prior to Appointment or Employment of Certain Government Employees

Section 943.04351, F.S., provides that a state agency or governmental subdivision, prior to making any decision to appoint or employ a person to work, whether for compensation or as a volunteer, at any park, playground, day care center, or other place where children regularly congregate, must conduct a search of that person's name or other identifying information against the registration information regarding sexual predators and sexual offenders maintained by the FDLE under s. 943.043, F.S. The agency or governmental subdivision may conduct the search using the Internet site maintained by the FDLE. Section 943.04351, F.S., does not apply to those positions or appointments within a state agency or governmental subdivision for which a state and national criminal history background check is conducted.

Providing Information to Commercial Social Networking Websites

Section 943.0437, F.S., provides that the FDLE may provide information relating to electronic mail addresses and instant message names maintained as part of the sexual offender registry to commercial social networking websites[10] or third parties designated by commercial social

[9] This is the general rule. Exceptions exist in ss. 775.21, 943.0435, and 943.04354, F.S.
[10] The term "commercial social networking website" is defined in the statute as a commercially operated Internet website that allows users to create web pages or profiles that provide information about themselves and are available publicly or to other

networking websites. The commercial social networking website may use this information for the purpose of comparing registered users and screening potential users of the commercial social networking website against the list of electronic mail addresses and instant message names provided by the FDLE.

Section 943.0437, F.S., shall not be construed to impose any civil liability on a commercial social networking website for any action that meets either criterion:

- The action was voluntarily taken in good faith to remove or disable any profile of a registered user associated with an electronic mail address or instant message name contained in the sexual offender registry.
- The action was taken to restrict access by such registered user to the commercial social networking website.

Removal of Registration Requirement

Section 943.04354, F.S.,[11] provides for the removal of the requirement to register as a sexual predator or sexual offender if a court finds that *all* criteria are met and grants a motion or petition for removal of the registration requirement. A person shall be considered for removal of the requirement to register as a sexual offender or sexual predator only if the person:

- Was or will be convicted or adjudicated delinquent of a violation of s. 794.011, F.S., s. 800.04, F.S., s. 827.071, F.S., or s. 847.0135(5), F.S., or the person committed a violation of s. 794.011, F.S., s. 800.04, F.S., s. 827.071, F.S., or s. 847.0135(5), F.S., for which adjudication of guilt was or will be withheld, and the person does not have any other conviction, adjudication of delinquency, or withhold of adjudication of guilt for a violation of s. 794.011, F.S., s. 800.04, F.S., s. 827.071, F.S., or s. 847.0135(5), F.S.
- Is required to register as a sexual offender or sexual predator solely on the basis of this violation.
- Is not more than 4 years older than the victim of this violation who was 14 years of age or older but not more than 17 years of age at the time the person committed this violation.

A person who meets all of these criteria can move the court for removal of the registration requirement if the qualifying violation was committed on or after July 1, 2007. The motion is made in the court that will sentence or dispose of the qualifying violation. The person must allege in the motion that he or she meets all of the criteria and that removal of the registration requirement will not conflict with federal law.[12] The state attorney must be given notice of the motion at least 21 days before the date of sentencing or disposition of the qualifying violation

users and that offers a mechanism for communication with other users, such as a forum, chat room, electronic mail, or instant messenger.

[11] This statute is sometimes referred to as the "Romeo and Juliet" statute or law.

[12] Of relevance to s. 943.04354, F.S., SORNA does not require registration "[w]here both participants are at least 13 years old and neither participant is more than 4 years older than the other, a sex offense conviction based on consensual sexual conduct does not require registration under the Adam Walsh Act," though "jurisdictions have discretion to exceed the minimum standards of SORNA and require registration upon convictions based on consensual sexual conduct." "SORNA," Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, U.S. Department of Justice, http://www.ojp.usdoj.gov/smart/sorna.htm#consensualconduct (last visited on February 8, 2012).

and may present evidence in opposition to the requested relief or may otherwise demonstrate why the motion should be denied. At sentencing or disposition of the qualifying violation, the court must rule on this motion and, if the court determines the person meets the criteria and the removal of the registration requirement will not conflict with federal law, it may grant the motion and order the removal of the registration requirement. If the court denies the motion, the person is not authorized to petition for removal of the registration requirement.

A person who meets all of the criteria but does not qualify to seek relief by motion can seek relief by petition in the court in which the sentence or disposition for the qualifying violation occurred. All of the previously described requirements for the motion and the disposition of the motion apply to the petition and disposition of petition. If the court denies the petition, the person is not authorized under s. 943.04354, F.S., to file any further petition for removal of the registration requirement.

If a person provides to the FDLE a certified copy of the court's order removing the requirement that the person register as a sexual offender or sexual predator, the registration requirement will not apply to the person and the FDLE must remove all information about the person from the public registry of sexual offenders and sexual predators maintained by the FDLE. However, the removal of this information from the public registry does not mean that the public is denied access to information about the person's criminal history or record that is otherwise available as a public record.

Purpose of and Criteria for Bail Determination

Article I, Section 14, of the Florida Constitution, provides: "Unless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime or violation of municipal or county ordinance shall be entitled to pretrial release on reasonable conditions. If no conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained."

Section 903.046, F.S., sets forth the purpose of a bail determination. It also provides considerations which the court is required to consider when determining whether to release a defendant on bail or other conditions, and what the bail or those conditions may be. For example, the court must consider the nature and circumstances of the offense charged. The bill includes a new consideration, which bears some similarity to the consideration in s. 903.46(2)(l), F.S.:

> Whether the crime charged is a violation of chapter 874 or alleged to be subject to enhanced punishment under chapter 874. If any such violation is charged against a defendant or if the defendant is charged with a crime that is alleged to be subject to such enhancement, he or she shall not be eligible for release on bail or surety bond until the first appearance on the case in order to ensure the full participation of the prosecutor and the protection of the public.

Conditional Release Program

The Conditional Release Program is under the administration of the Florida Parole Commission (Commission). The Commission states: "This program requires mandatory post-prison supervision for inmates who are sentenced for certain violent crimes and who have served a prior felony commitment, or who are sentenced as a habitual offender or sexual predator. Unlike parole, conditional release is not a discretionary release. Upon release from prison, inmates who are subject to conditional release are supervised for a period of time equal to the gain-time that they received in prison. These offenders are subject to strict conditions of supervision set by the Commission and this supervision can be revoked and the releasee returned to prison if the Commission determines that a violation of supervision has occurred."

Section 947.1405, F.S., which is the Conditional Release Program Act, in part, requires the Commission to impose certain conditions upon conditional releasees who have committed (on or after a specified date) a specified offense and meet other statutory criteria.

Additional Terms and Conditions of Probation or Community Control for Certain Sexual Offenses

Section 948.30, F.S., sets forth terms and conditions that a court must impose on probationers or community controlees who have committed (on or after a specified date) a specified sexual offense. The statute, in part, requires the court to order, in addition to any other provision of the statute, mandatory electronic monitoring as a condition of the probation or community control for a probationer or community controllee whose crime was committed on or after September 1, 2005, and who meets any of the following criteria:

- The probationer or community controllee was placed on probation or community control for a violation of ch. 794, F.S., s. 800.04(4), (5), or (6), F.S., s. 827.071, F.S., or s. 847.0145, F.S., and the unlawful sexual activity involved a victim 15 years of age or younger and the offender is 18 years of age or older.
- The probationer or community controllee is designated a sexual predator pursuant to s. 775.21, F.S.
- The probationer or community controllee has previously been convicted of any of the offenses previously described and the unlawful sexual activity involved a victim 15 years of age or younger and the offender is 18 years of age or older.

Evaluation and Treatment of Sexual Predators and Sexual Offenders on Probation or Community Control

Section 948.31, F.S., provides that the court shall require an evaluation by a qualified practitioner to determine the need of a probationer or community controllee for treatment. If the court determines that a need for the treatment is established by the evaluation process, the court shall require sexual offender treatment as a term or condition of probation or community control for any person who is required to register as a sexual predator under s. 775.21, F.S., or sexual offender under s. 943.0435, F.S., s. 944.606, F.S., or s. 944.607, F.S. The treatment must be obtained from a qualified practitioner as defined in s. 948.001, F.S. Treatment may not be administered by a qualified practitioner who has been convicted or adjudicated delinquent of

committing, or attempting, soliciting, or conspiring to commit, any offense that is listed in s. 943.0435(1)(a)1.a.(I), F.S. The court must impose a restriction against contact with minors if sexual offender treatment is recommended. The evaluation and recommendations for treatment of the probationer or community controllee must be provided to the court for review.

III. Effect of Proposed Changes:

Section 1 amends s. 775.21, F.S., relating to sexual predator registration, to:

- Add to the list of offenses that, in addition to other criteria, qualify a person for designation as a "sexual predator" for the following offenses:
  - Sexual misconduct by an employee of the Department of Children and Family Services (DCF) or other specified person with specified individuals with developmental disabilities. (Section 393.135(2), F.S.)
  - Sexual activity by a DCF employee or other specified person with a patient in the DCF's custody or residing in a receiving or treatment facility. (Section 394.4593(2), F.S.)
  - Sex trafficking. (Section 796.045, F.S.)[13]
  - Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person. (Section 825.1025, F.S.)[14]
  - Sexual misconduct by a DCF employee or other specified person with a forensic client who resides in a civil or forensic facility. (Section 916.1075(2), F.S.)
- Require a sexual predator to provide or produce at registration and reregistration the following information and changes to that information:
  - Tattoos or other identifying marks.
  - All "Internet identifiers"[15] (current references to instant message names in various registration statutes are removed). A sexual predator is required to register all Internet identifiers with the FDLE before using them. The FDLE must establish an online system through which sexual predators may securely access and update all Internet identifier information.
  - Make, model, color, registration number, and license tag number of all vehicles owned.
  - Palm prints. The sheriff's office is required to take a sexual predator's palm prints and forward them to the FDLE.
  - A passport, if the sexual predator has a passport.
  - Information about documents establishing immigration status, if the sexual predator is an alien.
  - Information about any professional licenses the sexual predator may have.
  - Information that the sexual predator is volunteering at a Florida institution of higher education.[16] The sheriff's office or the DOC, if the sexual predator is in the DOC's custody or control or under its supervision, is required to report to a Florida institution of

[13] CS/SB 1880 would repeal this statute.
[14] Current law just references lewd or lascivious battery upon an elderly person or disabled person.
[15] The bill defines "Internet identifier" as all electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication, but does not include a date of birth, social security number, or personal identification number (PIN). However, voluntary disclosure of the exempted information waives the disclosure exemption.
[16] Under current law, a sexual predator must report a change in enrollment or employment status at a Florida institution of higher education within 48 hours after the change, unless the sexual predator is in the DOC's custody or control or under its supervision, in which case the DOC reports the change. The bill does not specifically direct the sexual predator to report a change in volunteer status within 48 hours after the change. (See "Technical Deficiencies" section of this analysis.)

higher education any change in the sexual predator's status as a volunteer at that institution.

- Require a sexual predator who is unable to secure or update a driver license or identification card with the DHSMV to report any change of residence or change of name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county in which the sexual predator resides or is located, and to provide confirmation that he or she has reported the change to the DHSMV.
- Require a sexual predator who intends to establish a residence in another state or jurisdiction to report in person to the sheriff of the county of current residence within 21 days before his or her planned departure date if the intended residence of 5 days or more is outside the United States and to provide to the sheriff the address and country of intended residence. The FDLE is required to notify the law enforcement agency (comparable to a statewide law enforcement agency) of the country of residence of the sexual predator's intended residence.
- Require a sexual predator who indicates his or intent to establish a residence in another country and later decides to remain in Florida to report in person, within 48 hours after the date upon which the sexual predator indicated he or she would leave Florida, to the sheriff's office where the sexual predator reported the intended change of residence, and report his or her intent to remain in Florida.
- Amend two penalty sections to provide that:
  - It is a second degree felony for a sexual predator who reports his or her intent to establish a residence in another country to remain in Florida without reporting to the sheriff this information in the manner required by s. 775.21, F.S.
  - It is a third degree felony to fail to provide required Internet identifier information.
  - It is a third degree felony to knowingly provide false registration information by act or omission.

Section 2 amends s. 800.03, F.S., prohibiting vulgar or indecent exposure or exhibition of a person's sexual organs and public nakedness in a place not provided or set apart for that purpose, to provide that a third or subsequent violation of s. 800.03, F.S., is a third degree felony.

Section 3 amends s. 903.046, F.S., relating to the purpose of and criteria for bail determination, to provide that when determining whether to release a defendant on bail or other conditions, and what that bail or those conditions may be, the court shall consider whether the defendant, other than a defendant whose only criminal charge is a misdemeanor offense under ch. 316, F.S. (state uniform traffic control), is required to register as a sexual offender under s. 943.0435, F.S., or a sexual predator under s. 775.21, F.S.; and, if so, he or she is not eligible for release on bail or surety bond until the first appearance on the case in order to ensure the full participation of the prosecutor and the protection of the public.

Section 4 amends s. 943.0435, F.S., relating to sexual offender registration, to:

- Add the offenses added to sexual predator criteria in s. 775.21, F.S. (except for s. 825.1025, F.S., which is currently listed), by Section 1 of the bill to the definition of "sexual offender" pertinent to s. 943.0435, F.S.
- Provide that a court is not required to make a written finding of the age of the victim at the time of the offense for a sexual offender who, on or after July 1, 2007, has been adjudicated

delinquent for committing, or attempting, soliciting or conspiring to commit, a violation of s. 794.011, F.S.

- Require a sexual offender to provide or produce at registration and/or reregistration the following information and changes to that information:
  - All Internet identifiers. A sexual offender is required to register all Internet identifiers with the FDLE before using them. The FDLE must establish an online system through which sexual offenders may securely access and update all Internet identifier information.
  - Make, model, color, registration number, and license tag number of all vehicles owned.
  - Fingerprints.
  - Palm prints. The sheriff's office is required to take a sexual offender's palm prints and forward them to the FDLE.
  - Photograph.
  - Passport, if the sexual offender has a passport.
  - Information about documents establishing immigration status, if the sexual offender is an alien.
  - Information about any professional licenses the sexual offender may have.
  - Information indicating the sexual offender is volunteering at a Florida institution of higher education. Each change in volunteer status must be reported in person at the sheriff's office within 48 hours after the change. The sheriff is required to report to a Florida institution of higher education any change in the sexual offender's status as a volunteer at that institution.
  - Any other information determined necessary by the FDLE, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers when available.
- Require a sexual offender who is unable to secure or update a driver license or identification card with the DHSMV to report any change in residence or change in name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the sexual offender resides or is located, and to provide confirmation that he or she has reported the change to the DHSMV.
- Require a sexual offender who intends to establish a residence in another state or jurisdiction to report in person to the sheriff of the county of current residence within 21 days before his or her planned departure date if the intended residence of 5 days or more is outside the United States and to provide to the sheriff the address and country of intended residence. The FDLE is required to notify the law enforcement agency (comparable to a statewide law enforcement agency) of the country of residence of the sexual offender's intended residence.
- Require a sexual offender who indicates his or intent to establish a residence in another country and later decides to remain in Florida to report in person, within 48 hours after the date upon which the sexual offender indicated he or she would leave Florida, to the sheriff's office where the sexual offender reported the intended change of residence, and report his or her intent to remain in Florida.
- Authorize a sexual offender to petition the criminal division of the circuit court of the circuit in which the sexual offender resides for removal of the registration requirement if:
  - Twenty-five years have elapsed since the sexual offender's registration period for the most recent conviction that required the offender to register began;
  - The sexual offender has not been convicted or adjudicated delinquent of any felony offense or of an offense punishable by more than 1 year of imprisonment during the years preceding the petition to the court;

  - The sexual offender has successfully completed all sanctions imposed for all offenses that required the offender to register;
  - The sexual offender's requirement to register was not based upon an adult conviction for a violation of s. 787.01, F.S., s. 794.011, F.S., excluding s. 794.011(10), F.S., s. 800.04(4)(b), F.S., where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion, s. 800.04(5)(b), F.S., or s. 800.04(5)(c)2., F.S., where the court finds the offense involved unclothed genitals or genital area; for any attempt or conspiracy to commit any of these offenses or for a violation of similar law of another jurisdiction; and
  - For sexual offenders whose requirement to register is based upon a conviction in another state, the sexual offender is not required to register as a sexual offender pursuant to the laws of the state where the conviction occurred.
- Authorize a sexual offender whose requirement to register was based upon an adult conviction for a violation of s. 787.02, F.S., or s. 827.071(5), F.S., for any attempt or conspiracy to commit any of these offenses, or for a violation of similar law of another jurisdiction to petition for removal of the registration requirement in the criminal division of the circuit court of the circuit in which the sexual offender resides if:
  - Fifteen years have elapsed since the sexual offender's registration period for the most recent conviction that required the offender to register began;
  - The sexual offender has not been convicted or adjudicated delinquent of any felony offense or of an offense punishable by more than 1 year of imprisonment during the years preceding the petition to the court;
  - The sexual offender has successfully completed all sanctions imposed for all offenses that required the offender to register; and
  - For sexual offenders whose requirement to register is based upon a conviction in another state, the sexual offender is not required to register as a sexual offender pursuant to the laws of the state where the conviction occurred.
- Authorize a sexual offender required to register under s. 943.0435(1)(a)(1)(d), F.S.,[17] to petition for removal of the registration requirement in the criminal division of the circuit court of the circuit in which the sexual offender resides if:
  - Twenty-five years have elapsed since the sexual offender's registration period for the most recent adjudication that required the offender to register began;
  - The sexual offender has not been convicted or adjudicated delinquent of any felony offense or of an offense punishable by more than 1 year of imprisonment during the 25 years preceding the petition to the court; and
  - The sexual offender has successfully completed all sanctions imposed for any offense that required the offender to register.
- Remove a current provision that requires the sexual offender to demonstrate to the court considering whether to grant or deny the relief that he or she has not been arrested for any crime since release.
- Require the FDLE to be given notice of the petition for removal of the registration requirement.

[17] This sub-subparagraph applies to a person who, 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 statutes or statutory provisions listed in the sub-subparagraph.

- Provide that if the court grants the petition, the court shall instruct the petitioner to provide the FDLE with a certified copy of the order granting relief.
- Provide, for the purpose of sexual offenders who may qualify to petition for removal of the registration requirement, that:
  - The registration period of a sexual offender sentenced to a term of incarceration or committed to a residential program begins upon the offender's release for the most recent conviction that required the offender to register.
  - A sexual offender's registration period is tolled during any period in which the offender is incarcerated, civilly committed, detained pursuant to ch. 985, F.S., or committed to a residential program.
- Amend two penalty sections to provide that:
  - It is a second degree felony for a sexual offender who reports his or her intent to establish a residence in another country to remain in Florida without reporting to the sheriff this information in the manner required by s. 943.0435, F.S.
  - It is a third degree felony to fail to provide required Internet identifier information.
  - It is a third degree felony to knowingly provide false registration information by act or omission.

Section 5 amends s. 943.04351, F.S., regarding required searches of sexual predator and sexual offender registration information, to provide that a state agency or governmental subdivision, before making any decision to appoint or employ a person to work, whether for compensation or as a volunteer, at any park, playground, day care center, or other place where children regularly congregate, must conduct a national search through the Dru Sjodin National Sex Offender Public Website maintained by the DOJ.

Section 6 amends s. 943.04354, F.S., relating to removal of the requirement to register as a sexual offender or sexual predator in special circumstances, to:

- Amend criteria for qualifying for consideration for removal of the registration requirement to:
  - Remove reference to an incipient conviction ("will be convicted").
  - Modify qualifying convictions or juvenile adjudications to include:
    - A conviction, regardless of adjudication, or an adjudication of delinquency of a specified Florida offense, or a similar offense in another jurisdiction, and the person does not have any other conviction, regardless of adjudication or adjudication of delinquency for a specified Florida offense.
    - A conviction, regardless of adjudication, or an adjudication of delinquency of a specified Florida offense, or a similar offense in another jurisdiction and the person is required to register as a sexual offender or sexual predator solely on the basis of this conviction or adjudication.
    - A conviction, regardless of adjudication, or an adjudication of delinquency of an offense in another jurisdiction that is similar to a specified Florida offense and the person with the conviction or adjudication of delinquency no longer meets the criteria for registration as a sexual offender or sexual predator under the laws of the jurisdiction where the similar offense occurred.
  - Provide that the victim of the qualifying offense must have been 13 years of age or older but less than 18 years of age at the time the offense was committed.

- Remove the current requirement that a person's relevant offense must be committed on or after July 1, 2007, to move for removal of the registration requirement.
- Provide that the motion for removal of the registration requirement is in the sentencing court, or for persons convicted or adjudicated delinquent of a qualifying offense in another jurisdiction, in the criminal circuit court of the circuit in which the person resides.
- Remove current provisions providing for removal of the registration requirement by petition.[18]
- Require that a person who was convicted or adjudicated delinquent of an offense in another jurisdiction that is similar to a specified Florida offense must provide the court with written confirmation that he or she is not required to register in the state where the conviction or adjudication occurred.
- Provide as another permissible time period for notice of the motion: at least 21 days prior to the hearing on the motion.
- Require the FDLE to be given notice of the motion for removal of the registration requirement.
- Authorize the FDLE to present evidence in opposition to the requested relief or otherwise demonstrate why the motion should be denied.
- Provide as another permissible time period for the court to rule on the motion: at the hearing on the motion.
- Require the court to instruct the person to provide to the FDLE a certified copy of the order granting relief.
- Specify that if a person provides to the FDLE a certified copy of the court's order removing the requirement to register as a sexual predator or sexual offender for a violation of a similar offense in another jurisdiction, the registration requirement does not apply to that person and the FDLE shall remove all information about the person from the public registry.

Section 7 amends s. 943.0437, F.S., relating to commercial social networking websites, to authorize the FDLE to provide information relating to Internet identifiers maintained as part of the sexual offender registry to commercial social networking sites or their designated third parties. A commercial social networking website may use this information for the purpose of comparing registered users and screening potential users of the website against the list of Internet identifiers provided by the FDLE. Section 943.0437, F.S., shall not be construed to impose any civil liability on a commercial social networking website for any action voluntarily taken in good faith to remove or disable any profile of a registered user associated with an Internet identifier contained in the sexual offender registry.

Section 8 amends s. 944.606, F.S., relating to notification of release of sexual offenders, to:

- Add the offenses added to sexual predator criteria in s. 775.21, F.S. (except for s. 825.1025, F.S., which is currently listed), by Section 1 of the bill to the definition of "sexual offender" pertinent to s. 944.606, F.S.
- Require the DOC to provide to the FDLE the following information about a sexual offender released from imprisonment:

[18] This petition process is currently available to those who do not qualify under the statute to seek removal by motion but otherwise meet criteria to be considered for removal of the registration requirement.

- Palm prints.
- All Internet identifiers.
- Information about any professional licenses the sexual offender may have, if known.
- Passport information, if the sexual offender has a passport.
- Information about documents establishing immigration status, if the sexual offender is an alien.

Section 9 amends s. 944.607, F.S., relating to notification to the FDLE of information on sexual offenders, to:

- Add the offenses added to sexual predator criteria in s. 775.21, F.S. (except for s. 825.1025, F.S., which is currently listed), by Section 1 of the bill to the definition of "sexual offender" pertinent to s. 944.607, F.S.
- Require a sexual offender who is under the supervision of the DOC but is not incarcerated to provide or produce at registration and/or reregistration the following information and changes to that information:
  - Palm prints.
  - All Internet identifiers.
  - Make, model, color, registration number, and license tag number of all vehicles owned.
  - Passport, if the sexual offender has a passport.
  - Information about documents establishing immigration status, if the sexual offender is an alien.
  - Information about any professional licenses the sexual offender may have.
  - Information indicating the sexual offender is volunteering at a Florida institution of higher education. Each change in volunteer status must be reported in person at the sheriff's office within 48 hours after the change. The DOC is required to report to a Florida institution of higher education any change in the sexual offender's status as a volunteer at that institution.
- Amend a penalty provision to provide that:
  - It is a third degree felony to fail to report all Internet identifier information.
  - It is a third degree felony to knowingly provide false registration information by act or omission.

Section 10 amends s. 947.005, F.S., the definitions section of ch. 947, F.S., relating to the Parole Commission, to modify the definition of "risk assessment" to mean an assessment completed by a qualified practitioner to evaluate the level of risk associated when a sex offender has contact with a child (the current definition indicates the practitioner must be an "*independent* qualified practitioner").

Section 11 amends s. 948.31, F.S., relating to evaluation and treatment of sexual predators and offenders on probation and community control, to:

- Remove from the statute language that:
  - Requires the court to order an evaluation by a qualified practitioner to determine the need of a probationer or community controllee for treatment.

  - Provides that if the court determines that there is a need for treatment, the court shall require sexual offender treatment as a term of condition of probation or community control for any person required to register as a sexual predator or sexual offender.
  - Requires the court to impose a restriction against contact with minors if sexual offender treatment is recommended.
  - Requires that the evaluation and recommendations for treatment of the probationer or community controllee be provided to the court for review.
- Authorize the court to order any probationer or community controllee who is required to register as a sexual predator or sexual offender to undergo an evaluation, at the probationer or community controllee's expense, by a qualified practitioner to determine whether such person needs sexual offender treatment. If the qualified practitioner determines the treatment is needed and recommends it, the probationer or community controllee must successfully complete and pay for it.

Section 12 amends s. 985.481, F.S., relating to registration of sexual offenders adjudicated delinquent of certain offenses and DJJ notification of release, to require the DJJ to provide to the FDLE the following information regarding any sexual offender who is being released after serving a period of residential commitment under the DJJ:

- Make, model, color, registration number, and license tag number of all vehicles owned.
- Information about any professional licenses the offender may have, if known.
- Passport information, if the sexual offender has a passport.
- Information about documents establishing immigration status, if the sexual offender is an alien.

Section 13 amends s. 985.4815, F.S., relating to notification to the FDLE of information on juvenile sex offenders, to:

- Require a sexual offender under the supervision of the DJJ but who is not committed with the DJJ to provide or produce at registration and/or reregistration the following information and changes to that information:
  - Make, model, color, registration number, and license tag number of all vehicles owned.
  - Passport, if the sexual offender has a passport.[19]
  - Information about documents establishing immigration status, if the sexual offender is an alien.
  - Information about any professional licenses the sexual offender may have.
  - Information indicating the sexual offender is volunteering at a Florida institution of higher education. Each change in volunteer status must be reported in person at the sheriff's office within 48 hours after the change. The DJJ must report to the Florida institution of higher education any change in the sexual offender's volunteer status at the institution.
- Amend a penalty provision to provide that it is a third degree felony to knowingly provide false registration information by act or omission.

[19] The reregistration provision specifies passport information.

Section 14 amends s. 947.1405, F.S., relating to the conditional release program, to provide that, in addition to all other conditions imposed, for a releasee who is subject to conditional release for a crime that was committed on or after October 1, 2012, and who has been convicted at any time of a violation of s. 800.04(7)(b), F.S., or s. 847.0135(4), F.S., or a similar offense in another jurisdiction, the Parole Commission must order electronic monitoring for the duration of the releasee's supervision.

Section 15 amends s. 948.30, F.S., relating to additional terms and conditions of probation or community control for certain sex offenses, to require the court to order, in addition to any other requirements of s. 948.30, F.S., mandatory electronic monitoring as a condition of probation or community control supervision for a probationer or community controllee whose crime was committed on or after October 1, 2012, and who:

- Is placed on probation or community control for a violation of s. 800.04(7)(b), F.S., or s. 847.0135(4), F.S.; or
- Has previously been convicted of a violation of s. 800.04(7)(b), F.S., or s. 847.0135(4), F.S., or a similar offense in another jurisdiction.

Section 16 amends s. 921.0022, F.S., the offense severity ranking chart of the Criminal Punishment Code, to make technical, not substantive changes (grammatical corrections and corrections to descriptive language of some offenses for accuracy).

Section 17 provides that the 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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, of legislation estimated that the original bill would have an insignificant prison bed impact. The penalty provisions of the bill as amended in the Committee on Criminal Justice are substantially similar to SB 1812, which the CJIC estimated would also have an insignificant prison bed impact.

It is anticipated that electronic monitoring provisions of the bill will have an impact on the DOC. The House companion to the bill, CS/CS/HB 455, provides that the sum of $112,420 of recurring funds from the General Revenue Fund is appropriated to the DOC to provide for electronic monitoring.

The FDLE is currently modifying its analysis of the bill in light of the changes to the bill in the Committee on Criminal Justice. The registration provisions of the bill as amended appear to be substantially similar to SB 1812. In its analysis of SB 1812, the FDLE estimated it would incur a $66,425 impact (non-recurring expenditures) because of programming changes and continued on-going support and maintenance. Current contract staff have the knowledge to complete this project; however, the FDLE will have to contract for additional hours. The FDLE stated that, while the impact of SB 1812 does not necessitate additional resources (the impact of the bill will be handled within the FDLE's existing resources), the impact of the bill in combination with the impact of additional bills requiring programming enhancements to the sexual offender/predator registration/notification system could rise to the level at which additional resources are required.[20]

In its analysis of SB 1812, the DOC indicated that the bill would require internal programming, form, and procedure revisions, but the fiscal impact for these revisions is not significant.[21]

VI. Technical Deficiencies:

On lines 192 the bill does not currently indicate that any change in the sexual predator's volunteer status at a Florida institution of higher education must be reported by the sexual predator.

Line 1050 references "sentencing court." Since those who may appear before the court to move for removal of the registration requirement may not always be those being sentenced for the qualifying offense, the sponsor may wish to consider replacing "sentencing court" with "the criminal circuit court of the circuit in which the qualify offense occurred or is or was sentenced or disposed."

[20] Analysis of SB 1812, Florida Department of Law Enforcement, dated January 26, 2012 (on file with the Committee on Criminal Justice).
[21] Analysis of SB 1812, Florida Department of Corrections, dated January 31, 2012 (on file with the Committee on Criminal Justice).

On Line 1076 the bill retains in the law the word "petition" but the bill removes all provisions relating to a petition process. Line 1075-1076 could be reworded to read: "If the court denies the motion, the person is not authorized under this section to file any further motion for removal of the registration requirements."

The following are suggested changes to the bill provided by the FDLE that appear to be addressing technical issues:

- Remove the word "all" from lines 157-158, 160, 248-249, 467-469, 510, 661-662, 676-678, 755, 953, 955, 990, 1249-1250, 1295-1296, and 1331. The FDLE states that the language could be interpreted as requiring a sexual predator or sexual offender to only report changes if there is a change to "all" internet identifiers, email addresses, or home phone numbers.
- Rephrase lines 365-367 and 763-765 to state "to establish residence in another state, a jurisdiction other than the State of Florida, or another country" to clarify that the requirement to report 48 hours prior to travel applies to international travel of less than 5 days duration. The FDLE states that the requirement for a sexual predator or sexual offender to report international travel 21 days prior to departure for a trip or residence of 5 days or more could be interpreted as meaning that international travel of less than 5 days duration is not required to be reported at all. These changes would provide clarification and would be consistent with language proposed elsewhere in the bill.
- Add the proposed requirement for an offender to report international travel 21 days prior to departure for a trip or residence of 5 days or more to s. 944.607, F.S. (sexual offenders under DOC supervision) and 985.4815, F.S. (juvenile sexual offenders). The FDLE states that this change would insure all registrants have the same reporting requirements.
- Add the words "prior to use" to lines 510, 990, and 1331. The FDLE states that this addition would clarify that electronic mail addresses and internet identifiers are required to be provided prior to use. The current language could be interpreted to only require reporting all electronic mail addresses and internet identifiers without specifying when and how they are to be reported.
- Add to Section 3 of the bill a requirement for the court to search the Florida Sexual Offender/Predator Public Registry and the Dru Sjodin National Sexual Offender Public Website maintained by the DOJ. The FDLE states that any sexual predator or sexual offender currently listed on the Florida Sexual Offender/Predator Public Registry or the Florida Crime Information Center/National Crime Information Center (FCIC/NCIC) system is identifiable as a sexual predator or sexual offender. However, there may be other persons who qualify for sexual predator or sexual offender registration who are currently unknown to Florida's registry. It is unclear how the courts should proceed in such circumstances when determining if bail will or will not be granted prior to first appearance.

VII. Related Issues:

The FDLE suggests the following changes to the bill (which do not appear to be addressing technical deficiencies per se but address issues related to the bill):

- Add the words "and the court determines that the act was consensual" to line 1046. The FDLE states that this change would clarify the requirements for removal of the registration requirement under s. 943.04354, F.S., are in compliance with SORNA.

- Add the home telephone numbers and cellular telephone numbers to the reported information in Sections 9 and 13. The FDLE states that this change would ensure consistency between the DOC and DJJ statutes in receiving and reporting this information as required by statute.
- Change the effective date of the bill to April 8, 2013, to allow time to complete the system updates successfully.

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:

- Adds sex trafficking and other sex offenses to criteria or definitions that qualify a person as a sexual predator or sexual offender.
- Requires that palm prints, volunteer status at a Florida institution of higher education, and other information be provided, produced, or reported, as specified in the bill.
- Requires a sexual predator or sexual offender who intends to establish a residence in another state or jurisdiction to report in person to the sheriff of the county of current residence within 21 days before his or her planned departure date if the intended residence of 5 days or more is outside the United States and to provide to the sheriff the address and country of intended residence.
- Modifies various penalty sections to punish a sexual predator or sexual offender who knowingly provides false registration information by act or omission.
- Provides that a third or subsequent violation of s. 800.03, F.S. (vulgar or indecent exposure or exhibition of person's sexual organs and public nakedness in a place not provided or set apart for that purpose), is a third degree felony.
- Provides that when determining whether to release a defendant on bail or other conditions, and what that bail or those conditions may be, the court shall consider whether the defendant, other than a defendant whose only criminal charge is a traffic misdemeanor offense under ch. 316, F.S., is required to register as a sexual offender or a sexual predator; and, if so, he or she is not eligible for release on bail or surety bond until the first appearance on the case in order to ensure the full participation of the prosecutor and the protection of the public
- Modifies current qualifying criteria and procedures relevant to proceedings to remove the requirement to register as a sexual predator or sexual offender, including, but not limited to, the age requirement relevant to the victim of the qualifying offense.
- Authorizes the court to order any probationer or community controllee who is required to register as a sexual predator or sexual offender to undergo an evaluation, at the probationer or community controllee's expense, by a qualified practitioner to determine whether such person needs sexual offender treatment. If the qualified practitioner determines the treatment is needed and recommends it, the probationer or community controllee must successfully complete and pay for it.
- Provides that, in addition to all other conditions imposed, for a releasee who is subject to conditional release for a crime that was committed on or after October 1, 2012, and who has been convicted at any time of a specified sexual offenses or a similar offense in another jurisdiction, the Parole Commission must order electronic monitoring for the duration of the releasee's supervision.

- Requires the court to order, in addition to any other requirements of s. 948.30, F.S., mandatory electronic monitoring as a condition of probation or community control supervision for a probationer or community controllee whose crime was committed on or after October 1, 2012, and who is placed on probation or community control for a specified sexual offense or has previously been convicted of a specified sexual offense or a similar offense in another jurisdiction.

B. Amendments:

None.

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

247798

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2012	.	
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	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (i) of subsection (2), paragraph (a) of subsection (4), subsections (6) and (8), and paragraph (a) of subsection (10) 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) "Internet identifier ~~Instant message name~~" means all electronic mail, chat, instant messenger, social networking, or

247798

13 similar name used for Internet communication, but does not
14 include a date of birth, social security number, or personal
15 identification number (PIN). Voluntary disclosure by the sexual
16 predator of his or her date of birth, social security number, or
17 personal identification number (PIN) as an Internet identifier
18 waives the disclosure exemption in this paragraph for such
19 personal information ~~an identifier that allows a person to~~
20 ~~communicate in real time with another person using the Internet~~.
21 (4) SEXUAL PREDATOR CRITERIA.—
22 (a) For a current offense committed on or after October 1,
23 1993, upon conviction, an offender shall be designated as a
24 "sexual predator" under subsection (5), and subject to
25 registration under subsection (6) and community and public
26 notification under subsection (7) if:
27 1. The felony is:
28 a. A capital, life, or first-degree felony violation, or
29 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
30 is a minor and the defendant is not the victim's parent or
31 guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a
32 violation of a similar law of another jurisdiction; or
33 b. Any felony violation, or any attempt thereof, of s.
34 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
35 787.025(2)(c), where the victim is a minor and the defendant is
36 not the victim's parent or guardian; s. 794.011, excluding s.
37 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 796.045; s.
38 800.04; s. 825.1025 ~~825.1025(2)(b)~~; s. 827.071; s. 847.0135(5);
39 s. 847.0145; s. 916.1075(2); or s. 985.701(1); or a violation of
40 a similar law of another jurisdiction, and the offender has
41 previously been convicted of or found to have committed, or has

247798

42 pled nolo contendere or guilty to, regardless of adjudication,
43 any violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s.
44 787.02, or s. 787.025(2)(c), where the victim is a minor and the
45 defendant is not the victim's parent or guardian; s. 794.011,
46 excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s.
47 796.045; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.
48 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 916.1075(2);
49 or s. 985.701(1); or a violation of a similar law of another
50 jurisdiction;
51 2. The offender has not received a pardon for any felony or
52 similar law of another jurisdiction that is necessary for the
53 operation of this paragraph; and
54 3. A conviction of a felony or similar law of another
55 jurisdiction necessary to the operation of this paragraph has
56 not been set aside in any postconviction proceeding.
57 (6) REGISTRATION.—
58 (a) A sexual predator must register with the department
59 through the sheriff's office by providing the following
60 information to the department:
61 1. Name; social security number; age; race; sex; date of
62 birth; height; weight; tattoos or other identifying marks; hair
63 and eye color; photograph; address of legal residence and
64 address of any current temporary residence, within the state or
65 out of state, including a rural route address and a post office
66 box; if no permanent or temporary address, any transient
67 residence within the state; address, location or description,
68 and dates of any current or known future temporary residence
69 within the state or out of state; all ~~any~~ electronic mail
70 addresses ~~address~~ and all Internet identifiers ~~any instant~~

247798

71 ~~message name~~ required to be provided pursuant to subparagraph
72 (g)4.; all home telephone numbers ~~number~~ and ~~any~~ cellular
73 telephone numbers ~~number~~; date and place of any employment; the
74 make, model, color, registration number, and license tag number
75 of all vehicles owned; date and place of each conviction;
76 fingerprints; palm prints; and a brief description of the crime
77 or crimes committed by the offender. A post office box shall not
78 be provided in lieu of a physical residential address. The
79 sexual predator must also produce his or her passport, if he or
80 she has a passport, and, if he or she is an alien, must produce
81 or provide information about documents establishing his or her
82 immigration status. The sexual predator must also provide
83 information about any professional licenses he or she may have.
84 a. If the sexual predator's place of residence is a motor
85 vehicle, trailer, mobile home, or manufactured home, as defined
86 in chapter 320, the sexual predator shall also provide to the
87 department written notice of the vehicle identification number;
88 the license tag number; the registration number; and a
89 description, including color scheme, of the motor vehicle,
90 trailer, mobile home, or manufactured home. If a sexual
91 predator's place of residence is a vessel, live-aboard vessel,
92 or houseboat, as defined in chapter 327, the sexual predator
93 shall also provide to the department written notice of the hull
94 identification number; the manufacturer's serial number; the
95 name of the vessel, live-aboard vessel, or houseboat; the
96 registration number; and a description, including color scheme,
97 of the vessel, live-aboard vessel, or houseboat.
98 b. If the sexual predator is enrolled, employed,
99 volunteering, or carrying on a vocation at an institution of

247798

100 higher education in this state, the sexual predator shall also
101 provide to the department the name, address, and county of each
102 institution, including each campus attended, and the sexual
103 predator's enrollment, volunteer, or employment status. Each
104 change in enrollment or employment status shall be reported in
105 person at the sheriff's office, or the Department of Corrections
106 if the sexual predator is in the custody or control of or under
107 the supervision of the Department of Corrections, within 48
108 hours after any change in status. The sheriff or the Department
109 of Corrections shall promptly notify each institution of the
110 sexual predator's presence and any change in the sexual
111 predator's enrollment, volunteer, or employment status.
112 2. Any other information determined necessary by the
113 department, including criminal and corrections records;
114 nonprivileged personnel and treatment records; and evidentiary
115 genetic markers when available.
116 (b) If the sexual predator is in the custody or control of,
117 or under the supervision of, the Department of Corrections, or
118 is in the custody of a private correctional facility, the sexual
119 predator must register with the Department of Corrections. A
120 sexual predator who is under the supervision of the Department
121 of Corrections but who is not incarcerated must register with
122 the Department of Corrections within 3 business days after the
123 court finds the offender to be a sexual predator. The Department
124 of Corrections shall provide to the department registration
125 information and the location of, and local telephone number for,
126 any Department of Corrections office that is responsible for
127 supervising the sexual predator. In addition, the Department of
128 Corrections shall notify the department if the sexual predator

247798

129 escapes or absconds from custody or supervision or if the sexual
130 predator dies.
131 (c) If the sexual predator is in the custody of a local
132 jail, the custodian of the local jail shall register the sexual
133 predator within 3 business days after intake of the sexual
134 predator for any reason and upon release, and shall forward the
135 registration information to the department. The custodian of the
136 local jail shall also take a digitized photograph of the sexual
137 predator while the sexual predator remains in custody and shall
138 provide the digitized photograph to the department. The
139 custodian shall notify the department if the sexual predator
140 escapes from custody or dies.
141 (d) If the sexual predator is under federal supervision,
142 the federal agency responsible for supervising the sexual
143 predator may forward to the department any information regarding
144 the sexual predator which is consistent with the information
145 provided by the Department of Corrections under this section,
146 and may indicate whether use of the information is restricted to
147 law enforcement purposes only or may be used by the department
148 for purposes of public notification.
149 (e)1. If the sexual predator is not in the custody or
150 control of, or under the supervision of, the Department of
151 Corrections or is not in the custody of a private correctional
152 facility, the sexual predator shall register in person:
153 a. At the sheriff’s office in the county where he or she
154 establishes or maintains a residence within 48 hours after
155 establishing or maintaining a residence in this state; and
156 b. At the sheriff’s office in the county where he or she
157 was designated a sexual predator by the court within 48 hours

247798

158 after such finding is made.
159 2. Any change in the sexual predator's permanent or
160 temporary residence, name, or all ~~any~~ electronic mail addresses
161 ~~address~~ and all Internet identifiers ~~any instant message name~~
162 required to be provided pursuant to subparagraph (g)4., after
163 the sexual predator registers in person at the sheriff's office
164 as provided in subparagraph 1., shall be accomplished in the
165 manner provided in paragraphs (g), (i), and (j). When a sexual
166 predator registers with the sheriff's office, the sheriff shall
167 take a photograph, ~~and~~ a set of fingerprints, and palm prints of
168 the predator and forward the photographs, palm prints, and
169 fingerprints to the department, along with the information that
170 the predator is required to provide pursuant to this section.
171 (f) Within 48 hours after the registration required under
172 paragraph (a) or paragraph (e), a sexual predator who is not
173 incarcerated and who resides in the community, including a
174 sexual predator under the supervision of the Department of
175 Corrections, shall register in person at a driver ~~driver's~~
176 license office of the Department of Highway Safety and Motor
177 Vehicles and shall present proof of registration. At the driver
178 ~~driver's~~ license office the sexual predator shall:
179 1. If otherwise qualified, secure a Florida driver ~~driver's~~
180 license, renew a Florida driver ~~driver's~~ license, or secure an
181 identification card. The sexual predator shall identify himself
182 or herself as a sexual predator who is required to comply with
183 this section, provide his or her place of permanent, temporary,
184 or transient residence, including a rural route address and a
185 post office box, and submit to the taking of a photograph for
186 use in issuing a driver ~~driver's~~ license, renewed license, or

247798

187 identification card, and for use by the department in
188 maintaining current records of sexual predators. A post office
189 box shall not be provided in lieu of a physical residential
190 address. If the sexual predator’s place of residence is a motor
191 vehicle, trailer, mobile home, or manufactured home, as defined
192 in chapter 320, the sexual predator shall also provide to the
193 Department of Highway Safety and Motor Vehicles the vehicle
194 identification number; the license tag number; the registration
195 number; and a description, including color scheme, of the motor
196 vehicle, trailer, mobile home, or manufactured home. If a sexual
197 predator’s place of residence is a vessel, live-aboard vessel,
198 or houseboat, as defined in chapter 327, the sexual predator
199 shall also provide to the Department of Highway Safety and Motor
200 Vehicles the hull identification number; the manufacturer’s
201 serial number; the name of the vessel, live-aboard vessel, or
202 houseboat; the registration number; and a description, including
203 color scheme, of the vessel, live-aboard vessel, or houseboat.
204 2. Pay the costs assessed by the Department of Highway
205 Safety and Motor Vehicles for issuing or renewing a driver
206 ~~driver’s~~ license or identification card as required by this
207 section. The driver ~~driver’s~~ license or identification card
208 issued to the sexual predator must be in compliance with s.
209 322.141(3).
210 3. Provide, upon request, any additional information
211 necessary to confirm the identity of the sexual predator,
212 including a set of fingerprints.
213 (g)1. Each time a sexual predator’s driver ~~driver’s~~ license
214 or identification card is subject to renewal, and, without
215 regard to the status of the predator’s driver ~~driver’s~~ license

247798

216 or identification card, within 48 hours after any change of the
217 predator's residence or change in the predator's name by reason
218 of marriage or other legal process, the predator shall report in
219 person to a driver ~~driver's~~ license office and shall be subject
220 to the requirements specified in paragraph (f). The Department
221 of Highway Safety and Motor Vehicles shall forward to the
222 department and to the Department of Corrections all photographs
223 and information provided by sexual predators. Notwithstanding
224 the restrictions set forth in s. 322.142, the Department of
225 Highway Safety and Motor Vehicles is authorized to release a
226 reproduction of a color-photograph or digital-image license to
227 the Department of Law Enforcement for purposes of public
228 notification of sexual predators as provided in this section. A
229 sexual predator who is unable to secure or update a driver
230 license or identification card with the Department of Highway
231 Safety and Motor Vehicles as provided in paragraph (f) and this
232 paragraph must also report any change of the predator's
233 residence or change in the predator's name by reason of marriage
234 or other legal process within 48 hours after the change to the
235 sheriff's office in the county where the predator resides or is
236 located and provide confirmation that he or she reported such
237 information to the Department of Highway Safety and Motor
238 Vehicles.
239 2. A sexual predator who vacates a permanent, temporary, or
240 transient residence and fails to establish or maintain another
241 permanent, temporary, or transient residence shall, within 48
242 hours after vacating the permanent, temporary, or transient
243 residence, report in person to the sheriff's office of the
244 county in which he or she is located. The sexual predator shall

247798

245 specify the date upon which he or she intends to or did vacate
246 such residence. The sexual predator must provide or update all
247 of the registration information required under paragraph (a).
248 The sexual predator must provide an address for the residence or
249 other place that he or she is or will be located during the time
250 in which he or she fails to establish or maintain a permanent or
251 temporary residence.
252 3. A sexual predator who remains at a permanent, temporary,
253 or transient residence after reporting his or her intent to
254 vacate such residence shall, within 48 hours after the date upon
255 which the predator indicated he or she would or did vacate such
256 residence, report in person to the sheriff's office to which he
257 or she reported pursuant to subparagraph 2. for the purpose of
258 reporting his or her address at such residence. When the sheriff
259 receives the report, the sheriff shall promptly convey the
260 information to the department. An offender who makes a report as
261 required under subparagraph 2. but fails to make a report as
262 required under this subparagraph commits a felony of the second
263 degree, punishable as provided in s. 775.082, s. 775.083, or s.
264 775.084.
265 4. A sexual predator must register all ~~any~~ electronic mail
266 addresses and Internet identifiers ~~address or instant message~~
267 ~~name~~ with the department prior to using such electronic mail
268 addresses and Internet identifiers ~~address or instant message~~
269 ~~name on or after October 1, 2007~~. The department shall establish
270 an online system through which sexual predators may securely
271 access and update all electronic mail address and Internet
272 identifier ~~instant message name~~ information.
273 (h) The department must notify the sheriff and the state

247798

274 attorney of the county and, if applicable, the police chief of
275 the municipality, where the sexual predator maintains a
276 residence.
277 (i) A sexual predator who intends to establish a permanent,
278 temporary, or transient residence in another state or
279 jurisdiction other than the State of Florida shall report in
280 person to the sheriff of the county of current residence within
281 48 hours before the date he or she intends to leave this state
282 to establish residence in another state or jurisdiction or
283 within 21 days before his or her planned departure date if the
284 intended residence of 5 days or more is outside of the United
285 States. The sexual predator must provide to the sheriff the
286 address, municipality, county, ~~and~~ state, and country of
287 intended residence. The sheriff shall promptly provide to the
288 department the information received from the sexual predator.
289 The department shall notify the statewide law enforcement
290 agency, or a comparable agency, in the intended state, ~~or~~
291 jurisdiction, or country of residence of the sexual predator's
292 intended residence. The failure of a sexual predator to provide
293 his or her intended place of residence is punishable as provided
294 in subsection (10).
295 (j) A sexual predator who indicates his or her intent to
296 establish a permanent, temporary, or transient residence in
297 another state, a ~~or~~ jurisdiction other than the State of
298 Florida, or another country and later decides to remain in this
299 state shall, within 48 hours after the date upon which the
300 sexual predator indicated he or she would leave this state,
301 report in person to the sheriff to which the sexual predator
302 reported the intended change of residence, and report his or her

247798

303 intent to remain in this state. If the sheriff is notified by
304 the sexual predator that he or she intends to remain in this
305 state, the sheriff shall promptly report this information to the
306 department. A sexual predator who reports his or her intent to
307 establish a permanent, temporary, or transient residence in
308 another state, a ~~or~~ jurisdiction other than the State of
309 Florida, or another country, but who remains in this state
310 without reporting to the sheriff in the manner required by this
311 paragraph, commits a felony of the second degree, punishable as
312 provided in s. 775.082, s. 775.083, or s. 775.084.
313 (k)1. The department is responsible for the online
314 maintenance of current information regarding each registered
315 sexual predator. The department must maintain hotline access for
316 state, local, and federal law enforcement agencies to obtain
317 instantaneous locator file and offender characteristics
318 information on all released registered sexual predators for
319 purposes of monitoring, tracking, and prosecution. The
320 photograph and fingerprints do not have to be stored in a
321 computerized format.
322 2. The department's sexual predator registration list,
323 containing the information described in subparagraph (a)1., is a
324 public record. The department is authorized to disseminate this
325 public information by any means deemed appropriate, including
326 operating a toll-free telephone number for this purpose. When
327 the department provides information regarding a registered
328 sexual predator to the public, department personnel must advise
329 the person making the inquiry that positive identification of a
330 person believed to be a sexual predator cannot be established
331 unless a fingerprint comparison is made, and that it is illegal

247798

332 to use public information regarding a registered sexual predator
333 to facilitate the commission of a crime.
334 3. The department shall adopt guidelines as necessary
335 regarding the registration of sexual predators and the
336 dissemination of information regarding sexual predators as
337 required by this section.
338 (l) A sexual predator must maintain registration with the
339 department for the duration of his or her life, unless the
340 sexual predator has received a full pardon or has had a
341 conviction set aside in a postconviction proceeding for any
342 offense that met the criteria for the sexual predator
343 designation.
344 (8) VERIFICATION.—The department and the Department of
345 Corrections shall implement a system for verifying the addresses
346 of sexual predators. The system must be consistent with the
347 provisions of the federal Adam Walsh Child Protection and Safety
348 Act of 2006 and any other federal standards applicable to such
349 verification or required to be met as a condition for the
350 receipt of federal funds by the state. The Department of
351 Corrections shall verify the addresses of sexual predators who
352 are not incarcerated but who reside in the community under the
353 supervision of the Department of Corrections and shall report to
354 the department any failure by a sexual predator to comply with
355 registration requirements. County and local law enforcement
356 agencies, in conjunction with the department, shall verify the
357 addresses of sexual predators who are not under the care,
358 custody, control, or supervision of the Department of
359 Corrections. Local law enforcement agencies shall report to the
360 department any failure by a sexual predator to comply with

247798

361 registration requirements.
362 (a) A sexual predator must report in person each year
363 during the month of the sexual predator's birthday and during
364 every third month thereafter to the sheriff's office in the
365 county in which he or she resides or is otherwise located to
366 reregister. The sheriff's office may determine the appropriate
367 times and days for reporting by the sexual predator, which shall
368 be consistent with the reporting requirements of this paragraph.
369 Reregistration shall include any changes to the following
370 information:
371 1. Name; social security number; age; race; sex; date of
372 birth; height; weight; tattoos or other identifying marks; hair
373 and eye color; address of any permanent residence and address of
374 any current temporary residence, within the state or out of
375 state, including a rural route address and a post office box; if
376 no permanent or temporary address, any transient residence
377 within the state; address, location or description, and dates of
378 any current or known future temporary residence within the state
379 or out of state; all ~~any~~ electronic mail addresses ~~address~~ and
380 all Internet identifiers ~~any instant message name~~ required to be
381 provided pursuant to subparagraph (6)(g)4.; all home telephone
382 numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~; date
383 and place of any employment; the ~~vehicle~~ make, model, color,
384 registration number, and license tag number of all vehicles
385 owned; fingerprints; palm prints; and photograph. A post office
386 box shall not be provided in lieu of a physical residential
387 address. The sexual predator must also produce his or her
388 passport, if he or she has a passport, and, if he or she is an
389 alien, must produce or provide information about documents

247798

390 establishing his or her immigration status. The sexual predator
391 must also provide information about any professional licenses he
392 or she may have.
393 2. If the sexual predator is enrolled, employed,
394 volunteering, or carrying on a vocation at an institution of
395 higher education in this state, the sexual predator shall also
396 provide to the department the name, address, and county of each
397 institution, including each campus attended, and the sexual
398 predator's enrollment, volunteer, or employment status.
399 3. If the sexual predator's place of residence is a motor
400 vehicle, trailer, mobile home, or manufactured home, as defined
401 in chapter 320, the sexual predator shall also provide the
402 vehicle identification number; the license tag number; the
403 registration number; and a description, including color scheme,
404 of the motor vehicle, trailer, mobile home, or manufactured
405 home. If the sexual predator's place of residence is a vessel,
406 live-aboard vessel, or houseboat, as defined in chapter 327, the
407 sexual predator shall also provide the hull identification
408 number; the manufacturer's serial number; the name of the
409 vessel, live-aboard vessel, or houseboat; the registration
410 number; and a description, including color scheme, of the
411 vessel, live-aboard vessel, or houseboat.
412 (b) The sheriff's office shall, within 2 working days,
413 electronically submit and update all information provided by the
414 sexual predator to the department in a manner prescribed by the
415 department.
416 (10) PENALTIES.—
417 (a) Except as otherwise specifically provided, a sexual
418 predator who fails to register; who fails, after registration,

247798

419 to maintain, acquire, or renew a driver ~~driver's~~ license or
420 identification card; who fails to provide required location
421 information, electronic mail address information, Internet
422 identifier ~~instant message name~~ information, all home telephone
423 numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~, or
424 change-of-name information; who fails to make a required report
425 in connection with vacating a permanent residence; who fails to
426 reregister as required; who fails to respond to any address
427 verification correspondence from the department within 3 weeks
428 of the date of the correspondence; who knowingly provides false
429 registration information by act or omission; or who otherwise
430 fails, by act or omission, to comply with the requirements of
431 this section~~,~~ commits a felony of the third degree, punishable
432 as provided in s. 775.082, s. 775.083, or s. 775.084.
433 Section 2. Section 800.03, Florida Statutes, is amended to
434 read:
435 800.03 Exposure of sexual organs.—
436 (1) It is unlawful to expose or exhibit one's sexual organs
437 in public or on the private premises of another, or so near
438 thereto as to be seen from such private premises, in a vulgar or
439 indecent manner, or to be naked in public except in any place
440 provided or set apart for that purpose.
441 (2)(a) Except as provided in paragraph (b), a violation of
442 this section is a misdemeanor of the first degree, punishable as
443 provided in s. 775.082 or s. 775.083.
444 (b) A third or subsequent violation of this section is a
445 felony of the third degree, punishable as provided in s.
446 775.082, s. 775.083, or s. 775.084.
447 (3) A mother's breastfeeding of her baby does not under any

247798

448 circumstance violate this section.
449 Section 3. Paragraph (m) is added to subsection (2) of
450 section 903.046, Florida Statutes, to read:
451 903.046 Purpose of and criteria for bail determination.—
452 (2) When determining whether to release a defendant on bail
453 or other conditions, and what that bail or those conditions may
454 be, the court shall consider:
455 (m) Whether the defendant, other than a defendant whose
456 only criminal charge is a misdemeanor offense under chapter 316,
457 is required to register as a sexual offender under s. 943.0435
458 or a sexual predator under s. 775.21; and, if so, he or she is
459 not eligible for release on bail or surety bond until the first
460 appearance on the case in order to ensure the full participation
461 of the prosecutor and the protection of the public.
462 Section 4. Paragraphs (a) and (g) of subsection (1),
463 subsection (2), paragraphs (a) and (d) of subsection (4),
464 subsections (7), (8), and (11), and paragraph (c) of subsection
465 (14) of section 943.0435, Florida Statutes, are amended to read:
466 943.0435 Sexual offenders required to register with the
467 department; penalty.—
468 (1) As used in this section, the term:
469 (a)1. “Sexual offender” means a person who meets the
470 criteria in sub-subparagraph a., sub-subparagraph b., sub-
471 subparagraph c., or sub-subparagraph d., as follows:
472 a.(I) Has been convicted of committing, or attempting,
473 soliciting, or conspiring to commit, any of the criminal
474 offenses proscribed in the following statutes in this state or
475 similar offenses in another jurisdiction: s. 393.135(2); s.
476 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where

247798

477 the victim is a minor and the defendant is not the victim's
478 parent or guardian; s. 794.011, excluding s. 794.011(10); s.
479 794.05; s. 796.03; s. 796.035; s. 796.045; s. 800.04; s.
480 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
481 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s.
482 916.1075(2); or s. 985.701(1); or any similar offense committed
483 in this state which has been redesignated from a former statute
484 number to one of those listed in this sub-sub-subparagraph; and
485 (II) Has been released on or after October 1, 1997, from
486 the sanction imposed for any conviction of an offense described
487 in sub-sub-subparagraph (I). For purposes of sub-sub-
488 subparagraph (I), a sanction imposed in this state or in any
489 other jurisdiction includes, but is not limited to, a fine,
490 probation, community control, parole, conditional release,
491 control release, or incarceration in a state prison, federal
492 prison, private correctional facility, or local detention
493 facility;
494 b. Establishes or maintains a residence in this state and
495 who has not been designated as a sexual predator by a court of
496 this state but who has been designated as a sexual predator, as
497 a sexually violent predator, or by another sexual offender
498 designation in another state or jurisdiction and was, as a
499 result of such designation, subjected to registration or
500 community or public notification, or both, or would be if the
501 person were a resident of that state or jurisdiction, without
502 regard to whether the person otherwise meets the criteria for
503 registration as a sexual offender;
504 c. Establishes or maintains a residence in this state who
505 is in the custody or control of, or under the supervision of,

247798

506 any other state or jurisdiction as a result of a conviction for
507 committing, or attempting, soliciting, or conspiring to commit,
508 any of the criminal offenses proscribed in the following
509 statutes or similar offense in another jurisdiction: s.
510 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
511 787.025(2)(c), where the victim is a minor and the defendant is
512 not the victim's parent or guardian; s. 794.011, excluding s.
513 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 796.045; s.
514 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
515 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
516 s. 916.1075(2); or s. 985.701(1); or any similar offense
517 committed in this state which has been redesignated from a
518 former statute number to one of those listed in this sub-
519 subparagraph; or
520 d. On or after July 1, 2007, has been adjudicated
521 delinquent for committing, or attempting, soliciting, or
522 conspiring to commit, any of the criminal offenses proscribed in
523 the following statutes in this state or similar offenses in
524 another jurisdiction when the juvenile was 14 years of age or
525 older at the time of the offense:
526 (I) Section 794.011, excluding s. 794.011(10);
527 (II) Section 800.04(4)(b) where the victim is under 12
528 years of age or where the court finds sexual activity by the use
529 of force or coercion;
530 (III) Section 800.04(5)(c)1. where the court finds
531 molestation involving unclothed genitals; or
532 (IV) Section 800.04(5)(d) where the court finds the use of
533 force or coercion and unclothed genitals.
534 2. For all qualifying offenses listed in sub-subparagraph

247798

535 (1)(a)1.d., the court shall make a written finding of the age of
536 the offender at the time of the offense.
537
538 For each violation of a qualifying offense listed in this
539 subsection, except for a violation of s. 794.011, the court
540 shall make a written finding of the age of the victim at the
541 time of the offense. For a violation of s. 800.04(4), the court
542 shall additionally make a written finding indicating that the
543 offense did or did not involve sexual activity and indicating
544 that the offense did or did not involve force or coercion. For a
545 violation of s. 800.04(5), the court shall additionally make a
546 written finding that the offense did or did not involve
547 unclothed genitals or genital area and that the offense did or
548 did not involve the use of force or coercion.
549 (g) "Internet identifier ~~Instant message name~~" has the same
550 meaning as provided in s. 775.21 ~~means an identifier that allows~~
551 ~~a person to communicate in real time with another person using~~
552 ~~the Internet~~.
553 (2) A sexual offender shall:
554 (a) Report in person at the sheriff's office:
555 1. In the county in which the offender establishes or
556 maintains a permanent, temporary, or transient residence within
557 48 hours after:
558 a. Establishing permanent, temporary, or transient
559 residence in this state; or
560 b. Being released from the custody, control, or supervision
561 of the Department of Corrections or from the custody of a
562 private correctional facility; or
563 2. In the county where he or she was convicted within 48

247798

564 hours after being convicted for a qualifying offense for
565 registration under this section if the offender is not in the
566 custody or control of, or under the supervision of, the
567 Department of Corrections, or is not in the custody of a private
568 correctional facility.
569
570 Any change in the information required to be provided pursuant
571 to paragraph (b), including, but not limited to, any change in
572 the sexual offender's permanent, temporary, or transient
573 residence, name, all ~~any~~ electronic mail addresses ~~address~~ and
574 all Internet identifiers ~~any instant message name~~ required to be
575 provided pursuant to paragraph (4)(d), after the sexual offender
576 reports in person at the sheriff's office, shall be accomplished
577 in the manner provided in subsections (4), (7), and (8).
578 (b) Provide his or her name; date of birth; social security
579 number; race; sex; height; weight; hair and eye color; tattoos
580 or other identifying marks; occupation and place of employment;
581 address of permanent or legal residence or address of any
582 current temporary residence, within the state or out of state,
583 including a rural route address and a post office box; if no
584 permanent or temporary address, any transient residence within
585 the state, address, location or description, and dates of any
586 current or known future temporary residence within the state or
587 out of state; the make, model, color, registration number, and
588 license tag number of all vehicles owned; all home telephone
589 numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~; all
590 ~~any~~ electronic mail addresses ~~address~~ and all Internet
591 identifiers ~~any instant message name~~ required to be provided
592 pursuant to paragraph (4)(d); fingerprints; palm prints;

247798

593 photograph; date and place of each conviction; and a brief
594 description of the crime or crimes committed by the offender. A
595 post office box shall not be provided in lieu of a physical
596 residential address. The sexual offender must also produce his
597 or her passport, if he or she has a passport, and, if he or she
598 is an alien, must produce or provide information about documents
599 establishing his or her immigration status. The sexual offender
600 must also provide information about any professional licenses he
601 or she may have.
602 1. If the sexual offender's place of residence is a motor
603 vehicle, trailer, mobile home, or manufactured home, as defined
604 in chapter 320, the sexual offender shall also provide to the
605 department through the sheriff's office written notice of the
606 vehicle identification number; the license tag number; the
607 registration number; and a description, including color scheme,
608 of the motor vehicle, trailer, mobile home, or manufactured
609 home. If the sexual offender's place of residence is a vessel,
610 live-aboard vessel, or houseboat, as defined in chapter 327, the
611 sexual offender shall also provide to the department written
612 notice of the hull identification number; the manufacturer's
613 serial number; the name of the vessel, live-aboard vessel, or
614 houseboat; the registration number; and a description, including
615 color scheme, of the vessel, live-aboard vessel, or houseboat.
616 2. If the sexual offender is enrolled, employed,
617 volunteering, or carrying on a vocation at an institution of
618 higher education in this state, the sexual offender shall also
619 provide to the department through the sheriff's office the name,
620 address, and county of each institution, including each campus
621 attended, and the sexual offender's enrollment or employment

247798

622 status. Each change in enrollment, volunteer, or employment
623 status shall be reported in person at the sheriff's office,
624 within 48 hours after any change in status. The sheriff shall
625 promptly notify each institution of the sexual offender's
626 presence and any change in the sexual offender's enrollment,
627 volunteer, or employment status.
628 (c) Provide any other information determined necessary by
629 the department, including criminal and corrections records;
630 nonprivileged personnel and treatment records; and evidentiary
631 genetic markers, when available.
632
633 When a sexual offender reports at the sheriff's office, the
634 sheriff shall take a photograph, ~~and~~ a set of fingerprints, and
635 palm prints of the offender and forward the photographs, palm
636 prints, and fingerprints to the department, along with the
637 information provided by the sexual offender. The sheriff shall
638 promptly provide to the department the information received from
639 the sexual offender.
640 (4)(a) Each time a sexual offender's driver ~~driver's~~
641 license or identification card is subject to renewal, and,
642 without regard to the status of the offender's driver ~~driver's~~
643 license or identification card, within 48 hours after any change
644 in the offender's permanent, temporary, or transient residence
645 or change in the offender's name by reason of marriage or other
646 legal process, the offender shall report in person to a driver
647 ~~driver's~~ license office, and shall be subject to the
648 requirements specified in subsection (3). The Department of
649 Highway Safety and Motor Vehicles shall forward to the
650 department all photographs and information provided by sexual

247798

651 offenders. Notwithstanding the restrictions set forth in s.
652 322.142, the Department of Highway Safety and Motor Vehicles is
653 authorized to release a reproduction of a color-photograph or
654 digital-image license to the Department of Law Enforcement for
655 purposes of public notification of sexual offenders as provided
656 in this section and ss. 943.043 and 944.606. A sexual offender
657 who is unable to secure or update a driver license or
658 identification card with the Department of Highway Safety and
659 Motor Vehicles as provided in subsection (3) and this subsection
660 must also report any change in the sexual offender's permanent,
661 temporary, or transient residence or change in the offender's
662 name by reason of marriage or other legal process within 48
663 hours after the change to the sheriff's office in the county
664 where the offender resides or is located and provide
665 confirmation that he or she reported such information to the
666 Department of Highway Safety and Motor Vehicles.
667 (d) A sexual offender must register all ~~any~~ electronic mail
668 addresses and Internet identifiers ~~address or instant message~~
669 ~~name~~ with the department prior to using such electronic mail
670 addresses and Internet identifiers ~~address or instant message~~
671 ~~name on or after October 1, 2007~~. The department shall establish
672 an online system through which sexual offenders may securely
673 access and update all electronic mail address and Internet
674 identifier ~~instant message name~~ information.
675 (7) A sexual offender who intends to establish a permanent,
676 temporary, or transient residence in another state or
677 jurisdiction other than the State of Florida shall report in
678 person to the sheriff of the county of current residence within
679 48 hours before the date he or she intends to leave this state

247798

680 to establish residence in another state or jurisdiction or
681 within 21 days before his or her planned departure date if the
682 intended residence of 5 days or more is outside of the United
683 States. The notification must include the address, municipality,
684 county, ~~and~~ state, and country of intended residence. The
685 sheriff shall promptly provide to the department the information
686 received from the sexual offender. The department shall notify
687 the statewide law enforcement agency, or a comparable agency, in
688 the intended state, ~~or~~ jurisdiction, or country of residence of
689 the sexual offender's intended residence. The failure of a
690 sexual offender to provide his or her intended place of
691 residence is punishable as provided in subsection (9).
692 (8) A sexual offender who indicates his or her intent to
693 establish a permanent, temporary, or transient residence in
694 another state, a ~~or~~ jurisdiction other than the State of
695 Florida, or another country and later decides to remain in this
696 state shall, within 48 hours after the date upon which the
697 sexual offender indicated he or she would leave this state,
698 report in person to the sheriff to which the sexual offender
699 reported the intended change of permanent, temporary, or
700 transient residence, and report his or her intent to remain in
701 this state. The sheriff shall promptly report this information
702 to the department. A sexual offender who reports his or her
703 intent to establish a permanent, temporary, or transient
704 residence in another state, a ~~or~~ jurisdiction other than the
705 State of Florida, or another country but who remains in this
706 state without reporting to the sheriff in the manner required by
707 this subsection commits a felony of the second degree,
708 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

247798

709 (11) Except as provided in this subsection and s.
710 943.04354, a sexual offender must maintain registration with the
711 department for the duration of his or her life, unless the
712 sexual offender has received a full pardon or has had a
713 conviction set aside in a postconviction proceeding for any
714 offense that meets the criteria for classifying the person as a
715 sexual offender for purposes of registration. ~~However, a sexual~~
716 ~~offender:~~
717 (a)1. A sexual offender may petition the criminal division
718 of the circuit court of the circuit in which the sexual offender
719 resides for the purpose of removing the requirement for
720 registration as a sexual offender if ~~Who has been lawfully~~
721 ~~released from confinement, supervision, or sanction, whichever~~
722 ~~is later, for at least 25 years and has not been arrested for~~
723 ~~any felony or misdemeanor offense since release, provided that~~
724 ~~the sexual offender's requirement to register was not based upon~~
725 ~~an adult conviction~~:
726 a. Twenty-five years have elapsed since the sexual
727 offender's registration period for the most recent conviction
728 that required the offender to register began;
729 b. The sexual offender has not been convicted or
730 adjudicated delinquent of any felony offense or of an offense
731 punishable by more than 1 year of imprisonment during the 25
732 years preceding the petition to the court;
733 c. The sexual offender has successfully completed all
734 sanctions imposed for all offenses that required the offender to
735 register;
736 d. The sexual offender's requirement to register was not
737 based upon an adult conviction for a violation of s. 787.01, s.

247798

738 794.011, excluding s. 794.011(10), s. 800.04(4)(b) where the
739 court finds the offense involved a victim under 12 years of age
740 or sexual activity by the use of force or coercion, s.
741 800.04(5)(b), or s. 800.04(5)(c)2. where the court finds the
742 offense involved unclothed genitals or genital area; for any
743 attempt or conspiracy to commit any offense listed in this sub-
744 subparagraph; or for a violation of similar law of another
745 jurisdiction; and
746 e. For sexual offenders whose requirement to register is
747 based upon a conviction in another state, the sexual offender is
748 not required to register as a sexual offender pursuant to the
749 laws of the state where the conviction occurred.
750 ~~a. For a violation of s. 787.01 or s. 787.02;~~
751 ~~b. For a violation of s. 794.011, excluding s. 794.011(10);~~
752 ~~c. For a violation of s. 800.04(4)(b) where the court finds~~
753 ~~the offense involved a victim under 12 years of age or sexual~~
754 ~~activity by the use of force or coercion;~~
755 ~~d. For a violation of s. 800.04(5)(b);~~
756 ~~e. For a violation of s. 800.04(5)c.2. where the court~~
757 ~~finds the offense involved unclothed genitals or genital area;~~
758 ~~f. For any attempt or conspiracy to commit any such~~
759 ~~offense; or~~
760 ~~g. For a violation of similar law of another jurisdiction,~~
761
762 ~~may petition the criminal division of the circuit court of the~~
763 ~~circuit in which the sexual offender resides for the purpose of~~
764 ~~removing the requirement for registration as a sexual offender.~~
765 2. A sexual offender whose requirement to register was
766 based upon an adult conviction for a violation of s. 787.02 or

247798

767 s. 827.071(5), for any attempt or conspiracy to commit any
768 offense listed in this subparagraph, or for a violation of
769 similar law of another jurisdiction may petition the criminal
770 division of the circuit court of the circuit in which the sexual
771 offender resides for the purpose of removing the requirement for
772 registration as a sexual offender if:
773 a. Fifteen years have elapsed since the sexual offender's
774 registration period for the most recent conviction that required
775 the offender to register began;
776 b. The sexual offender has not been convicted or
777 adjudicated delinquent of any felony offense or of an offense
778 punishable by more than 1 year of imprisonment during the 10
779 years preceding the petition to the court;
780 c. The sexual offender has successfully completed all
781 sanctions imposed for all offenses that required the offender to
782 register; and
783 d. For sexual offenders whose requirement to register is
784 based upon a conviction in another state, the sexual offender is
785 not required to register as a sexual offender pursuant to the
786 laws of the state where the conviction occurred.
787 3. A sexual offender required to register under sub-
788 subparagraph (1)(a)1.d. may petition the criminal division of
789 the circuit court of the circuit in which the sexual offender
790 resides for the purpose of removing the requirement for
791 registration as a sexual offender if:
792 a. Twenty-five years have elapsed since the sexual
793 offender's registration period for the most recent adjudication
794 that required the offender to register began;
795 b. The sexual offender has not been convicted or

247798

796 adjudicated delinquent of any felony offense or of an offense
797 punishable by more than 1 year of imprisonment during the 25
798 years preceding the petition to the court; and
799 c. The sexual offender has successfully completed all
800 sanctions imposed for any offense that required the offender to
801 register.
802 4.~~2.~~ The court may grant or deny relief if the offender
803 demonstrates to the court that ~~he or she has not been arrested~~
804 ~~for any crime since release;~~ the requested relief complies with
805 this paragraph, ~~the provisions of~~ the federal Adam Walsh Child
806 Protection and Safety Act of 2006, and any other federal
807 standards applicable to the removal of registration requirements
808 for a sexual offender or required to be met as a condition for
809 the receipt of federal funds by the state; and the court is
810 otherwise satisfied that the offender is not a current or
811 potential threat to public safety. The state attorney in the
812 circuit in which the petition is filed and the department must
813 be given notice of the petition at least 3 weeks before the
814 hearing on the matter. The state attorney may present evidence
815 in opposition to the requested relief or may otherwise
816 demonstrate the reasons why the petition should be denied. If
817 the court grants the petition, the court shall instruct the
818 petitioner to provide the department with a certified copy of
819 the order granting relief. If the court denies the petition, the
820 court may set a future date at which the sexual offender may
821 again petition the court for relief, subject to the standards
822 for relief provided in this subsection.
823 5.~~3.~~ The department shall remove an offender from
824 classification as a sexual offender for purposes of registration

247798

825 if the offender provides to the department a certified copy of
826 the court's written findings or order that indicates that the
827 offender is no longer required to comply with the requirements
828 for registration as a sexual offender.
829 6. For purposes of this paragraph:
830 a. The registration period of a sexual offender sentenced
831 to a term of incarceration or committed to a residential program
832 begins upon the offender's release for the most recent
833 conviction that required the offender to register.
834 b. A sexual offender's registration period is tolled during
835 any period in which the offender is incarcerated, civilly
836 committed, detained pursuant to chapter 985, or committed to a
837 residential program.
838 (b) A sexual offender as defined in sub-subparagraph
839 (1)(a)1.b. must maintain registration with the department for
840 the duration of his or her life until the person provides the
841 department with an order issued by the court that designated the
842 person as a sexual predator, as a sexually violent predator, or
843 by another sexual offender designation in the state or
844 jurisdiction in which the order was issued which states that
845 such designation has been removed or demonstrates to the
846 department that such designation, if not imposed by a court, has
847 been removed by operation of law or court order in the state or
848 jurisdiction in which the designation was made, and provided
849 such person no longer meets the criteria for registration as a
850 sexual offender under the laws of this state.
851 (14)
852 (c) The sheriff's office may determine the appropriate
853 times and days for reporting by the sexual offender, which shall

247798

854 be consistent with the reporting requirements of this
855 subsection. Reregistration shall include any changes to the
856 following information:
857 1. Name; social security number; age; race; sex; date of
858 birth; height; weight; hair and eye color; address of any
859 permanent residence and address of any current temporary
860 residence, within the state or out of state, including a rural
861 route address and a post office box; if no permanent or
862 temporary address, any transient residence within the state;
863 address, location or description, and dates of any current or
864 known future temporary residence within the state or out of
865 state; all ~~any~~ electronic mail addresses ~~address~~ and all
866 Internet identifiers ~~any instant message name~~ required to be
867 provided pursuant to paragraph (4)(d); all home telephone
868 numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~; date
869 and place of any employment; the ~~vehicle~~ make, model, color,
870 registration number, and license tag number of all vehicles
871 owned; fingerprints; palm prints; and photograph. A post office
872 box may ~~shall~~ not be provided in lieu of a physical residential
873 address. The sexual offender must also produce his or her
874 passport, if he or she has a passport, and, if he or she is an
875 alien, must produce or provide information about documents
876 establishing his or her immigration status. The sexual offender
877 must also provide information about any professional licenses he
878 or she may have.
879 2. If the sexual offender is enrolled, volunteering,
880 employed, or carrying on a vocation at an institution of higher
881 education in this state, the sexual offender shall also provide
882 to the department the name, address, and county of each

247798

883 institution, including each campus attended, and the sexual
884 offender's enrollment, volunteer, or employment status.
885 3. If the sexual offender's place of residence is a motor
886 vehicle, trailer, mobile home, or manufactured home, as defined
887 in chapter 320, the sexual offender shall also provide the
888 vehicle identification number; the license tag number; the
889 registration number; and a description, including color scheme,
890 of the motor vehicle, trailer, mobile home, or manufactured
891 home. If the sexual offender's place of residence is a vessel,
892 live-aboard vessel, or houseboat, as defined in chapter 327, the
893 sexual offender shall also provide the hull identification
894 number; the manufacturer's serial number; the name of the
895 vessel, live-aboard vessel, or houseboat; the registration
896 number; and a description, including color scheme, of the
897 vessel, live-aboard vessel or houseboat.
898 4. Any sexual offender who fails to report in person as
899 required at the sheriff's office, ~~or~~ who fails to respond to any
900 address verification correspondence from the department within 3
901 weeks of the date of the correspondence, ~~or~~ who fails to report
902 all electronic mail addresses and all Internet identifiers ~~or~~
903 ~~instant message names~~, or who knowingly provides false
904 registration information by act or omission commits a felony of
905 the third degree, punishable as provided in s. 775.082, s.
906 775.083, or s. 775.084.
907 Section 5. Section 943.04351, Florida Statutes, is amended
908 to read:
909 943.04351 Search of registration information regarding
910 sexual predators and sexual offenders required prior to
911 appointment or employment.—A state agency or governmental

247798

912 subdivision, prior to making any decision to appoint or employ a
913 person to work, whether for compensation or as a volunteer, at
914 any park, playground, day care center, or other place where
915 children regularly congregate, must conduct a search of that
916 person's name or other identifying information against the
917 registration information regarding sexual predators and sexual
918 offenders maintained by the Department of Law Enforcement under
919 s. 943.043. The agency or governmental subdivision may conduct
920 the search using the Internet site maintained by the Department
921 of Law Enforcement. Also, a national search must be conducted
922 through the Dru Sjodin National Sex Offender Public Website
923 maintained by the United States Department of Justice. This
924 section does not apply to those positions or appointments within
925 a state agency or governmental subdivision for which a state and
926 national criminal history background check is conducted.
927 Section 6. Section 943.04354, Florida Statutes, is amended
928 to read:
929 943.04354 Removal of the requirement to register as a
930 sexual offender or sexual predator in special circumstances.—
931 (1) For purposes of this section, a person shall be
932 considered for removal of the requirement to register as a
933 sexual offender or sexual predator only if the person:
934 (a) Was ~~or will be~~ convicted, regardless of adjudication,
935 or adjudicated delinquent of a violation of s. 794.011, s.
936 800.04, s. 827.071, or s. 847.0135(5), or a similar offense in
937 another jurisdiction, ~~or the person committed a violation of s.~~
938 ~~794.011, s. 800.04, s. 827.071, or s. 847.0135(5) for which~~
939 ~~adjudication of guilt was or will be withheld,~~ and the person
940 does not have any other conviction, regardless of adjudication,

247798

941 or adjudication of delinquency~~, or withhold of adjudication of~~
942 ~~guilt~~ for a violation of s. 794.011, s. 800.04, s. 827.071, or
943 s. 847.0135(5), or a similar offense in another jurisdiction;
944 (b)1. Was convicted, regardless of adjudication, or
945 adjudicated delinquent of an offense listed in paragraph (a) and
946 is required to register as a sexual offender or sexual predator
947 solely on the basis of this conviction or adjudication
948 ~~violation~~; or ~~and~~
949 2. Was convicted, regardless of adjudication, or
950 adjudicated delinquent of an offense in another jurisdiction
951 that is similar to an offense listed in paragraph (a) and no
952 longer meets the criteria for registration as a sexual offender
953 or sexual predator under the laws of the jurisdiction where the
954 similar offense occurred; and
955 (c) Is not more than 4 years older than the victim of this
956 violation who was 13 ~~14~~ years of age or older but less ~~not more~~
957 than 18 ~~17~~ years of age at the time the person committed this
958 violation.
959 (2) If a person meets the criteria in subsection (1) ~~and~~
960 ~~the violation of s. 794.011, s. 800.04, s. 827.071, or s.~~
961 ~~847.0135(5) was committed on or after July 1, 2007~~, the person
962 may move the sentencing court or, for persons convicted or
963 adjudicated delinquent of a qualifying offense in another
964 jurisdiction, the criminal circuit court of the circuit in which
965 the person resides ~~that will sentence or dispose of this~~
966 ~~violation~~ to remove the requirement that the person register as
967 a sexual offender or sexual predator. The person must allege in
968 the motion that he or she meets the criteria in subsection (1)
969 and that removal of the registration requirement will not

247798

970 conflict with federal law. Persons convicted or adjudicated
971 delinquent of an offense in another jurisdiction that is similar
972 to an offense listed in paragraph (1)(a) must provide the court
973 written confirmation that he or she is not required to register
974 in the state where the conviction or adjudication occurred. The
975 state attorney and the department must be given notice of the
976 motion at least 21 days before the date of sentencing, ~~or~~
977 disposition of the ~~this~~ violation, or hearing on the motion and
978 may present evidence in opposition to the requested relief or
979 may otherwise demonstrate why the motion should be denied. At
980 sentencing, ~~or~~ disposition of the ~~this~~ violation, or hearing on
981 the motion, the court shall rule on this motion and, if the
982 court determines the person meets the criteria in subsection (1)
983 and the removal of the registration requirement will not
984 conflict with federal law, it may grant the motion and order the
985 removal of the registration requirement. The court shall
986 instruct the person to provide the department a certified copy
987 of the order granting relief. If the court denies the motion,
988 the person is not authorized under this section to petition for
989 removal of the registration requirement.
990 ~~(3)(a) This subsection applies to a person who:~~
991 ~~1. Is not a person described in subsection (2) because the~~
992 ~~violation of s. 794.011, s. 800.04, or s. 827.071 was not~~
993 ~~committed on or after July 1, 2007;~~
994 ~~2. Is subject to registration as a sexual offender or~~
995 ~~sexual predator for a violation of s. 794.011, s. 800.04, or s.~~
996 ~~827.071; and~~
997 ~~3. Meets the criteria in subsection (1).~~
998 ~~(b) A person may petition the court in which the sentence~~

247798

999 ~~or disposition for the violation of s. 794.011, s. 800.04, or s.~~
1000 ~~827.071 occurred for removal of the requirement to register as a~~
1001 ~~sexual offender or sexual predator. The person must allege in~~
1002 ~~the petition that he or she meets the criteria in subsection (1)~~
1003 ~~and removal of the registration requirement will not conflict~~
1004 ~~with federal law. The state attorney must be given notice of the~~
1005 ~~petition at least 21 days before the hearing on the petition and~~
1006 ~~may present evidence in opposition to the requested relief or~~
1007 ~~may otherwise demonstrate why the petition should be denied. The~~
1008 ~~court shall rule on the petition and, if the court determines~~
1009 ~~the person meets the criteria in subsection (1) and removal of~~
1010 ~~the registration requirement will not conflict with federal law,~~
1011 ~~it may grant the petition and order the removal of the~~
1012 ~~registration requirement. If the court denies the petition, the~~
1013 ~~person is not authorized under this section to file any further~~
1014 ~~petition for removal of the registration requirement.~~
1015 (3) ~~(4)~~ If a person provides to the Department of Law
1016 Enforcement a certified copy of the court's order removing the
1017 requirement that the person register as a sexual offender or
1018 sexual predator for the violation of s. 794.011, s. 800.04, s.
1019 827.071, or s. 847.0135(5), or a similar offense in another
1020 jurisdiction, the registration requirement will not apply to the
1021 person and the department shall remove all information about the
1022 person from the public registry of sexual offenders and sexual
1023 predators maintained by the department. However, the removal of
1024 this information from the public registry does not mean that the
1025 public is denied access to information about the person's
1026 criminal history or record that is otherwise available as a
1027 public record.

247798

1028 Section 7. Subsection (2) and paragraph (a) of subsection
1029 (3) of section 943.0437, Florida Statutes, are amended to read:
1030 943.0437 Commercial social networking websites.—
1031 (2) The department may provide information relating to
1032 electronic mail addresses and Internet identifiers ~~instant~~
1033 ~~message names~~ maintained as part of the sexual offender registry
1034 to commercial social networking websites or third parties
1035 designated by commercial social networking websites. The
1036 commercial social networking website may use this information
1037 for the purpose of comparing registered users and screening
1038 potential users of the commercial social networking website
1039 against the list of electronic mail addresses and Internet
1040 identifiers ~~instant message names~~ provided by the department.
1041 (3) This section shall not be construed to impose any civil
1042 liability on a commercial social networking website for:
1043 (a) Any action voluntarily taken in good faith to remove or
1044 disable any profile of a registered user associated with an
1045 electronic mail address or Internet identifier ~~instant message~~
1046 ~~name~~ contained in the sexual offender registry.
1047 Section 8. Paragraphs (b) and (d) of subsection (1) and
1048 paragraph (a) of subsection (3) of section 944.606, Florida
1049 Statutes, are amended to read:
1050 944.606 Sexual offenders; notification upon release.—
1051 (1) As used in this section:
1052 (b) “Sexual offender” means a person who has been convicted
1053 of committing, or attempting, soliciting, or conspiring to
1054 commit, any of the criminal offenses proscribed in the following
1055 statutes in this state or similar offenses in another
1056 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.

247798

1057 787.02, or s. 787.025(2)(c), where the victim is a minor and the
1058 defendant is not the victim's parent or guardian; s. 794.011,
1059 excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.045; s.
1060 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.
1061 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s.
1062 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar
1063 offense committed in this state which has been redesignated from
1064 a former statute number to one of those listed in this
1065 subsection, when the department has received verified
1066 information regarding such conviction; an offender's
1067 computerized criminal history record is not, in and of itself,
1068 verified information.
1069 (d) "Internet identifier ~~Instant message name~~" has the same
1070 meaning as provided in s. 775.21 ~~means an identifier that allows~~
1071 ~~a person to communicate in real time with another person using~~
1072 ~~the Internet~~.
1073 (3)(a) The department must provide information regarding
1074 any sexual offender who is being released after serving a period
1075 of incarceration for any offense, as follows:
1076 1. The department must provide: the sexual offender's name,
1077 any change in the offender's name by reason of marriage or other
1078 legal process, and any alias, if known; the correctional
1079 facility from which the sexual offender is released; the sexual
1080 offender's social security number, race, sex, date of birth,
1081 height, weight, and hair and eye color; address of any planned
1082 permanent residence or temporary residence, within the state or
1083 out of state, including a rural route address and a post office
1084 box; if no permanent or temporary address, any transient
1085 residence within the state; address, location or description,

247798

1086 and dates of any known future temporary residence within the
1087 state or out of state; date and county of sentence and each
1088 crime for which the offender was sentenced; a copy of the
1089 offender's fingerprints, palm prints, and a digitized photograph
1090 taken within 60 days before release; the date of release of the
1091 sexual offender; all ~~any~~ electronic mail addresses ~~address~~ and
1092 all Internet identifiers ~~any instant message name~~ required to be
1093 provided pursuant to s. 943.0435(4)(d); all ~~and~~ home telephone
1094 numbers ~~number~~ and ~~any~~ cellular telephone numbers; information
1095 about any professional licenses the offender may have, if known;
1096 and passport information, if he or she has a passport, and, if
1097 he or she is an alien, information about documents establishing
1098 his or her immigration status ~~number~~. The department shall
1099 notify the Department of Law Enforcement if the sexual offender
1100 escapes, absconds, or dies. If the sexual offender is in the
1101 custody of a private correctional facility, the facility shall
1102 take the digitized photograph of the sexual offender within 60
1103 days before the sexual offender's release and provide this
1104 photograph to the Department of Corrections and also place it in
1105 the sexual offender's file. If the sexual offender is in the
1106 custody of a local jail, the custodian of the local jail shall
1107 register the offender within 3 business days after intake of the
1108 offender for any reason and upon release, and shall notify the
1109 Department of Law Enforcement of the sexual offender's release
1110 and provide to the Department of Law Enforcement the information
1111 specified in this paragraph and any information specified in
1112 subparagraph 2. that the Department of Law Enforcement requests.
1113 2. The department may provide any other information deemed
1114 necessary, including criminal and corrections records,

247798

1115 nonprivileged personnel and treatment records, when available.
1116 Section 9. Paragraphs (a) and (f) of subsection (1),
1117 subsection (4), and paragraph (c) of subsection (13) of section
1118 944.607, Florida Statutes, are amended to read:
1119 944.607 Notification to Department of Law Enforcement of
1120 information on sexual offenders.—
1121 (1) As used in this section, the term:
1122 (a) "Sexual offender" means a person who is in the custody
1123 or control of, or under the supervision of, the department or is
1124 in the custody of a private correctional facility:
1125 1. On or after October 1, 1997, as a result of a conviction
1126 for committing, or attempting, soliciting, or conspiring to
1127 commit, any of the criminal offenses proscribed in the following
1128 statutes in this state or similar offenses in another
1129 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.
1130 787.02, or s. 787.025(2)(c), where the victim is a minor and the
1131 defendant is not the victim's parent or guardian; s. 794.011,
1132 excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s.
1133 796.045; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.
1134 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s.
1135 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar
1136 offense committed in this state which has been redesignated from
1137 a former statute number to one of those listed in this
1138 paragraph; or
1139 2. Who establishes or maintains a residence in this state
1140 and who has not been designated as a sexual predator by a court
1141 of this state but who has been designated as a sexual predator,
1142 as a sexually violent predator, or by another sexual offender
1143 designation in another state or jurisdiction and was, as a

247798

1144 result of such designation, subjected to registration or
1145 community or public notification, or both, or would be if the
1146 person were a resident of that state or jurisdiction, without
1147 regard as to whether the person otherwise meets the criteria for
1148 registration as a sexual offender.
1149 (f) "Internet identifier ~~Instant message name~~" has the same
1150 meaning as provided in s. 775.21 ~~means an identifier that allows~~
1151 ~~a person to communicate in real time with another person using~~
1152 ~~the Internet~~.
1153 (4) A sexual offender, as described in this section, who is
1154 under the supervision of the Department of Corrections but is
1155 not incarcerated must register with the Department of
1156 Corrections within 3 business days after sentencing for a
1157 registrable offense and otherwise provide information as
1158 required by this subsection.
1159 (a) The sexual offender shall provide his or her name; date
1160 of birth; social security number; race; sex; height; weight;
1161 hair and eye color; tattoos or other identifying marks; all ~~any~~
1162 electronic mail addresses ~~address~~ and all Internet identifiers
1163 ~~any instant message name~~ required to be provided pursuant to s.
1164 943.0435(4)(d); the make, model, color, registration number, and
1165 license tag number of all vehicles owned; permanent or legal
1166 residence and address of temporary residence within the state or
1167 out of state while the sexual offender is under supervision in
1168 this state, including any rural route address or post office
1169 box; if no permanent or temporary address, any transient
1170 residence within the state; and address, location or
1171 description, and dates of any current or known future temporary
1172 residence within the state or out of state. The sexual offender

247798

1173 must also produce his or her passport, if he or she has a
1174 passport, and, if he or she is an alien, must produce or provide
1175 information about documents establishing his or her immigration
1176 status. The sexual offender must also provide information about
1177 any professional licenses he or she may have. The Department of
1178 Corrections shall verify the address of each sexual offender in
1179 the manner described in ss. 775.21 and 943.0435. The department
1180 shall report to the Department of Law Enforcement any failure by
1181 a sexual predator or sexual offender to comply with registration
1182 requirements.
1183 (b) If the sexual offender is enrolled, employed,
1184 volunteering, or carrying on a vocation at an institution of
1185 higher education in this state, the sexual offender shall
1186 provide the name, address, and county of each institution,
1187 including each campus attended, and the sexual offender's
1188 enrollment, volunteer, or employment status. Each change in
1189 enrollment, volunteer, or employment status shall be reported to
1190 the department within 48 hours after the change in status. The
1191 Department of Corrections shall promptly notify each institution
1192 of the sexual offender's presence and any change in the sexual
1193 offender's enrollment, volunteer, or employment status.
1194 (13)
1195 (c) The sheriff's office may determine the appropriate
1196 times and days for reporting by the sexual offender, which shall
1197 be consistent with the reporting requirements of this
1198 subsection. Reregistration shall include any changes to the
1199 following information:
1200 1. Name; social security number; age; race; sex; date of
1201 birth; height; weight; hair and eye color; address of any

247798

1202 permanent residence and address of any current temporary
1203 residence, within the state or out of state, including a rural
1204 route address and a post office box; if no permanent or
1205 temporary address, any transient residence; address, location or
1206 description, and dates of any current or known future temporary
1207 residence within the state or out of state; all ~~any~~ electronic
1208 mail addresses ~~address~~ and all Internet identifiers ~~any instant~~
1209 ~~message name~~ required to be provided pursuant to s.
1210 943.0435(4)(d); date and place of any employment; the ~~vehicle~~
1211 make, model, color, registration number, and license tag number
1212 of all vehicles owned; fingerprints; palm prints; and
1213 photograph. A post office box shall not be provided in lieu of a
1214 physical residential address. The sexual offender must also
1215 produce his or her passport, if he or she has a passport, and,
1216 if he or she is an alien, must produce or provide information
1217 about documents establishing his or her immigration status. The
1218 sexual offender must also provide information about any
1219 professional licenses he or she may have.
1220 2. If the sexual offender is enrolled, employed,
1221 volunteering, or carrying on a vocation at an institution of
1222 higher education in this state, the sexual offender shall also
1223 provide to the department the name, address, and county of each
1224 institution, including each campus attended, and the sexual
1225 offender's enrollment, volunteer, or employment status.
1226 3. If the sexual offender's place of residence is a motor
1227 vehicle, trailer, mobile home, or manufactured home, as defined
1228 in chapter 320, the sexual offender shall also provide the
1229 vehicle identification number; the license tag number; the
1230 registration number; and a description, including color scheme,

247798

1231 of the motor vehicle, trailer, mobile home, or manufactured
1232 home. If the sexual offender's place of residence is a vessel,
1233 live-aboard vessel, or houseboat, as defined in chapter 327, the
1234 sexual offender shall also provide the hull identification
1235 number; the manufacturer's serial number; the name of the
1236 vessel, live-aboard vessel, or houseboat; the registration
1237 number; and a description, including color scheme, of the
1238 vessel, live-aboard vessel or houseboat.
1239 4. Any sexual offender who fails to report in person as
1240 required at the sheriff's office, ~~or~~ who fails to respond to any
1241 address verification correspondence from the department within 3
1242 weeks of the date of the correspondence, ~~or~~ who fails to report
1243 all electronic mail addresses and all Internet identifiers ~~or~~
1244 ~~instant message names~~, or who knowingly provides false
1245 registration information by act or omission commits a felony of
1246 the third degree, punishable as provided in s. 775.082, s.
1247 775.083, or s. 775.084.
1248 Section 10. Subsection (11) of section 947.005, Florida
1249 Statutes, is amended to read:
1250 947.005 Definitions.—As used in this chapter, unless the
1251 context clearly indicates otherwise:
1252 (11) "Risk assessment" means an assessment completed by a
1253 ~~an independent~~ qualified practitioner to evaluate the level of
1254 risk associated when a sex offender has contact with a child.
1255 Section 11. Section 948.31, Florida Statutes, is amended to
1256 read:
1257 948.31 Evaluation and treatment of sexual predators and
1258 offenders on probation or community control.—The court may ~~shall~~
1259 require ~~an evaluation by a qualified practitioner to determine~~

247798

1260 ~~the need of a probationer or community controllee for treatment.~~
1261 ~~If the court determines that a need therefor is established by~~
1262 ~~the evaluation process, the court shall require sexual offender~~
1263 ~~treatment as a term or condition of probation or community~~
1264 ~~control for~~ any probationer or community controllee ~~person~~ who
1265 is required to register as a sexual predator under s. 775.21 or
1266 sexual offender under s. 943.0435, s. 944.606, or s. 944.607 to
1267 undergo an evaluation, at the probationer or community
1268 controllee's expense, by a qualified practitioner to determine
1269 whether such person needs sexual offender treatment. If the
1270 qualified practitioner determines that sexual offender treatment
1271 is needed and recommends treatment, the probationer or community
1272 controllee must successfully complete and pay for the treatment.
1273 Such treatment must ~~shall be required to~~ be obtained from a
1274 qualified practitioner as defined in s. 948.001. Treatment may
1275 not be administered by a qualified practitioner who has been
1276 convicted or adjudicated delinquent of committing, or
1277 attempting, soliciting, or conspiring to commit, any offense
1278 that is listed in s. 943.0435(1)(a)1.a.(I). ~~The court shall~~
1279 ~~impose a restriction against contact with minors if sexual~~
1280 ~~offender treatment is recommended. The evaluation and~~
1281 ~~recommendations for treatment of the probationer or community~~
1282 ~~controllee shall be provided to the court for review.~~
1283 Section 12. Paragraph (a) of subsection (3) of section
1284 985.481, Florida Statutes, is amended to read:
1285 985.481 Sexual offenders adjudicated delinquent;
1286 notification upon release.—
1287 (3)(a) The department must provide information regarding
1288 any sexual offender who is being released after serving a period

247798

1289 of residential commitment under the department for any offense,
1290 as follows:
1291 1. The department must provide the sexual offender's name,
1292 any change in the offender's name by reason of marriage or other
1293 legal process, and any alias, if known; the correctional
1294 facility from which the sexual offender is released; the sexual
1295 offender's social security number, race, sex, date of birth,
1296 height, weight, and hair and eye color; the make, model, color,
1297 registration number, and license tag number of all vehicles
1298 owned, if known; address of any planned permanent residence or
1299 temporary residence, within the state or out of state, including
1300 a rural route address and a post office box; if no permanent or
1301 temporary address, any transient residence within the state;
1302 address, location or description, and dates of any known future
1303 temporary residence within the state or out of state; date and
1304 county of disposition and each crime for which there was a
1305 disposition; a copy of the offender's fingerprints and a
1306 digitized photograph taken within 60 days before release; the
1307 date of release of the sexual offender; all ~~and~~ home telephone
1308 numbers ~~number~~ and ~~any~~ cellular telephone numbers; information
1309 about any professional licenses the offender may have, if known;
1310 and passport information, if he or she has a passport, and, if
1311 he or she is an alien, information about documents establishing
1312 his or her immigration status ~~number~~. The department shall
1313 notify the Department of Law Enforcement if the sexual offender
1314 escapes, absconds, or dies. If the sexual offender is in the
1315 custody of a private correctional facility, the facility shall
1316 take the digitized photograph of the sexual offender within 60
1317 days before the sexual offender's release and also place it in

247798

1318 the sexual offender's file. If the sexual offender is in the
1319 custody of a local jail, the custodian of the local jail shall
1320 register the offender within 3 business days after intake of the
1321 offender for any reason and upon release, and shall notify the
1322 Department of Law Enforcement of the sexual offender's release
1323 and provide to the Department of Law Enforcement the information
1324 specified in this subparagraph and any information specified in
1325 subparagraph 2. which the Department of Law Enforcement
1326 requests.
1327 2. The department may provide any other information
1328 considered necessary, including criminal and delinquency
1329 records, when available.
1330 Section 13. Subsection (4) and paragraph (b) of subsection
1331 (13) of section 985.4815, Florida Statutes, are amended to read:
1332 985.4815 Notification to Department of Law Enforcement of
1333 information on juvenile sexual offenders.—
1334 (4) A sexual offender, as described in this section, who is
1335 under the supervision of the department but who is not committed
1336 must register with the department within 3 business days after
1337 adjudication and disposition for a registrable offense and
1338 otherwise provide information as required by this subsection.
1339 (a) The sexual offender shall provide his or her name; date
1340 of birth; social security number; race; sex; height; weight;
1341 hair and eye color; tattoos or other identifying marks; <u>the</u>
1342 <u>make, model, color, registration number, and license tag number</u>
1343 <u>of all vehicles owned;</u> permanent or legal residence and address
1344 of temporary residence within the state or out of state while
1345 the sexual offender is in the care or custody or under the
1346 jurisdiction or supervision of the department in this state,

247798

1347 including any rural route address or post office box; if no
1348 permanent or temporary address, any transient residence;
1349 address, location or description, and dates of any current or
1350 known future temporary residence within the state or out of
1351 state; and the name and address of each school attended. The
1352 sexual offender must also produce his or her passport, if he or
1353 she has a passport, and, if he or she is an alien, must produce
1354 or provide information about documents establishing his or her
1355 immigration status. The offender must also provide information
1356 about any professional licenses he or she may have. The
1357 department shall verify the address of each sexual offender and
1358 shall report to the Department of Law Enforcement any failure by
1359 a sexual offender to comply with registration requirements.
1360 (b) If the sexual offender is enrolled, employed,
1361 volunteering, or carrying on a vocation at an institution of
1362 higher education in this state, the sexual offender shall
1363 provide the name, address, and county of each institution,
1364 including each campus attended, and the sexual offender's
1365 enrollment, volunteer, or employment status. Each change in
1366 enrollment, volunteer, or employment status shall be reported to
1367 the department within 48 hours after the change in status. The
1368 department shall promptly notify each institution of the sexual
1369 offender's presence and any change in the sexual offender's
1370 enrollment, volunteer, or employment status.
1371 (13)
1372 (b) The sheriff's office may determine the appropriate
1373 times and days for reporting by the sexual offender, which shall
1374 be consistent with the reporting requirements of this
1375 subsection. Reregistration shall include any changes to the

247798

1376 following information:
1377 1. Name; social security number; age; race; sex; date of
1378 birth; height; weight; hair and eye color; fingerprints; palm
1379 prints; address of any permanent residence and address of any
1380 current temporary residence, within the state or out of state,
1381 including a rural route address and a post office box; if no
1382 permanent or temporary address, any transient residence;
1383 address, location or description, and dates of any current or
1384 known future temporary residence within the state or out of
1385 state; passport information, if he or she has a passport, and,
1386 if he or she is an alien, information about documents
1387 establishing his or her immigration status; name and address of
1388 each school attended; date and place of any employment; the
1389 ~~vehicle~~ make, model, color, registration number, and license tag
1390 number of all vehicles owned; ~~fingerprints;~~ and photograph. A
1391 post office box shall not be provided in lieu of a physical
1392 residential address. The offender must also provide information
1393 about any professional licenses he or she may have.
1394 2. If the sexual offender is enrolled, employed,
1395 volunteering, or carrying on a vocation at an institution of
1396 higher education in this state, the sexual offender shall also
1397 provide to the department the name, address, and county of each
1398 institution, including each campus attended, and the sexual
1399 offender's enrollment, volunteer, or employment status.
1400 3. If the sexual offender's place of residence is a motor
1401 vehicle, trailer, mobile home, or manufactured home, as defined
1402 in chapter 320, the sexual offender shall also provide the
1403 vehicle identification number; the license tag number; the
1404 registration number; and a description, including color scheme,

247798

1405 of the motor vehicle, trailer, mobile home, or manufactured
1406 home. If the sexual offender's place of residence is a vessel,
1407 live-aboard vessel, or houseboat, as defined in chapter 327, the
1408 sexual offender shall also provide the hull identification
1409 number; the manufacturer's serial number; the name of the
1410 vessel, live-aboard vessel, or houseboat; the registration
1411 number; and a description, including color scheme, of the
1412 vessel, live-aboard vessel, or houseboat.
1413 4. Any sexual offender who fails to report in person as
1414 required at the sheriff's office, ~~or~~ who fails to respond to any
1415 address verification correspondence from the department within 3
1416 weeks after the date of the correspondence, <u>or who knowingly</u>
1417 <u>provides false registration information by act or omission</u>
1418 commits a felony of the third degree, punishable as provided in
1419 ss. 775.082, 775.083, and 775.084.
1420 Section 14. Subsection (13) is added to section 947.1405,
1421 Florida Statutes, to read:
1422 947.1405 Conditional release program.—
1423 <u>(13) In addition to all other conditions imposed, for a</u>
1424 <u>releasee who is subject to conditional release for a crime that</u>
1425 <u>was committed on or after October 1, 2012, and who has been</u>
1426 <u>convicted at any time of a violation of s. 800.04(7)(b) or s.</u>
1427 <u>847.0135(4), or a similar offense in another jurisdiction, the</u>
1428 <u>commission must order electronic monitoring for the duration of</u>
1429 <u>the releasee's supervision.</u>
1430 Section 15. Subsection (5) is added to section 948.30,
1431 Florida Statutes, to read:
1432 948.30 Additional terms and conditions of probation or
1433 community control for certain sex offenses.—Conditions imposed

247798

1434 pursuant to this section do not require oral pronouncement at
1435 the time of sentencing and shall be considered standard
1436 conditions of probation or community control for offenders
1437 specified in this section.
1438 (5) Effective for a probationer or community controllee
1439 whose crime was committed on or after October 1, 2012, and who:
1440 (a) Is placed on probation or community control for a
1441 violation of s. 800.04(7)(b) or s. 847.0135(4); or
1442 (b) Has previously been convicted of a violation of s.
1443 800.04(7)(b) or s. 847.0135(4), or a similar offense in another
1444 jurisdiction,
1445
1446 the court must order, in addition to any other requirements of
1447 this section, mandatory electronic monitoring as a condition of
1448 the probation or community control supervision.
1449 Section 16. Paragraphs (g) and (i) of subsection (3) of
1450 section 921.0022, Florida Statutes, are amended to read:
1451 921.0022 Criminal Punishment Code; offense severity ranking
1452 chart.—
1453 (3) OFFENSE SEVERITY RANKING CHART
1454 (g) LEVEL 7
1455

Florida Statute	Felony Degree	Description
316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.

247798

1458

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.

1459

327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.

1460

402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.

1461

409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; $10,000 or less.

1462

409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than $10,000, but less than $50,000.

1463

456.065(2)	3rd	Practicing a health care profession without a license.

1464

456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.

247798

1465
458.327(1) 3rd Practicing medicine without a license.
1466
459.013(1) 3rd Practicing osteopathic medicine without a license.
1467
460.411(1) 3rd Practicing chiropractic medicine without a license.
1468
461.012(1) 3rd Practicing podiatric medicine without a license.
1469
462.17 3rd Practicing naturopathy without a license.
1470
463.015(1) 3rd Practicing optometry without a license.
1471
464.016(1) 3rd Practicing nursing without a license.
1472
465.015(2) 3rd Practicing pharmacy without a license.
1473
466.026(1) 3rd Practicing dentistry or dental hygiene without a license.
1474
467.201 3rd Practicing midwifery without a license.
1475
468.366 3rd Delivering respiratory care services without a license.
1476

247798

	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
1477			
	483.901(9)	3rd	Practicing medical physics without a license.
1478			
	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
1479			
	484.053	3rd	Dispensing hearing aids without a license.
1480			
	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
1481			
	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.
1482			
	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.
1483			
	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less

247798

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

247798

		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.
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.

247798

1500
784.082(1) 1st Aggravated battery by detained person on visitor or other detainee.
1501
784.083(1) 1st Aggravated battery on code inspector.
1502
790.07(4) 1st Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
1503
790.16(1) 1st Discharge of a machine gun under specified circumstances.
1504
790.165(2) 2nd Manufacture, sell, possess, or deliver hoax bomb.
1505
790.165(3) 2nd Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
1506
790.166(3) 2nd Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
1507
790.166(4) 2nd Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
1508

247798

790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
796.03	2nd	Procuring any person under 18 ~~16~~ years for prostitution.
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 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 explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.

247798

810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
812.014(2)(a)1.	1st	Property stolen, valued at $100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than $50,000, grand theft in 2nd degree.
812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
812.0145(2)(a)	1st	Theft from person 65 years of age or older; $50,000 or more.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.

247798

1524

812.131(2)(a)	2nd	Robbery by sudden snatching.

1525

812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.

1526

817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.

1527

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

1528

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

1529

817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.

1530

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

1531

825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $20,000 or more, but less than

247798

		$100,000.
827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
838.015	2nd	Bribery.
838.016	2nd	Unlawful compensation or reward for official behavior.
838.021(3)(a)	2nd	Unlawful harm to a public servant.
838.22	2nd	Bid tampering.
847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
872.06	2nd	Abuse of a dead human body.

247798

1542

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

1543

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 of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

1544

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.

1545

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).

1546

893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.

1547

247798

893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135 (1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
893.135 (1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.

247798

893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.
943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
943.0435(14)	3rd	Sexual offender; failure to report and

247798

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

(i) LEVEL 9

247798

1573

Florida Statute	Felony Degree	Description
316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
327.35(3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
409.920 (2)(b)1.c.	1st	Medicaid provider fraud; $50,000 or more.
499.0051(9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding $100,000 by money transmitter.
560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding $100,000.
655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding $100,000 by financial institution.

247798

1581
775.0844 1st Aggravated white collar crime.
1582
782.04(1) 1st Attempt, conspire, or solicit to commit premeditated murder.
1583
782.04(3) 1st,PBL Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
1584
782.051(1) 1st Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
1585
782.07(2) 1st Aggravated manslaughter of an elderly person or disabled adult.
1586
787.01(1)(a)1. 1st,PBL Kidnapping; hold for ransom or reward or as a shield or hostage.
1587
787.01(1)(a)2. 1st,PBL Kidnapping with intent to commit or facilitate commission of any felony.
1588
787.01(1)(a)4. 1st,PBL Kidnapping with intent to interfere with performance of any governmental or political function.
1589

247798

787.02(3)(a)	1st,PBL	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
790.161	1st	Attempted capital destructive device offense.
790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.

247798

794.08(2)	1st	Female genital mutilation; victim younger than 18 years of age.
800.04(5)(b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
812.135(2)(b)	1st	Home-invasion robbery with weapon.
817.568(7)	2nd, PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.
827.03(2)	1st	Aggravated child abuse.
847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.

247798

859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.
893.135	1st	Attempted capital trafficking offense.
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
893.135 (1)(h)1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.

247798

893.135 (1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
893.135 (1)(k)2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
896.101(5)(c)	1st	Money laundering, financial instruments totaling or exceeding $100,000.
896.104(4)(a)3.	1st	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding $100,000.

Section 17. 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 sex offenses; amending s. 775.21, F.S.; replacing the definition of the term "instant message name" with the definition of the term "Internet identifier"; providing that voluntary disclosure of specified information waives a disclosure exemption for such information; conforming provisions; adding additional offenses to the list of

247798

1633 sexual predator qualifying offenses; requiring
1634 disclosure of additional information during the sexual
1635 predator registration process; requiring that a sexual
1636 predator who is unable to secure or update a driver
1637 license or identification card within a specified
1638 period must report specified information to the local
1639 sheriff’s office within a specified period after such
1640 change with confirmation that he or she also reported
1641 such information to the Department of Highway Safety
1642 and Motor Vehicles; revising reporting requirements if
1643 a sexual predator plans to leave the United States for
1644 more than a specified period; providing criminal
1645 penalties for knowingly providing false registration
1646 information by act or omission; amending s. 800.03,
1647 F.S.; providing enhanced penalties for third or
1648 subsequent indecent exposure violations; amending s.
1649 903.046, F.S.; requiring a court considering whether
1650 to release a defendant on bail to determine whether
1651 the defendant is subject to registration as a sexual
1652 offender or sexual predator and, if so, to hold the
1653 defendant without bail until the first appearance on
1654 the case; providing an exception; amending s.
1655 943.0435, F.S.; adding additional offenses to the list
1656 of sexual offender qualifying offenses; replacing the
1657 definition of the term “instant message name” with the
1658 definition of the term “Internet identifier”;
1659 conforming provisions; requiring disclosure of
1660 additional sexual offender registration information;
1661 requiring that a sexual offender who is unable to

247798

1662 secure or update a driver license or identification
1663 card within a specified period must report specified
1664 information to the local sheriff's office within a
1665 specified period of such change with confirmation that
1666 he or she also reported such information to the
1667 Department of Highway Safety and Motor Vehicles;
1668 providing additional requirements for sexual offenders
1669 intending to reside outside of the United States;
1670 revising criteria applicable to provisions allowing
1671 removal from the requirement to register as a sexual
1672 offender; providing criminal penalties for knowingly
1673 providing false registration information by act or
1674 omission; amending s. 943.04351, F.S.; requiring a
1675 specified national search of registration information
1676 regarding sexual predators and sexual offenders prior
1677 to appointment or employment of persons by state
1678 agencies and governmental subdivisions; amending s.
1679 943.04354, F.S.; revising the criteria applicable to
1680 provisions allowing removal of the requirement to
1681 register as a sexual offender or sexual predator;
1682 amending s. 943.0437, F.S.; replacing the term
1683 "instant message name" with the term "Internet
1684 identifier"; amending ss. 944.606 and 944.607, F.S.;
1685 adding additional offenses to the list of sexual
1686 offender qualifying offenses; replacing the definition
1687 of the term "instant message name" with the definition
1688 of the term "Internet identifier"; conforming
1689 provisions; requiring disclosure of additional
1690 registration information; providing criminal penalties

247798

1691 for knowingly providing false registration information
1692 by act or omission; amending s. 947.005, F.S.;
1693 revising the definition of the term “risk assessment”;
1694 amending s. 948.31, F.S.; authorizing the court to
1695 require sexual offenders and sexual predators who are
1696 on probation or community control to undergo an
1697 evaluation to determine whether the offender or
1698 predator needs sexual offender treatment; requiring
1699 the probationer or community controllee to pay for the
1700 treatment; removing a provision prohibiting contact
1701 with minors if sexual offender treatment is
1702 recommended; amending ss. 985.481 and 985.4815, F.S.;
1703 requiring disclosure of additional registration
1704 information by certain sexual offenders adjudicated
1705 delinquent and certain juvenile sexual offenders;
1706 providing criminal penalties for knowingly providing
1707 false registration information by act or omission;
1708 amending s. 947.1405, F.S.; requiring the commission
1709 to order electronic monitoring for certain conditional
1710 releasees; amending s. 948.30, F.S.; requiring the
1711 court to order electronic monitoring for certain
1712 offenders; amending s. 921.0022, F.S.; correcting
1713 references; providing an effective date.

By Senator Altman

24-01342-12 20121800__

A bill to be entitled

An act relating to criminal offenders; amending s. 775.21, F.S.; replacing the definition of the term “instant message name” with the definition of the term “Internet identifier”; providing that voluntary disclosure of specified information waives a disclosure exemption for such information; conforming provisions; requiring disclosure of passport and immigration status information; requiring that a sexual predator who is unable to secure or update a driver license or identification card within a specified period must report specified information to the local sheriff’s office within a specified period after such change with confirmation that he or she also reported such information to the Department of Highway Safety and Motor Vehicles; requiring a sexual predator released in a homeless or transient status to report in person to the sheriff’s office in the county in which he or she is located within a specified period; revising reporting requirements if a sexual predator plans to leave the United States for more than a specified period; amending s. 943.0435, F.S.; replacing the definition of the term “instant message name” with the definition of the term “Internet identifier”; conforming provisions; requiring disclosure of passport and immigration status information; requiring that a sexual predator who is unable to secure or update a driver license or identification card within a specified period must

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

24-01342-12 20121800__

report specified information to the local sheriff’s office within a specified period of such change with confirmation that he or she also reported such information to the Department of Highway Safety and Motor Vehicles; providing additional requirements for sexual offenders intending to reside outside of the United States; amending s. 943.04351, F.S.; requiring a specified national search of registration information regarding sexual predators and sexual offenders prior to appointment or employment of persons by state agencies and governmental subdivisions; amending s. 943.04354, F.S.; revising the age range applicable to provisions allowing removal of the requirement to register as a sexual offender or sexual predator in certain circumstances; revising eligibility requirements for removal of the requirement to register as a sexual offender or sexual predator; amending s. 943.0437, F.S.; replacing the definition of the term “instant message name” with the definition of the term “Internet identifier”; conforming provisions; amending ss. 944.606 and 944.607, F.S.; replacing the definition of the term “instant message name” with the definition of the term “Internet identifier”; conforming provisions; requiring disclosure of passport and immigration status information; amending s. 947.005, F.S.; revising the definition of the term “risk assessment”; amending s. 947.1405, F.S.; requiring that certain conditional releasees be subject to electronic

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59 monitoring; amending s. 948.30, F.S.; providing
60 restrictions for certain persons who receive a
61 designation equivalent to sexual predator in another
62 jurisdiction or who are convicted of certain offenses
63 in another jurisdiction; providing for electronic
64 monitoring of certain persons; subjecting persons
65 convicted of specified offenses to additional
66 restrictions; amending s. 948.31, F.S.; providing that
67 conditions imposed under that section do not require
68 oral pronouncement at the time of sentencing and shall
69 be considered standard conditions of probation or
70 community control for certain offenders; revising
71 provisions relating to evaluation of persons subject
72 to registration as sexual offenders or sexual
73 predators; authorizing a court to require treatment
74 from a qualified practitioner in certain
75 circumstances; authorizing a court to restrict the
76 probationer or community controllee from having
77 unsupervised contact with a minor or prohibit him or
78 her from residing with a minor in certain
79 circumstances; amending ss. 985.481 and 985.4815,
80 F.S.; requiring disclosure of passport and immigration
81 status information by certain sexual offenders
82 adjudicated delinquent and certain juvenile sexual
83 offenders; amending s. 903.046, F.S.; requiring a
84 court considering whether to release a defendant on
85 bail to determine whether the defendant is subject to
86 registration as a sexual offender or sexual predator
87 and, if so, to hold the defendant without bail until

88 the first appearance on the case; providing an
89 exception; amending s. 948.012, F.S.; revising
90 language concerning commencement of the period of
91 probation or community control; amending s. 948.039,
92 F.S.; providing that a probation or community control
93 period commences immediately upon the release of the
94 offender from incarceration; providing severability;
95 providing effective dates.
96
97 Be It Enacted by the Legislature of the State of Florida:
98
99 Section 1. Paragraph (i) of subsection (2), paragraphs (a),
100 (e), (g), (i), and (j) of subsection (6), paragraph (a) of
101 subsection (8), and paragraph (a) of subsection (10) of section
102 775.21, Florida Statutes, are amended to read:
103 775.21 The Florida Sexual Predators Act.—
104 (2) DEFINITIONS.—As used in this section, the term:
105 (i) "Internet identifier ~~Instant message name~~" means all
106 electronic mail, chat, instant messenger, social networking, or
107 similar names used for Internet communication, but does not
108 include a date of birth, social security number, or personal
109 identification number (PIN) ~~an identifier that allows a person~~
110 ~~to communicate in real time with another person using the~~
111 ~~Internet~~. Voluntary disclosure by the sexual predator of his or
112 her date of birth, social security number, or personal
113 identification number (PIN) as an Internet identifier waives the
114 disclosure exemption in this paragraph for such personal
115 information.
116 (6) REGISTRATION.—

117 (a) A sexual predator must register with the department
118 through the sheriff's office by providing the following
119 information to the department:
120 1. Name; social security number; age; race; sex; date of
121 birth; height; weight; hair and eye color; photograph; address
122 of legal residence and address of any current temporary
123 residence, within the state or out of state, including a rural
124 route address and a post office box; if no permanent or
125 temporary address, any transient residence within the state;
126 address, location or description, and dates of any current or
127 known future temporary residence within the state or out of
128 state; all ~~any~~ electronic mail addresses ~~address~~ and all
129 Internet identifiers ~~any instant message name~~ required to be
130 provided pursuant to subparagraph (g)4.; all home telephone
131 numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~; date
132 and place of any employment; date and place of each conviction;
133 fingerprints; and a brief description of the crime or crimes
134 committed by the offender. A post office box shall not be
135 provided in lieu of a physical residential address. The sexual
136 predator must also produce or provide information about his or
137 her passport, if he or she has a passport, and, if he or she is
138 an alien, must produce or provide information about documents
139 establishing his or her immigration status.
140 a. If the sexual predator's place of residence is a motor
141 vehicle, trailer, mobile home, or manufactured home, as defined
142 in chapter 320, the sexual predator shall also provide to the
143 department written notice of the vehicle identification number;
144 the license tag number; the registration number; and a
145 description, including color scheme, of the motor vehicle,

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146 trailer, mobile home, or manufactured home. If a sexual
147 predator's place of residence is a vessel, live-aboard vessel,
148 or houseboat, as defined in chapter 327, the sexual predator
149 shall also provide to the department written notice of the hull
150 identification number; the manufacturer's serial number; the
151 name of the vessel, live-aboard vessel, or houseboat; the
152 registration number; and a description, including color scheme,
153 of the vessel, live-aboard vessel, or houseboat.
154 b. If the sexual predator is enrolled, employed, or
155 carrying on a vocation at an institution of higher education in
156 this state, the sexual predator shall also provide to the
157 department the name, address, and county of each institution,
158 including each campus attended, and the sexual predator's
159 enrollment or employment status. Each change in enrollment or
160 employment status shall be reported in person at the sheriff's
161 office, or the Department of Corrections if the sexual predator
162 is in the custody or control of or under the supervision of the
163 Department of Corrections, within 48 hours after any change in
164 status. The sheriff or the Department of Corrections shall
165 promptly notify each institution of the sexual predator's
166 presence and any change in the sexual predator's enrollment or
167 employment status.
168 2. Any other information determined necessary by the
169 department, including criminal and corrections records;
170 nonprivileged personnel and treatment records; and evidentiary
171 genetic markers when available.
172 (e)1. If the sexual predator is not in the custody or
173 control of, or under the supervision of, the Department of
174 Corrections or is not in the custody of a private correctional

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175 facility, the sexual predator shall register in person:
176 a. At the sheriff's office in the county where he or she
177 establishes or maintains a residence within 48 hours after
178 establishing or maintaining a residence in this state; and
179 b. At the sheriff's office in the county where he or she
180 was designated a sexual predator by the court within 48 hours
181 after such finding is made.
182 2. Any change in the sexual predator's permanent or
183 temporary residence, name, or all ~~any~~ electronic mail addresses
184 ~~address~~ and all Internet identifiers ~~any instant message name~~
185 required to be provided pursuant to subparagraph (g)4., after
186 the sexual predator registers in person at the sheriff's office
187 as provided in subparagraph 1., shall be accomplished in the
188 manner provided in paragraphs (g), (i), and (j). When a sexual
189 predator registers with the sheriff's office, the sheriff shall
190 take a photograph and a set of fingerprints of the predator and
191 forward the photographs and fingerprints to the department,
192 along with the information that the predator is required to
193 provide pursuant to this section.
194 (g)1. Each time a sexual predator's driver ~~driver's~~ license
195 or identification card is subject to renewal, and, without
196 regard to the status of the predator's driver ~~driver's~~ license
197 or identification card, within 48 hours after any change of the
198 predator's residence or change in the predator's name by reason
199 of marriage or other legal process, the predator shall report in
200 person to a driver ~~driver's~~ license office and shall be subject
201 to the requirements specified in paragraph (f). The Department
202 of Highway Safety and Motor Vehicles shall forward to the
203 department and to the Department of Corrections all photographs

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204 and information provided by sexual predators. Notwithstanding
205 the restrictions set forth in s. 322.142, the Department of
206 Highway Safety and Motor Vehicles is authorized to release a
207 reproduction of a color-photograph or digital-image license to
208 the Department of Law Enforcement for purposes of public
209 notification of sexual predators as provided in this section. A
210 sexual predator who is unable to secure or update a driver
211 license or identification card with the Department of Highway
212 Safety and Motor Vehicles as provided in paragraph (f) and this
213 paragraph must also report any change of the predator's
214 residence or change in the predator's name by reason of marriage
215 or other legal process within 48 hours after the change to the
216 sheriff's office in the county where the predator resides or is
217 located and provide confirmation that he or she reported such
218 information to the Department of Highway Safety and Motor
219 Vehicles.
220 2. A sexual predator who vacates a permanent, temporary, or
221 transient residence and fails to establish or maintain another
222 permanent, temporary, or transient residence shall, within 48
223 hours after vacating the permanent, temporary, or transient
224 residence, report in person to the sheriff's office of the
225 county in which he or she is located. The sexual predator shall
226 specify the date upon which he or she intends to or did vacate
227 such residence. If the sexual predator is released from custody
228 in a homeless or transient status, he or she must report in
229 person to the sheriff's office in the county in which he or she
230 is located within 24 hours. The sexual predator must provide or
231 update all of the registration information required under
232 paragraph (a). The sexual predator must provide an address for

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233 the residence or other place that he or she is or will be
234 located during the time in which he or she fails to establish or
235 maintain a permanent or temporary residence.
236 3. A sexual predator who remains at a permanent, temporary,
237 or transient residence after reporting his or her intent to
238 vacate such residence shall, within 48 hours after the date upon
239 which the predator indicated he or she would or did vacate such
240 residence, report in person to the sheriff's office to which he
241 or she reported pursuant to subparagraph 2. for the purpose of
242 reporting his or her address at such residence. When the sheriff
243 receives the report, the sheriff shall promptly convey the
244 information to the department. An offender who makes a report as
245 required under subparagraph 2. but fails to make a report as
246 required under this subparagraph commits a felony of the second
247 degree, punishable as provided in s. 775.082, s. 775.083, or s.
248 775.084.
249 4. A sexual predator must register all ~~any~~ electronic mail
250 addresses and Internet identifiers ~~address or instant message~~
251 ~~name~~ with the department prior to using such electronic mail
252 addresses and Internet identifiers ~~address or instant message~~
253 ~~name on or after October 1, 2007~~. The department shall establish
254 an online system through which sexual predators may securely
255 access and update all electronic mail address and Internet
256 identifier ~~instant message name~~ information.
257 (i) A sexual predator who intends to establish a permanent,
258 temporary, or transient residence in another state or
259 jurisdiction other than the State of Florida shall report in
260 person to the sheriff of the county of current residence within
261 48 hours before the date he or she intends to leave this state

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262 to establish residence in another state or jurisdiction or
263 within 21 days before his or her planned departure date if the
264 intended residence of 7 days or more is outside of the United
265 States. The sexual predator must provide to the sheriff the
266 address, municipality, county, ~~and~~ state, and country of
267 intended residence. The sheriff shall promptly provide to the
268 department the information received from the sexual predator.
269 The department shall notify the statewide law enforcement
270 agency, or a comparable agency, in the intended state, ~~or~~
271 jurisdiction, or country of residence of the sexual predator's
272 intended residence. The failure of a sexual predator to provide
273 his or her intended place of residence is punishable as provided
274 in subsection (10).
275 (j) A sexual predator who indicates his or her intent to
276 establish a permanent, temporary, or transient residence in
277 another state, a ~~or~~ jurisdiction other than the State of
278 Florida, or another country and later decides to remain in this
279 state shall, within 48 hours after the date upon which the
280 sexual predator indicated he or she would leave this state,
281 report in person to the sheriff to which the sexual predator
282 reported the intended change of residence, and report his or her
283 intent to remain in this state. If the sheriff is notified by
284 the sexual predator that he or she intends to remain in this
285 state, the sheriff shall promptly report this information to the
286 department. A sexual predator who reports his or her intent to
287 establish a permanent, temporary, or transient residence in
288 another state, a ~~or~~ jurisdiction other than the State of
289 Florida, or another country, but who remains in this state
290 without reporting to the sheriff in the manner required by this

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291 paragraph, commits a felony of the second degree, punishable as
292 provided in s. 775.082, s. 775.083, or s. 775.084.
293 (8) VERIFICATION.—The department and the Department of
294 Corrections shall implement a system for verifying the addresses
295 of sexual predators. The system must be consistent with the
296 provisions of the federal Adam Walsh Child Protection and Safety
297 Act of 2006 and any other federal standards applicable to such
298 verification or required to be met as a condition for the
299 receipt of federal funds by the state. The Department of
300 Corrections shall verify the addresses of sexual predators who
301 are not incarcerated but who reside in the community under the
302 supervision of the Department of Corrections and shall report to
303 the department any failure by a sexual predator to comply with
304 registration requirements. County and local law enforcement
305 agencies, in conjunction with the department, shall verify the
306 addresses of sexual predators who are not under the care,
307 custody, control, or supervision of the Department of
308 Corrections. Local law enforcement agencies shall report to the
309 department any failure by a sexual predator to comply with
310 registration requirements.
311 (a) A sexual predator must report in person each year
312 during the month of the sexual predator's birthday and during
313 every third month thereafter to the sheriff's office in the
314 county in which he or she resides or is otherwise located to
315 reregister. The sheriff's office may determine the appropriate
316 times and days for reporting by the sexual predator, which shall
317 be consistent with the reporting requirements of this paragraph.
318 Reregistration shall include any changes to the following
319 information:

320 1. Name; social security number; age; race; sex; date of
321 birth; height; weight; hair and eye color; address of any
322 permanent residence and address of any current temporary
323 residence, within the state or out of state, including a rural
324 route address and a post office box; if no permanent or
325 temporary address, any transient residence within the state;
326 address, location or description, and dates of any current or
327 known future temporary residence within the state or out of
328 state; all ~~any~~ electronic mail addresses ~~address~~ and all
329 Internet identifiers ~~any instant message name~~ required to be
330 provided pursuant to subparagraph (6)(g)4.; all home telephone
331 numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~; date
332 and place of any employment; vehicle make, model, color, and
333 license tag number; fingerprints; and photograph. A post office
334 box shall not be provided in lieu of a physical residential
335 address. The sexual predator must also produce or provide
336 information about his or her passport, if he or she has a
337 passport, and, if he or she is an alien, must produce or provide
338 information about documents establishing his or her immigration
339 status.
340 2. If the sexual predator is enrolled, employed, or
341 carrying on a vocation at an institution of higher education in
342 this state, the sexual predator shall also provide to the
343 department the name, address, and county of each institution,
344 including each campus attended, and the sexual predator's
345 enrollment or employment status.
346 3. If the sexual predator's place of residence is a motor
347 vehicle, trailer, mobile home, or manufactured home, as defined
348 in chapter 320, the sexual predator shall also provide the

349 vehicle identification number; the license tag number; the
350 registration number; and a description, including color scheme,
351 of the motor vehicle, trailer, mobile home, or manufactured
352 home. If the sexual predator's place of residence is a vessel,
353 live-aboard vessel, or houseboat, as defined in chapter 327, the
354 sexual predator shall also provide the hull identification
355 number; the manufacturer's serial number; the name of the
356 vessel, live-aboard vessel, or houseboat; the registration
357 number; and a description, including color scheme, of the
358 vessel, live-aboard vessel, or houseboat.
359 (10) PENALTIES.—
360 (a) Except as otherwise specifically provided, a sexual
361 predator who fails to register; who fails, after registration,
362 to maintain, acquire, or renew a driver ~~driver's~~ license or
363 identification card; who fails to provide required location
364 information, electronic mail address information, Internet
365 identifier ~~instant message name~~ information, all home telephone
366 numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~, or
367 change-of-name information; who fails to make a required report
368 in connection with vacating a permanent residence; who fails to
369 reregister as required; who fails to respond to any address
370 verification correspondence from the department within 3 weeks
371 of the date of the correspondence; or who otherwise fails, by
372 act or omission, to comply with the requirements of this
373 section, commits a felony of the third degree, punishable as
374 provided in s. 775.082, s. 775.083, or s. 775.084.
375 Section 2. Paragraphs (a) and (g) of subsection (1),
376 subsection (2), paragraphs (a) and (d) of subsection (4),
377 subsections (7) and (8), and paragraph (c) of subsection (14) of

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378 section 943.0435, Florida Statutes, are amended to read:
379 943.0435 Sexual offenders required to register with the
380 department; penalty.—
381 (1) As used in this section, the term:
382 (a)1. "Sexual offender" means a person who meets the
383 criteria in sub-subparagraph a., sub-subparagraph b., sub-
384 subparagraph c., or sub-subparagraph d., as follows:
385 a.(I) Has been convicted of committing, or attempting,
386 soliciting, or conspiring to commit, any of the criminal
387 offenses proscribed in the following statutes in this state or
388 similar offenses in another jurisdiction: s. 787.01, s. 787.02,
389 or s. 787.025(2)(c), where the victim is a minor and the
390 defendant is not the victim's parent or guardian; s. 794.011,
391 excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s.
392 800.04; s. 825.1025; s. 826.04 where the victim is a minor and
393 the defendant is 18 years of age or older; s. 827.071; s.
394 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s.
395 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense
396 committed in this state which has been redesignated from a
397 former statute number to one of those listed in this sub-sub-
398 subparagraph; and
399 (II) Has been released on or after October 1, 1997, from
400 the sanction imposed for any conviction of an offense described
401 in sub-sub-subparagraph (I). For purposes of sub-sub-
402 subparagraph (I), a sanction imposed in this state or in any
403 other jurisdiction includes, but is not limited to, a fine,
404 probation, community control, parole, conditional release,
405 control release, or incarceration in a state prison, federal
406 prison, private correctional facility, or local detention

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407 facility;
408 b. Establishes or maintains a residence in this state and
409 who has not been designated as a sexual predator by a court of
410 this state but who has been designated as a sexual predator, as
411 a sexually violent predator, or by another sexual offender
412 designation in another state or jurisdiction and was, as a
413 result of such designation, subjected to registration or
414 community or public notification, or both, or would be if the
415 person were a resident of that state or jurisdiction, without
416 regard to whether the person otherwise meets the criteria for
417 registration as a sexual offender;
418 c. Establishes or maintains a residence in this state who
419 is in the custody or control of, or under the supervision of,
420 any other state or jurisdiction as a result of a conviction for
421 committing, or attempting, soliciting, or conspiring to commit,
422 any of the criminal offenses proscribed in the following
423 statutes or similar offense in another jurisdiction: s. 787.01,
424 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
425 the defendant is not the victim's parent or guardian; s.
426 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.
427 796.035; s. 800.04; s. 825.1025; s. 826.04 where the victim is a
428 minor and the defendant is 18 years of age or older; s. 827.071;
429 s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137;
430 s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar
431 offense committed in this state which has been redesignated from
432 a former statute number to one of those listed in this sub-
433 subparagraph; or
434 d. On or after July 1, 2007, has been adjudicated
435 delinquent for committing, or attempting, soliciting, or

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436 conspiring to commit, any of the criminal offenses proscribed in
437 the following statutes in this state or similar offenses in
438 another jurisdiction when the juvenile was 14 years of age or
439 older at the time of the offense:
440 (I) Section 794.011, excluding s. 794.011(10);
441 (II) Section 800.04(4)(b) where the victim is under 12
442 years of age or where the court finds sexual activity by the use
443 of force or coercion;
444 (III) Section 800.04(5)(c)1. where the court finds
445 molestation involving unclothed genitals; or
446 (IV) Section 800.04(5)(d) where the court finds the use of
447 force or coercion and unclothed genitals.
448 2. For all qualifying offenses listed in sub-subparagraph
449 (1)(a)1.d., the court shall make a written finding of the age of
450 the offender at the time of the offense.
451
452 For each violation of a qualifying offense listed in this
453 subsection, the court shall make a written finding of the age of
454 the victim at the time of the offense. For a violation of s.
455 800.04(4), the court shall additionally make a written finding
456 indicating that the offense did or did not involve sexual
457 activity and indicating that the offense did or did not involve
458 force or coercion. For a violation of s. 800.04(5), the court
459 shall additionally make a written finding that the offense did
460 or did not involve unclothed genitals or genital area and that
461 the offense did or did not involve the use of force or coercion.
462 (g) "Internet identifier ~~Instant message name~~" has the same
463 meaning as provided in s. 775.21 ~~means an identifier that allows~~
464 ~~a person to communicate in real time with another person using~~

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465 ~~the Internet~~.
466 (2) A sexual offender shall:
467 (a) Report in person at the sheriff's office:
468 1. In the county in which the offender establishes or
469 maintains a permanent, temporary, or transient residence within
470 48 hours after:
471 a. Establishing permanent, temporary, or transient
472 residence in this state; or
473 b. Being released from the custody, control, or supervision
474 of the Department of Corrections or from the custody of a
475 private correctional facility; or
476 2. In the county where he or she was convicted within 48
477 hours after being convicted for a qualifying offense for
478 registration under this section if the offender is not in the
479 custody or control of, or under the supervision of, the
480 Department of Corrections, or is not in the custody of a private
481 correctional facility.
482
483 Any change in the information required to be provided pursuant
484 to paragraph (b), including, but not limited to, any change in
485 the sexual offender's permanent, temporary, or transient
486 residence, name, all ~~any~~ electronic mail addresses ~~address~~ and
487 all Internet identifiers ~~any instant message name~~ required to be
488 provided pursuant to paragraph (4)(d), after the sexual offender
489 reports in person at the sheriff's office, shall be accomplished
490 in the manner provided in subsections (4), (7), and (8).
491 (b) Provide his or her name; date of birth; social security
492 number; race; sex; height; weight; hair and eye color; tattoos
493 or other identifying marks; occupation and place of employment;

494 address of permanent or legal residence or address of any
495 current temporary residence, within the state or out of state,
496 including a rural route address and a post office box; if no
497 permanent or temporary address, any transient residence within
498 the state, address, location or description, and dates of any
499 current or known future temporary residence within the state or
500 out of state; all home telephone numbers ~~number~~ and ~~any~~ cellular
501 telephone numbers ~~number~~; all ~~any~~ electronic mail addresses
502 ~~address~~ and all Internet identifiers ~~any instant message name~~
503 required to be provided pursuant to paragraph (4)(d); date and
504 place of each conviction; and a brief description of the crime
505 or crimes committed by the offender. A post office box shall not
506 be provided in lieu of a physical residential address. The
507 sexual offender must also produce or provide information about
508 his or her passport, if he or she has a passport, and, if he or
509 she is an alien, must produce or provide information about
510 documents establishing his or her immigration status.
511 1. If the sexual offender's place of residence is a motor
512 vehicle, trailer, mobile home, or manufactured home, as defined
513 in chapter 320, the sexual offender shall also provide to the
514 department through the sheriff's office written notice of the
515 vehicle identification number; the license tag number; the
516 registration number; and a description, including color scheme,
517 of the motor vehicle, trailer, mobile home, or manufactured
518 home. If the sexual offender's place of residence is a vessel,
519 live-aboard vessel, or houseboat, as defined in chapter 327, the
520 sexual offender shall also provide to the department written
521 notice of the hull identification number; the manufacturer's
522 serial number; the name of the vessel, live-aboard vessel, or

523 houseboat; the registration number; and a description, including
524 color scheme, of the vessel, live-aboard vessel, or houseboat.
525 2. If the sexual offender is enrolled, employed, or
526 carrying on a vocation at an institution of higher education in
527 this state, the sexual offender shall also provide to the
528 department through the sheriff's office the name, address, and
529 county of each institution, including each campus attended, and
530 the sexual offender's enrollment or employment status. Each
531 change in enrollment or employment status shall be reported in
532 person at the sheriff's office, within 48 hours after any change
533 in status. The sheriff shall promptly notify each institution of
534 the sexual offender's presence and any change in the sexual
535 offender's enrollment or employment status.
536
537 When a sexual offender reports at the sheriff's office, the
538 sheriff shall take a photograph and a set of fingerprints of the
539 offender and forward the photographs and fingerprints to the
540 department, along with the information provided by the sexual
541 offender. The sheriff shall promptly provide to the department
542 the information received from the sexual offender.
543 (4)(a) Each time a sexual offender's driver ~~driver's~~
544 license or identification card is subject to renewal, and,
545 without regard to the status of the offender's driver ~~driver's~~
546 license or identification card, within 48 hours after any change
547 in the offender's permanent, temporary, or transient residence
548 or change in the offender's name by reason of marriage or other
549 legal process, the offender shall report in person to a driver
550 ~~driver's~~ license office, and shall be subject to the
551 requirements specified in subsection (3). The Department of

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552 Highway Safety and Motor Vehicles shall forward to the
553 department all photographs and information provided by sexual
554 offenders. Notwithstanding the restrictions set forth in s.
555 322.142, the Department of Highway Safety and Motor Vehicles is
556 authorized to release a reproduction of a color-photograph or
557 digital-image license to the Department of Law Enforcement for
558 purposes of public notification of sexual offenders as provided
559 in this section and ss. 943.043 and 944.606. A sexual offender
560 who is unable to secure or update a driver license or
561 identification card with the Department of Highway Safety and
562 Motor Vehicles as provided in subsection (3) and this subsection
563 must also report any change in the sexual offender's permanent,
564 temporary, or transient residence or change in the offender's
565 name by reason of marriage or other legal process within 48
566 hours after the change to the sheriff's office in the county
567 where the offender resides or is located and provide
568 confirmation that he or she reported such information to
569 Department of Highway Safety and Motor Vehicles.
570 (d) A sexual offender must register all ~~any~~ electronic mail
571 addresses and Internet identifiers ~~address or instant message~~
572 ~~name~~ with the department prior to using such electronic mail
573 addresses and Internet identifiers ~~address or instant message~~
574 ~~name on or after October 1, 2007~~. The department shall establish
575 an online system through which sexual offenders may securely
576 access and update all electronic mail address and Internet
577 identifier ~~instant message name~~ information.
578 (7) A sexual offender who intends to establish a permanent,
579 temporary, or transient residence in another state or
580 jurisdiction other than the State of Florida shall report in

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581 person to the sheriff of the county of current residence within
582 48 hours before the date he or she intends to leave this state
583 to establish residence in another state or jurisdiction or
584 within 21 days before his or her planned departure date if the
585 intended residence of 7 days or more is outside of the United
586 States. The notification must include the address, municipality,
587 county, ~~and~~ state, and country of intended residence. The
588 sheriff shall promptly provide to the department the information
589 received from the sexual offender. The department shall notify
590 the statewide law enforcement agency, or a comparable agency, in
591 the intended state, ~~or~~ jurisdiction, or country of residence of
592 the sexual offender's intended residence. The failure of a
593 sexual offender to provide his or her intended place of
594 residence is punishable as provided in subsection (9).
595 (8) A sexual offender who indicates his or her intent to
596 establish a permanent, temporary, or transient residence in
597 another state, a ~~or~~ jurisdiction other than the State of
598 Florida, or another country and later decides to remain in this
599 state shall, within 48 hours after the date upon which the
600 sexual offender indicated he or she would leave this state,
601 report in person to the sheriff to which the sexual offender
602 reported the intended change of permanent, temporary, or
603 transient residence, and report his or her intent to remain in
604 this state. The sheriff shall promptly report this information
605 to the department. A sexual offender who reports his or her
606 intent to establish a permanent, temporary, or transient
607 residence in another state, a ~~or~~ jurisdiction other than the
608 State of Florida, or another country but who remains in this
609 state without reporting to the sheriff in the manner required by

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610 this subsection commits a felony of the second degree,
611 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
612 (14)
613 (c) The sheriff's office may determine the appropriate
614 times and days for reporting by the sexual offender, which shall
615 be consistent with the reporting requirements of this
616 subsection. Reregistration shall include any changes to the
617 following information:
618 1. Name; social security number; age; race; sex; date of
619 birth; height; weight; hair and eye color; address of any
620 permanent residence and address of any current temporary
621 residence, within the state or out of state, including a rural
622 route address and a post office box; if no permanent or
623 temporary address, any transient residence within the state;
624 address, location or description, and dates of any current or
625 known future temporary residence within the state or out of
626 state; all ~~any~~ electronic mail addresses ~~address~~ and all
627 Internet identifiers ~~any instant message name~~ required to be
628 provided pursuant to paragraph (4)(d); all home telephone
629 numbers ~~number~~ and all ~~any~~ cellular telephone numbers ~~number~~;
630 date and place of any employment; vehicle make, model, color,
631 and license tag number; fingerprints; and photograph. A post
632 office box shall not be provided in lieu of a physical
633 residential address. The sexual offender must also produce or
634 provide information about his or her passport, if he or she has
635 a passport, and, if he or she is an alien, must produce or
636 provide information about documents establishing his or her
637 immigration status.
638 2. If the sexual offender is enrolled, employed, or

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639 carrying on a vocation at an institution of higher education in
640 this state, the sexual offender shall also provide to the
641 department the name, address, and county of each institution,
642 including each campus attended, and the sexual offender's
643 enrollment or employment status.
644 3. If the sexual offender's place of residence is a motor
645 vehicle, trailer, mobile home, or manufactured home, as defined
646 in chapter 320, the sexual offender shall also provide the
647 vehicle identification number; the license tag number; the
648 registration number; and a description, including color scheme,
649 of the motor vehicle, trailer, mobile home, or manufactured
650 home. If the sexual offender's place of residence is a vessel,
651 live-aboard vessel, or houseboat, as defined in chapter 327, the
652 sexual offender shall also provide the hull identification
653 number; the manufacturer's serial number; the name of the
654 vessel, live-aboard vessel, or houseboat; the registration
655 number; and a description, including color scheme, of the
656 vessel, live-aboard vessel or houseboat.
657 4. Any sexual offender who fails to report in person as
658 required at the sheriff's office, or who fails to respond to any
659 address verification correspondence from the department within 3
660 weeks of the date of the correspondence or who fails to report
661 all electronic mail addresses and all Internet identifiers ~~or~~
662 ~~instant message names~~, commits a felony of the third degree,
663 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
664 Section 3. Section 943.04351, Florida Statutes, is amended
665 to read:
666 943.04351 Search of registration information regarding
667 sexual predators and sexual offenders required prior to

668 appointment or employment.—A state agency or governmental
669 subdivision, prior to making any decision to appoint or employ a
670 person to work, whether for compensation or as a volunteer, at
671 any park, playground, day care center, or other place where
672 children regularly congregate, must conduct a search of that
673 person's name or other identifying information against the
674 registration information regarding sexual predators and sexual
675 offenders maintained by the Department of Law Enforcement under
676 s. 943.043. The agency or governmental subdivision may conduct
677 the search using the Internet site maintained by the Department
678 of Law Enforcement. Also, a national search must be conducted
679 through the Dru Sjodin National Sex Offender Public Website
680 maintained by the United States Department of Justice. This
681 section does not apply to those positions or appointments within
682 a state agency or governmental subdivision for which a state and
683 national criminal history background check is conducted.
684 Section 4. Section 943.04354, Florida Statutes, is amended
685 to read:
686 943.04354 Removal of the requirement to register as a
687 sexual offender or sexual predator in special circumstances.—
688 (1) For purposes of this section, a person shall be
689 considered for removal of the requirement to register as a
690 sexual offender or sexual predator only if the person:
691 (a) Was or will be convicted or adjudicated delinquent of a
692 violation of s. 794.011, s. 800.04, s. 827.071, or s.
693 847.0135(5) or the person committed a violation of s. 794.011,
694 s. 800.04, s. 827.071, or s. 847.0135(5) for which adjudication
695 of guilt was or will be withheld, and the person does not have
696 any other conviction, adjudication of delinquency, or withhold

697 of adjudication of guilt for a violation of s. 794.011, s.
698 800.04, s. 827.071, or s. 847.0135(5);
699 (b) Is required to register as a sexual offender or sexual
700 predator solely on the basis of this violation; and
701 (c) Is not more than 4 years older than the victim of this
702 violation who was 13 ~~14~~ years of age or older but not more than
703 18 ~~17~~ years of age at the time the person committed this
704 violation.
705 (2) If a person meets the criteria in subsection (1) ~~and~~
706 ~~the violation of s. 794.011, s. 800.04, s. 827.071, or s.~~
707 ~~847.0135(5) was committed on or after July 1, 2007~~, the person
708 may move the court that will sentence or dispose of this
709 violation to remove the requirement that the person register as
710 a sexual offender or sexual predator. The person must allege in
711 the motion that he or she meets the criteria in subsection (1)
712 and that removal of the registration requirement will not
713 conflict with federal law. The state attorney must be given
714 notice of the motion at least 21 days before the date of
715 sentencing or disposition of this violation and may present
716 evidence in opposition to the requested relief or may otherwise
717 demonstrate why the motion should be denied. At sentencing or
718 disposition of this violation, the court shall rule on this
719 motion and, if the court determines the person meets the
720 criteria in subsection (1) and the removal of the registration
721 requirement will not conflict with federal law, it may grant the
722 motion and order the removal of the registration requirement. If
723 the court denies the motion, the person is not authorized under
724 this section to petition for removal of the registration
725 requirement.

726 (3)(a) This subsection applies to a person who:
727 ~~1. Is not a person described in subsection (2) because the~~
728 ~~violation of s. 794.011, s. 800.04, or s. 827.071 was not~~
729 ~~committed on or after July 1, 2007;~~
730 1.~~2.~~ Is subject to registration as a sexual offender or
731 sexual predator for a violation of s. 794.011, s. 800.04, or s.
732 827.071; and
733 2.~~3.~~ Meets the criteria in subsection (1).
734 (b) A person may petition the court in which the sentence
735 or disposition for the violation of s. 794.011, s. 800.04, or s.
736 827.071 occurred for removal of the requirement to register as a
737 sexual offender or sexual predator. The person must allege in
738 the petition that he or she meets the criteria in subsection (1)
739 and removal of the registration requirement will not conflict
740 with federal law. The state attorney must be given notice of the
741 petition at least 21 days before the hearing on the petition and
742 may present evidence in opposition to the requested relief or
743 may otherwise demonstrate why the petition should be denied. The
744 court shall rule on the petition and, if the court determines
745 the person meets the criteria in subsection (1) and removal of
746 the registration requirement will not conflict with federal law,
747 it may grant the petition and order the removal of the
748 registration requirement. If the court denies the petition, the
749 person is not authorized under this section to file any further
750 petition for removal of the registration requirement.
751 (4) If a person provides to the Department of Law
752 Enforcement a certified copy of the court's order removing the
753 requirement that the person register as a sexual offender or
754 sexual predator for the violation of s. 794.011, s. 800.04, s.

755 827.071, or s. 847.0135(5), the registration requirement will
756 not apply to the person and the department shall remove all
757 information about the person from the public registry of sexual
758 offenders and sexual predators maintained by the department.
759 However, the removal of this information from the public
760 registry does not mean that the public is denied access to
761 information about the person's criminal history or record that
762 is otherwise available as a public record.
763 Section 5. Subsection (2) and paragraph (a) of subsection
764 (3) of section 943.0437, Florida Statutes, are amended to read:
765 943.0437 Commercial social networking websites.—
766 (2) The department may provide information relating to
767 electronic mail addresses and Internet identifiers ~~instant~~
768 ~~message names~~ maintained as part of the sexual offender registry
769 to commercial social networking websites or third parties
770 designated by commercial social networking websites. The
771 commercial social networking website may use this information
772 for the purpose of comparing registered users and screening
773 potential users of the commercial social networking website
774 against the list of electronic mail addresses and Internet
775 identifiers ~~instant message names~~ provided by the department.
776 (3) This section shall not be construed to impose any civil
777 liability on a commercial social networking website for:
778 (a) Any action voluntarily taken in good faith to remove or
779 disable any profile of a registered user associated with an
780 electronic mail address or Internet identifier ~~instant message~~
781 ~~name~~ contained in the sexual offender registry.
782 Section 6. Paragraphs (b) and (d) of subsection (1) and
783 paragraph (a) of subsection (3) of section 944.606, Florida

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784 Statutes, are amended to read:
785 944.606 Sexual offenders; notification upon release.—
786 (1) As used in this section:
787 (b) "Sexual offender" means a person who has been convicted
788 of committing, or attempting, soliciting, or conspiring to
789 commit, any of the criminal offenses proscribed in the following
790 statutes in this state or similar offenses in another
791 jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where
792 the victim is a minor and the defendant is not the victim's
793 parent or guardian; s. 794.011, excluding s. 794.011(10); s.
794 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 826.04
795 where the victim is a minor and the defendant is 18 years of age
796 or older; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
797 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; or s.
798 985.701(1); or any similar offense committed in this state which
799 has been redesignated from a former statute number to one of
800 those listed in this subsection, when the department has
801 received verified information regarding such conviction; an
802 offender's computerized criminal history record is not, in and
803 of itself, verified information.
804 (d) "Internet identifier ~~Instant message name~~" has the same
805 meaning as provided in s. 775.21 ~~means an identifier that allows~~
806 ~~a person to communicate in real time with another person using~~
807 ~~the Internet~~.
808 (3)(a) The department must provide information regarding
809 any sexual offender who is being released after serving a period
810 of incarceration for any offense, as follows:
811 1. The department must provide: the sexual offender's name,
812 any change in the offender's name by reason of marriage or other

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813 legal process, and any alias, if known; the correctional
814 facility from which the sexual offender is released; the sexual
815 offender's social security number, race, sex, date of birth,
816 height, weight, and hair and eye color; address of any planned
817 permanent residence or temporary residence, within the state or
818 out of state, including a rural route address and a post office
819 box; if no permanent or temporary address, any transient
820 residence within the state; address, location or description,
821 and dates of any known future temporary residence within the
822 state or out of state; date and county of sentence and each
823 crime for which the offender was sentenced; a copy of the
824 offender's fingerprints and a digitized photograph taken within
825 60 days before release; the date of release of the sexual
826 offender; all ~~any~~ electronic mail addresses ~~address~~ and all
827 Internet identifiers ~~any instant message name~~ required to be
828 provided pursuant to s. 943.0435(4)(d); all ~~and~~ home telephone
829 numbers ~~number~~ and ~~any~~ cellular telephone numbers; and passport
830 information, if he or she has a passport, and, if he or she is
831 an alien, information about documents establishing his or her
832 immigration status ~~number~~. The department shall notify the
833 Department of Law Enforcement if the sexual offender escapes,
834 absconds, or dies. If the sexual offender is in the custody of a
835 private correctional facility, the facility shall take the
836 digitized photograph of the sexual offender within 60 days
837 before the sexual offender's release and provide this photograph
838 to the Department of Corrections and also place it in the sexual
839 offender's file. If the sexual offender is in the custody of a
840 local jail, the custodian of the local jail shall register the
841 offender within 3 business days after intake of the offender for

842 any reason and upon release, and shall notify the Department of
843 Law Enforcement of the sexual offender's release and provide to
844 the Department of Law Enforcement the information specified in
845 this paragraph and any information specified in subparagraph 2.
846 that the Department of Law Enforcement requests.
847 2. The department may provide any other information deemed
848 necessary, including criminal and corrections records,
849 nonprivileged personnel and treatment records, when available.
850 Section 7. Paragraphs (a) and (f) of subsection (1),
851 paragraph (a) of subsection (4), paragraph (b) of subsection
852 (6), and paragraph (c) of subsection (13) of section 944.607,
853 Florida Statutes, are amended to read:
854 944.607 Notification to Department of Law Enforcement of
855 information on sexual offenders.—
856 (1) As used in this section, the term:
857 (a) "Sexual offender" means a person who is in the custody
858 or control of, or under the supervision of, the department or is
859 in the custody of a private correctional facility:
860 1. On or after October 1, 1997, as a result of a conviction
861 for committing, or attempting, soliciting, or conspiring to
862 commit, any of the criminal offenses proscribed in the following
863 statutes in this state or similar offenses in another
864 jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where
865 the victim is a minor and the defendant is not the victim's
866 parent or guardian; s. 794.011, excluding s. 794.011(10); s.
867 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 826.04
868 where the victim is a minor and the defendant is 18 years of age
869 or older; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
870 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; or s.

871 985.701(1); or any similar offense committed in this state which
872 has been redesignated from a former statute number to one of
873 those listed in this paragraph; or
874 2. Who establishes or maintains a residence in this state
875 and who has not been designated as a sexual predator by a court
876 of this state but who has been designated as a sexual predator,
877 as a sexually violent predator, or by another sexual offender
878 designation in another state or jurisdiction and was, as a
879 result of such designation, subjected to registration or
880 community or public notification, or both, or would be if the
881 person were a resident of that state or jurisdiction, without
882 regard as to whether the person otherwise meets the criteria for
883 registration as a sexual offender.
884 (f) "Internet identifier ~~Instant message name~~" has the same
885 meaning as provided in s. 775.21 ~~means an identifier that allows~~
886 ~~a person to communicate in real time with another person using~~
887 ~~the Internet~~.
888 (4) A sexual offender, as described in this section, who is
889 under the supervision of the Department of Corrections but is
890 not incarcerated must register with the Department of
891 Corrections within 3 business days after sentencing for a
892 registrable offense and otherwise provide information as
893 required by this subsection.
894 (a) The sexual offender shall provide his or her name; date
895 of birth; social security number; race; sex; height; weight;
896 hair and eye color; tattoos or other identifying marks; all ~~any~~
897 electronic mail addresses ~~address~~ and all Internet identifiers
898 ~~any instant message name~~ required to be provided pursuant to s.
899 943.0435(4)(d); permanent or legal residence and address of

900 temporary residence within the state or out of state while the
901 sexual offender is under supervision in this state, including
902 any rural route address or post office box; if no permanent or
903 temporary address, any transient residence within the state; and
904 address, location or description, and dates of any current or
905 known future temporary residence within the state or out of
906 state. The sexual offender must also produce or provide
907 information about his or her passport, if he or she has a
908 passport, and, if he or she is an alien, must produce or provide
909 information about documents establishing his or her immigration
910 status. The Department of Corrections shall verify the address
911 of each sexual offender in the manner described in ss. 775.21
912 and 943.0435. The department shall report to the Department of
913 Law Enforcement any failure by a sexual predator or sexual
914 offender to comply with registration requirements.
915 (6) The information provided to the Department of Law
916 Enforcement must include:
917 (b) The sexual offender's most current address, place of
918 permanent, temporary, or transient residence within the state or
919 out of state, and address, location or description, and dates of
920 any current or known future temporary residence within the state
921 or out of state, while the sexual offender is under supervision
922 in this state, including the name of the county or municipality
923 in which the offender permanently or temporarily resides, or has
924 a transient residence, and address, location or description, and
925 dates of any current or known future temporary residence within
926 the state or out of state, and, if known, the intended place of
927 permanent, temporary, or transient residence, and address,
928 location or description, and dates of any current or known

929 future temporary residence within the state or out of state upon
930 satisfaction of all sanctions. The sexual offender must also
931 produce or provide information about his or her passport, if he
932 or she has a passport, and, if he or she is an alien, must
933 produce or provide information about documents establishing his
934 or her immigration status;
935
936 If any information provided by the department changes during the
937 time the sexual offender is under the department's control,
938 custody, or supervision, including any change in the offender's
939 name by reason of marriage or other legal process, the
940 department shall, in a timely manner, update the information and
941 provide it to the Department of Law Enforcement in the manner
942 prescribed in subsection (2).
943 (13)
944 (c) The sheriff's office may determine the appropriate
945 times and days for reporting by the sexual offender, which shall
946 be consistent with the reporting requirements of this
947 subsection. Reregistration shall include any changes to the
948 following information:
949 1. Name; social security number; age; race; sex; date of
950 birth; height; weight; hair and eye color; address of any
951 permanent residence and address of any current temporary
952 residence, within the state or out of state, including a rural
953 route address and a post office box; if no permanent or
954 temporary address, any transient residence; address, location or
955 description, and dates of any current or known future temporary
956 residence within the state or out of state; all ~~any~~ electronic
957 mail addresses ~~address~~ and all Internet identifiers ~~any instant~~

958 ~~message name~~ required to be provided pursuant to s.
959 943.0435(4)(d); date and place of any employment; vehicle make,
960 model, color, and license tag number; fingerprints; and
961 photograph. A post office box shall not be provided in lieu of a
962 physical residential address. The sexual offender must also
963 produce or provide information about his or her passport, if he
964 or she has a passport, and, if he or she is an alien, must
965 produce or provide information about documents establishing his
966 or her immigration status.
967 2. If the sexual offender is enrolled, employed, or
968 carrying on a vocation at an institution of higher education in
969 this state, the sexual offender shall also provide to the
970 department the name, address, and county of each institution,
971 including each campus attended, and the sexual offender's
972 enrollment or employment status.
973 3. If the sexual offender's place of residence is a motor
974 vehicle, trailer, mobile home, or manufactured home, as defined
975 in chapter 320, the sexual offender shall also provide the
976 vehicle identification number; the license tag number; the
977 registration number; and a description, including color scheme,
978 of the motor vehicle, trailer, mobile home, or manufactured
979 home. If the sexual offender's place of residence is a vessel,
980 live-aboard vessel, or houseboat, as defined in chapter 327, the
981 sexual offender shall also provide the hull identification
982 number; the manufacturer's serial number; the name of the
983 vessel, live-aboard vessel, or houseboat; the registration
984 number; and a description, including color scheme, of the
985 vessel, live-aboard vessel or houseboat.
986 4. Any sexual offender who fails to report in person as

987 required at the sheriff's office, or who fails to respond to any
988 address verification correspondence from the department within 3
989 weeks of the date of the correspondence, or who fails to report
990 all electronic mail addresses and all Internet identifiers ~~or~~
991 ~~instant message names~~, commits a felony of the third degree,
992 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
993 Section 8. Subsection (11) of section 947.005, Florida
994 Statutes, is amended to read:
995 947.005 Definitions.—As used in this chapter, unless the
996 context clearly indicates otherwise:
997 (11) "Risk assessment" means an assessment completed by a
998 ~~an independent~~ qualified practitioner to evaluate the level of
999 risk associated when a sex offender has contact with a child.
1000 Section 9. Subsection (13) is added to section 947.1405,
1001 Florida Statutes, to read:
1002 947.1405 Conditional release program.—
1003 (13) In addition to all other conditions imposed, for a
1004 releasee who is subject to conditional release for a crime that
1005 was committed on or after July 1, 2012, and who has been
1006 convicted at any time of a violation of s. 800.04(7)(b) or s.
1007 847.0135, or a similar offense in another jurisdiction, the
1008 commission must order electronic monitoring for the duration of
1009 the releasee's supervision.
1010 Section 10. Subsection (3) of section 948.30, Florida
1011 Statutes, is amended, and subsection (5) is added to that
1012 section, to read:
1013 948.30 Additional terms and conditions of probation or
1014 community control for certain sex offenses.—Conditions imposed
1015 pursuant to this section do not require oral pronouncement at

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1016 the time of sentencing and shall be considered standard
1017 conditions of probation or community control for offenders
1018 specified in this section.
1019 (3) Effective for a probationer or community controllee
1020 whose crime was committed on or after September 1, 2005, and
1021 who:
1022 (a) Is placed on probation or community control for a
1023 violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071,
1024 or s. 847.0145 and the unlawful sexual activity involved a
1025 victim 15 years of age or younger and the offender is 18 years
1026 of age or older;
1027 (b) Is designated a sexual predator pursuant to s. 775.21
1028 or a similar designation in another jurisdiction; or
1029 (c) Has previously been convicted of a violation of chapter
1030 794, s. 800.04(4), (5), or (6), s. 827.071, or s. 847.0145 or a
1031 similar offense in another jurisdiction and the unlawful sexual
1032 activity involved a victim 15 years of age or younger and the
1033 offender is 18 years of age or older,
1034
1035 the court must order, in addition to any other provision of this
1036 section, mandatory electronic monitoring as a condition of the
1037 probation or community control supervision.
1038 (5) Effective for a probationer or community controllee
1039 whose crime was committed on or after July 1, 2012, and who:
1040 (a)1. Is placed on probation or community control for a
1041 violation of s. 800.04(7)(b) or s. 847.0135; or
1042 2. Has previously been convicted of a violation of s.
1043 800.04(7)(b) or s. 847.0135, or a similar offense in another
1044 jurisdiction,

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1045
1046 the court must order, in addition to any other requirements of
1047 this section, mandatory electronic monitoring as a condition of
1048 the probation or community control supervision.
1049 (b) Is placed on probation or community control for a
1050 violation of s. 847.0135(3) or (4), the court shall subject the
1051 probationer or community controllee to the requirements of
1052 subsections (1) and (2).
1053 Section 11. Section 948.31, Florida Statutes, is amended to
1054 read:
1055 948.31 Evaluation and treatment of sexual predators and
1056 offenders on probation or community control.—Conditions imposed
1057 pursuant to this section do not require oral pronouncement at
1058 the time of sentencing and shall be considered standard
1059 conditions of probation or community control for offenders
1060 specified in this section.
1061 (1) The court shall require an evaluation by a qualified
1062 practitioner ~~to determine the need of a probationer or community~~
1063 ~~controllee for treatment. If the court determines that a need~~
1064 ~~therefor is established by the evaluation process, the court~~
1065 ~~shall require sexual offender treatment as a term or condition~~
1066 ~~of probation or community control~~ for any person who is required
1067 to register as a sexual predator under s. 775.21 or sexual
1068 offender under s. 943.0435, s. 944.606, or s. 944.607 to
1069 determine the need of the probationer or community controllee
1070 for sex offender treatment while on probation or community
1071 control. The evaluation and recommendations for any treatment of
1072 the probationer or community controllee shall be provided to the
1073 court for review. ~~Such treatment shall be required to be~~

1074 ~~obtained from a qualified practitioner as defined in s. 948.001.~~
1075 (2) If the court determines that a need for treatment is
1076 established by the evaluation process, the treatment must be
1077 obtained from a qualified practitioner. The community controllee
1078 or probationer must actively participate in and successfully
1079 complete any recommended treatment. The court shall also require
1080 the community controllee or probationer to comply with the
1081 treatment program rules, which can include, but are not limited
1082 to, a safety plan and polygraph examinations for treatment
1083 purposes.
1084 (3) The court may, when it is recommended by a qualified
1085 practitioner or the supervising probation officer, also restrict
1086 the probationer or community controllee from having unsupervised
1087 contact with a minor or prohibit him or her from residing with a
1088 minor.
1089 (4) Treatment may not be administered by a qualified
1090 practitioner who has been convicted or adjudicated delinquent of
1091 committing, or attempting, soliciting, or conspiring to commit,
1092 any offense that is listed in s. 943.0435(1)(a)1.a.(I). ~~The~~
1093 ~~court shall impose a restriction against contact with minors if~~
1094 ~~sexual offender treatment is recommended. The evaluation and~~
1095 ~~recommendations for treatment of the probationer or community~~
1096 ~~controllee shall be provided to the court for review.~~
1097 Section 12. Paragraph (a) of subsection (3) of section
1098 985.481, Florida Statutes, is amended to read:
1099 985.481 Sexual offenders adjudicated delinquent;
1100 notification upon release.—
1101 (3)(a) The department must provide information regarding
1102 any sexual offender who is being released after serving a period

1103 of residential commitment under the department for any offense,
1104 as follows:
1105 1. The department must provide the sexual offender's name,
1106 any change in the offender's name by reason of marriage or other
1107 legal process, and any alias, if known; the correctional
1108 facility from which the sexual offender is released; the sexual
1109 offender's social security number, race, sex, date of birth,
1110 height, weight, and hair and eye color; address of any planned
1111 permanent residence or temporary residence, within the state or
1112 out of state, including a rural route address and a post office
1113 box; if no permanent or temporary address, any transient
1114 residence within the state; address, location or description,
1115 and dates of any known future temporary residence within the
1116 state or out of state; date and county of disposition and each
1117 crime for which there was a disposition; a copy of the
1118 offender's fingerprints and a digitized photograph taken within
1119 60 days before release; the date of release of the sexual
1120 offender; all ~~and~~ home telephone numbers ~~number~~ and ~~any~~ cellular
1121 telephone numbers; and passport information, if he or she has a
1122 passport, and, if he or she is an alien, information about
1123 documents establishing his or her immigration status ~~number~~. The
1124 department shall notify the Department of Law Enforcement if the
1125 sexual offender escapes, absconds, or dies. If the sexual
1126 offender is in the custody of a private correctional facility,
1127 the facility shall take the digitized photograph of the sexual
1128 offender within 60 days before the sexual offender's release and
1129 also place it in the sexual offender's file. If the sexual
1130 offender is in the custody of a local jail, the custodian of the
1131 local jail shall register the offender within 3 business days

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1132 after intake of the offender for any reason and upon release,
1133 and shall notify the Department of Law Enforcement of the sexual
1134 offender's release and provide to the Department of Law
1135 Enforcement the information specified in this subparagraph and
1136 any information specified in subparagraph 2. which the
1137 Department of Law Enforcement requests.
1138 2. The department may provide any other information
1139 considered necessary, including criminal and delinquency
1140 records, when available.
1141 Section 13. Paragraph (a) of subsection (4), paragraph (a)
1142 of subsection (6), and paragraph (b) of subsection (13) of
1143 section 985.4815, Florida Statutes, are amended to read:
1144 985.4815 Notification to Department of Law Enforcement of
1145 information on juvenile sexual offenders.—
1146 (4) A sexual offender, as described in this section, who is
1147 under the supervision of the department but who is not committed
1148 must register with the department within 3 business days after
1149 adjudication and disposition for a registrable offense and
1150 otherwise provide information as required by this subsection.
1151 (a) The sexual offender shall provide his or her name; date
1152 of birth; social security number; race; sex; height; weight;
1153 hair and eye color; tattoos or other identifying marks;
1154 permanent or legal residence and address of temporary residence
1155 within the state or out of state while the sexual offender is in
1156 the care or custody or under the jurisdiction or supervision of
1157 the department in this state, including any rural route address
1158 or post office box; if no permanent or temporary address, any
1159 transient residence; address, location or description, and dates
1160 of any current or known future temporary residence within the

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1161 state or out of state; passport information, if he or she has a
1162 passport, and, if he or she is an alien, information about
1163 documents establishing his or her immigration status; and the
1164 name and address of each school attended. The department shall
1165 verify the address of each sexual offender and shall report to
1166 the Department of Law Enforcement any failure by a sexual
1167 offender to comply with registration requirements.
1168 (6)(a) The information provided to the Department of Law
1169 Enforcement must include the following:
1170 1. The information obtained from the sexual offender under
1171 subsection (4).
1172 2. The sexual offender's most current address and place of
1173 permanent, temporary, or transient residence within the state or
1174 out of state, and address, location or description, and dates of
1175 any current or known future temporary residence within the state
1176 or out of state, while the sexual offender is in the care or
1177 custody or under the jurisdiction or supervision of the
1178 department in this state, including the name of the county or
1179 municipality in which the offender permanently or temporarily
1180 resides, or has a transient residence, and address, location or
1181 description, and dates of any current or known future temporary
1182 residence within the state or out of state; and, if known, the
1183 intended place of permanent, temporary, or transient residence,
1184 and address, location or description, and dates of any current
1185 or known future temporary residence within the state or out of
1186 state upon satisfaction of all sanctions. The sexual offender
1187 must also produce or provide information about his or her
1188 passport, if he or she has a passport, and, if he or she is an
1189 alien, must produce or provide information about documents

1190 establishing his or her immigration status.
1191 3. The legal status of the sexual offender and the
1192 scheduled termination date of that legal status.
1193 4. The location of, and local telephone number for, any
1194 department office that is responsible for supervising the sexual
1195 offender.
1196 5. An indication of whether the victim of the offense that
1197 resulted in the offender's status as a sexual offender was a
1198 minor.
1199 6. The offense or offenses at adjudication and disposition
1200 that resulted in the determination of the offender's status as a
1201 sex offender.
1202 7. A digitized photograph of the sexual offender, which
1203 must have been taken within 60 days before the offender was
1204 released from the custody of the department or a private
1205 correctional facility by expiration of sentence under s.
1206 944.275, or within 60 days after the onset of the department's
1207 supervision of any sexual offender who is on probation,
1208 postcommitment probation, residential commitment, nonresidential
1209 commitment, licensed child-caring commitment, community control,
1210 conditional release, parole, provisional release, or control
1211 release or who is supervised by the department under the
1212 Interstate Compact Agreement for Probationers and Parolees. If
1213 the sexual offender is in the custody of a private correctional
1214 facility, the facility shall take a digitized photograph of the
1215 sexual offender within the time period provided in this
1216 subparagraph and shall provide the photograph to the department.
1217 (13)
1218 (b) The sheriff's office may determine the appropriate

1219 times and days for reporting by the sexual offender, which shall
1220 be consistent with the reporting requirements of this
1221 subsection. Reregistration shall include any changes to the
1222 following information:
1223 1. Name; social security number; age; race; sex; date of
1224 birth; height; weight; hair and eye color; address of any
1225 permanent residence and address of any current temporary
1226 residence, within the state or out of state, including a rural
1227 route address and a post office box; if no permanent or
1228 temporary address, any transient residence; address, location or
1229 description, and dates of any current or known future temporary
1230 residence within the state or out of state; passport
1231 information, if he or she has a passport, and, if he or she is
1232 an alien, information about documents establishing his or her
1233 immigration status; name and address of each school attended;
1234 date and place of any employment; vehicle make, model, color,
1235 and license tag number; fingerprints; and photograph. A post
1236 office box shall not be provided in lieu of a physical
1237 residential address.
1238 2. If the sexual offender is enrolled, employed, or
1239 carrying on a vocation at an institution of higher education in
1240 this state, the sexual offender shall also provide to the
1241 department the name, address, and county of each institution,
1242 including each campus attended, and the sexual offender's
1243 enrollment or employment status.
1244 3. If the sexual offender's place of residence is a motor
1245 vehicle, trailer, mobile home, or manufactured home, as defined
1246 in chapter 320, the sexual offender shall also provide the
1247 vehicle identification number; the license tag number; the

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1248 registration number; and a description, including color scheme,
1249 of the motor vehicle, trailer, mobile home, or manufactured
1250 home. If the sexual offender's place of residence is a vessel,
1251 live-aboard vessel, or houseboat, as defined in chapter 327, the
1252 sexual offender shall also provide the hull identification
1253 number; the manufacturer's serial number; the name of the
1254 vessel, live-aboard vessel, or houseboat; the registration
1255 number; and a description, including color scheme, of the
1256 vessel, live-aboard vessel, or houseboat.
1257 4. Any sexual offender who fails to report in person as
1258 required at the sheriff's office, or who fails to respond to any
1259 address verification correspondence from the department within 3
1260 weeks after the date of the correspondence, commits a felony of
1261 the third degree, punishable as provided in ss. 775.082,
1262 775.083, and 775.084.
1263 Section 14. Effective July 1, 2012, paragraphs (m) and (n)
1264 are added to subsection (2) of section 903.046, Florida
1265 Statutes, to read:
1266 903.046 Purpose of and criteria for bail determination.—
1267 (2) When determining whether to release a defendant on bail
1268 or other conditions, and what that bail or those conditions may
1269 be, the court shall consider:
1270 (m) Whether the defendant, other than a defendant whose
1271 only criminal charge is a misdemeanor offense under chapter 316,
1272 is required to register as a sexual offender under s. 943.0435;
1273 and, if so, he or she is not eligible for release on bail or
1274 surety bond until the first appearance on the case in order to
1275 ensure the full participation of the prosecutor and the
1276 protection of the public.

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1277 (n) Whether the defendant, other than a defendant whose
1278 only criminal charge is a misdemeanor offense under chapter 316,
1279 is required to register as a sexual predator under s. 775.21;
1280 and, if so, he or she is not eligible for release on bail or
1281 surety bond until the first appearance on the case in order to
1282 ensure the full participation of the prosecutor and the
1283 protection of the public.
1284 Section 15. Subsection (1) of section 948.012, Florida
1285 Statutes, is amended to read:
1286 948.012 Split sentence of probation or community control
1287 and imprisonment.—
1288 (1) Whenever punishment by imprisonment for a misdemeanor
1289 or a felony, except for a capital felony, is prescribed, the
1290 court, in its discretion, may, at the time of sentencing, impose
1291 a split sentence whereby the defendant is to be placed on
1292 probation or, with respect to any such felony, into community
1293 control upon completion of any specified period of such sentence
1294 which may include a term of years or less. In such case, the
1295 court shall stay and withhold the imposition of the remainder of
1296 sentence imposed upon the defendant and direct that the
1297 defendant be placed upon probation or into community control
1298 after serving such period as may be imposed by the court. The
1299 period of probation or community control shall commence
1300 immediately upon the release of the defendant from
1301 incarceration~~, whether by parole or gain time allowances~~.
1302 Section 16. Section 948.039, Florida Statutes, is amended
1303 to read:
1304 948.039 Special terms and conditions of probation or
1305 community control imposed by court order.—The court may

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1306 determine any special terms and conditions of probation or
1307 community control. The terms and conditions should be reasonably
1308 related to the circumstances of the offense committed and
1309 appropriate for the offender. The court shall impose the special
1310 terms and conditions by oral pronouncement at sentencing and
1311 include the terms and conditions in the written sentencing
1312 order. The probation or community control period shall commence
1313 immediately upon the release of the offender from incarceration.
1314 Special terms and conditions may include, but are not limited
1315 to, requirements that the offender:
1316 (1) Attend an HIV/AIDS awareness program consisting of a
1317 class of not less than 2 hours or more than 4 hours in length,
1318 if such a program is available in the county of the offender's
1319 residence. The offender shall pay the cost of attending the
1320 program.
1321 (2) Pay not more than $1 per month during the term of
1322 probation or community control to a nonprofit organization
1323 established for the sole purpose of supplementing the
1324 rehabilitative efforts of the Department of Corrections.
1325 Section 17. If any provision of this act or its application
1326 to any person or circumstance is held invalid, the invalidity
1327 does not affect other provisions or applications of the act
1328 which can be given effect without the invalid provision or
1329 application, and to this end the provisions of this act are
1330 declared severable.
1331 Section 18. Except as otherwise expressly provided in this
1332 act and except for this section, which shall take effect upon
1333 this act becoming a law, this act shall take effect April 30,
1334 2013.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Military Affairs, Space, and Domestic Security, *Chair*
Budget - Subcommittee on Finance and Tax, *Vice Chair*
Budget
Budget - Subcommittee on Higher Education Appropriations
Communications, Energy, and Public Utilities
Health Regulation
Regulated Industries

SENATOR THAD ALTMAN
24th District

January 23, 2012

The Honorable Greg Evers, Chair
Senate Committee on Criminal Justice
510 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Evers:

I respectfully request that SB 1800, related to *Criminal Offenders,* be placed on the committee agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

Thad Altman

Thad Altman
TA/vc

CC: Amanda Cannon, Staff Director, 510 Knott Building

REPLY TO:
❒ 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
❒ 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5053

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Military Affairs, Space, and Domestic Security, *Chair*
Budget - Subcommittee on Finance and Tax, *Vice Chair*
Budget
Budget - Subcommittee on Higher Education Appropriations
Communications, Energy, and Public Utilities
Education Pre-K - 12
Higher Education
Reapportionment
Regulated Industries

SENATOR THAD ALTMAN
24th District

February 16, 2012

The Honorable Greg Evers, Chair
Committee on Criminal Justice
308 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Evers:

Senate Bill 1800, relating to *Criminal Offenders* has been placed on the agenda for the Criminal Justice Committee, meeting February 16, 2012.

Representative Rich Glorioso will be in attendance to present the bill. Thank you and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Thad Altman

Thad Altman

cc: Amanda Cannon, Staff Director
510 Knott Building

REPLY TO:
☐ 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
☐ 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5053

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: CS/CS/SB 1886

INTRODUCER: Criminal Justice Committee; Education Pre-K - 12 Committee; and Senator Wise

SUBJECT: School District Zero Tolerance

DATE: February 16, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carrouth	deMarsh-Mathues	ED	**Fav/CS**
2.	Dugger	Cannon	CJ	**Fav/CS**
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

Under the bill, school district zero tolerance policies would be revised to prescribe reporting to a law enforcement agency any act that poses a serious threat to school safety that occurs wherever students are within the jurisdiction of the district school board. The zero tolerance policies must also define criteria for reporting misdemeanors that do not pose a serious threat to school safety. These misdemeanors may be handled within the school disciplinary system with victim consent or by law enforcement. Finally, the zero tolerance policies must provide that school officials may not request a law enforcement agency to respond to petty acts of misconduct. These incidents must be handled within the school disciplinary system.

The bill requires that agreements between the district school board and local law enforcement include the role of a school resource officer (SRO) in handling and reporting incidents that pose a serious threat to school safety, the misdemeanor offenses that do not pose a serious threat to school safety that may be handled through alternatives to arrest with the victim's consent, if applicable, and the incidents of petty misconduct that school officials must handle without filing a report with law enforcement.

The bill also requires provisions for training, within existing inservice modules, for teachers and administrators on the long-term consequences of a youth arrest record and in-school resources available to address discipline infractions without involving law enforcement.

Additionally, schools are required to offer behavior interventions for student offenses when a disciplinary action causes the student to miss instructional time.

Finally, the bill requires the school principal to send an incident report to the district school superintendent when a student arrest is based on a serious threat to school safety.

This bill amends section 1006.13 of the Florida Statutes.

II. Present Situation:

The law pertaining to school district zero tolerance policies was amended in 2009.[1] School districts are required to revise their zero-tolerance policies to:

- Define petty misconduct, as well as offenses that pose a serious threat to school safety;
- Clarify that zero-tolerance policies do not require the reporting of petty misconduct and certain misdemeanors to a law enforcement agency;
- Provide for the review of disciplinary action taken against a student pursuant to s. 1006.07, F.S.;[2] and
- Consider the particular circumstances surrounding the student's misbehavior in any disciplinary or prosecutorial action.

The law also addresses the difference between serious and petty acts.[3] The law provides that the intent of the Legislature is to promote a safe and supportive learning environment in schools, to protect students and staff from conduct that poses a serious threat to school safety, and to encourage schools to use alternatives to expulsion or referral to law enforcement agencies by addressing disruptive behavior through restitution, civil citation, teen court, neighborhood restorative justice, or similar programs. Furthermore, zero tolerance policies are not intended to be rigorously applied to petty acts of misconduct and misdemeanors, including, but not limited to, minor fights or disturbances.

Current law requires that cooperative agreements between the school district and local law enforcement include specific guidelines for reporting student offenses and prohibits district policies from requiring reports to law enforcement of petty misconduct and misdemeanors, including, but not limited to, disorderly conduct, disrupting a school function, simple assault or

[1] Ch. 2009-53, L.O.F., codified in s. 1006.13, F.S.
[2] s. 1006.07(1), F.S., provides for an administrative hearing for a student who has been expelled from school. The law does not provide for this type of hearing for a student who is suspended from school.
[3] s. 1006.13(1), F.S.

battery, affray,[4] theft of less than $300, trespassing, and vandalism of less than $1,000.[5] Contrary to statutory provisions, the Department of Juvenile Justice (DJJ) reports that:[6]

- Misdemeanor offenses accounted for 68 percent of school-related referrals. During FY 2010-11, there were 16,377 total school related referrals received by the DJJ, with the most common referrals for misdemeanors;
- First time offenders accounted for 58 percent of the youth receiving school-related referrals during FY 2010-11;
- While the majority of the school-related delinquency referrals were misdemeanors, 69 percent of these cases were ultimately dismissed, not filed, or resulted in some type of diversion services.
- While African-American youth make up approximately 22 percent of the youth aged 10-17 in Florida, in FY 2007-08 black males and females accounted for 47 percent of all school-related referrals.

In November, 2011, the DJJ released a report[7] analyzing school data and referrals to the Department over a seven year time period. The report, in part, states that:

> Numerous factors can influence whether or not a youth is arrested and referred to the Department of Juvenile Justice for delinquency in schools. Each school district in Florida maintains its own distinctive progressive response or "discipline" plan that outlines how everything from misbehavior to actual crimes should be handled. In addition, law enforcement agencies in each school district have their own policies regarding how to respond and deal with delinquency in schools. Availability and use of alternatives to arrest can have a substantial impact on the number of youth referred to the Department of Juvenile Justice.

Of the youth adjudicated during 2008-09, 71 percent of admissions to DJJ institutions were for nonviolent behavior; more than 44 percent of youth were admitted for probation violations or misdemeanors, at a cost of approximately $66 million; and more than 1,100 children admitted had never committed a felony, costing the state as much as $40 million annually.[8]

Collateral Consequences of Misdemeanor Arrest[9]

Based on a report published by the National Council of Corrections within the U.S. Department of Justice, youth are frequently unaware of the consequences of their actions within the court system; a guilty plea, for instance, may be offered to expedite the process but may be accompanied by an assortment of problems in later years, oftentimes the result of a permanent criminal record. In the past two decades, information sharing about adjudicated juveniles has

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[4] A public brawl or fight.
[5] s. 1006.13(4)(c), F.S.
[6] Perspectives on Zero Tolerance, Presentation to the Senate Pre-K-12 Committee by the Southern Poverty Law Center, October 5, 2011.
[7] *The Delinquency in Florida's Schools: A Seven-Year Study, available at* http://www.djj.state.fl.us/Research/School_Referrals/index.html.
[8] Southern Poverty Law Center, *Opportunities to Strengthen Florida's Juvenile Justice System*, (September 17, 2010.) On file with the Senate Committee on Pre-K – 12 Education.
[9] *Addressing the Collateral Consequences of Convictions for Young Offenders*, available at: http://nicic.gov/Library/025263

become easy and encouraged, and rules surrounding youth privacy and confidentiality have loosened in the interest of public safety. Today, agencies enter into agreements to share delinquency data, school data, and family data. While information sharing is a useful tool to keep track of youth across systems, some find that the lack of discretion with which sensitive information is shared outweighs this usefulness. Furthermore, a common assumption is that individuals who are processed in the juvenile justice system have their records destroyed (expunged) when they turn 18. This is not the case. The laws governing whether a juvenile record is sealed (not accessible by the general public) or expunged vary from state to state.[10] Even if a record is expunged, in reality the record may still exist.

School exclusion policies may also extend into higher education in that college applications question candidates about their criminal record. In the past, applications were restricted to the question of whether one had been convicted of a crime (for which most adjudicated juveniles could respond negatively since an adjudication is technically not a crime). Many applications now also ask whether the individual has been arrested or been adjudicated delinquent. Only in an instance in which the record has been expunged would a young person be able to keep this information private.

Civil Citations[11]
Florida's expansion of civil citations is evidence of the importance of community involvement and strategic guidance for these youth. Civil citation programs serve as an alternative to traditional juvenile corrections methods and instead provide consequences for the offending behavior and hold youth accountable through restitution to victims and community service. Youth under community-based civil citations are provided services that target the root causes of the delinquent behavior, such as substance abuse treatment and mental health counseling.[12] Based on a report published in 2010, civil citations (redirection) had saved the state $51.2 million since its inception.[13] Furthermore, youth served by redirection showed significant reductions in recidivism: the probability of an arrest was 31 percent less for high risk redirection completers; the probability of a violent felony arrest was 15 percent less for redirection completers; and the probability of admission to prison was 35 percent less for redirection completers.[14] The 2011 legislation expanded the civil citation process to require these programs in all communities.[15] According to Florida TaxWatch, Florida's expansion of civil citations is evidence of the importance of community involvement and strategic guidance for these youth.[16]

Other Successful Initiatives
In 2003, Clayton County, Georgia established a collaborative agreement called a "School Offense Protocol" to reduce misdemeanor referrals to law enforcement. In less than five years

[10] *Id*. at endnote 25. Sealing typically refers to placing court records in a separate repository that is not available to the public. Expungement refers to the process of destroying the court records and any history of court involvement in a particular case.
[11] *See* www.floridataxwatch.org/resources/.../20110603CivilCitationOnePager.pdf.
[12] *Id*.
[13] *Id*.
[14] OPPAGA Report 10-38, *Redirection Saves $51.2 Million and Continues to Reduce Recidivism*, (April 2010), available at: http://www.oppaga.state.fl.us/ReportsYearList.aspx?yearID=22.
[15] Chapter 2011-124, L.O.F., requires a civil citation or similar diversion program to be established at the local level.
[16] *See* www.floridataxwatch.org/resources/.../20110603CivilCitationOnePager.pdf.

misdemeanor referrals to the court system were reduced by 59 percent.[17] Since the implementation of the School Offense Protocol, the number of serious weapons in Clayton County schools is down by 70 percent and, according to SROs, the protocol has also increased students' trust in them, making it more likely that students will confide in them about genuine safety threats.[18]

III. Effect of Proposed Changes:

The bill would amend s. 1006.13, F.S., to encourage schools to address disruptive student behavior using practical school offense procedures rather than automatically making referrals to law enforcement for petty acts of misconduct and misdemeanor offenses. The school offense protocols would serve to promote alternatives to expulsion and referrals to law enforcement agencies by addressing petty acts and misdemeanors at the school level.

Under the bill, school district zero tolerance policies would be revised to prescribe reporting to a law enforcement agency any act that poses a serious threat to school safety that occurs wherever students are within the jurisdiction of the district school board. The zero tolerance policies must also define criteria for reporting misdemeanors that do not pose a serious threat to school safety. These misdemeanors may be handled within the school disciplinary system with victim consent or by law enforcement. Finally, the zero tolerance policies must provide that school officials may not request a law enforcement agency to respond to petty acts of misconduct. These incidents must be handled within the school disciplinary system.

The bill requires that zero tolerance agreements between the district school board and local law enforcement include the role of an SRO in handling and reporting incidents that pose a serious threat to school safety, the misdemeanor offenses that do not pose a serious threat to school safety that may be handled through alternatives to arrest with the victim's consent, if applicable, and the incidents of petty misconduct that school officials must handle without filing a report with law enforcement.

The bill also establishes provisions for training, within existing inservice modules, for teachers and administrators on the long-term consequences of a youth arrest record, as well as in-school resources available to address discipline infractions without involving law enforcement.

Additionally, schools are required to offer behavior interventions for student offenses when a disciplinary action causes the student to miss instructional time.

Finally, the bill requires the school principal to send an incident report to the district school superintendent when a student arrest is based on a serious threat to school safety.

The bill may reduce the number of petty acts of misconduct and misdemeanor offenses that are referred to law enforcement. School districts would be encouraged to respond more appropriately to student offenses not considered a threat to school safety. The bill may also serve to encourage

[17] The School Offense Protocol concept was initiated when in 1997 police were placed in the Clayton County Georgia secondary schools and misdemeanor arrests skyrocketed. Southern Poverty Law Center, *Opportunities to Strengthen Florida's Juvenile Justice System*, (September 17, 2010.) On file with the Senate Committee on Pre-K – 12 Education.
[18] *Id.*

meaningful involvement of local communities in addressing at-risk behavior of youth, relying on appropriate interventions to correct behavior rather than punitive actions.

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 provide opportunities for appropriate interventions for at-risk youth at the local level. Some studies suggest that these alternatives to residential facilities may result in a safer state.[19] The Office of Program Policy Analysis and Government Accountability (OPPAGA) noted that youth served by redirection showed significant reductions in recidivism: the probability of an arrest was 31 percent less for high risk redirection completers; the probability of a violent felony arrest was 15 percent less for redirection completers; and the probability of admission to prison was 35 percent less for redirection completers.[20]

C. Government Sector Impact:

A reduction in referrals to law enforcement could result in substantial cost savings to the state judicial system as well as reduce the financial burden of costs associated with juvenile justice residential facilities.[21] According to Florida TaxWatch, if Florida barred the commitment of misdemeanants to state custody, the DJJ would have reduced admissions by 1,273, or 21 percent during that period, which could have saved

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[19] www.floridataxwatch.org/resources/pdf/20101201GCSTFChapter2.pdf.

[20] OPPAGA Report 10-38, *Redirection Saves $51.2 Million and Continues to Reduce Recidivism*, (April 2010), available at: http://www.oppaga.state.fl.us/ReportsYearList.aspx?yearID=22.

[21] One report states that more than 2,500 children were admitted to DJJ residential facilities for misdemeanors or violations of probation in FY 2008-09. *Report and Recommendations of the Florida TaxWatch Government Cost Savings Task Force on Criminal and Juvenile Justice Reform for Fiscal Year 2011-12*, Chapter 2: Criminal and Juvenile Justice Reform, (December 2010). *See* recommendation 21, available at: www.floridataxwatch.org/resources/pdf/20101201GCSTFChapter2.pdf.

approximately $30 million.[22] Based on findings reported by the Center for Smart Justice,[23] the $240 million the state spends on residential facilities each year is not making Florida safer, but instead more vulnerable. Residential 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.[24]

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 16, 2012:

- Deletes the provision requiring acts that do not pose a serious threat to school safety to be handled within the school disciplinary system.
- Provides that zero tolerance policies must define criteria for reporting misdemeanors that do not pose a serious threat to school safety and that these misdemeanors may be handled within the school disciplinary system with victim consent or by law enforcement.
- Requires that zero tolerance agreements between the district school board and local law enforcement also include the role of a school resource officer (SRO) in handling and reporting misdemeanor offenses that do not pose a serious threat to school safety and may be handled through alternatives to arrest with the victim's consent, if applicable.
- Requires, rather than allows, schools to offer behavior interventions for student offenses when a disciplinary action causes the student to miss instructional time.
- Requires the school principal to send an incident report, rather than certifying, to the district school superintendent when a student arrest is based on a serious threat to school safety.

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[22] *Id.*

[23] http://www.floridataxwatch.org/centers/CSJ/index.php

[24] The Center for Smart Justice reports that with an adult prison population of over 100,000 costing taxpayers $2.4 billion annually, the state can no longer afford policy choices that have led to out of control growth without making communities any safer or offenders more accountable 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.

CS by the Education Pre-K – 12 on January 30, 2012:
The committee substitute:

- Adds provisions for school staff training on the consequences of a youth arrest record and in-school alternatives to law enforcement intervention for minor disciplinary infractions;
- Restores current law to clarify that petty acts of misconduct and misdemeanor offenses are not to be included in district zero-tolerance policies unless such acts pose a serious threat to school safety.

B. Amendments:

None.

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

970566

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2012	.	
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	.	

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

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 56 - 92
4 and insert:
5
6 petty acts of misconduct and misdemeanors, including, but not
7 limited to, minor fights or disturbances. The Legislature finds
8 that zero-tolerance policies must apply equally to all students
9 regardless of their economic status, race, or disability.
10 (2) Each district school board shall adopt a policy of zero
11 tolerance that:
12 (a) Defines criteria for reporting to a law enforcement

970566

13 agency any act that occurs whenever or wherever students are
14 within the jurisdiction of the district school board that poses
15 a serious threat to school safety.
16 (b) Defines acts that pose a serious threat to school
17 safety.
18 (c) Provides that school officials may not request a law
19 enforcement agency to respond to petty acts of misconduct. Such
20 incidents shall be handled within the school disciplinary
21 system.
22 (d) ~~(c)~~ Defines petty acts of misconduct.
23 (e) Defines criteria for reporting to a law enforcement
24 agency the misdemeanor offenses that do not pose a serious
25 threat to school safety. These offenses may be handled within
26 the school disciplinary system with the victim's consent or by a
27 law enforcement agency.
28 (f) Provides, within existing inservice training modules, a
29 comprehensive training program for school administrators and
30 teachers regarding the potential negative consequences and
31 future effects of an arrest of a juvenile and of the existing
32 in-school alternatives to discipline a student for committing
33 petty acts of misconduct without involving a law enforcement
34 agency.
35 (g) Provides that the school disciplinary system shall
36 document and include corrective training, interventions, or
37 teaching of alternative behaviors specific to the offense when
38 the student is required to miss scheduled classroom instruction
39 time due to the offense and its disciplinary action.
40 (h) ~~(d)~~ Minimizes the victimization of students, staff, or
41 volunteers, including taking all steps necessary to protect the

970566

42 victim of any violent crime from any further victimization.
43 (i) ~~(e)~~ Establishes a procedure that provides each student
44 with the opportunity for a review of the disciplinary action
45 imposed pursuant to s. 1006.07.
46
47 ========== T I T L E A M E N D M E N T ==========
48 And the title is amended as follows:
49
50 Delete lines 9 - 11
51 and insert:
52
53 safety; requiring that a child accused of

789806

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/16/2012	.	
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	.	
	.	

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

1 **Senate Amendment**
2
3 Delete lines 71 - 74
4 and insert:
5 (d)1. Provides that a student not be arrested or otherwise
6 referred to the juvenile justice or criminal justice system for
7 acts of misconduct. However, the district school board may refer
8 the following acts of misconduct to a law enforcement agency:
9 a. Capital felonies;
10 b. Life felonies;
11 c. Felonies of the first degree;
12 d. Felonies of the second or third degree which involve the

789806

13 use of a firearm, weapon, arson-making equipment, or explosives;
14 e. Possession of a firearm or other deadly weapon when on
15 school grounds, at a school function, or on school-sponsored
16 transportation;
17 f. Making a false report or threat related to explosives or
18 weapons of mass destruction which involves a school, property of
19 school personnel, school transportation, or a school-sponsored
20 activity;
21 g. Aggravated battery; and
22 h. Delivering a controlled substance on school grounds.
23 2. This paragraph does not limit a district school board's
24 authority to use other disciplinary consequences as appropriate
25 to address school-based incidents.

603972

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2012	.	
	.	
	.	
	.	

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

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 119 - 132
4 and insert:
5 4)(a) Each district school board shall enter into
6 agreements with the county sheriff's office and local police
7 department specifying guidelines for ensuring that acts that
8 pose a serious threat to school safety, whether committed by a
9 student or adult, are reported to a law enforcement agency.
10 (b) The agreements must prescribe: ~~include~~
11 1. The role of school resource officers, if applicable, in
12 handling reported incidents that pose a serious threat to school

603972

13 safety;~~,~~
14 2. The circumstances in which those misdemeanor offenses
15 that do not pose a serious threat to school safety ~~officials~~ may
16 be handled through alternatives to arrest with the victim's
17 consent, if applicable; and ~~handle incidents without filing a~~
18 ~~report with a law enforcement agency, and a procedure for~~
19 ~~ensuring that school personnel properly report appropriate~~
20 ~~delinquent acts and crimes.~~
21 3. The circumstances and incidents of petty misconduct that
22 school officials shall handle without filing a report with a law
23 enforcement agency.
24
25 ========== T I T L E A M E N D M E N T ==========
26 And the title is amended as follows:
27
28 Delete lines 30 - 31
29 and insert:
30
31 may handle through alternatives to arrest; requiring
32 the school principal to

436198

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2012	.	
	.	
	.	
	.	

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

1 **Senate Amendment**
2
3 Delete line 144
4 and insert:
5
6 documented. In addition, the school principal shall send an
7 incident report to

By the Committee on Education Pre-K - 12; and Senator Wise

A bill to be entitled

An act relating to zero tolerance for crime and victimization in schools; amending s. 1006.13, F.S.; revising legislative intent to encourage schools to address disruptive behavior through school offense protocols; requiring that each district school board adopt a policy for reporting to a law enforcement agency acts that pose a serious threat to school safety; requiring that acts that do not pose a serious threat to school safety be handled within the school's disciplinary system; requiring that a child accused of a misdemeanor offense not be arrested and formally processed in the juvenile justice system; requiring that minor incidents be diverted from the juvenile justice system or handled within the school system's disciplinary system; requiring each district school board to implement a training program for school administrators and teachers regarding the negative consequences and future effects of an arrest of a juvenile and of the existing in-school alternatives to discipline a student for committing petty acts of misconduct without involving a law enforcement agency; requiring that each district school board enter into an agreement with the county sheriff's office and local police department which includes a role for school resource officers, if applicable, to handle reported incidents that pose a serious threat to school safety; requiring the agreements to prescribe the circumstances and offenses that school officials

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

must handle without filing a report with a law enforcement agency; requiring the school principal to certify, in writing, when an arrest of a student under the jurisdiction of the school board is for an incident that is a serious threat to school safety; requiring that, by a specified date and annually thereafter, each school district provide its policies related to zero tolerance for crime and victimization to the Department of Education; providing an effective date.

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

Section 1. Section 1006.13, Florida Statutes, is amended to read:

1006.13 Policy of zero tolerance for crime and victimization.—

(1) It is the intent of the Legislature to promote a safe and supportive learning environment in schools, to protect students and staff from conduct that poses a serious threat to school safety, and to encourage schools to use alternatives to expulsion, or referral to law enforcement agencies by addressing disruptive behavior through restitution, civil citation, teen court, neighborhood restorative justice, school offense protocols, or similar programs. The Legislature finds that zero-tolerance policies are not intended to be rigorously applied to petty acts of misconduct ~~and misdemeanors~~, including, but not limited to, minor fights or disturbances. The Legislature finds that zero-tolerance policies must apply equally to all students

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59 regardless of their economic status, race, or disability.
60 (2) Each district school board shall adopt a policy of zero
61 tolerance that:
62 (a) Defines criteria for reporting to a law enforcement
63 agency any act that occurs whenever or wherever students are
64 within the jurisdiction of the district school board that poses
65 a serious threat to school safety. Acts that do not pose a
66 serious threat to school safety shall be handled within the
67 school's disciplinary system.
68 (b) Defines acts that pose a serious threat to school
69 safety.
70 (c) Defines petty acts of misconduct.
71 (d) Provides that school officials may not request a law
72 enforcement agency to respond to petty acts of misconduct. Such
73 incidents shall be handled within the school system's discipline
74 system.
75 (e) Provides, within existing inservice training modules, a
76 comprehensive training program for school administrators and
77 teachers regarding the potential negative consequences and
78 future effects of an arrest of a juvenile and of the existing
79 in-school alternatives to discipline a student for committing
80 petty acts of misconduct without involving a law enforcement
81 agency.
82 (f) Provides that school disciplinary systems may document
83 and include corrective training, interventions, or teaching of
84 alternative behaviors specific to the offense when the student
85 is required to miss scheduled classroom instruction time due to
86 the offense and its disciplinary action.
87 (g) ~~(d)~~ Minimizes the victimization of students, staff, or

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88 volunteers, including taking all steps necessary to protect the
89 victim of any violent crime from any further victimization.
90 (h) ~~(e)~~ Establishes a procedure that provides each student
91 with the opportunity for a review of the disciplinary action
92 imposed pursuant to s. 1006.07.
93 (3) Zero-tolerance policies must require students found to
94 have committed one of the following offenses to be expelled,
95 with or without continuing educational services, from the
96 student's regular school for a period of not less than 1 full
97 year, and to be referred to the criminal justice or juvenile
98 justice system.
99 (a) Bringing a firearm or weapon, as defined in chapter
100 790, to school, to any school function, or onto any school-
101 sponsored transportation or possessing a firearm at school.
102 (b) Making a threat or false report, as defined by ss.
103 790.162 and 790.163, respectively, involving school or school
104 personnel's property, school transportation, or a school-
105 sponsored activity.
106
107 District school boards may assign the student to a disciplinary
108 program for the purpose of continuing educational services
109 during the period of expulsion. District school superintendents
110 may consider the 1-year expulsion requirement on a case-by-case
111 basis and request the district school board to modify the
112 requirement by assigning the student to a disciplinary program
113 or second chance school if the request for modification is in
114 writing and it is determined to be in the best interest of the
115 student and the school system. If a student committing any of
116 the offenses in this subsection is a student who has a

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117 disability, the district school board shall comply with
118 applicable State Board of Education rules.
119 (4)(a) Each district school board shall enter into
120 agreements with the county sheriff's office and local police
121 department specifying guidelines for ensuring that acts that
122 pose a serious threat to school safety, whether committed by a
123 student or adult, are reported to a law enforcement agency.
124 (b) The agreements must prescribe: ~~include~~
125 1. The role of school resource officers, if applicable, in
126 handling reported incidents that pose a serious threat to school
127 safety; and~~,~~
128 2. The circumstances and offenses that ~~in which~~ school
129 officials shall ~~may~~ handle ~~incidents~~ without filing a report
130 with a law enforcement agency~~, and a procedure for ensuring that~~
131 ~~school personnel properly report appropriate delinquent acts and~~
132 ~~crimes~~.
133 (c) Zero-tolerance policies do not require the reporting of
134 petty acts of misconduct and misdemeanors to a law enforcement
135 agency, including, but not limited to, disorderly conduct,
136 disrupting a school function, simple assault or battery, affray,
137 theft of less than $300, trespassing, and vandalism of less than
138 $1,000.
139 (d) The school principal shall ensure that all school
140 personnel are properly informed of ~~as to~~ their responsibilities
141 regarding crime reporting, that appropriate delinquent acts and
142 crimes are properly reported, and that actions taken in cases
143 with special circumstances are properly managed ~~taken~~ and
144 documented. In addition, the school principal shall certify to
145 the superintendent, in writing, of the arrest of a student who

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146 is under the jurisdiction of the district school board for an
147 act that poses a serious threat to school safety.
148 (5) Notwithstanding any other ~~provision of~~ law, each
149 district school board shall adopt rules providing that any
150 student found to have committed any offense in s. 784.081(1),
151 (2), or (3) shall be expelled or placed in an alternative school
152 setting or other program, as appropriate. Upon being charged
153 with the offense, the student shall be removed from the
154 classroom immediately and placed in an alternative school
155 setting pending disposition.
156 (6)(a) Notwithstanding any provision of law prohibiting the
157 disclosure of the identity of a minor, whenever any student who
158 is attending a public school is adjudicated guilty of or
159 delinquent for, or is found to have committed, regardless of
160 whether adjudication is withheld, or pleads guilty or nolo
161 contendere to, a felony violation of:
162 1. Chapter 782, relating to homicide;
163 2. Chapter 784, relating to assault, battery, and culpable
164 negligence;
165 3. Chapter 787, relating to kidnapping, false imprisonment,
166 luring or enticing a child, and custody offenses;
167 4. Chapter 794, relating to sexual battery;
168 5. Chapter 800, relating to lewdness and indecent exposure;
169 6. Chapter 827, relating to abuse of children;
170 7. Section 812.13, relating to robbery;
171 8. Section 812.131, relating to robbery by sudden
172 snatching;
173 9. Section 812.133, relating to carjacking; or
174 10. Section 812.135, relating to home-invasion robbery,

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175

176 and, before or at the time of such adjudication, withholding of
177 adjudication, or plea, the offender was attending a school
178 attended by the victim or a sibling of the victim of the
179 offense, the Department of Juvenile Justice shall notify the
180 appropriate district school board of the adjudication or plea,
181 the requirements in this paragraph, and whether the offender is
182 prohibited from attending that school or riding on a school bus
183 whenever the victim or a sibling of the victim is attending the
184 same school or riding on the same school bus, except as provided
185 pursuant to a written disposition order under s. 985.455(2).
186 Upon receipt of such notice, the district school board shall
187 take appropriate action to effectuate the provisions in
188 paragraph (b).
189 (b) Each district school board shall adopt a cooperative
190 agreement with the Department of Juvenile Justice which
191 establishes guidelines for ensuring that any no-contact ~~no~~
192 ~~contact~~ order entered by a court is reported and enforced and
193 that all of the necessary steps are taken to protect the victim
194 of the offense. Any offender described in paragraph (a), who is
195 not exempted as provided in paragraph (a), may not attend any
196 school attended by the victim or a sibling of the victim of the
197 offense or ride on a school bus on which the victim or a sibling
198 of the victim is riding. The offender shall be permitted by the
199 district school board to attend another school within the
200 district in which the offender resides, only if the other school
201 is not attended by the victim or sibling of the victim of the
202 offense; or the offender may be permitted by another district
203 school board to attend a school in that district if the offender

204 is unable to attend any school in the district in which the
205 offender resides.
206 (c) If the offender is unable to attend any other school in
207 the district in which the offender resides and is prohibited
208 from attending a school in another school district, the district
209 school board in the school district in which the offender
210 resides shall take every reasonable precaution to keep the
211 offender separated from the victim while on school grounds or on
212 school transportation. The steps to be taken by a district
213 school board to keep the offender separated from the victim must
214 include, but are not limited to, in-school suspension of the
215 offender and the scheduling of classes, lunch, or other school
216 activities of the victim and the offender so as not to coincide.
217 (d) The offender, or the parents of the offender if the
218 offender is a juvenile, shall arrange and pay for transportation
219 associated with or required by the offender's attending another
220 school or that would be required as a consequence of the
221 prohibition against riding on a school bus on which the victim
222 or a sibling of the victim is riding. However, the offender or
223 the parents of the offender may not be charged for existing
224 modes of transportation that can be used by the offender at no
225 additional cost to the district school board.
226 (7) Any disciplinary or prosecutorial action taken against
227 a student who violates a zero-tolerance policy must be based on
228 the particular circumstances of the student's misconduct.
229 (8) School districts are encouraged to use alternatives to
230 expulsion or referral to law enforcement agencies unless the use
231 of such alternatives will pose a threat to school safety. By
232 September 1, 2013, and annually thereafter, each school district

233 shall provide its policy related to zero tolerance to the
234 department to ensure compliance.
235 Section 2. This act shall take effect July 1, 2012.

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The Florida Senate

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: January 31, 2012

I respectfully request that **Senate Bill # 1886**, relating to Zero Tolerance for Crime and Victimization in Schools, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Stephen Wise

Senator Stephen R. Wise
Florida Senate, District 5

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/16/12
Meeting Date

Topic: ZERO TOLERANCE

Bill Number: 1886 *(if applicable)*

Name: VICKI LUKIS

Amendment Barcode: ALL *(if applicable)*

Job Title: CONSULTANT

Address: 836 MADRID ST.
Street

CORAL GABLES, FL 33134
City, State, Zip

Phone: 305-216-7794

E-mail: vickilukis@mac.com

Speaking: [x] For [ ] Against [x] Information

Representing: SENATE JUVENILE JUSTICE EDUCATION WORK GROUP

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

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

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

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)

2/16/12
Meeting Date

Topic: Zero Tolerance

Bill Number: SB 1886 (if applicable)

Name: David Utter

Amendment Barcode: (if applicable)

Job Title: Director, Policy & Legislature

Address: 4770 Biscayne Blvd.
Street

Miami FL 33137
City State Zip

Phone: 334/296-0727

E-mail: david.utter at splcenter.org

Speaking: ☐ For ☐ Against ☒ Information

Representing: SPLC Southern Poverty Lawcenter

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)

2/16/12
Meeting Date

Topic: Zero Tolerance

Bill Number: 1886 (if applicable)

Name: Nancy Daniels

Amendment Barcode: (if applicable)

Job Title: Public Defender, 2nd Judicial Circuit

Address: Leon County Courthouse, 301 S. Monroe St
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850 606-1010

E-mail: nancy.daniels@flpd2.com

Speaking: [x] 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)

2/16/12
Meeting Date

Topic: ZERO TOLERANCE

Bill Number: 1886 *(if applicable)*

Name: VICKI LUKIS

Amendment Barcode: 789806 *(if applicable)*

Job Title: CONSULTANT

Address: 836 MADRID ST
Street

CORAL GABLES FL 33134
City *State* *Zip*

Phone: 305-216-7794

E-mail: vickilukis@mac.com

Speaking: [x] For [ ] Against [x] Information

Representing: SENATE JJ EDUCATION WORKGROUP

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

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

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

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)

2/16/12
Meeting Date

Topic: ZERO TOLERANCE

Bill Number: 1886 *(if applicable)*

Name: VICKI LUKIS

Amendment Barcode: 970566 *(if applicable)*

Job Title: CONSULTANT

Address: 836 MADRID ST.
Street

CORAL GABLES, FL 33134
City, State, Zip

Phone: 305-216-7794

E-mail: vickilukis@mac.com

Speaking: [x] For [ ] Against [x] Information

Representing: SENATE JUVENILE JUSTICE EDUCATION WORK GROUP

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

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

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

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

S-001 (10/20/11)

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 Criminal Justice Committee

BILL: SB 234

INTRODUCER: Senators Fasano and Evers

SUBJECT: Offenses Against Unborn Children

DATE: February 3, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	**Pre-meeting**
2.			TR	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill creates a new definition of "unborn child" within three provisions of the criminal code. Specifically, the current term ("viable fetus") and definition ("a fetus is viable when it becomes capable of meaningful life outside the womb through standard medical measures.") is amended to become: "the term 'unborn child' means the unborn offspring of a human being at any stage of gestation from fertilization until birth."

The new definition applies to the criminal offenses of vehicular homicide, DUI manslaughter, and all murder offenses from capital murder through manslaughter where the unborn child dies as a result of injury to, or the death of, the mother.

The bill also makes conforming changes to s. 435.04, F.S., relating to employment screening standards, and s. 921.0022, F.S, the offense severity ranking chart.

This bill substantially amends the following sections of the Florida Statutes: 316.193, 435.04, 782.071, 782.09, and 921.0022.

II. Present Situation:

History of Prenatal Criminal Law

Beginning in the 17th century, the common law rule was that only children who were born alive were afforded protections of the criminal law.[1] This became known as the "born alive rule." Due

[1] Joseph L. Falvey, Jr., *Kill an Unborn Child – Go to Jail: The Unborn Victims of Violence Act of 2004 and Military Justice*, 53 NAVAL L. REV. 1, 1 (2006).

to the lack of medical technology in that time, it was difficult for doctors to know the health or condition of an unborn child; therefore, it was impossible to prove whether an assault on the mother was the proximate cause of the death of the fetus. The born alive rule became the standard in federal cases for imposing additional punishment on a perpetrator in crimes against an expectant mother. The born alive rule has been challenged many times; however, courts have upheld it stating that it is the job of the state legislatures to change the law.

Alternatively, some jurisdictions began adopting the rule that an unborn child is afforded protection of the criminal law at quickening, which was defined as "the first recognizable movements of the fetus, appearing usually from the sixteenth to eighteenth week of pregnancy."[2] Quickening also became the evidentiary standard for determining whether a person violated an abortion statute because, at the time (early 20th century), it was the most certain way to determine whether a woman was pregnant or not.

Finally, many jurisdictions have determined that an unborn child is afforded protection under the law if the fetus is viable. This term has been defined as "the physical maturation or physiological capability of the fetus to live outside the womb."[3] The Massachusetts Supreme Court became the first court to include viable unborn children in the statutory meaning of "person" for purposes of criminal laws.[4]

Due to the advancement in technology and challenges to the born alive rule, many state legislatures have enacted changes to their criminal laws to provide a criminal penalty for crimes against unborn children. Although many jurisdictions began enacting such laws, some people felt that no protection existed for an unborn victim of a federal crime.[5]

Federal Unborn Victims of Violence Act[6]

The Unborn Victims of Violence Act (UVVA or act), signed into law on April 1, 2004, establishes a separate offense for harming or killing an unborn child during the commission of specified crimes.[7] Under the act, any person who injures or kills a "child in utero" during the commission of certain specified crimes is guilty of an offense separate from one involving the pregnant woman. Punishment for the separate offense is the same as if the offense had been committed against the pregnant woman. In addition, an offense does not require proof that the person engaging in the misconduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant, or that the defendant intended to cause the death of, or bodily injury to, the child in utero. The term "child in utero" is defined by the act to mean "a member of the species homo sapiens, at any stage of development, who is carried in the womb."

In an attempt to preserve a woman's right to have an abortion, there are three specific exclusions from the prohibitions of the act:

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[2] *Id*. at 5 (quoting Clarke D. Forsythe, *Homicide of the Unborn Child: The Born Alive Rule and Other Legal Anachronisms*, 21 VAL. U. L. REV. 563, 567 (1987)).
[3] *Id*. at 6 (quoting Forsythe, *supra* note 2, at 569).
[4] *Id*.
[5] Jon O. Shimabukuro, *The Unborn Victims of Violence Act*, CRS Report for Congress (May 21, 2004), *available at* http://assets.opencrs.com/rpts/RS21550_20040521.pdf (last visited Apr. 2, 2010).
[6] The information in this section of the Present Situation of this bill analysis is from the CRS Report for Congress. *Id*.
[7] *See* 18 U.S.C. s. 1841 and 10 U.S.C. s. 919a.

- Persons conducting consensual, legal abortions;
- Persons conducting any medical treatment of the pregnant woman or unborn child; and
- Any woman with respect to her unborn child.

State Law
Currently, 38 states have fetal homicide statutes. Twenty of those states' laws apply to the earliest stages of pregnancy.[8] Some statutes use the definition found in the federal act discussed above ("a member of the species homo sapiens, at any stage of development, who is carried in the womb") while other states have defined "person" or "individual" to include an unborn child at every stage of gestation from fertilization to birth.[9] Definitions vary among the states as do the requirements regarding knowledge of a woman's pregnancy and intent to harm or kill the fetus.

Florida Case Law
The term "viable fetus" is commonly used in abortion case law. For example, in 1989 the Florida Supreme Court stated that "the potentiality of life in the fetus becomes compelling at the point in time when the fetus becomes viable."[10] Further, the court provided the following definition of viability:

> Viability under Florida law occurs at that point in time when the fetus becomes capable of meaningful life outside the womb through standard medical measures. Under current standards, this point generally occurs upon completion of the second trimester. [N]o medical evidence exists indicating that technological improvements will move viability forward beyond twenty-three to twenty-four weeks gestation within the foreseeable future due to the anatomic threshold of fetal development.[11]

In *Stokes v. Liberty Mutual Insurance Co.*, the Florida Supreme Court used a medical dictionary definition of "quick" in its analysis of a wrongful death claim. This term was defined as follows: Pregnant with a child the movement of which is felt.[12] However, Justice Ervin offered a different definition of "quick child" in a concurring opinion in a case overturning a conviction for unlawful abortion. Specifically, Justice Ervin said that a woman is pregnant with a quick child "when the embryo (has) advanced to that degree of maturity where the child had a separate and independent existence, and the woman has herself felt the child alive and quick within her."[13]

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[8] The National Conference of State Legislatures, *Fetal Homicide Laws*, updated Nov. 2010, www.ncsl.org/issues-research/health/fetal-homicide-state-laws.aspx . *See also* The National Right to Life Committee, *State Homicide Laws that Recognize Unborn Victims*, updated May 27, 2011, which cites 36 state laws, www.nrlc.org/Unborn_Victims/Statehomicidelaws092302.html .
[9] For example, see *S.C. Code Ann section 16-3-1083*; *Tex.PenalCode section 1.07*; *Ala.Code section 13A-6-1*; *Ill.Rev.Stat. ch.720 sections 5/9-1.2, 2.1 and 3.2*.
[10] *In re T.W.*, 551 So. 2d 1186, 1193 (Fla. 1989)
[11] *Id*. at 1194 (internal citation omitted).
[12] *Stokes v. Liberty Mutual Insurance Co.*, 213 So. 2d 695, 697 (Fla. 1968)
[13] *Walsingham v. State*, 250 So. 2d 857 (Fla. 1971) (Ervin, J., specially concurring) (quoting *State v. Steadman*, 51 S.E.2d 91, 93 (1948)).

Florida Criminal Statutory Law

Murder of Viable Fetus. Section 782.09, F.S., provides that the unlawful killing of an unborn quick child, by any injury to the mother of such child which would be murder if it resulted in the death of such mother, shall be deemed *murder in the same degree* as that which would have been committed against the mother.

This statute holds a defendant equally accountable for the death of an unborn quick child as he or she would be if the mother died as a result of the defendant's actions. The crimes included in this section of law span from capital murder to manslaughter. The term "unborn quick child" is currently defined within this murder statute in accordance with the definition of "viable fetus" set forth in s. 782.071, F.S.

Murder of Viable Fetus by Vehicular Homicide. Section 782.071, F.S., which is Florida's *vehicular homicide* statute, holds a defendant equally accountable for the death of a viable fetus as for the death of the mother or any other person killed as a result of the defendant's actions. Specifically, Section 782.071, F.S., defines vehicular homicide as "the killing of a human being, or the killing of a viable fetus by any injury to the mother, caused by the operation of a motor vehicle by another in a reckless manner likely to cause the death of, or great bodily harm to, another."

The term "viable fetus," is defined in the vehicular homicide statute as "a fetus (is viable) when it becomes capable of meaningful life outside the womb through standard medical measures." It is to this statutory definition that the other criminal statutes that punish the death of a fetus refer. This law also specifically recognizes a civil cause of action for damages under the Wrongful Death Act.[14]

Murder of Viable Fetus by DUI Manslaughter. Section 316.193(3), F.S., provides, in part, that in order to prove a *DUI manslaughter* case, the state must establish the following elements:

- The defendant operated a vehicle.
- The defendant, by reason of such operation, caused or contributed to the cause of the death of any human being or unborn quick child.
- At the time of such operation, the defendant was under the influence of alcoholic beverages or a controlled substance to the extent that the defendant's normal faculties were impaired or the defendant had a blood alcohol level of .08 or higher.

The statute defines the term "unborn quick child" in accordance with the definition of "viable fetus" set forth in s. 782.071, F.S.

III. Effect of Proposed Changes:

The bill cites the act as the "Florida Unborn Victims of Violence Act."

Change of Definition; No Action for Negligence. The bill amends s. 782.071, F.S. (the vehicular homicide statute), by replacing the term "viable fetus" with "unborn child," and

[14] Section 768.19, F.S.

defining the term as "the unborn offspring of a human being at any stage of gestation from fertilization until birth." The bill specifies that the statute should not be construed to create or expand any civil cause of action for negligence based on statute or common law.

Change of Definition; Specific Intent to Kill and Knowledge of Pregnancy Eliminated as Elements of Murder Offenses Against Unborn Child. The bill amends s. 782.09, F.S. (killing of unborn child by injury to the mother), by replacing the term "unborn quick child" with "unborn child" and defines the term in accordance with the amended definition in s. 782.071, F.S. (unborn child, vehicular homicide).

The bill also amends s. 782.09, F.S., to specify that the offense does not require the death of the mother or that the person engaging in the conduct:

- Had knowledge or should have had knowledge that the mother was pregnant; or
- Intended to cause the death of, or bodily injury to, the unborn child.

Change of Definition. The bill also amends s. 316.193, F.S. (DUI manslaughter), by replacing the term "unborn quick child" with "unborn child" and defining the term in accordance with the amended definition set forth in s. 782.071, F.S. (unborn child, vehicular homicide).

Conforming Changes; Effective Date. The bill also makes conforming changes to s. 435.04, F.S., relating to employment screening standards, and s. 921.0022, F.S, the offense severity ranking chart. The bill has an October 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.

C. Government Sector Impact:

On December 14, 2011, the Criminal Justice Impact Conference determined that this bill would have an insignificant prison bed impact on the Department of Corrections.

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.

824496

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/16/2012	.	
	.	
	.	
	.	

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

1 **Senate Amendment (with title amendment)**
2
3
4 Delete lines 43 - 47
5 and insert:
6 (3) A right of action for civil damages shall exist under
7 s. 768.19, under all circumstances, for all deaths described in
8 this section. <u>However, this section does not create, expand or</u>
9 <u>authorize any civil cause of action for negligence or wrongful</u>
10 <u>death in any fetus that is not born alive, except as provided by</u>
11 <u>this section for vehicular homicide.</u>
12

824496

13 ========== T I T L E A M E N D M E N T ==========
14 And the title is amended as follows:
15 Delete line 7
16 and insert:
17 "viable fetus"; providing that the right of action for
18 civil damages does not expand or authorize any civil
19 cause of action for negligence or wrongful death in
20 any fetus that is not born alive, other than for
21 vehicular homicide; amending

693226

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/16/2012	.	
	.	
	.	
	.	

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

1 **Senate Amendment (with title amendment)**
2
3
4 Between lines 100 and 101
5 insert:
6 (7) This section does not create, expand, or authorize any
7 civil cause of action for negligence or wrongful death based on
8 statutory or common law for any fetus that is not born alive.
9
10 ========== T I T L E A M E N D M E N T ==========
11 And the title is amended as follows:
12 Delete line 11

693226

13 and insert:
14 knowledge or intent or death of the mother; providing
15 for applicability; amending

By Senator Fasano

11-00097A-12 2012234__

A bill to be entitled

An act relating to offenses against unborn children; providing a short title; amending s. 782.071, F.S., relating to vehicular homicide; defining the term "unborn child" for specified purposes; revising terminology to refer to "unborn child" rather than "viable fetus"; providing legislative intent; amending s. 782.09, F.S.; revising terminology; providing that certain offenses relating to the killing of an unborn child by injury to the mother do not require specified knowledge or intent or death of the mother; amending ss. 316.193, 435.04, and 921.0022, F.S.; conforming terminology; providing an effective date.

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

Section 1. This act may be cited as the "Florida Unborn Victims of Violence Act."

Section 2. Section 782.071, Florida Statutes, is amended to read:

782.071 Vehicular homicide.—"Vehicular homicide" is the killing of a human being, or the killing of an unborn child ~~a viable fetus~~ by any injury to the mother, caused by the operation of a motor vehicle by another in a reckless manner likely to cause the death of, or great bodily harm to, another.

(1) Vehicular homicide is:

(a) A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A felony of the first degree, punishable as provided in

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11-00097A-12 2012234__

s. 775.082, s. 775.083, or s. 775.084, if:

1. At the time of the accident, the person knew, or should have known, that the accident occurred; and

2. The person failed to give information and render aid as required by s. 316.062.

This paragraph does not require that the person knew that the accident resulted in injury or death.

(2) For purposes of this section, the term "unborn child" means the unborn offspring of a human being at any stage of gestation from fertilization until birth ~~a fetus is viable when it becomes capable of meaningful life outside the womb through standard medical measures~~.

(3) A right of action for civil damages shall exist under s. 768.19, under all circumstances, for all deaths described in this section. However, this section does not create or expand any civil cause of action for negligence based on statute or common law.

(4) In addition to any other punishment, the court may order the person to serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, under the supervision of a registered nurse, an emergency room physician, or an emergency medical technician pursuant to a voluntary community service program operated by the trauma center or hospital.

Section 3. Section 782.09, Florida Statutes, is amended to read:

782.09 Killing of unborn ~~quick~~ child by injury to mother.—

(1) The unlawful killing of an unborn ~~quick~~ child, by any

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59 injury to the mother of such child which would be murder if it
60 resulted in the death of such mother, shall be deemed murder in
61 the same degree as that which would have been committed against
62 the mother. Any person, other than the mother, who unlawfully
63 kills an unborn ~~quick~~ child by any injury to the mother:
64 (a) Which would be murder in the first degree constituting
65 a capital felony if it resulted in the mother's death commits
66 murder in the first degree constituting a capital felony,
67 punishable as provided in s. 775.082.
68 (b) Which would be murder in the second degree if it
69 resulted in the mother's death commits murder in the second
70 degree, a felony of the first degree, punishable as provided in
71 s. 775.082, s. 775.083, or s. 775.084.
72 (c) Which would be murder in the third degree if it
73 resulted in the mother's death commits murder in the third
74 degree, a felony of the second degree, punishable as provided in
75 s. 775.082, s. 775.083, or s. 775.084.
76 (2) The unlawful killing of an unborn ~~quick~~ child by any
77 injury to the mother of such child which would be manslaughter
78 if it resulted in the death of such mother is ~~shall be deemed~~
79 manslaughter. A person who unlawfully kills an unborn ~~quick~~
80 child by any injury to the mother which would be manslaughter if
81 it resulted in the mother's death commits manslaughter, a felony
82 of the second degree, punishable as provided in s. 775.082, s.
83 775.083, or s. 775.084.
84 (3) The death of the mother resulting from the same act or
85 criminal episode that caused the death of the unborn ~~quick~~ child
86 does not bar prosecution under this section.
87 (4) This section does not authorize the prosecution of any

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88 person in connection with a termination of pregnancy pursuant to
89 chapter 390.
90 (5) For purposes of this section, the definition of the
91 term "unborn ~~quick~~ child" shall be determined in accordance with
92 the definition of an unborn child ~~viable fetus~~ as set forth in
93 s. 782.071.
94 (6) An offense under this section does not require:
95 (a) That the person engaging in the conduct:
96 1. Had knowledge or should have had knowledge that the
97 mother was pregnant; or
98 2. Intended to cause the death of, or bodily injury to, the
99 unborn child.
100 (b) The death of the mother.
101 Section 4. Subsection (3) of section 316.193, Florida
102 Statutes, is amended to read:
103 316.193 Driving under the influence; penalties.—
104 (3) Any person:
105 (a) Who is in violation of subsection (1);
106 (b) Who operates a vehicle; and
107 (c) Who, by reason of such operation, causes or contributes
108 to causing:
109 1. Damage to the property or person of another commits a
110 misdemeanor of the first degree, punishable as provided in s.
111 775.082 or s. 775.083.
112 2. Serious bodily injury to another, as defined in s.
113 316.1933, commits a felony of the third degree, punishable as
114 provided in s. 775.082, s. 775.083, or s. 775.084.
115 3. The death of any human being or unborn ~~quick~~ child
116 commits DUI manslaughter, and commits:

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

117 a. A felony of the second degree, punishable as provided in
118 s. 775.082, s. 775.083, or s. 775.084.
119 b. A felony of the first degree, punishable as provided in
120 s. 775.082, s. 775.083, or s. 775.084, if:
121 (I) At the time of the crash, the person knew, or should
122 have known, that the crash occurred; and
123 (II) The person failed to give information and render aid
124 as required by s. 316.062.
125
126 For purposes of this subsection, the definition of the term
127 "unborn ~~quick~~ child" shall be determined in accordance with the
128 definition of an unborn child ~~viable fetus~~ as set forth in s.
129 782.071. A person who is convicted of DUI manslaughter shall be
130 sentenced to a mandatory minimum term of imprisonment of 4
131 years.
132 Section 5. Paragraph (g) of subsection (2) of section
133 435.04, Florida Statutes, is amended to read:
134 435.04 Level 2 screening standards.—
135 (2) The security background investigations under this
136 section must ensure that no persons subject to the provisions of
137 this section have been arrested for and are awaiting final
138 disposition of, have been found guilty of, regardless of
139 adjudication, or entered a plea of nolo contendere or guilty to,
140 or have been adjudicated delinquent and the record has not been
141 sealed or expunged for, any offense prohibited under any of the
142 following provisions of state law or similar law of another
143 jurisdiction:
144 (g) Section 782.09, relating to killing of an unborn ~~quick~~
145 child by injury to the mother.

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146 Section 6. Paragraph (g) of subsection (3) of section
147 921.0022, Florida Statutes, is amended to read:
148 921.0022 Criminal Punishment Code; offense severity ranking
149 chart.—
150 (3) OFFENSE SEVERITY RANKING CHART
151 (g) LEVEL 7
152

Florida Statute	Felony Degree	Description
316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration,

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

463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(9)	3rd	Practicing medical physics without a license.
484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
484.053	3rd	Dispensing hearing aids without a license.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained

		exceeded $50,000 and there were five or more victims.
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $300 but less than $20,000 by a money services business.
560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.
655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less than $20,000 by financial institution.
775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
782.051(3)	2nd	Attempted felony murder of a person by

		a person other than the perpetrator or the perpetrator of an attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	2nd	Killing of a human being or unborn child ~~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.

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 hoax bomb.

790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.

209

800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.

210

806.01(2)	2nd	Maliciously damage structure by fire or explosive.

211

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

212

810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.

213

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

214

810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.

215

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.

216

812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than $50,000, grand theft in 2nd degree.

217

812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.

218

812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.

219

812.0145(2)(a)	1st	Theft from person 65 years of age or older; $50,000 or more.

220

812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.

221

812.131(2)(a)	2nd	Robbery by sudden snatching.

222

812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.

223

817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.

224

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

225

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

226

817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
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.
827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
838.015	2nd	Bribery.

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838.016	2nd	Unlawful compensation or reward for official behavior.
838.021(3)(a)	2nd	Unlawful harm to a public servant.
838.22	2nd	Bid tampering.
847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
872.06	2nd	Abuse of a dead human body.
874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

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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.
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).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.

893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135 (1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
893.135 (1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.
943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with

reporting requirements.

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943.0435(8) 2nd Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.

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943.0435(9)(a) 3rd Sexual offender; failure to comply with reporting requirements.

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943.0435(13) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

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943.0435(14) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.

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944.607(9) 3rd Sexual offender; failure to comply with reporting requirements.

262

944.607(10)(a) 3rd Sexual offender; failure to submit to the taking of a digitized photograph.

263

944.607(12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

264

944.607(13) 3rd Sexual offender; failure to report and reregister; failure to respond to

address verification.

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

266

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

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

268

269 Section 7. This act shall take effect October 1, 2012.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/16/12
Meeting Date

Topic: Unborn Victims of Violence

Bill Number: 234 *(if applicable)*

Name: Sheila Hopkins

Amendment Barcode: _____ *(if applicable)*

Job Title: Associate Director

Address: 201 W. Park Ave.
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: 850-205-6826

E-mail: shopkins@flacathconfory

Speaking: [X] For [ ] Against [ ] Information

Representing: Florida Catholic Conference

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

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

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

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

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)

2-16-2012
Meeting Date

Topic _____

Bill Number 234 *(if applicable)*

Name Bill Warren

Amendment Barcode _____ *(if applicable)*

Job Title Policy Director

Address _____
Street

_____
City *State* *Zip*

Phone 850 - 5678143

E-mail billw@flfamily-org

Waive in Support

~~Speaking~~: ☑ For ☐ Against ☐ Information

Representing Florida Family Action

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)

10:30am
Meeting Date

Topic: Unborn Victims of Violence

Bill Number: [redacted] 234 (if applicable)

Name: Maureen Ahern

Amendment Barcode: (if applicable)

Job Title:

Address: 3201-70th Way N.
Street

St. Petersburg, FL 33710
City, State, Zip

Phone: 727-381-2166

E-mail: maherna@tampabay.rr.com

Speaking: [x] For [ ] Against [ ] Information

Representing: Myself

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

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

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

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)

2-16-12
Meeting Date

Topic: OFFENSES AGAINST CHILDREN

Bill Number: 234 *(if applicable)*

Name: BILL BUNKLEY

Amendment Barcode: _____ *(if applicable)*

Job Title: PRESIDENT

Address: PO BOX 340288
Street

TAMPA FL 33694
City *State* *Zip*

Phone: 813.264.2977

E-mail: _____

Speaking: [✓] For [ ] Against [ ] Information

Representing: FLORIDA ETHICS & RELIGIOUS LIBERTY COMMISSION

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

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

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

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S-001 (10/20/11)

WAVE in support

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-16-12
Meeting Date

Topic: Offenses Against Unborn Children

Bill Number: SB234 *(if applicable)*

Name: Cathy Fruit

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 3313 Dartmoor Dr
Street

Tallahassee, FL 32312
City, State, Zip

Phone: 850-545-2127

E-mail: Cathyf123@aol.com

Speaking: [x] For [ ] Against [ ] Information

Representing: myself

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

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

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

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

S-001 (10/20/11)

WAIVE IN SUPPORT

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/16/12
Meeting Date

Topic: Offenses Against Unborn Children

Bill Number: SB234 (if applicable)

Name: Janet Cordero

Amendment Barcode: _____ (if applicable)

Job Title: —

Address: 7646 Brookline St
Street

Wesley Chapel, FL 33544
City State Zip

Phone: 813-390-6675

E-mail: cwatampa@hotmail.com

Speaking: [x] For [ ] Against [ ] Information

Representing: Concerned Women for AMERICA

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

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

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

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)

234

2/16/2012
Meeting Date

Topic: Offenses Against Unborn Children

Bill Number: SB ~~2~~94 (if applicable)

Name: Pamela Burch Fort

Amendment Barcode: (if applicable)

Job Title: Legislative Consultant

Address: 104 S. Monroe St
Street

Tallahassee FL 32301
City State Zip

Phone: 850-425-1344

E-mail: TcgLobby@aol.com

Speaking: ☐ For ☑ Against ☐ Information

Representing: ACLU of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on Criminal and Civil Justice Appropriations, *Chair*
Banking and Insurance
Budget
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Communications, Energy, and Public Utilities
Health Regulation
Military Affairs, Space, and Domestic Security

JOINT COMMITTEE:
Administrative Procedures

SENATOR MIKE FASANO
11th District

October 4, 2011

The Honorable Greg Evers
Senate Committee on Criminal Justice
510 Knott Building
404 S. Monroe St.
Tallahassee, FL 32399

Dear Chairman Evers: Greg,

My SB 234 pertaining to Offenses Against Unborn Children is now in your committee for consideration. I would greatly appreciate it if you would place this bill on the first available agenda for review by the committee.

Thank you in advance for your consideration of this request. As always, if there is ever anything I can do for you please do not hesitate to call on me.

Yours truly,

Mike Fasano
State Senator, District 11

MF/gc

Cc: Amanda Cannon, Staff Director

REPLY TO:
❒ 8217 Massachusetts Avenue, New Port Richey, Florida 34653-3111 (727) 848-5885
❒ 406 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5062

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on Criminal and Civil Justice Appropriations, *Chair*
Banking and Insurance
Budget
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Communications, Energy, and Public Utilities
Health Regulation
Military Affairs, Space, and Domestic Security

JOINT COMMITTEE:
Administrative Procedures

SENATOR MIKE FASANO
11th District

January 18, 2012

The Honorable Greg Evers
Senate Committee on Criminal Justice
510 Knott Building
404 S. Monroe St.
Tallahassee, FL 32399

Dear Chairman ~~Evers~~ Greg

My SB 234 pertaining to Offenses Against Unborn Children is now in your committee for consideration. I would greatly appreciate it if you would place this bill on the first available agenda for review by the committee.

Thank you in advance for your consideration of this request. As always, if there is ever anything I can do for you please do not hesitate to call on me.

Yours truly,

Mike Fasano
State Senator, District 11

MF/gc

Cc: Amanda Cannon, Staff Director

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Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: CS/SB 2096

INTRODUCER: Criminal Justice Committee; and Criminal Justice Committee

SUBJECT: Community Correction Reentry Programs

DATE: February 16, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	**Fav/CS**
2.			BC	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	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
Holmes	55	54
Jackson	186	153
Leon	774	767
Liberty	23	33
Okaloosa	316	321

[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**
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 Inmates Within 36 Months of Release		
RI Score	***Number of Inmates***	***Percentage of Assessed Inmates***
1	6,768	14.2%
2	7,666	16%

[3] Florida Department of Corrections, Analysis of SB 448.

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)

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:

[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.

- 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

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

[6] Work release is authorized by s. 945.091, F.S.

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 provides for the department to develop a plan that could ultimately have a fiscal impact, but does not authorize implementation of the plan.

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.

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

210454

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2012	.	
	.	
	.	
	.	

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

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 31 - 93
4 and insert:
5 Section 1. Community reentry program.—
6 (1)(a) The Department of Corrections shall develop an
7 operational plan to implement a community reentry program for
8 the 2013-2014 fiscal year.
9 (b) At a minimum, the operational plan for the program must
10 describe and document:
11 1. The resources needed for the program, including, but not
12 limited to, specific buildings, grounds, and property that must

210454

13 be obtained or redesignated for residential community reentry
14 facilities and reentry services.
15 2. The placement of facilities and services in specific
16 areas to maximize the opportunity for participating inmates to
17 benefit from being located near where they plan to live after
18 completion of their sentences.
19 3. The additional staff or changes to staff qualifications
20 necessary to operate the program.
21 4. The contracts the program intends to use for private
22 providers who desire to provide a portion of the reentry
23 services and programming to eligible inmates.
24 5. The security staffing plan.
25 6. The programming plan.
26 7. The proposed budget.
27 8. The process and method for selecting an inmate to
28 participate in the program, including any initial screening
29 process, the criteria used in the risk assessment, and any
30 prioritization of placement.
31 9. The changes in law that are necessary to implement the
32 program.
33 (2)(a) The program shall be designed to provide residential
34 care, custody, control, and reentry services to eligible
35 inmates.
36 (b) For the purpose of the program, the reentry services
37 include, but are not limited to, substance abuse treatment,
38 housing assistance, money management training, employment
39 assistance, vocational education, and life skills training.
40 (3) All inmates who are within 36 months of their release
41 date shall be considered for participation in the program. The

210454

42 selection shall be based upon a risk assessment process that
43 includes, but is not limited to, whether:
44 (a) The inmate has potential for rehabilitation and the
45 need for reentry services.
46 (b) The reduction of risk of harm to the community after
47 completion of the inmate's sentence which would result from his
48 or her participation in the program is outweighed by any risk of
49 harm to the community which would be posed by the inmate while
50 participating in the program.
51 (c) The inmate can be placed in the geographic area where
52 he or she is from, or has family or identified friends, and
53 intends to reside in the area upon release from custody.
54 (4) An inmate who is selected for participation must be
55 transferred into the program not later than 24 months before his
56 or her current release date. An inmate who is already within 24
57 months of his or her current release date when selected must be
58 placed into the program as soon as a position is available.
59 (5) The program may include an existing community work
60 release program established pursuant to s. 945.091, Florida
61 Statutes, as a service provider, but the existing program must
62 provide enhanced reentry services to participating inmates.
63
64 ========== T I T L E A M E N D M E N T ==========
65 And the title is amended as follows:
66 Delete lines 2 - 18
67 and insert:
68 An act relating to community reentry programs;
69 requiring the Department of Corrections to develop an
70 operational plan to implement a community reentry

210454

71 program; requiring that the operational plan describe
72 the necessary facilities, staff, budget, and methods
73 for selecting inmates to participate in the reentry
74 program; providing examples of reentry services;
75 requiring that all inmates who are within 36 months of
76 their release date be considered for participation in
77 the community reentry program; providing criteria to
78 assess the risk of placing an inmate in the reentry
79 program; requiring that an inmate who is selected for
80 participation in the reentry program be transferred
81 into the program no later than 24 months before his or
82 her release date; amending s. 945.091, F.S.; deleting
83 a

By the Committee on Criminal Justice

591-02728-12 20122096__

A bill to be entitled

An act relating to community correction reentry programs; requiring the Department of Corrections to develop an operational plan to implement a pilot community corrections reentry program in certain designated counties; 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 pilot community corrections 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 pilot program no later than 24 months before his or her release 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.

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

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

591-02728-12 20122096__

Section 1. Pilot community corrections; reentry program.—

(1)(a) The Department of Corrections shall develop an operational plan to implement a pilot community corrections reentry program in Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton, and Washington Counties within the Northern Florida Region for the 2013-2014 fiscal year.

(b) At a minimum, the operational plan for the pilot program must describe and document:

1. The resources needed for the pilot project, including, but not limited to, specific buildings, grounds, and property that must be obtained or redesignated for residential community corrections 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 pilot program.

4. The contracts the pilot project 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 pilot project, including any initial screening process, the criteria used in the risk assessment, and

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

59 any prioritization of placement.
60 9. The changes in law that are necessary to implement the
61 pilot project.
62 (2)(a) The pilot program shall be designed to provide
63 residential care, custody, control, and reentry services to
64 eligible inmates.
65 (b) For the purpose of the pilot program, the reentry
66 services include, but are not limited to, substance abuse
67 treatment, housing assistance, money management training,
68 employment assistance, vocational education, and life skills
69 training.
70 (3) All inmates who are within 36 months of their release
71 date shall be considered for participation in the pilot program.
72 The selection shall be based upon a risk assessment process that
73 includes, but is not limited to, whether:
74 (a) The inmate has potential for rehabilitation and the
75 need for reentry services.
76 (b) The reduction of risk of harm to the community after
77 completion of the inmate's sentence which would result from his
78 or her participation in the pilot program is outweighed by any
79 risk of harm to the community which would be posed by the inmate
80 while participating in the pilot program.
81 (c) The inmate is from the geographic area of the pilot
82 program, or has family or identified friends in the area, and
83 intends to reside in the area upon release from custody.
84 (4) An inmate who is selected for participation must be
85 transferred into the pilot program not later than 24 months
86 before his or her current release date. An inmate who is already
87 within 24 months of his or her current release date when

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

88 selected must be placed into the pilot program as soon as a
89 position is available.
90 (5) The pilot program may include an existing community
91 work release program established pursuant to s. 945.091, Florida
92 Statutes, as a service provider, but the existing program must
93 provide enhanced reentry services to participating inmates.
94 Section 2. The Department of Corrections shall submit a
95 status report and proposed budget request by December 1, 2012,
96 to the Executive Office of the Governor, the President of the
97 Senate, and the Speaker of the House of Representatives. The
98 report must document the projected number of inmates to be
99 served in the 2013-2014 fiscal year and the funding needed to
100 implement the operational plan.
101 Section 3. Paragraph (b) of subsection (1) of section
102 945.091, Florida Statutes, is amended to read:
103 945.091 Extension of the limits of confinement; restitution
104 by employed inmates.—
105 (1) The department may adopt rules permitting the extension
106 of the limits of the place of confinement of an inmate as to
107 whom there is reasonable cause to believe that the inmate will
108 honor his or her trust by authorizing the inmate, under
109 prescribed conditions and following investigation and approval
110 by the secretary, or the secretary's designee, who shall
111 maintain a written record of such action, to leave the confines
112 of that place unaccompanied by a custodial agent for a
113 prescribed period of time to:
114 (b) Work at paid employment, participate in an education or
115 a training program, or voluntarily serve a public or nonprofit
116 agency or faith-based service group in the community, while

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

117 continuing as an inmate of the institution or facility in which
118 the inmate is confined, except during the hours of his or her
119 employment, education, training, or service and traveling
120 thereto and therefrom. ~~An inmate may travel to and from his or~~
121 ~~her place of employment, education, or training only by means of~~
122 ~~walking, bicycling, or using public transportation or~~
123 ~~transportation that is provided by a family member or employer.~~
124 ~~Contingent upon specific appropriations, the department may~~
125 ~~transport an inmate in a state-owned vehicle if the inmate is~~
126 ~~unable to obtain other means of travel to his or her place of~~
127 ~~employment, education, or training.~~
128 1. An inmate may participate in paid employment only during
129 the last 36 months of his or her confinement, unless sooner
130 requested by the Parole Commission or the Control Release
131 Authority.
132 2. While working at paid employment and residing in the
133 facility, an inmate may apply for placement at a contracted
134 substance abuse transition housing program. The transition
135 assistance specialist shall inform the inmate of program
136 availability and assess the inmate's need and suitability for
137 transition housing assistance. If an inmate is approved for
138 placement, the specialist shall assist the inmate. If an inmate
139 requests and is approved for placement in a contracted faith-
140 based substance abuse transition housing program, the specialist
141 must consult with the chaplain prior to such placement. The
142 department shall ensure that an inmate's faith orientation, or
143 lack thereof, will not be considered in determining admission to
144 a faith-based program and that the program does not attempt to
145 convert an inmate toward a particular faith or religious

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

146 preference.
147 Section 4. Section 945.0913, Florida Statutes, is repealed.
148 Section 5. This act shall take effect July 1, 2012.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/16/12
Meeting Date

Topic: Re-entry programs

Bill Number: 2096 (if applicable)

Name: Nancy Daniels

Amendment Barcode: (if applicable)

Job Title: Public Defender, 2nd Judicial Circuit

Address: Leon County Courthouse, 301 S Monroe
Street

Tallahassee, FL 32301
City, State, Zip

Phone: (850) 606-1010

E-mail: nancy.daniels@flpd2.com

Speaking: [x] 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)

A black and white copy of this document is not official

147

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Kurt S. Browning, Secretary of State,
do hereby certify that

John W. Jennings

is duly appointed

Capital Collateral Regional Counsel

for a term beginning on the
Nineteenth day of December, A.D., 2011,
until the Thirtieth day of September, A.D., 2012
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Nineteenth day of January, A.D., 2012.

Secretary of State

DSDE 99 (3/03)

If photocopied or chemically altered, the word "VOID" will appear.
"State of Florida" appears in small letters across the face of this 8½ x 11" document.
The original document has a reflective line mark in paper. Hold at an angle to view when checking.

OATH OF OFFICE

(Art. II. § 5(b), Fla. Const.)

STATE OF FLORIDA

2012 JAN 18 PM 1:13

County of Hillsborough

DIVISION OF ELECTIONS

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

Capital Collateral Regional Counsel for the Middle Region

(Title of Office)

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

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

Signature

Sworn to and subscribed before me this 18th *day of* January 2012

Signature of Officer Administering Oath or of Notary Public

Christine Aleknavich

Print, Type, or Stamp Commissioned Name of Notary Public

CHRISTINE ALEKNAVICH
MY COMMISSION EXPIRES
April 2, 2012
#DD 775128
Bonded thru
Troy Fain-Insurance
NOTARY PUBLIC, STATE OF FLORIDA

Personally Known ☒ *OR* *Produced Identification* ☐

Type of Identification Produced _____

ACCEPTANCE

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

Mailing Address: ☐ Home ☑ Office

3801 Corporex Park Dr., Suite 210

Street or Post Office Box

Tampa, FL 33619

City, State, Zip Code

John W. Jennings

Print name as you desire commission issued

Signature

DS-DE 56 (Rev. 02/10)

HAND DELIVERED

RICK SCOTT
GOVERNOR

RECEIVED
2011 DEC 22 PM 1:00
DIVISION OF ELECTIONS

December 19, 2011

Mr. Kurt S. Browning, Secretary
Department of State
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Browning:

Please be advised I have made the following reappointment under the provisions of Section 27.701, Florida Statutes :

Mr. John W. Jennings

as a member of the Capital Collateral Regional Counsel for the Middle District Region, subject to confirmation by the Senate. This appointment is effective December 19, 2011, for a term ending September 30, 2012.

Sincerely,

Rick Scott
Governor

RS/lm

THE CAPITOL
TALLAHASSEE, FLORIDA 32399 • (850) 488-2272 • FAX (850) 922-4292

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the the Florida Senate in considering action on your confirmation. The questionnaire MUST BE COMPLETED IN FULL. Answer "none" or "not applicable" where appropriate.

Please type or print in blue or black ink.

2012 JAN 18 PM 1:16

DIVISION OF ELECTIONS

January 12, 2012

Date Completed

1. Name: Mr. Jennings John W.
   MR./MRS./MS. LAST FIRST MIDDLE/MAIDEN

2. Business Address: 3801 Corporex Park Drive, Suite 210 Tampa
   STREET OFFICE # CITY

   Florida 33619-1136 (813) 740-3544
   POST OFFICE BOX STATE ZIP CODE AREA CODE/PHONE NUMBER

3. Residence Address: ___ ıa
   POST OFFICE BOX STATE ZIP CODE AREA CODE/PHONE NUMBER

   Specify the preferred mailing address: Business ☑ Residence ☐ Fax # (813) 740-3554
   (optional)

4. A. List all your places of residence for the last five (5) years.

ADDRESS	CITY & STATE	FROM	TO

   B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

ADDRESS	CITY & STATE	FROM	TO
		1974	1977

5. Date of Birth: March 18, 1949 Place of Birth: ___
6. Social Security Number: ___
7. Driver License Number: ___ Issuing State: Florida
8. Have you ever used or been known by any other legal name? Yes ☐ No ☑ If "Yes" Explain

9. Are you a United States citizen? Yes ☑ No ☐ If "No" explain:

If you are a naturalized citizen, date of naturalization:

10. Since what year have you been a continuous resident of Florida? 1977

11. Are you a registered Florida voter? Yes ☑ No ☐ If "Yes" list:

A. County of Registration: Hillsborough B. Current Party Affiliation: Republican

12. Education

A. High School: Winter Park High School, Winter Park, FL Year Graduated: 1967

(NAME AND LOCATION)

B. List all postsecondary educational institutions attended:

NAME & LOCATION	DATES ATTENDED	CERTIFICATES/DEGREES RECEIVED
Seminole Jr. College	8/68 thru 6/69	AA
University of Central Florida	6/69 thru 5/71	BA
South Texas College of Law	8/71 thru 8/74	JD

13. Are you or have you ever been a member of the armed forces of the United States? Yes ☐ No ☑ If "Yes" list:

A. Dates of Service:

B. Branch or Component:

C. Date & type of discharge:

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of $150 or less was paid.) Yes ☐ No ☑ If Yes" give details:

DATE	PLACE	NATURE	DISPOSITION

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

EMPLOYER'S NAME & ADDRESS	TYPE OF BUSINESS	OCCUPATION/JOB TITLE	PERIOD OF EMPLOYMENT
State of Florida	Legal	Capital Collateral Regional Counsel	April 2001 to Present
(3801 Corporex Park Dr., Suite 210, Tampa, FL 33619)			

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes ☑ No ☐
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

POSITION	EMPLOYING AGENCY	PERIOD OF EMPLOYMENT
CCRC	Capital Collateral Regional Counsel - Middle (CCRC-M)	4/2001 to Present
APD	Office of Public Defender - 13th Circuit	6/1998 to 2/2000
ASA	Office of the State Attorney, 10th Circuit	4/1986 to 5/1998
ASA	Office of the State Attorney, 13th Circuit	8/1977 to 4/1986

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

I was an Assistant State Attorney for 20+ years, as well as an Assistant Public Defender for 2 years. I have been the head of CCRC-M for 11 years. In addition to directing and leading the Agency in the highly specialized field of death row appeals, I have guided the office in legal, administrative and lobbying matters. CCRC-M has provided effective and efficient representation, as recognized by the Auditor General's Office. In 2007, I chaired the Governor's Commission on Administration of Lethal Injection. CCRC-M has led the way in automating the Offices (BOMS & a file retrieval system).

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes ☑ No ☐ If "Yes", list:

Board Certified in Criminal Trial Law (1990 -2005); Florida Bar Association (December 1975); Texas Bar Association (December 1974); United States Supreme Court (August 1978); U.S. Court of Appeals - 11th Circuit (October 1981)

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes ☑ No ☐ If "Yes", list:

"Bad Checks and Bankruptcy" - Florida Bar Journal - October 1983

Paul Harris Fellowship - Rotary 1996

School Enrichment Resource Volunteers in Education - 1998 & 1999

D. Identify all association memberships and association offices held by you that relate to this appointment:

Same as #17B above.

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes ☐ No ☑ If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes ☑ No ☐ If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

OFFICE TITLE	DATE OF ELECTION OR APPOINTMENT	TERM OF OFFICE	LEVEL OF GOVERNMENT
Capital Collateral Regional Counsel - Middle	2001 & 2003	3 years	State

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: _____

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

MEETINGS ATTENDED	MEETINGS MISSED	REASON FOR ABSENCE

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes ☐ No ☑ ☐ If "Yes", give details:

DATE	NATURE OF VIOLATION	DISPOSITION

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes ☐ No ☑ If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated ☐ Removed ☐ Resigned ☐

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes ☑ No ☐ If "Yes", list:

A. Title of Office: Capital Collateral Regional Counsel - Middle

B. Term of Appointment: 2001 - 2003; 2003-2006

C. Confirmation results: Confirmed both times

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes ☐ No ☑ If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes ☑ No ☐ If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

LICENSE/CERTIFICATE TITLE & NUMBER	ORIGINAL ISSUE DATE	ISSUING AUTHORITY	DISCIPLINARY ACTION/DATE
0206156	December 1975	The Florida Bar	NO

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☑ If "Yes", explain:

NAME OF BUSINESS	YOUR RELATIONSHIP TO BUSINESS	BUSINESS' RELATIONSHIP TO AGENCY

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☑ No ☐ If "Yes", explain:

NAME OF BUSINESS	FAMILY MEMBER'S RELATIONSHIP TO YOU	FAMILY MEMBER'S RELATIONSHIP TO BUSINESS	BUSINESS' RELATIONSHIP TO AGENCY
Capital Collateral Regional Counsel - Middle	Son	OPS (part time college student)	N/A

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes ☑ No ☐

A. Did you receive any compensation other than reimbursement for expenses? Yes ☐ No ☑

B. Name of agency or entity you lobbied and the principal(s) you represented:

AGENCY LOBBIED	PRINCIPAL REPRESENTED
Executive Office of Governor	Capital Collateral Regional Counsel - Middle
Florida Senate	Capital Collateral Regional Counsel - Middle
Florida House of Representatives	Capital Collateral Regional Counsel - Middle

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

NAME	MAILING ADDRESS	ZIP CODE	AREA CODE/PHONE NUMBER
Hon. Jerry Hill			
Commissioner Victor Crist			
Hon. Mark Ober			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

NAME	MAILING ADDRESS	OFFICE(S) HELD & TERM	DATE(S) OF MEMBERSHIP
The Florida Bar	651 E. Jefferson Street, Tallahassee, FL 32399	N/A	since 1975
Hillsborough County Bar Assoc.	1610 North Tampa Street, Tampa FL 33602	N/A	since 1998
Florida Assoc. of Crim. Defense Lawyers	Post Office Box 1528, Tallahassee, FL 32302	N/A	Since 2002

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes ☐ No ☑ If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes ☑ No ☐

CERTIFICATION

2012 JAN 18 PM 1:

DIVISION OF ELECTIONS

STATE OF FLORIDA, COUNTY OF

Before me, the undersigned Notary Public of Florida, personally appeared John W. Jennings, who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Signature ~~of Applicant~~-Affiant

Sworn to and subscribed before me
this 18th day of January, 2012

Signature of Notary Public-State of Florida

CHRISTINE ALEKNAVICH
MY COMMISSION EXPIRES
April 2, 2012
#DD 775126
Bonded thru
Troy Fain-Insurance
NOTARY PUBLIC, STATE OF FLORIDA

Christine Aleknavich
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 4/2/2012

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced _____

CHRISTINE ALEKNAVICH
MY COMMISSION EXPIRES
April 2, 2012
#DD 775126
Bonded thru
Troy Fain-Insurance
NOTARY PUBLIC, STATE OF FLORIDA

(seal)

MEMORANDUM

2012 JAN 18 PM 1:17
DIVISION OF ELECTIONS

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

☑ Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) 119.071(4)(d)1.d

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

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

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

WITNESS'S NAME: John "Bill" Jennings

ANSWER: yes

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

COMMITTEE NAME: Senate Criminal Justice Committee

DATE: 2/16/12

File 1 copy with the Secretary of the Senate (303 Capitol)

S-002 (10/2004)

A black and white copy of this document is not official

1705

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Kurt S. Browning, Secretary of State,
do hereby certify that

Bernard R. Cohen, Sr.

is duly appointed a member of the

Parole Commission

for a term beginning on the
Eighteenth day of January, A.D., 2012,
until the Thirtieth day of June, A.D., 2014
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Twenty-Seventh day of January, A.D., 2012.

Secretary of State

DSDE 99 (3/03)

If photocopied or chemically altered, the word "VOID" will appear.
"State of Florida" appears in small letters across the face of this 8½ x 11" document.
The original document has a reflective line mark in paper. Hold at an angle to view when checking.

OATH OF OFFICE

(Art. II. § 5(b), Fla. Const.)

RECEIVED
DEPARTMENT OF STATE
2012 JAN 25 PM 4:07

STATE OF FLORIDA

County of Leon

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

Commissioner, Florida Parole Commission

(Title of Office)

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

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

Bernard R. Cohen Sr.

Signature

Sworn to and subscribed before me this 25 *day of* January 2012

Cynthia J. Deason

Signature of Officer Administering Oath or of Notary Public

NOTARY PUBLIC STATE OF FLORIDA
Cynthia J. Deason
Commission # DD898937
Expires: AUG. 25, 2013
BONDED THRU ATLANTIC BONDING CO., INC.

Cynthia J. Deason

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ *OR* *Produced Identification* ☐

Type of Identification Produced _____

ACCEPTANCE

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

Mailing Address: ☑ Home ☐ Office

[redacted]

Street or Post Office Box

Tallahassee, FL [redacted]

City, State, Zip Code

Bernard R. Cohen Sr.

Print name as you desire commission issued

Bernard R. Cohen Sr.

Signature

DS-DE 56 (Rev. 02/10)

RICK SCOTT
GOVERNOR

2012 JAN 23 PM 4:28
DIVISION OF ELECTIONS

January 20, 2012

Mr. Kurt S. Browning, Secretary
Department of State
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Browning:

Please be advised the Cabinet and I have made the following appointment under the provisions of Section 947.02, Florida Statutes:

Mr. Bernard R. Cohen, Sr.
[redacted]
Tallahassee, Florida [redacted]

as a member of the Parole Commission, succeeding Cassandra D. Jenkins, subject to confirmation by the Senate. This appointment is effective January 18, 2012, for a term ending June 30, 2014.

Sincerely,

Rick Scott
Governor

RS/lm

THE CAPITOL
TALLAHASSEE, FLORIDA 32399 • (850) 488-2272 • FAX (850) 922-4292

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire MUST BE COMPLETED IN FULL. Answer "none" or "not applicable" where appropriate.
Please type or print in blue or black ink.

January 24, 2012
Date Completed

1. Name: Mr. COHEN BERNARD REGINALD
   Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 4070 Esplanade Way Tallahassee
   Street Office # City
   Florida 32399-2450 850/488-0476
   Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: [redacted] Tallahassee Leon
   Street City County
   Florida [redacted] [redacted]
   Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business ☒ Residence ☐ Fax # _____ (optional)

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To
[redacted]e	Tallahassee, Florida	1996	2012

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From	To
None			

5. Date of Birth: 01/20/1953 Place of Birth: Gainesville, Florida

6. Social Security Number:

7. Driver License Number: Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes ☐ No ☒ If "Yes" Explain

9. Are you a United States citizen? Yes ☒ No ☐ If "No" explain:

If you are a naturalized citizen, date of naturalization: n/a

10. Since what year have you been a continuous resident of Florida? 1953

11. Are you a registered Florida voter? Yes ☒ No ☐ If "Yes" list:

A. County of Registration: Leon B. Current Party Affiliation: Democrat

12. Education

A. High School: Gainesville High School, Gainesville Florida Graduated: 1970 Year

(Name and Location)

B. List all postsecondary educational institutions attended:

Name & Location	Dates Attended	Certificates/Degrees Received
University of Florida, Gainesville, Florida	1970-1974	Bachelor of Arts
Rollins College, Winter Park, Florida	1976-1978	Master of Science

13. Are you or have you ever been a member of the armed forces of the United States? Yes ☒ No ☐ If "Yes" list:

A. Dates of Service: 1980 - 1990

B. Branch or Component: United States Army

C. Date & type of discharge: Honorable Discharge, June 30, 1990

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of $150 or less was paid.) Yes ☐ No ☒ If Yes" give details:

Date	Place	Nature	Disposition

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

Employer's Name & Address	Type of Business	Occupation/Job Title	Period of Employment
Citizens Property Insurance	Insurance	Vice President	02/2007 - 04/2011
2312 Killearn Center Blvd, Building A Tallahassee, Florida 32309			
Florida Department of Corrections	Government	Various Leadership Positions	1974 - 2007

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes ☒ No ☐
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

Position	Employing Agency	Period of Employment
Various Leadership Positions	Florida Department of Corrections	1974 - 2007
(Please see attached resume)		

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

Accomplished leader with over 37 years of broad based management and leadership experience

Skilled at developing and implementing corrections programs, negotiating contracts and managing relationships

A total of 33 years of service with the Florida Department of Corrections

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes ☒ No ☐ If "Yes", list:

Bachelor of Arts Degree in Psychology

Master of Science Degree in Criminal Justice

Graduate of the Florida Criminal Justice Executive Institute Senior Leadership Program

National Corrections Academy Courses in Corrections Management

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes ☒ No ☐ If "Yes", list:

Received many award in recognition of service with the Florida Department of Corrections

D. Identify all association memberships and association offices held by you that relate to this appointment:

Florida Council on Crime and Delinquency: State President, Chapter President, Executive Board Member

American Correctional Association

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes ☐ No ☒ If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes ☐ No ☒ If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

Office Title	Date of Election or Appointment	Term of Office	Level of Government

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: n/a

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

Meetings Attended	Meetings Missed	Reason for Absence

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes ☐ No ☒ If "Yes", give details:

Date	Nature of Violation	Disposition
n/a		

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes ☐ No ☒ If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated ☐ Removed ☐ Resigned ☐

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes ☐ No ☒ If "Yes", list:

A. Title of Office: _____

B. Term of Appointment: _____

C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes ☐ No ☒ If "Yes", explain:

_____

_____

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes ☐ No ☒ If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

License/Certificate Title & Number	Original Issue Date	Issuing Authority	Disciplinary Action/Date

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

Name of Business	Your Relationship to Business	Business' Relationship to Agency

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

Name of Business	Family Member's Relationship to You	Family Member's Relationship to Business	Business' Relationship to Agency

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes ☐ No ☒

A. Did you receive any compensation other than reimbursement for expenses? Yes ☐ No ☒

B. Name of agency or entity you lobbied and the principal(s) you represented:

Agency Lobbied	Principal Represented
None	

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

Name	Mailing Address	Zip Code	Area Code/Phone Number
Juanita D. Lester			
Skitch Holland			
Eric Miller			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

Name	Mailing Address	Office(s) Held & Term	Date(s) of Membership
Kappa Alpha Psi Fraternity Inc.	2322-24 North Broad Street, Philadelphia, Penn. 19132-4590		1972 - Present

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes ☐ No ☒ If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes ☒ No ☐

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

☐ Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.)_____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OFANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

CERTIFICATION

RECEIVED
DEPARTMENT OF STATE
2012 JAN 25 PM 4:07

STATE OF FLORIDA, COUNTY OF Leon

Before me, the undersigned Notary Public of Florida, personally appeared Bernard R. Cohen Sr., who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Bernard R. Cohen Sr.
Signature of Applicant-Affiant

Sworn to and subscribed before me this 25 day of January, 2012.

Cynthia J. Deason
Signature of Notary Public-State of Florida

Cynthia J. Deason
(Print, Type, or Stamp Commissioned Name of Notary Public)

NOTARY PUBLIC-STATE OF FLORIDA
Cynthia J. Deason
Commission # DD898937
Expires: AUG. 25, 2013
BONDED THRU ATLANTIC BONDING CO., INC.

My commission expires: _____

Personally Known ☒ **OR** Produced Identification ☐

Type of Identification Produced _____

(seal)

BERNARD REGINALD COHEN

[redacted]

Tallahassee, Florida [redacted]

Home Phone [redacted] Cell Phone [redacted] Email: goldengator1@yahoo.com

EXPERIENCED CORRECTIONS EXECUTIVE

Accomplished leader with over 37 years of broad based management and leadership experience. Skilled at developing and implementing corrections programs, negotiating contracts and managing relationships in order to improve morale, service and efficiency. Proven ability to work effectively with people at all levels, build cohesive, productive teams and implement positive organizational change. Called upon throughout career to establish and/or reengineer faltering programs, bureaus and departments in one of Florida's largest state agencies.

- Insurance organization administration
- Organizational and staff development
- Human resources management
- Facility acquisition and management
- Procurement and contract negotiation
- Corrections administration
- Inmate program development
- Legislative policy development
- Staff certification
- Corrections Accreditation

SIGNIFICANT PROFESSIONAL ACCOMPLISHMENTS

- Reengineered corporation's Administration Division, establishing much needed functions for human resources, purchasing and contracting, facilities management, general services and corporate training and development.
- Oversaw development of organization-wide compensation plan for over 1000 employees including restructuring position and function classifications and identifying duties and responsibilities associated with each position.
- Developed comprehensive strategic plan for the acquisition and management of all corporate facilities that total over 300,000 square feet and nine buildings dispersed in three separate locations around the state.
- Oversaw the research and development of a comprehensive 100 hour interactive instructional program designed to prepare inmates to successfully transition back into the community.
- Negotiated and managed contracts for faith-based transitional housing, substance abuse treatment and community-based programs for inmates released from prison and offenders under community supervision.
- Negotiated and managed multimillion dollar grant and contracts for a national inmate educational services program that was licensed to other correctional systems throughout the United States.
- Established and managed three corrections academies including negotiating facility contracts, building out facilities, directing installation of audio-visual and computer based systems, purchasing furniture and equipment and hiring and managing staff.
- Developed human resource policies and procedures for all correctional training and inmate programs and education staff including job descriptions, band levels, compensation and education and training requirements.
- Developed and implemented computer-based training program and distance learning network organization-wide for over 27,000 staff and 90,000 inmates.
- Negotiated and managed numerous services and commodities contracts with public and private entities for employee staff development and inmate programs.

PROFESSIONAL EXPERIENCE

VICE PRESIDENT OF CORPORATE ADMINISTRATION, Citizens Property Insurance Corporation **February 2007 to April 2011**

Citizens was created in 2002 as the merger of the state's two insurers of last resort, the Florida Windstorm Underwriting Association (FWUA) and the Florida Residential Property and Casualty Joint Underwriting Association (FRPCJUA). Citizens is a $4 billion dollar company that currently serves more than 1.2 million policyholders in Florida with over 1000 employees and locations in Tallahassee, Jacksonville and Tampa.

Provided executive level leadership, vision and oversight for the corporation's critical administrative functions including human resources (recruitment, compensation, payroll and benefits administration), corporate training and staff development, purchasing, contract services, building operations, space and lease management, safety and security, records management and corporate investigations.

DIRECTOR OF COPORATE TRAINING, Citizens Property Insurance Corporation **January 2007 to February 2007**

Directed the design, development and deployment of all employee technical, business operations, systems and professional development training corporate-wide. Coordinated the development and deployment of a corporate-wide Learning Management System (LMS) to deliver online training courses and create training completion documentation for all staff.

CHIEF, BUREAU OF STAFF DEVELOPMENT, Florida Department of Corrections **2006-2007**

The Florida Department of Corrections is the largest agency in state government and one of the third largest state prison system in the country. The Department has more than 27,000 employees and 137 facilities statewide with an operating budget of $2.3 billion and approximately 94,000 inmates incarcerated and 1S3,000 offenders on some type of community supervision.

Managed and supervised all training services for more than 27,000 Department employees. This includes program planning, budgeting, policy development, legislative affairs, course design and delivery, supervision of Florida Corrections Academy operations, and coordination of all field training events.

CHIEF, BUREAU OF PROGRAM SERVICES, Florida Department of Corrections **2004-2006**

Supported the Assistant Secretary for Institutions in directing, planning, organizing, and supervising four bureaus that administered statewide programs relating to inmate transition and community re-entry, academic, vocational and special education, library and law library services, chaplaincy services, program development, and contract management.

CHIEF, BUREAU OF STAFF DEVELOPMENT, Florida Department of Corrections **2003-2004**

Managed and supervised all training services for more than 26,000 Department employees. This includes program planning, budgeting, policy development, legislative affairs, course design and delivery, supervision of Florida Corrections Academy operations, and coordination of all field training events.

DEPUTY DIRECTOR OF PROGRAMS, Florida Department of Corrections **1999-2003**

Supported the Director of Programs in directing, planning, organizing, and supervising bureaus that administer statewide programs relating to substance abuse treatment, community-based programs, academic and special education, library and law library services, workforce development and distance education, program development, chaplaincy services, and contract management.

DEPUTY ASSISTANT SECRETARY FOR EDUCATION AND JOB TRAINNG, Florida Department of Corrections **1997-1999**

Supported the Assistant Secretary of Education and Job Training in directing, planning, organizing, and supervising bureaus that administer statewide programs relating to academic and special education, library and law library services, applied technology and distance education, substance abuse treatment, and chaplaincy services.

ASSISTANT TO THE SECRETARY, Florida Department of Corrections **1994-1997**

Provided assistance to the Secretary in the formation and implementation of department policy, including full authority by the Secretary to act for him at his direction at all levels of department operations. This includes representing the Secretary on statutory, advisory and other boards and commissions, and dealing with matters relating to other state and county agencies, members of the Legislature and the public. Also responsible for statewide accreditation activities and coordination of quality management initiatives.

CHIEF, BUREAU OF STAFF DEVELOPMENT, Florida Department of Corrections **1980-1994**

Managed and supervised all training services for more than 22,000 Department employees. This includes program planning, budgeting, policy development, legislative affairs, course design and delivery, supervision of Florida Corrections Academy operations and coordination of all field training events

DEPUTY CIRCUIT ADMINISTRATOR, Florida Department of Corrections **1979-1980**

Supervised and managed correctional probation services covering three (3) large North Florida counties (Duval, Nassau, Clay).

INMATE CLASSIFICATION SUPERVISOR, Florida Department of Corrections **1977-1979**

Supervised and managed inmate classification services, and inmate records services. Additional responsibilities included Chairman of Inmate Disciplinary Team, Inmate Grievance Administrator and Chairman of Inmate Treatment Team.

INMATE CLASSIFICATION SPECIALIST, Florida Department of Corrections **1974-1977**

Supervised and managed an offender caseload consisting of 1S0 close custody maximum security inmates.

EDUCATION

Florida Criminal Justice Executive Institute
Senior Leadership Program
January 1993

Master of Science, Rollins College
Major: Criminal Justice
February 1978

Bachelor of Arts, University of Florida
Major: Psychology
August 1974

PROFESSIONAL MEMBERSHIPS

Florida Council on Crime and Delinquency
- Chapter President, 1985
- Executive Board Member, 1985 to present
- State President-Elect, 1996-97
- State President, 1997-98

Society of Government Meeting Planners – Member

MILITARY

Captain, USAR
Honorably Discharged (June 30, 1990)

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

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

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

WITNESS'S NAME: Bernard R. Cohen

ANSWER: yes

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

COMMITTEE NAME: Senate Criminal Justice Committee

DATE: 2/16/12

File 1 copy with the Secretary of the Senate (303 Capitol)

S-002 (10/2004)

Tab 11

THE FLORIDA SENATE

APPEARANCE RECORD

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

Thurs. Feb. 16, 2012
Meeting Date

Topic: Confirmation

Bill Number: _____ *(if applicable)*

Name: Bernard Cohen, Sr.

Amendment Barcode: _____ *(if applicable)*

Job Title: Commissioner, Fl. Parole Commission

Address: 4070 Esplanade Way
Street

Tallahassee — FL — 32399
City — *State* — *Zip*

Phone: 488-0476

E-mail: BernardCohen@fpc.state.fl.us

Speaking: ☐ For ☐ Against ☑ Information

Representing: self

Appearing at request of Chair: ☑ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/20/11)

CourtSmart Tag Report

Room: LL 37 **Case:** T **Type:**
Caption: Senate Criminal Justice Committee **Judge:**

Started: 2/16/2012 10:39:14 AM
Ends: 2/16/2012 11:56:11 AM **Length: 01:16:58**

10:39:18 AM	Meeting to order
10:39:38 AM	Roll call
10:39:50 AM	Tab 1 SB 876 Senator Benacquisto
10:41:18 AM	Barcode 388258
10:42:50 AM	Roll call for SB 876
10:43:19 AM	Tab 7 - SB 1886 (Senator Wise)
10:46:05 AM	Barcode 970566
10:47:28 AM	Vicki Lukis, Senate Juvenile Justice Education Workgroup
10:55:02 AM	Barcode 603972
10:55:19 AM	Barcode 436198
10:56:14 AM	Barcode 789806
11:00:58 AM	Vicki Lukis - Barcode 789806
11:02:40 AM	David Utter, Southern Poverty Law Center
11:07:33 AM	Roll Call
11:08:10 AM	Tab 5 - SB 1712 (Senator Storms)
11:09:17 AM	Barcode 490656
11:10:49 AM	Barcode 551900 late filed
11:11:24 AM	Barcode 346066
11:11:46 AM	Barcode 955046
11:12:08 AM	Barcode 864278 late filed
11:13:41 AM	Barcode 744718
11:15:32 AM	Roll Call
11:15:53 AM	Tab 6 - SB 1800 (Rep. Glorioso presenting bill for Senator Altman)
11:16:45 AM	Barcode 247798
11:19:32 AM	Roll Call
11:20:16 AM	Tab 8 SB234 Greg Giordano presenting for Senator Fasano
11:21:21 AM	Barcode 824496
11:22:42 AM	Barcode 693226 late filed
11:35:16 AM	Tab 4 SB 1324 Ben Kelly presenting for Sen. Norman
11:37:41 AM	Roll Call
11:38:19 AM	Tab 3 SB 1184 Ben Kelly presenting for Sen. Norman
11:40:47 AM	Howard Gene Adams, Florida Feed Assn.
11:42:22 AM	Barcode 832178
11:44:40 AM	Ryan Matthews, Florida League of Cities
11:46:00 AM	Roll Call
11:46:32 AM	Tab 2 SB 1096 Senator Hays
11:47:46 AM	Barcode 439460
11:48:54 AM	Roll Call
11:49:25 AM	Confirmation of John "Bill" Jennings
11:50:03 AM	Roll Call
11:50:33 AM	Confirmation of Bernard R. Cohen, Sr.
11:51:32 AM	Roll Call
11:51:59 AM	Tab 9 SB 2096 Senator Evers
11:53:39 AM	Barcode 210454
11:55:19 AM	Roll Call
11:55:44 AM	Meeting adjourned