

SB 448 by Bogdanoff; (Similar to CS/H 0177) Inmate Reentry

591120	A	S	RCS	CJ, Hays	Delete L.84 - 90:	11/17 11:40 AM
113866	AA	S	RCS	CJ, Hays	Delete L.6 - 11:	11/17 11:40 AM
669808	A	S	RCS	CJ, Hays	Delete L.109 - 123:	11/17 11:40 AM

SB 504 by Evers; (Compare to CS/H 0173) Juvenile Justice

760176	D	S	RCS	CJ, Evers	Delete everything after	11/17 11:40 AM
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SB 506 by Evers; (Similar to CS/H 0329) Parole Interview Dates for Certain Inmates

594668	D	S		CJ, Evers	Delete everything after	11/14 12:01 PM
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SB 154 by Latvala; (Identical to H 0513) Licensed Security Officers

268380	A	S	FAV	CJ, Dean	Delete L.128:	11/17 11:40 AM
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SB 426 by Smith (CO-INTRODUCERS) Gaetz; (Identical to H 0439) Elderly Inmates

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Evers, Chair
Senator Dean, Vice Chair

MEETING DATE: Thursday, November 17, 2011
TIME: 8:30 —10:30 a.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 448 Bogdanoff (Similar CS/H 177)	Inmate Reentry; Directing the Department of Corrections to develop and administer a reentry program for nonviolent offenders which is intended to divert nonviolent offenders from long periods of incarceration; directing the department to notify the nonviolent offender's sentencing court to obtain approval before the nonviolent offender is placed into the reentry program; requiring the sentencing court to notify the department of the court's decision to approve or disapprove the requested placement within a specified period; requiring that the department submit a report to the sentencing court at least 30 days before the nonviolent offender is scheduled to complete the reentry program; directing the department to develop a system for tracking recidivism, including, but not limited to, rearrests and recommitment of nonviolent offenders who successfully complete the reentry program, and to report on recidivism in its annual report of the program, etc. CJ 11/17/2011 Fav/CS BC	Fav/CS Yeas 4 Nays 0
2	SB 504 Evers (Compare CS/H 173)	Juvenile Justice; Removing from the court having jurisdiction over an adjudicated delinquent child the authority to commit the delinquent child to the Department of Juvenile Justice for placement in a program or facility for serious or habitual juvenile offenders; authorizing the court, under certain circumstances, to commit a child to the department for placement in a mother-infant program if the child's mother is committed as a delinquent; requiring that such mother-infant program be licensed as a child care facility and provide the services and support necessary to enable the committed juvenile mother to provide for the needs of the child who accompanies her in the program; authorizing the department, at the discretion of the Secretary of Juvenile Justice, to pay a specified sum toward funeral expenses for a youth under certain circumstances; specifying the criteria by which the secretary determines if basic funeral expenses will be paid, etc. CJ 11/17/2011 Fav/CS JU BC	Fav/CS Yeas 4 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Thursday, November 17, 2011, 8:30 —10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 506 Evers (Similar CS/H 329)	Parole Interview Dates for Certain Inmates; Extending from 2 years to 7 years the period between parole interview dates for inmates convicted of committing certain specified crimes, etc. CJ 11/17/2011 Temporarily Postponed BC	Temporarily Postponed
4	SB 154 Latvala (Identical H 513)	Licensed Security Officers; 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, etc. CM 10/04/2011 Favorable CJ 11/17/2011 Fav/1 Amendment BC	Fav/1 Amendment (268380) Yeas 4 Nays 0
5	SB 426 Smith (Identical H 439)	Elderly Inmates; Creating the Elderly Rehabilitated Inmate Supervision Program to authorize the Parole Commission to approve the early release of certain elderly inmates; providing eligibility requirements for an inmate to participate in the program; requiring that the petition to participate in the program include certain documents; authorizing a victim to make an oral statement or provide a written statement regarding the granting, denying, or revoking of an inmate's supervised release under the program; requiring an examiner to interview within a specified time an inmate who has filed a petition for supervised release under the program; authorizing a law enforcement officer or correctional probation officer to arrest an inmate under certain circumstances who has been released under the Elderly Rehabilitated Inmate Supervision Program, etc. CJ 11/17/2011 Temporarily Postponed JU BC	Temporarily Postponed

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

Parole Commission

6	Pate, Tena M. (Tallahassee)	06/30/2016	Recommend Confirm Yeas 4 Nays 0
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COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Thursday, November 17, 2011, 8:30 —10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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7	Report on Drug Court Program by the OPPAGA		Presented
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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 448

INTRODUCER: Criminal Justice Committee and Senator Bogdanoff

SUBJECT: Inmate Reentry

DATE: November 17, 2011 **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..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill requires the Department of Corrections (department) to develop and administer a nonviolent offender reentry program. Non-violent offenders with substance abuse issues could be eligible to participate in the program with court-approval after serving at least one-half of their sentence. Upon completion, the court would reduce the incarcerative portion of the original sentence and re-sentence the offender to drug offender probation. The program is intended to divert nonviolent offenders from long periods of incarceration when a reduced period of incarceration followed by intensive substance abuse treatment may have the same deterrent effect, to rehabilitate the offender, and to reduce recidivism.

The bill creates a new section of the Florida Statutes.

II. Present Situation:

Reentry Programs for Nonviolent Offenders

The department reports that 26.5 percent of the inmates admitted to prison during Fiscal Year 2009-2010 had been convicted of a drug crime.¹ Almost two-thirds of Florida inmates who enter prison for any crime also have a substance abuse problem, and more than 80 percent of those who could benefit from treatment are released without it.² The lack of treatment is largely due to funding constraints.

The Florida TaxWatch Government Cost Savings Task Force found that “significant savings could be achieved if certain offenders were allowed to receive treatment outside of the confines of prison during the last portion of their prison sentence” and observed that “research shows that programs in the community produce twice the impact on recidivism as the same program behind the walls.”³

The department currently provides the following reentry programming to a segment of the inmate population:

- Substance abuse treatment programs;
- Educational and academic programs;
- Career and technical education programs; and
- Faith and character-based programs.⁴

Correctional Integrated Needs Assessment System

The department assesses inmates and places them into programs using the Correctional Integrated Needs Assessment System (CINAS), which is based on the “Risk-Needs-Responsivity (RNR)” principle. The RNR principle refers to predicting which inmates have a higher probability of recidivating, and providing appropriate programming and services to higher risk inmates based on their level of need. The services would be focused on “criminogenic needs,” which are factors associated with recidivism that can be changed such as lack of education, substance abuse, criminal thinking, and lack of marketable job skills. High risk offenders have multiple risk factors, and the department provides a range of services and interventions to target the specific crime producing characteristics.

The department reports that CINAS allows it to develop and implement programs that increase the likelihood of successful reentry. It also reports that use of the RNR principle and CINAS “avoids focusing resources on individuals ill-equipped to handle specific behavior problems, and

¹ Fla. Dep’t of Corrections, *Inmate Admissions*, http://www.dc.state.fl.us/pub/annual/0910/stats/im_admis.html (last visited November 10, 2011).

² Office of Program Policy Analysis and Governmental Accountability (OPPAGA), *Corrections Rehabilitative Programs Effective, But Serve Only a Portion of the Eligible Population*, Report No. 07-14 (February 2007), p. 6.

³ Florida TaxWatch, *Report and Recommendation of the Florida TaxWatch Government Cost Savings Task Force for Fiscal Year 2012-13*, available at <http://www.floridataxwatch.org/resources/pdf/Report%20GCSTF%20for%20FY2012-13.pdf> (last visited November 10, 2011).

⁴ Florida Department of Corrections, *Recidivism Reduction Strategic Plan Fiscal Year 2009-2014*, available at <http://www.dc.state.fl.us/orginfo/FinalRecidivismReductionPlan.pdf> (last visited November 10, 2011).

ensures the most appropriate treatment-setting possible is being assigned, based on an inmate's characteristics.”

CINAS is administered to an inmate when he or she is received at the initial parent institution and again after 42 months, with updates conducted every 6 months thereafter to evaluate the inmate's progress and ensure enrollment in needed programs.⁵

100-Hour Transition Training Program

In addition to other programming, the department must provide a 100-Hour Transition Training Program to inmates who are within 12 months of their release.⁶ This program offers inmates training in life management skills, job readiness, and changing criminal thinking.⁷

Drug Offender Probation

The department is also required to develop and administer a drug offender probation program that emphasizes a combination of treatment and intensive community supervision approaches and provides for supervision of offenders in accordance with a specific treatment plan.⁸ This program generally uses graduated sanctions when offenders violate program requirements by actions such as testing positive on drug tests, missing treatment sessions, or failing to report to court.⁹ These sanctions can include mandatory community service, extended probation, or jail stays. Probationers in this program are subject to probation revocation if they violate any conditions of their probation. This can result in an imposition of any sentence that may have originally been imposed before the offender was placed on probation.¹⁰ In FY 2009-10, 9,928 offenders were admitted to drug offender probation.¹¹

III. Effect of Proposed Changes:

The bill requires the department to develop and administer a nonviolent offender reentry program in a secure area within an institution or adjacent to an adult institution. This program is intended to divert nonviolent offenders from long periods of incarceration when a reduced period of incarceration followed by intensive substance abuse treatment may have the same deterrent effect, rehabilitate the offender, and reduce recidivism.

A “nonviolent offender” is defined as an offender:

- whose primary offense is a third-degree felony;
- who has never been convicted of a forcible felony as defined in s. 776.08, F.S.,¹²

⁵ Florida Department of Corrections, Analysis of SB 448.

⁶ Section 944.7065, F.S.

⁷ Florida Department of Corrections Re-Entry Programs and Education, <http://www.dc.state.fl.us/orginfo/reentry.html> (last visited November 10, 2011).

⁸ Section 948.20(1), F.S.

⁹ *Id.*

¹⁰ Section 948.06(2)(e), F.S.

¹¹ Florida Department of Corrections, *Community Supervision Admissions, 2009-2010 Agency Statistics*, available at http://www.dc.state.fl.us/pub/annual/0910/stats/csa_month.html (last visited November 10, 2011).

¹² The offenses included within the definition of “forcible felony” are treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated

- who has never been convicted of any offense that requires registration as a sexual offender pursuant to s. 943.0435, F.S.¹³; and
- who is not sentenced as a habitual felony offender under s. 775.084(1), F.S.¹⁴

In order to participate in the reentry program, a nonviolent offender must have served at least one-half of his or her original sentence and have been identified as having a need for substance abuse treatment. The department is required to screen potential program participants, and reports that 276 inmates currently meet the basic eligibility criteria for the program. Another 676 inmates would meet program criteria in the second year.¹⁵

If the offender meets the eligibility screening criteria, the department must consider other factors in deciding whether to actually select him or her for the program. These factors are the offender's criminal history and the possible rehabilitative benefits that substance abuse treatment, educational programming, vocational training, and other rehabilitative programming might have on the offender.

If the department selects a nonviolent offender to participate in the program and space is available, it must request the sentencing court to approve the offender's participation in the reentry program. The department must also notify the state attorney that the offender is being considered for placement in the reentry program. The notice must:

- Explain to the state attorney that a proposed reduced period of incarceration, followed by participation in substance abuse treatment and other rehabilitative programming, could produce the same deterrent effect otherwise expected from a lengthy incarceration; and
- State that the state attorney may notify the sentencing court in writing of any objection to placing the offender in a reentry program within 14 days of receiving the notice from the department.

stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

¹³ The offenses that require registration as a sexual offender and that are not also a forcible felony are: luring and enticing a child (s. 787.025, F.S.); unlawful sexual activity with certain minors (s. 794.05, F.S.); procuring person under the age of 18 for the purposes of prostitution (s. 796.03, F.S.); selling or buying of minors into sex trafficking or prostitution (s. 796.035, F.S.); lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age (s. 800.04, F.S.); lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person (s. 825.1025, F.S.); sexual performance by a child (s. 827.071, F.S.); protection of minors with reference to certain acts in connection with obscenity (s. 847.0133, F.S.); computer pornography (s. 847.0135), except subsection (6) (owners or operators of computer services liable); transmission of pornography by electronic device or equipment (s. 847.0137, F.S.); transmission of material harmful to minors to a minor by electronic device or equipment (s. 847.0138, F.S.); selling or buying of minors (s. 847.0145, F.S.); and sexual misconduct by a Department of Juvenile Justice employee or provider with a juvenile offender (s. 985.701, F.S.).

¹⁴ A court may sentence an offender as a habitual felony offender if: (1) the offender has previously been convicted of two or more felonies in Florida; (2) the felony was committed while the offender was under sentence for a prior conviction of a felony; (3) the felony for which the offender is being sentenced is not a violation of s. 893.13, F.S., that is related to the purchase or possession of a controlled substance; and (4) one of the two prior felony convictions is not a violation of s. 893.13, F.S., that is related to the purchase or possession of a controlled substance.

¹⁵ Florida Department of Corrections, Analysis of SB 448. However, this number is based upon criteria in the bill before it was amended to excluded habitual felony offenders.

The sentencing court is required to notify the department whether it approves or disapproves placing the offender into the reentry program within 28 days after it receives the department's request. Failure to notify the department within the 28-day period constitutes approval to place the offender into the reentry program.

The bill requires the non-violent offender reentry program to include the following components:

- Prison-based substance abuse treatment;
- General education development and adult basic education courses;
- Vocational training;
- Training in decision-making and personal development; and
- Other rehabilitation programs.

The bill also requires the department to take the following specific actions with respect to each offender in the reentry program:

- The offender must undergo a full substance abuse assessment to determine his or her substance abuse treatment needs;
- The offender must have an educational assessment, using the Test of Adult Basic Education or any other testing instrument approved by the Department of Education; and
- The offender must be enrolled in an adult education program designed to help the offender obtain a high school diploma if one has not already been obtained.
- Assessments of the offender's vocational skills and future career education must be performed as needed, and periodic reevaluations must be made to assess each offender's progress.

If a nonviolent offender becomes unmanageable while in the program, the bill authorizes the department to revoke the offender's gain-time and place the offender in disciplinary confinement in accordance with department rule. Time during which the offender is unable to participate in the reentry program is not credited toward program completion. The offender can be readmitted to the reentry program after completing the ordered discipline unless:

- The offender commits or threatens to commit a violent act;
- The department determines that the offender is unable to participate in the reentry program due to the offender's medical condition;
- The offender's sentence is modified or expires;
- The department reassigns the offender's classification status; or
- The department determines that removing the offender from the reentry program is in the best interest of the offender or the security of the institution.

The bill specifically states that it does not create a right for any offender to be placed in the program or to placement or early release under supervision. No offender can have a cause of action against the department, a court, or the state attorney related to the reentry program.

A minimum of 120 days is required to complete the program, and any portion of the offender's sentence that was served before placement in a reentry program will not count toward program completion.

The bill requires the department to submit a report to the court describing the offender's performance in the program at least 30 days before his or her scheduled program completion date. If the offender's performance was satisfactory, the court must issue an order modifying the sentence imposed and place the offender on drug offender probation subject to the offender's successful completion of the remainder of the reentry program.¹⁶ Drug offender probation may include placement in a community residential or nonresidential substance abuse treatment facility. If an offender intends to reside in a county that has established a post-adjudicatory drug court program as described in s. 397.334, F.S., he or she may be required to successfully complete the post-adjudicatory drug court program as a condition of drug offender probation.

If the nonviolent offender violates the conditions of drug offender probation, the court can revoke probation and impose any sentence that it might have originally imposed.

In addition to the above requirements, the bill also requires the department to:

- Implement the reentry program to the fullest extent feasible within available resources.
- Submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing the extent of implementation of the reentry program and outlining future goals and any recommendation the department has for future legislative action.
- Develop a system for tracking recidivism, including, but not limited to, rearrests and recommitment of nonviolent offenders who successfully complete the reentry program, and report the recidivism rate in its annual report of the program.
- Adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to administer the reentry program. These include rules of conduct for program participants, including sanctions that are appropriate to the nature and gravity of a violation of the rules.

The bill permits the department to:

- Enter into performance-based contracts with qualified individuals, agencies, or corporations for the provision of any or all of the services for the reentry program.
- Establish a system of incentives within the reentry program which the department may use to promote participation in rehabilitative programs and the orderly operation of institutions and facilities.

¹⁶ The bill provides that the term of drug offender probation may include placement in a community residential or nonresidential substance abuse treatment facility under the jurisdiction of the department or the Department of Children and Family Services or any public or private entity providing such services.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The provision of the bill stating that an offender may not have a cause of action related to the reentry program under the section cannot preclude a cause of action based upon constitutional grounds.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Because participation in the bill's nonviolent offender re-entry program hinges on an offenders' eligibility, the department's selection, limited availability of drug treatment slots, and judicial approval, the precise impact of the bill is unknown. However, the bill will likely result in cost savings to the state.

VI. Technical Deficiencies:

It is unclear whether the bill's specific provisions for removing an inmate from the supervised reentry program would prevent the department from applying more subjective criteria that it currently uses for removal from a community release program.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Criminal Justice on November 17, 2011:

- Amends the definition of “non-violent offender” to clarify that the primary offense must be a third-degree felony, and that the offender must never have been convicted of a forcible felony or any offense that requires registration as a sexual offender.
- Further amends the definition of “non-violent offender” to exclude persons who are sentenced as a habitual felony offender.
- Clarifies that the department is not required to place an offender in the program if he or she meets basic eligibility requirements and space is available, but must select any participants from among those who meet basic eligibility requirements.

- B. **Amendments:**

None.



591120

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/17/2011	.	
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The Committee on Criminal Justice (Hays) recommended the following:

Senate Amendment

Delete lines 84 - 90
and insert:

(b) "Nonviolent offender" means an offender:

1. Whose primary offense is a felony of the third degree;

2. Who has not been convicted or previously convicted of a forcible felony as defined in s. 776.08, Florida Statutes; and

3. Who has not been convicted of any offense that requires a person to register as a sexual offender pursuant to s. 943.0435, Florida Statutes.



669808

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/17/2011	.	
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The Committee on Criminal Justice (Hays) recommended the following:

Senate Amendment

Delete lines 109 - 123
and insert:

(3) (a) The department shall screen offenders committed to the department for eligibility criteria to participate in the reentry program. In order to be eligible, an offender must be a nonviolent offender, must have served at least one-half of his or her original sentence, and must have been identified as having a need for substance abuse treatment. When selecting participants for the reentry program, the department shall



669808

13 consider the offender's criminal history and the possible
14 rehabilitative benefits that substance abuse treatment,
15 educational programming, vocational training, and other
16 rehabilitative programming might have on the offender.

17 (b) If an offender meets the eligibility criteria, is
18 selected by the department, and space is available in the
19 reentry program, the department shall request the sentencing
20 court to approve the offender's participation in the reentry
21 program.



113866

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/17/2011	.	
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The Committee on Criminal Justice (Hays) recommended the following:

Senate Amendment to Amendment (591120)

Delete lines 6 - 11
and insert:

2. Who has never been convicted of a forcible felony as defined in s. 776.08, Florida Statutes;

3. Who has never been convicted of any offense that requires a person to register as a sexual offender pursuant to s. 943.0435, Florida Statutes; and

4. Who is not sentenced as a habitual felony offender pursuant to s. 775.084(1), Florida Statutes.

By Senator Bogdanoff

25-00398B-12

2012448__

1 A bill to be entitled
 2 An act relating to inmate reentry; defining the terms
 3 "department" and "nonviolent offender"; directing the
 4 Department of Corrections to develop and administer a
 5 reentry program for nonviolent offenders which is
 6 intended to divert nonviolent offenders from long
 7 periods of incarceration; requiring that the program
 8 include intensive substance abuse treatment and
 9 rehabilitative programming; providing for the minimum
 10 length of service in the program; providing that any
 11 portion of a sentence before placement in the program
 12 does not count as progress toward program completion;
 13 specifying eligibility criteria for a nonviolent
 14 offender to be placed into the reentry program;
 15 directing the department to notify the nonviolent
 16 offender's sentencing court to obtain approval before
 17 the nonviolent offender is placed into the reentry
 18 program; requiring the department to notify the state
 19 attorney; authorizing the state attorney to file
 20 objections to placing the offender into the reentry
 21 program within a specified period; requiring the
 22 sentencing court to notify the department of the
 23 court's decision to approve or disapprove the
 24 requested placement within a specified period;
 25 providing that failure of the court to timely notify
 26 the department of the court's decision constitutes
 27 approval by the requested placement; requiring the
 28 nonviolent offender to undergo an education assessment
 29 and a full substance abuse assessment if admitted into

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

25-00398B-12

2012448__

30 the reentry program; requiring the offender to be
 31 enrolled in an adult education program in specified
 32 circumstances; requiring that assessments of
 33 vocational skills and future career education be
 34 provided to the offender; requiring that certain
 35 reevaluation be made periodically; providing that the
 36 nonviolent offender is subject to the disciplinary
 37 rules of the department; specifying the reasons for
 38 which the offender may be terminated from the reentry
 39 program; requiring that the department submit a report
 40 to the sentencing court at least 30 days before the
 41 nonviolent offender is scheduled to complete the
 42 reentry program; setting forth the issues to be
 43 addressed in the report; requiring the sentencing
 44 court to issue an order modifying the sentence imposed
 45 and place the nonviolent offender on drug offender
 46 probation if the nonviolent offender's performance is
 47 satisfactory; authorizing the court to revoke
 48 probation and impose the original sentence in
 49 specified circumstances; authorizing the court to
 50 require the offender to complete a postadjudicatory
 51 drug court program in specified circumstances;
 52 directing the department to implement the reentry
 53 program using available resources; requiring the
 54 department to submit an annual report to the Governor
 55 and Legislature detailing the extent of implementation
 56 of the reentry program and outlining future goals and
 57 recommendations; authorizing the department to enter
 58 into contracts with qualified individuals, agencies,

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

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2012448

59 or corporations for services for the reentry program;
 60 authorizing the department to impose administrative or
 61 protective confinement as necessary; authorizing the
 62 department to establish a system of incentives within
 63 the reentry program which the department may use to
 64 promote participation in rehabilitative programs and
 65 the orderly operation of institutions and facilities;
 66 providing that the section does not create a right to
 67 placement in the reentry program or any right to
 68 placement or early release under supervision of any
 69 type; providing that the section does not create a
 70 cause of action related to the program; directing the
 71 department to develop a system for tracking
 72 recidivism, including, but not limited to, rearrests
 73 and recommitment of nonviolent offenders who
 74 successfully complete the reentry program, and to
 75 report on recidivism in its annual report of the
 76 program; directing the department to adopt rules;
 77 providing an effective date.

78
 79 Be It Enacted by the Legislature of the State of Florida:

80
 81 Section 1. Nonviolent offender reentry program.-

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

83 (a) "Department" means the Department of Corrections.

84 (b) "Nonviolent offender" means an offender who has:

85 1. Been convicted of a third-degree felony offense that is
 86 not a forcible felony as defined in s. 776.08, Florida Statutes;
 87 and

25-00398B-12

2012448

88 2. Not been convicted of any offense that requires a person
 89 to register as a sexual offender pursuant to s. 943.0435,
 90 Florida Statutes.

91 (2) (a) The department shall develop and administer a
 92 reentry program for nonviolent offenders. The reentry program
 93 must include prison-based substance abuse treatment, general
 94 education development and adult basic education courses,
 95 vocational training, training in decisionmaking and personal
 96 development, and other rehabilitation programs.

97 (b) The reentry program is intended to divert nonviolent
 98 offenders from long periods of incarceration when a reduced
 99 period of incarceration followed by participation in intensive
 100 substance abuse treatment and rehabilitative programming could
 101 produce the same deterrent effect, rehabilitate the offender,
 102 and reduce recidivism.

103 (c) The nonviolent offender shall serve at least 120 days
 104 in the reentry program. The offender may not count any portion
 105 of his or her sentence served before placement in the reentry
 106 program as progress toward program completion.

107 (d) A reentry program may be operated in a secure area in
 108 or adjacent to an adult institution.

109 (3) (a) Upon receiving a potential reentry program
 110 participant, the department shall screen the nonviolent offender
 111 for eligibility criteria to participate in the reentry program.
 112 In order to participate, a nonviolent offender must have served
 113 at least one-half of his or her original sentence and must have
 114 been identified as having a need for substance abuse treatment.
 115 When screening a nonviolent offender, the department shall
 116 consider the offender's criminal history and the possible

25-00398B-12

2012448__

117 rehabilitative benefits that substance abuse treatment,
 118 educational programming, vocational training, and other
 119 rehabilitative programming might have on the offender.

120 (b) If a nonviolent offender meets the eligibility criteria
 121 and space is available in the reentry program, the department
 122 shall request the sentencing court to approve the offender's
 123 participation in the reentry program.

124 (c)1. The department shall notify the state attorney that
 125 the offender is being considered for placement in the reentry
 126 program. The notice must explain to the state attorney that a
 127 proposed reduced period of incarceration, followed by
 128 participation in substance abuse treatment and other
 129 rehabilitative programming, could produce the same deterrent
 130 effect otherwise expected from a lengthy incarceration.

131 2. The notice must also state that the state attorney may
 132 notify the sentencing court in writing of any objection the
 133 state attorney might have if the nonviolent offender is placed
 134 in the reentry program. The state attorney must notify the
 135 sentencing court of his or her objections within 14 days after
 136 receiving the notice.

137 (d) The sentencing court shall notify the department in
 138 writing of the court's decision to approve or disapprove the
 139 requested placement of the nonviolent offender no later than 28
 140 days after the court receives the department's request to place
 141 the offender in the reentry program. Failure to notify the
 142 department of the court's decision within the 28-day period
 143 constitutes approval to place the offender into the reentry
 144 program.

145 (4) After the nonviolent offender is admitted into the

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146 reentry program, he or she shall undergo a full substance abuse
 147 assessment to determine his or her substance abuse treatment
 148 needs. The offender shall also have an educational assessment,
 149 which shall be accomplished using the Test of Adult Basic
 150 Education or any other testing instrument approved by the
 151 Department of Education. Each offender who has not obtained a
 152 high school diploma shall be enrolled in an adult education
 153 program designed to aid the offender in improving his or her
 154 academic skills and earn a high school diploma. Further
 155 assessments of the offender's vocational skills and future
 156 career education shall be provided to the offender as needed. A
 157 periodic reevaluation shall be made in order to assess the
 158 progress of each offender.

159 (5) (a) If a nonviolent offender in the reentry program
 160 becomes unmanageable, the department may revoke the offender's
 161 gain-time and place the offender in disciplinary confinement in
 162 accordance with department rule. Except as provided in paragraph
 163 (b), the offender shall be readmitted to the reentry program
 164 after completing the ordered discipline. Any period of time
 165 during which the offender is unable to participate in the
 166 reentry program shall be excluded from the specified time
 167 requirements in the reentry program.

168 (b) The department may terminate an offender from the
 169 reentry program if:

170 1. The offender commits or threatens to commit a violent
 171 act;

172 2. The department determines that the offender is unable to
 173 participate in the reentry program due to the offender's medical
 174 condition;

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2012448__

175 3. The offender's sentence is modified or expires;
 176 4. The department reassigns the offender's classification
 177 status; or
 178 5. The department determines that removing the offender
 179 from the reentry program is in the best interest of the offender
 180 or the security of the institution.
 181 (6) (a) The department shall submit a report to the court at
 182 least 30 days before the nonviolent offender is scheduled to
 183 complete the reentry program. The report must describe the
 184 offender's performance in the reentry program. If the
 185 performance is satisfactory, the court shall issue an order
 186 modifying the sentence imposed and place the offender on drug
 187 offender probation subject to the offender's successful
 188 completion of the remainder of the reentry program. The term of
 189 drug offender probation may include placement in a community
 190 residential or nonresidential substance abuse treatment facility
 191 under the jurisdiction of the department or the Department of
 192 Children and Family Services or any public or private entity
 193 providing such services. If the nonviolent offender violates the
 194 conditions of drug offender probation, the court may revoke
 195 probation and impose any sentence that it might have originally
 196 imposed.
 197 (b) If an offender being released pursuant to paragraph (a)
 198 intends to reside in a county that has established a
 199 postadjudicatory drug court program as described in s. 397.334,
 200 Florida Statutes, the sentencing court may require the offender
 201 to successfully complete the postadjudicatory drug court program
 202 as a condition of drug offender probation. The original
 203 sentencing court shall relinquish jurisdiction of the offender's

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

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204 case to the postadjudicatory drug court program until the
 205 offender is no longer active in the program, the case is
 206 returned to the sentencing court due to the offender's
 207 termination from the program for failure to comply with the
 208 terms thereof, or the offender's sentence is completed. If
 209 transferred to a postadjudicatory drug court program, the
 210 offender shall comply with all conditions and orders of the
 211 program.
 212 (7) The department shall implement the reentry program to
 213 the fullest extent feasible within available resources.
 214 (8) The department shall submit an annual report to the
 215 Governor, the President of the Senate, and the Speaker of the
 216 House of Representatives detailing the extent of implementation
 217 of the reentry program and outlining future goals and any
 218 recommendation the department has for future legislative action.
 219 (9) The department may enter into performance-based
 220 contracts with qualified individuals, agencies, or corporations
 221 for the provision of any or all of the services for the reentry
 222 program.
 223 (10) A nonviolent offender in the reentry program is
 224 subject to rules of conduct established by the department and
 225 may have sanctions imposed, including loss of privileges,
 226 restrictions, disciplinary confinement, alteration of release
 227 plans, or other program modifications in keeping with the nature
 228 and gravity of the program violation. Administrative or
 229 protective confinement, as necessary, may be imposed.
 230 (11) This section does not create or confer any right to
 231 any inmate to placement in the reentry program or any right to
 232 placement or early release under supervision of any type. No

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

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233 inmate may have a cause of action under this section against the
234 department, a court, or the state attorney related to the
235 reentry program.

236 (12) The department may establish a system of incentives
237 within the reentry program which the department may use to
238 promote participation in rehabilitative programs and the orderly
239 operation of institutions and facilities.

240 (13) The department shall develop a system for tracking
241 recidivism, including, but not limited to, rearrests and
242 recommitment of nonviolent offenders who successfully complete
243 the reentry program, and shall report the recidivism rate in its
244 annual report of the program.

245 (14) The department shall adopt rules pursuant to ss.
246 120.536(1) and 120.54, Florida Statutes, to administer the
247 reentry program.

248 Section 2. 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)

Meeting Date _____

Topic _____

Bill Number 448
(if applicable)

Name Major Graham Fountain

Amendment Barcode _____
(if applicable)

Job Title Director of Operations

Address Walton County Sheriff's Office
Street

Phone _____

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing Walton County Sheriff Mike Adkinson

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/17/11

Meeting Date

Topic INMATE REENTRY

Bill Number 448
(if applicable)

Name BRAD KING

Amendment Barcode _____
(if applicable)

Job Title STATE ATTORNEY, 5th

Address 110 NW 1ST AVE
Street

Phone 352-671-5914

OCALA FL 34475
City State Zip

E-mail _____

Speaking: For Against Information

Representing FLORIDA PROSECUTING ATTORNEYS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

Nov. 17, 2011

Meeting Date

Topic ReEntry

Bill Number 448
(if applicable)

Name TIM STANFIELD

Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address 215 S. Monroe

Phone _____

Street

Tall

FL

32301

E-mail _____

City

State

Zip

Speaking: For Against Information

Representing Florida Police Chiefs

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)

11-17-11
Meeting Date

Topic Early Release

Bill Number SB 448
(if applicable)

Name Frank Menesini

Amendment Barcode _____
(if applicable)

Job Title _____

Address 2901 Jk Bradford
Street

Phone 576-5858

Tall FL
City State Zip

E-mail _____

Speaking: For Against Information

Representing 71 Skerff's 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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THE FLORIDA SENATE
APPEARANCE RECORD

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

11/17/2011

Meeting Date

Topic Inmate Reentry

Bill Number 448
(if applicable)

Name Mark Flynn

Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 516 North Adams Street
Street

Phone 850-224-7173

Tallahassee Florida 32301
City *State* *Zip*

E-mail mflynn@aif.com

Speaking: For Against Information

Representing Smart Justice Council of Associated Industries 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
APPEARANCE RECORD

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

11/17/2011

Meeting Date

Topic inmate reentry

Bill Number 448
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

11/17/2011

Meeting Date

Topic INMATE RE-ENTRY

Bill Number 448
(if applicable)

Name ROBERT TRAMMELL

Amendment Barcode _____
(if applicable)

Job Title GENERAL COUNSEL

Address PO Box 1799

Phone 850-510-2187

Street
Tallahassee City FL State 32302 Zip

E-mail Trammell.Robert@rocfmfl.com

Speaking: For Against Information

Representing PO'S ASSOC. WAIVE IN SUPPORT

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/17/11
Meeting Date

Topic _____

Bill Number 448
(if applicable)

Name MARK P. FONTAINE

Amendment Barcode _____
(if applicable)

Job Title EXECUTIVE DIRECTOR

Address 2868 MAHAN DRIVE

Phone 850 878-2196

Street

TALLAHASSEE FL 32308

City

State

Zip

E-mail mfontaine@fadaa.org

Speaking: For Against Information

Representing FLORIDA ALCOHOL + DRUG ABUSE 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
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 504

INTRODUCER: Criminal Justice Committee and Senator Evers

SUBJECT: Juvenile Justice

DATE: November 17, 2011 **REVISED:** _____

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

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The bill authorizes the Department of Juvenile Justice (DJJ) to develop or contract for mother-infant programs within its continuum of care. The bill also defines a “mother-infant program” as a residential program designed to serve the needs of juvenile mothers or expectant juvenile mothers who are committed as delinquents. A mother-infant program must be licensed as a childcare facility under s. 402.308, F.S.

The bill also amends s. 985.601, F.S., to allow the DJJ to pay up to \$5,000 toward basic funeral expenses for a youth who dies in the department’s custody, if the parents or guardians are indigent and unable to pay and there is no other funding source available to pay these expenses. This decision to pay funeral expenses will be made at the discretion of the secretary of the department.

Finally, the bill deletes provisions in numerous sections in chapters 984 and 985, F.S., which reference serious or habitual juvenile offenders and the serious or habitual juvenile offender programs (SHOPs). This change conforms the statutes to the repeals made by legislation passed during the 2011 Legislative Session.

The bill substantially amends the following sections of the Florida Statutes: 984.03, 985.03, 985.14, 985.441, 985.601, 985.0301, 985.045, 985.688, and 985.721.

II. Present Situation:

Mother-Infant Commitment Program

Section 985.441, F.S., provides various juvenile commitment options for the court. The court may commit an adjudicated delinquent youth as follows: to a licensed child-caring agency willing to receive the youth; to the DJJ for placement in a program at a restrictiveness level defined in s. 985.03, F.S.; to the DJJ for placement in a program for serious or habitual juvenile offenders; or to the DJJ for placement in a program for juvenile sexual offenders.

Section 985.601(3)(a), F.S., requires the DJJ to develop or contract for various programs to provide rehabilitative treatment for adjudicated delinquent youth, including in part, the following: early intervention and prevention, diagnostic and classification assessments, individual and family counseling, community-based mental health treatment services, community-based residential and nonresidential programs, and environmental programs.

Currently, the DJJ operates a 20-bed mother/infant program in Miami-Dade County; however, there is no statutory provision for programs designed for pregnant girls or mothers with infants. Women in Need of Greater Strength (WINGS) for Life was established in 2001 as a residential commitment program for females in an educational environment. On July 1, 2006, WINGS became a residential commitment treatment program for 20 pregnant or postpartum females and their babies. The mission of the WINGS for Life program is to be committed to celebrating diversity and womanhood by working to enhance the quality of life for the young woman and her child.¹

The objectives of the program are to provide a structured and supervised transition from residential placement to the community and to closely monitor the youth to ensure public safety. The goal is to return these youth back into the mainstream of their communities with the skills to lead productive lives and successfully parent their children. The WINGS for Life program currently has the capacity to serve 20 women ages 14 – 19.²

Funeral Expenses for Juveniles in the Custody of the DJJ

A youth died while in the custody of the DJJ at the juvenile detention center in West Palm Beach in July of this year. The DJJ tried to pay some of the funeral expenses, relying on its internal policy authorizing the department to pay up to a maximum of \$5,000 for funeral expenses when a youth dies in its custody and his or her parents are indigent and unable to pay. The Department of Financial Services denied the department's payment because of the lack of express statutory authority allowing the DJJ to take such action.³

¹ Department of Juvenile Justice, WINGS website, available at http://www.djj.state.fl.us/Residential/Facilities/south_facilities/WINGS_FOR_LIFE.html (last visited November 10, 2011).

² *Id.*

³ Florida financial chief won't pay for funeral of teen who died in lockup. The Miami Herald. July 29, 2011. http://www.miamiherald.com/2011/07/29/2337038/florida_finance_chief_wont_pay.html#storylink=misearch (last visited on November 10, 2011). See also, the Department of Juvenile Justice, 2012 Legislative Analysis SB 504 (on file with the Senate Criminal Justice Committee).

According to the DJJ, when a state agency is responsible for the safety of a youth and that youth dies in the agency's custody, it may be beneficial to all concerned in some circumstances to offer financial assistance to parents who are unable to pay the youth's funeral expenses.⁴

Serious or Habitual Juvenile Offenders

The Legislature in 2011 passed legislation repealing numerous provisions relating to serious or habitual juvenile offenders and the SHOPS.⁵ According to the DJJ, the SHOPS had a long history of being underutilized and the changes made by the 2011 Legislature more accurately reflected the practices of the DJJ.⁶

III. Effect of Proposed Changes:

The bill amends s. 985.601 (3)(a), F.S., to authorize the DJJ to develop or contract for mother-infant programs within its continuum of care. The bill also defines under s. 985.03, F.S., a "mother-infant program" as a residential program designed to serve the needs of juvenile mothers or expectant juvenile mothers who are committed as delinquents and which is operated or contracted by the DJJ. The mother-infant program must be licensed as a childcare facility under s. 402.308, F.S. It must also provide the necessary services and support to help the committed mother provide for her child's needs. If the mother agrees, the child may come with the mother into the program. This change will give express legislative authority for the current mother-infant program operating in Miami-Dade county and for any other future mother-infant programs.

The bill also amends s. 985.601, F.S., allowing the DJJ to pay up to \$5,000 toward basic funeral expenses for a youth who dies in the department's custody, if the parents or guardians are indigent and unable to pay and there is no other funding source available to pay these expenses. The decision to pay funeral costs will be at the discretion of the secretary of the department. This change will codify the DJJ's internal policy of paying funeral expenses under certain circumstances.

Finally, the bill deletes provisions in the following sections of chapters 984 and 985, F.S., which reference serious or habitual juvenile offenders and the SHOPS: s. 984.03(48), F.S. (defines a SHOP); s. 985.14, F.S. (refers to assessment for placement in a SHOP); s. 985.441, F.S. (refers to juvenile placement in a SHOP); s. 985.601(3)(a), F.S. (refers to SHOPS); s. 985.0301, F.S. (refers to SHOPS); and s. 985.688(2), F.S. (refers to SHOPS). These changes conform the statutes with the repeals made by legislation passed during the 2011 Legislative Session. Technical changes are also made in s. 985.045, F.S., and s. 985.721, F.S., to conform statutory cross-references.

⁴ Department of Juvenile Justice, 2012 Legislative Analysis SB 504 (on file with the Senate Criminal Justice Committee).

⁵ CS/SB 618, ch. 2011-70, L.O.F.

⁶ 2011 Department of Juvenile Justice Legislative Priority Paper, updated March 4, 2011 (on file with the Senate Criminal Justice Committee).

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:

Under certain circumstances, SB 504 will help parents or guardians defray up to \$5,000 in funeral costs for youth who die in the DJJ's custody.

C. Government Sector Impact:

According to the DJJ, there will be no fiscal impact upon the department because of the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Criminal Justice on November 17, 2011:

- Adds a definition of “mother-infant program” in s. 985.03, F.S., and authorizes the DJJ to develop or contract for such programs in s. 985.601, F.S., rather than amending s. 985.441, F.S., to allow the court to commit an adjudicated delinquent mother or expectant mother to such program.
- Deletes additional sections that reference serious or habitual juvenile offenders and the SHOPS in chapters 984 and 985, F.S.

B. Amendments:

None.

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



760176

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/17/2011	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsections (49) through (56) of section 984.03, Florida Statutes, are renumbered as subsections (48) through (55), respectively, and present subsection (48) of that section is amended to read:

984.03 Definitions.—When used in this chapter, the term:
~~(48) "Serious or habitual juvenile offender program" means the program established in s. 985.47.~~

Section 2. Subsection (29) of section 985.03, Florida



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13 Statutes, is amended, subsections (37) through (57) of that
14 section are renumbered as subsections (38) through (58),
15 respectively, and a new subsection (37) is added to that
16 section, to read:

17 985.03 Definitions.—As used in this chapter, the term:

18 (29) "Juvenile justice continuum" includes, but is not
19 limited to, delinquency prevention programs and services
20 designed for the purpose of preventing or reducing delinquent
21 acts, including criminal activity by criminal gangs, and
22 juvenile arrests, as well as programs and services targeted at
23 children who have committed delinquent acts, and children who
24 have previously been committed to residential treatment programs
25 for delinquents. The term includes children-in-need-of-services
26 and families-in-need-of-services programs; conditional release;
27 substance abuse and mental health programs; educational and
28 career programs; recreational programs; community services
29 programs; community service work programs; mother-infant
30 programs; and alternative dispute resolution programs serving
31 children at risk of delinquency and their families, whether
32 offered or delivered by state or local governmental entities,
33 public or private for-profit or not-for-profit organizations, or
34 religious or charitable organizations.

35 (37) "Mother-infant program" means a residential program
36 designed to serve the needs of juvenile mothers or expectant
37 juvenile mothers who are committed as delinquents, which is
38 operated or contracted by the department. A mother-infant
39 program facility must be licensed as a child care facility under
40 s. 402.308 and must provide the services and support necessary
41 to enable each juvenile mother committed to the facility to



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42 provide for the needs of her infants who, upon agreement of the
43 mother, may accompany them in the program.

44 Section 3. Paragraph (a) of subsection (3) of section
45 985.14, Florida Statutes, is amended to read:

46 985.14 Intake and case management system.—

47 (3) The intake and case management system shall facilitate
48 consistency in the recommended placement of each child, and in
49 the assessment, classification, and placement process, with the
50 following purposes:

51 (a) An individualized, multidisciplinary assessment process
52 that identifies the priority needs of each individual child for
53 rehabilitation and treatment and identifies any needs of the
54 child's parents or guardians for services that would enhance
55 their ability to provide adequate support, guidance, and
56 supervision for the child. This process shall begin with the
57 detention risk assessment instrument and decision, shall include
58 the intake preliminary screening and comprehensive assessment
59 for substance abuse treatment services, mental health services,
60 retardation services, literacy services, and other educational
61 and treatment services as components, additional assessment of
62 the child's treatment needs, and classification regarding the
63 child's risks to the community ~~and, for a serious or habitual~~
64 ~~delinquent child, shall include the assessment for placement in~~
65 ~~a serious or habitual delinquent children program under s.~~
66 985.47. The completed multidisciplinary assessment process shall
67 result in the predisposition report.

68 Section 4. Subsection (1) of section 985.441, Florida
69 Statutes, is amended to read:

70 985.441 Commitment.—



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71 (1) The court that has jurisdiction of an adjudicated
72 delinquent child may, by an order stating the facts upon which a
73 determination of a sanction and rehabilitative program was made
74 at the disposition hearing:

75 (a) Commit the child to a licensed child-caring agency
76 willing to receive the child; however, the court may not commit
77 the child to a jail or to a facility used primarily as a
78 detention center or facility or shelter.

79 (b) Commit the child to the department at a restrictiveness
80 level defined in s. 985.03. Such commitment must be for the
81 purpose of exercising active control over the child, including,
82 but not limited to, custody, care, training, monitoring for
83 substance abuse, electronic monitoring, and treatment of the
84 child and release of the child from residential commitment into
85 the community in a postcommitment nonresidential conditional
86 release program. If the child is not successful in the
87 conditional release program, the department may use the transfer
88 procedure under subsection (4).

89 ~~(c) Commit the child to the department for placement in a~~
90 ~~program or facility for serious or habitual juvenile offenders~~
91 ~~in accordance with s. 985.47.~~

92 ~~1. Following a delinquency adjudicatory hearing under s.~~
93 ~~985.35 and a delinquency disposition hearing under s. 985.433~~
94 ~~that results in a commitment determination, the court shall, on~~
95 ~~its own or upon request by the state or the department,~~
96 ~~determine whether the protection of the public requires that the~~
97 ~~child be placed in a program for serious or habitual juvenile~~
98 ~~offenders and whether the particular needs of the child would be~~
99 ~~best served by a program for serious or habitual juvenile~~



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100 ~~offenders as provided in s. 985.47. The determination shall be~~
101 ~~made under ss. 985.47(1) and 985.433(7).~~

102 ~~2. Any commitment of a child to a program or facility for~~
103 ~~serious or habitual juvenile offenders must be for an~~
104 ~~indeterminate period of time, but the time may not exceed the~~
105 ~~maximum term of imprisonment that an adult may serve for the~~
106 ~~same offense.~~

107 ~~(c)~~ (d) Commit the child to the department for placement in
108 a program or facility for juvenile sexual offenders in
109 accordance with s. 985.48, subject to specific appropriation for
110 such a program or facility.

111 1. The child may only be committed for such placement
112 pursuant to determination that the child is a juvenile sexual
113 offender under the criteria specified in s. 985.475.

114 2. Any commitment of a juvenile sexual offender to a
115 program or facility for juvenile sexual offenders must be for an
116 indeterminate period of time, but the time may not exceed the
117 maximum term of imprisonment that an adult may serve for the
118 same offense.

119 Section 5. Paragraph (a) of subsection (3) of section
120 985.601, Florida Statutes, is amended, and subsection (11) is
121 added to that section, to read:

122 985.601 Administering the juvenile justice continuum.—

123 (3) (a) The department shall develop or contract for
124 diversified and innovative programs to provide rehabilitative
125 treatment, including early intervention and prevention,
126 diversion, comprehensive intake, case management, diagnostic and
127 classification assessments, individual and family counseling,
128 shelter care, diversified detention care emphasizing



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129 alternatives to secure detention, diversified probation, halfway
130 houses, foster homes, community-based substance abuse treatment
131 services, community-based mental health treatment services,
132 community-based residential and nonresidential programs, mother-
133 infant programs, and environmental programs, ~~and programs for~~
134 ~~serious or habitual juvenile offenders~~. Each program shall place
135 particular emphasis on reintegration and conditional release for
136 all children in the program.

137 (11) At the secretary's discretion, the department is
138 authorized to pay up to \$5,000 toward the basic funeral expenses
139 for a youth who dies while in the custody of the department and
140 whose parents or guardians are indigent and unable to pay such
141 expenses and for which there is no other source of funding
142 available.

143 Section 6. Subsection (5) of section 985.0301, Florida
144 Statutes, is amended to read:

145 985.0301 Jurisdiction.-

146 (5) (a) Notwithstanding ss. 743.07, 985.43, 985.433,
147 985.435, 985.439, and 985.441, and except as provided in ss.
148 985.461 ~~and~~ 985.465, ~~and 985.47~~ and paragraph (f), when the
149 jurisdiction of any child who is alleged to have committed a
150 delinquent act or violation of law is obtained, the court shall
151 retain jurisdiction, unless relinquished by its order, until the
152 child reaches 19 years of age, with the same power over the
153 child which the court had before the child became an adult. For
154 the purposes of s. 985.461, the court may retain jurisdiction
155 for an additional 365 days following the child's 19th birthday
156 if the child is participating in transition-to-adulthood
157 services. The additional services do not extend involuntary



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158 court-sanctioned residential commitment and therefore require
159 voluntary participation by the affected youth.

160 (b) Notwithstanding ss. 743.07 and 985.455(3), ~~and except~~
161 ~~as provided in s. 985.47~~, the term of any order placing a child
162 in a probation program must be until the child's 19th birthday
163 unless he or she is released by the court on the motion of an
164 interested party or on his or her own motion.

165 (c) Notwithstanding ss. 743.07 and 985.455(3), ~~and except~~
166 ~~as provided in s. 985.47~~, the term of the commitment must be
167 until the child is discharged by the department or until he or
168 she reaches the age of 21 years. Notwithstanding ss. 743.07,
169 985.435, 985.437, 985.439, 985.441, 985.455, and 985.513, and
170 except as provided in this section ~~and s. 985.47~~, a child may
171 not be held under a commitment from a court under s. 985.439, s.
172 985.441(1)(a) or (b), or s. 985.455 after becoming 21 years of
173 age.

174 (d) The court may retain jurisdiction over a child
175 committed to the department for placement in a juvenile prison
176 or in a high-risk or maximum-risk residential commitment program
177 to allow the child to participate in a juvenile conditional
178 release program pursuant to s. 985.46. The jurisdiction of the
179 court may not be retained after the child's 22nd birthday.
180 However, if the child is not successful in the conditional
181 release program, the department may use the transfer procedure
182 under s. 985.441(4).

183 (e) The court may retain jurisdiction over a child
184 committed to the department for placement in an intensive
185 residential treatment program for 10-year-old to 13-year-old
186 offenders, in the residential commitment program in a juvenile



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187 prison or, in a residential sex offender program, ~~or in a~~
188 ~~program for serious or habitual juvenile offenders as provided~~
189 ~~in s. 985.47 or s. 985.483~~ until the child reaches the age of
190 21. If the court exercises this jurisdiction retention, it shall
191 do so solely for the purpose of the child completing the
192 intensive residential treatment program for 10-year-old to 13-
193 year-old offenders, in the residential commitment program in a
194 juvenile prison, or in a residential sex offender program, ~~or~~
195 ~~the program for serious or habitual juvenile offenders~~. Such
196 jurisdiction retention does not apply for other programs, other
197 purposes, or new offenses.

198 (f) The court may retain jurisdiction over a child
199 committed to a juvenile correctional facility or a juvenile
200 prison until the child reaches the age of 21 years, specifically
201 for the purpose of allowing the child to complete such program.

202 ~~(g)1. Notwithstanding ss. 743.07 and 985.455(3), a serious~~
203 ~~or habitual juvenile offender shall not be held under commitment~~
204 ~~from a court under s. 985.441(1)(c), s. 985.47, or s. 985.565~~
205 ~~after becoming 21 years of age. This subparagraph shall apply~~
206 ~~only for the purpose of completing the serious or habitual~~
207 ~~juvenile offender program under this chapter and shall be used~~
208 ~~solely for the purpose of treatment.~~

209 ~~2. The court may retain jurisdiction over a child who has~~
210 ~~been placed in a program or facility for serious or habitual~~
211 ~~juvenile offenders until the child reaches the age of 21,~~
212 ~~specifically for the purpose of the child completing the~~
213 ~~program.~~

214 (g)(h) The court may retain jurisdiction over a juvenile
215 sexual offender who has been placed in a program or facility for



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216 juvenile sexual offenders until the juvenile sexual offender
217 reaches the age of 21, specifically for the purpose of
218 completing the program.

219 (h)~~(i)~~ The court may retain jurisdiction over a child and
220 the child's parent or legal guardian whom the court has ordered
221 to pay restitution until the restitution order is satisfied. To
222 retain jurisdiction, the court shall enter a restitution order,
223 which is separate from any disposition or order of commitment,
224 on or prior to the date that the court's jurisdiction would
225 cease under this section. The contents of the restitution order
226 shall be limited to the child's name and address, the name and
227 address of the parent or legal guardian, the name and address of
228 the payee, the case number, the date and amount of restitution
229 ordered, any amount of restitution paid, the amount of
230 restitution due and owing, and a notation that costs, interest,
231 penalties, and attorney ~~attorney's~~ fees may also be due and
232 owing. The terms of the restitution order are subject to s.
233 775.089(5).

234 (i)~~(j)~~ This subsection does not prevent the exercise of
235 jurisdiction by any court having jurisdiction of the child if
236 the child, after becoming an adult, commits a violation of law.

237 Section 7. Subsection (5) of section 985.045, Florida
238 Statutes, is amended to read:

239 985.045 Court records.—

240 (5) This chapter does not prohibit a circuit court from
241 providing a restitution order containing the information
242 prescribed in s. 985.0301(5)(h) ~~985.0301(5)(i)~~ to a collection
243 court or a private collection agency for the sole purpose of
244 collecting unpaid restitution ordered in a case in which the



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245 circuit court has retained jurisdiction over the child and the
246 child's parent or legal guardian. The collection court or
247 private collection agency shall maintain the confidential status
248 of the information to the extent such confidentiality is
249 provided by law.

250 Section 8. Subsection (2) of section 985.688, Florida
251 Statutes, is amended to read:

252 985.688 Administering county and municipal delinquency
253 programs and facilities.—

254 (2) A county or municipal government may develop or
255 contract for innovative programs that provide rehabilitative
256 treatment with particular emphasis on reintegration and
257 conditional release for all children in the program, including
258 halfway houses and community-based substance abuse treatment
259 services, mental health treatment services, residential and
260 nonresidential programs, and environmental programs,~~and~~
261 ~~programs for serious or habitual juvenile offenders.~~

262 Section 9. Subsection (2) of section 985.721, Florida
263 Statutes, is amended to read:

264 985.721 Escapes from secure detention or residential
265 commitment facility.—An escape from:

266 (2) Any residential commitment facility described in s.
267 985.03(46) ~~985.03(45)~~, maintained for the custody, treatment,
268 punishment, or rehabilitation of children found to have
269 committed delinquent acts or violations of law; or

270
271 constitutes escape within the intent and meaning of s. 944.40
272 and is a felony of the third degree, punishable as provided in
273 s. 775.082, s. 775.083, or s. 775.084.



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274 Section 10. This act shall take effect July 1, 2012.

275

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

277 And the title is amended as follows:

278 Delete everything before the enacting clause

279 and insert:

280 A bill to be entitled

281 An act relating to the Department of Juvenile Justice;

282 amending s. 984.03, F.S.; deleting obsolete

283 references; amending s. 985.03, F.S.; creating and

284 revising definitions; amending s. 984.14, F.S.;

285 deleting obsolete references; amending s. 985.441,

286 F.S.; deleting an obsolete provision; amending s.

287 985.601, F.S.; revising the types of diversified and

288 innovative programs to provide rehabilitative

289 treatment that may be developed or contracted for by

290 the department, to include mother-infant programs and

291 remove reference to an obsolete program; authorizing

292 the department, at the secretary's discretion, to pay

293 up to a specified amount toward the basic funeral

294 expenses for a youth who dies while in the custody of

295 the department and whose parents or guardians are

296 indigent and for which no other funding is available;

297 amending s. 985.0301, F.S.; deleting obsolete or

298 unnecessary references and language; amending s.

299 985.045, F.S.; conforming a cross-reference; amending

300 s. 985.688, F.S.; deleting obsolete references;

301 amending s. 985.721, F.S.; conforming a cross-

302 reference; providing an effective date.

By Senator Evers

2-00413-12

2012504__

1 A bill to be entitled
 2 An act relating to juvenile justice; amending s.
 3 985.441, F.S.; removing from the court having
 4 jurisdiction over an adjudicated delinquent child the
 5 authority to commit the delinquent child to the
 6 Department of Juvenile Justice for placement in a
 7 program or facility for serious or habitual juvenile
 8 offenders; authorizing the court, under certain
 9 circumstances, to commit a child to the department for
 10 placement in a mother-infant program if the child's
 11 mother is committed as a delinquent; requiring that
 12 such mother-infant program be licensed as a child care
 13 facility and provide the services and support
 14 necessary to enable the committed juvenile mother to
 15 provide for the needs of the child who accompanies her
 16 in the program; amending s. 985.601, F.S.; authorizing
 17 the department, at the discretion of the Secretary of
 18 Juvenile Justice, to pay a specified sum toward
 19 funeral expenses for a youth under certain
 20 circumstances; specifying the criteria by which the
 21 secretary determines if basic funeral expenses will be
 22 paid; amending s. 985.0301, F.S.; revising provisions
 23 to conform to changes made by the act; providing an
 24 effective date.

25
 26 Be It Enacted by the Legislature of the State of Florida:

27
 28 Section 1. Subsection (1) of section 985.441, Florida
 29 Statutes, is amended to read:

Page 1 of 4

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

2-00413-12

2012504__

30 985.441 Commitment.—
 31 (1) The court that has jurisdiction of an adjudicated
 32 delinquent child may, by an order stating the facts upon which a
 33 determination of a sanction and rehabilitative program was made
 34 at the disposition hearing:
 35 (a) Commit the child to a licensed child-caring agency
 36 willing to receive the child; however, the court may not commit
 37 the child to a jail or to a facility used primarily as a
 38 detention center or facility or shelter.
 39 (b) Commit the child to the department at a restrictiveness
 40 level defined in s. 985.03. Such commitment must be for the
 41 purpose of exercising active control over the child, including,
 42 but not limited to, custody, care, training, monitoring for
 43 substance abuse, electronic monitoring, and treatment of the
 44 child and release of the child from residential commitment into
 45 the community in a postcommitment nonresidential conditional
 46 release program. If the child is not successful in the
 47 conditional release program, the department may use the transfer
 48 procedure under subsection (4).
 49 ~~(c) Commit the child to the department for placement in a~~
 50 ~~program or facility for serious or habitual juvenile offenders~~
 51 ~~in accordance with s. 985.47.~~
 52 ~~1. Following a delinquency adjudicatory hearing under s.~~
 53 ~~985.35 and a delinquency disposition hearing under s. 985.433~~
 54 ~~that results in a commitment determination, the court shall, on~~
 55 ~~its own or upon request by the state or the department,~~
 56 ~~determine whether the protection of the public requires that the~~
 57 ~~child be placed in a program for serious or habitual juvenile~~
 58 ~~offenders and whether the particular needs of the child would be~~

Page 2 of 4

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

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59 ~~best served by a program for serious or habitual juvenile~~
 60 ~~offenders as provided in s. 985.47. The determination shall be~~
 61 ~~made under ss. 985.47(1) and 985.433(7).~~

62 ~~2. Any commitment of a child to a program or facility for~~
 63 ~~serious or habitual juvenile offenders must be for an~~
 64 ~~indefinite period of time, but the time may not exceed the~~
 65 ~~maximum term of imprisonment that an adult may serve for the~~
 66 ~~same offense.~~

67 (c)(d) Commit the child to the department for placement in
 68 a program or facility for juvenile sexual offenders in
 69 accordance with s. 985.48, subject to specific appropriation for
 70 such a program or facility.

71 1. The child may only be committed for such placement
 72 pursuant to determination that the child is a juvenile sexual
 73 offender under the criteria specified in s. 985.475.

74 2. Any commitment of a juvenile sexual offender to a
 75 program or facility for juvenile sexual offenders must be for an
 76 indefinite period of time, but the time may not exceed the
 77 maximum term of imprisonment that an adult may serve for the
 78 same offense.

79 (d) Commit the child to the department for placement in a
 80 mother-infant program designed to serve the needs of juvenile
 81 mothers or expectant juvenile mothers who are committed as
 82 delinquents. The department's mother-infant program must be
 83 licensed as a child care facility in accordance with s. 402.308
 84 and must provide the services and support necessary to enable
 85 the committed juvenile mother to provide for the needs of her
 86 child who, upon agreement of the mother, may accompany her in
 87 the program.

2-00413-12 2012504

88 Section 2. Subsection (11) is added to section 985.601,
 89 Florida Statutes, to read:

90 985.601 Administering the juvenile justice continuum.—

91 (11) At the discretion of the Secretary of Corrections, the
 92 department may pay up to \$5,000 toward the basic funeral
 93 expenses for a youth who dies:

94 (a) While in the custody of the department;

95 (b) Whose parents or guardians are indigent and unable to
 96 pay these expenses; and

97 (c) There is no other source of funding available to pay
 98 for these expenses.

99 Section 3. Paragraph (g) of subsection (5) of section
 100 985.0301, Florida Statutes, is amended to read:

101 985.0301 Jurisdiction.—

102 (5)

103 (g)1. Notwithstanding ss. 743.07 and 985.455(3), a serious
 104 or habitual juvenile offender shall not be held under commitment
 105 from a court under ~~s. 985.441(1)(e), s. 985.47, or~~ s. 985.565
 106 after becoming 21 years of age. This subparagraph ~~applies shall~~
 107 ~~apply~~ only for the purpose of completing the serious or habitual
 108 juvenile offender program under this chapter and shall be used
 109 solely for the purpose of treatment.

110 2. The court may retain jurisdiction over a child who has
 111 been placed in a program or facility for serious or habitual
 112 juvenile offenders until the child reaches the age of 21,
 113 specifically for the purpose of the child completing the
 114 program.

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

Spill

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/17/2011

Meeting Date

Topic Juvenile

Bill Number 504
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/17/2011
Meeting Date

Topic Regarding Juvenile Justice

Bill Number 504
(if applicable)

Name Ana Maria Sanchez

Amendment Barcode 760176
(if applicable)

Job Title Legislative Affairs Director

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Tallahassee FL 32399
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Speaking: For Against Information

Representing DJJ

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
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 506

INTRODUCER: Senator Evers

SUBJECT: Interview Dates for Certain Inmates

DATE: November 15, 2011 REVISED: _____

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

I. Summary:

This bill amends ss. 947.16, 947.174, and 947.1745, .F.S, to permit the Florida Parole Commission to increase the interval between parole interviews to 7 years for those inmates whose interviews are currently every 2 years.

II. Present Situation:

Parole is a discretionary prison release mechanism administered by the Florida Parole Commission (“the commission”). The only inmates who are eligible for parole consideration are those who committed capital sexual battery prior to October 1, 1995, capital sexual murder prior to October 1, 1994, or another crime prior to October 1, 1983. Approximately 5,500 Florida inmates are still eligible for parole consideration because parole applied to their offense at the time it was committed.

An inmate who is granted parole is allowed to serve the remainder of his or her prison sentence outside of confinement according to terms and conditions established by the commission. Parolees are supervised by Correctional Probation Officers of the Department of Corrections. As of June 30, 2011, 347 offenders were actively supervised on parole from Florida sentences.¹

The parole process begins with an initial interview that is the first step in setting the inmate’s presumptive parole release date (PPRD). The date of the initial interview depends upon the length and character of the parole-eligible sentence. The PPRD is set by the commission after a

¹ Community Supervision Population Monthly Status Report, July 2011, Florida Department of Corrections, p. 2.

parole examiner reviews the inmate's file, interviews the inmate, and makes an initial recommendation.

In many cases, the commission will establish a PPRD that does not result in release of the inmate within a short period of time. A release order by the commission may also be altered in two other ways before it is implemented: (1) it may be vacated pursuant to s. 947.16(4), F.S., by a sentencing court that has retained jurisdiction over the offender; or (2) it may be modified by the commission after considering the objections of a sentencing court that has not retained jurisdiction pursuant to s. 947.1745(6), F.S. In all three situations, the inmate is entitled to a subsequent reinterview. The time frame for holding a reinterview (and any further reinterviews) is determined by the inmate's criminal history:

- An inmate who was not convicted of murder or attempted murder, sexual battery or attempted sexual battery, or serving a 25-year minimum mandatory sentence under s. 775.082, F.S., must be reinterviewed within 2 years after the initial interview and every 2 years thereafter. Approximately 20% of inmates who are eligible for parole consideration fall into this category.
- An inmate who was convicted of one of the above offenses may have a reinterview scheduled within 7 years after the initial interview and every 7 years thereafter if the commission makes a written finding that it is not reasonable to expect that parole will be granted during the following years. Approximately 80% of inmates who are eligible for parole consideration fall into this category.

The commission considers the PPRD recommendation in a public hearing held after the initial interview and each reinterview. At this hearing, the commission considers the written recommendation of the parole examiner, documentary evidence, and any testimony presented on behalf of the victim or the inmate. Although the inmate is not entitled to appear at the hearing, he or she may be represented by an attorney. It is also common for the victim or victim's representative and law enforcement representatives to appear.

III. Effect of Proposed Changes:

This bill amends ss. 947.16, 947.174, and 947.1745, F.S., to give the commission authority to increase the interval between parole consideration re-interviews to 7 years for parole-eligible offenders who have been convicted of kidnapping, robbery, and burglary of a dwelling or burglary of a structure or conveyance in which a human being is present and a sexual act is completed or attempted. The interval may be increased from the standard 2 years to 7 years if the commission makes a written finding that it is unlikely to grant parole to the offender.

The groups that would be most affected by this bill are victims and their families, parole-eligible inmates and their families, and the commission itself. For victims, reduction of the frequency of an opportunity for parole can be expected to lessen the stress associated with potential release of the offender. Because victims and families often attend the parole hearings, there is also a potential financial savings. For offenders, the normally-scheduled interviews would be reduced if their record indicates that granting of parole is not likely. For the commission, there would be some reduction in workload and the opportunity to focus on the cases that are more frequently reviewed.

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:

Although parole is a matter of grace and is not a right, alteration of parole-consideration procedures must be considered in light of the constitutional prohibition against ex post facto punishment. In *California Department of Corrections v. Morales*, 514 U.S. 499, 115 S.Ct. 1597, 131 L.Ed.2d 588 (1995), the United States Supreme Court held that a California statute increasing the interval between parole interviews did not violate the ex post facto clause. Subsequent cases have relied on *Morales* to uphold the constitutionality of current s. 947.174(1)(b), F.S., which permitted an increase of the interview interval from 2 to 5 years. See *Tuff v. State*, 732 So.2d 461 (Fla. 3d Dist. 1999); *Pennoyer v. Briggs*, 206 Fed.Appx. 962 (11th Cir. 2006). Because there is no legal distinction between increasing the interval from 2 to 5 years and increasing it from 5 to 7 years, the bill's provisions do not violate the ex post facto clauses of the United States and Florida constitutions.

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

None.

B. Private Sector Impact:

Holding parole hearings less frequently would reduce the costs incurred by persons who would attend the hearings. This could include victims and their families and representatives, victims advocacy groups, law enforcement agencies, and the families and representatives of inmates. The amount of reduction cannot be quantified because a reduction of frequency would depend upon the individual merits of the inmate's case and the cost to attend hearings is variable depending upon individual circumstances.

C. Government Sector Impact:

Authorization to reduce the frequency of parole hearings has the potential to reduce the number of hearings conducted by the commission, which may result in cost savings or reallocation of resources to other cases. However, the amount of any savings cannot be

determined until the commission considers individual cases and makes a decision on whether to apply its new authority to the case.

There would be additional cost to incarcerate an inmate whose interview interval is changed from two years to seven years if the inmate is ultimately paroled. This would amount to approximately \$40,000 for the additional two years of incarceration.² The number of inmates in these circumstances who would be paroled is not predictable. However, it is not likely to be a large number because by definition the expanded interval applies only to those inmates whom the commission finds are unlikely to be granted parole.

VI. Technical Deficiencies:

The extended reinterview schedule clearly applies to burglary of a structure or conveyance in which a human being is present only if a sexual act was completed or attempted during commission of the offense. However, there is ambiguity as to whether the extended reinterview schedule applies to burglary of a dwelling only when a sexual act was completed or attempted during commission of the offense.

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.

² The average annual cost per inmate for all DOC facilities, except private facilities, is approximately \$19,500. Department of Corrections Budget Summary (Fiscal Year 2009-2010), available at <http://www.dc.state.fl.us/pub/annual/0910/budget.html> (last viewed on November 15, 2011).



594668

LEGISLATIVE ACTION

Senate	.	House
	.	
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	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (g) of subsection (4) of section 947.16, Florida Statutes, is amended to read:

947.16 Eligibility for parole; initial parole interviews; powers and duties of commission.—

(4) A person who has become eligible for an initial parole interview and who may, according to the objective parole guidelines of the commission, be granted parole shall be placed



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13 on parole in accordance with the provisions of this law; except
14 that, in any case of a person convicted of murder, robbery,
15 burglary of a dwelling or burglary of a structure or conveyance
16 in which a human being is present, aggravated assault,
17 aggravated battery, kidnapping, sexual battery or attempted
18 sexual battery, incest or attempted incest, an unnatural and
19 lascivious act or an attempted unnatural and lascivious act,
20 lewd and lascivious behavior, assault or aggravated assault when
21 a sexual act is completed or attempted, battery or aggravated
22 battery when a sexual act is completed or attempted, arson, or
23 any felony involving the use of a firearm or other deadly weapon
24 or the use of intentional violence, at the time of sentencing
25 the judge may enter an order retaining jurisdiction over the
26 offender for review of a commission release order. This
27 jurisdiction of the trial court judge is limited to the first
28 one-third of the maximum sentence imposed. When any person is
29 convicted of two or more felonies and concurrent sentences are
30 imposed, then the jurisdiction of the trial court judge as
31 provided herein applies to the first one-third of the maximum
32 sentence imposed for the highest felony of which the person was
33 convicted. When any person is convicted of two or more felonies
34 and consecutive sentences are imposed, then the jurisdiction of
35 the trial court judge as provided herein applies to one-third of
36 the total consecutive sentences imposed.

37 (g) The decision of the original sentencing judge or, in
38 her or his absence, the chief judge of the circuit to vacate any
39 parole release order as provided in this section is not
40 appealable. Each inmate whose parole release order has been
41 vacated by the court shall be reinterviewed within 2 years after



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42 the date of receipt of the vacated release order and every 2
43 years thereafter, or earlier by order of the court retaining
44 jurisdiction. However, each inmate whose parole release order
45 has been vacated by the court and who has been:

- 46 1. Convicted of murder or attempted murder;
47 2. Convicted of sexual battery or attempted sexual battery;

48 ~~or~~

- 49 3. Convicted of kidnapping;
50 4. Convicted of robbery, burglary of a dwelling, or
51 burglary of a structure or conveyance in which a human being is
52 present and a sexual act is completed or attempted; or

53 ~~5.3.~~ Sentenced to a 25-year minimum mandatory sentence
54 previously provided in s. 775.082,

55
56 shall be reinterviewed once within 7 years after the date of
57 receipt of the vacated release order and once every 7 years
58 thereafter, if the commission finds that it is not reasonable to
59 expect that parole would be granted during the following years
60 and states the bases for the finding in writing. For any inmate
61 who is within 7 years of his or her tentative release date, the
62 commission may establish a reinterview date prior to the 7-year
63 schedule.

64 Section 2. Paragraph (b) of subsection (1) of section
65 947.174, Florida Statutes, is amended to read:

66 947.174 Subsequent interviews.—

67 (1)

68 (b) For any inmate convicted of murder, attempted murder,
69 sexual battery, ~~or~~ attempted sexual battery, kidnapping, or
70 robbery, burglary of a dwelling, or burglary of a structure or



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71 conveyance in which a human being is present and a sexual act is
72 completed or attempted, or any inmate who has been sentenced to
73 a 25-year minimum mandatory sentence previously provided in s.
74 775.082, and whose presumptive parole release date is more than
75 7 years after the date of the initial interview, a hearing
76 examiner shall schedule an interview for review of the
77 presumptive parole release date. The interview shall take place
78 once within 7 years after the initial interview and once every 7
79 years thereafter if the commission finds that it is not
80 reasonable to expect that parole will be granted at a hearing
81 during the following years and states the bases for the finding
82 in writing. For any inmate who is within 7 years of his or her
83 tentative release date, the commission may establish an
84 interview date before the 7-year schedule.

85 Section 3. Subsection (6) of section 947.1745, Florida
86 Statutes, is amended to read:

87 947.1745 Establishment of effective parole release date.—If
88 the inmate's institutional conduct has been satisfactory, the
89 presumptive parole release date shall become the effective
90 parole release date as follows:

91 (6) Within 90 days before the effective parole release date
92 interview, the commission shall send written notice to the
93 sentencing judge of any inmate who has been scheduled for an
94 effective parole release date interview. If the sentencing judge
95 is no longer serving, the notice must be sent to the chief judge
96 of the circuit in which the offender was sentenced. The chief
97 judge may designate any circuit judge within the circuit to act
98 in the place of the sentencing judge. Within 30 days after
99 receipt of the commission's notice, the sentencing judge, or the



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100 designee, shall send to the commission notice of objection to
101 parole release, if the judge objects to such release. If there
102 is objection by the judge, such objection may constitute good
103 cause in exceptional circumstances as described in s. 947.173,
104 and the commission may schedule a subsequent review within 2
105 years, extending the presumptive parole release date beyond that
106 time. However, for an inmate who has been:

107 (a) Convicted of murder or attempted murder;

108 (b) Convicted of sexual battery or attempted sexual
109 battery; ~~or~~

110 (c) Convicted of kidnapping;

111 (d) Convicted of robbery, burglary of a dwelling, or
112 burglary of a structure or conveyance in which a human being is
113 present and a sexual act is completed or attempted; or

114 (e) ~~(e)~~ Sentenced to a 25-year minimum mandatory sentence
115 previously provided in s. 775.082,

116

117 the commission may schedule a subsequent review under this
118 subsection once every 7 years, extending the presumptive parole
119 release date beyond that time if the commission finds that it is
120 not reasonable to expect that parole would be granted at a
121 review during the following years and states the bases for the
122 finding in writing. For any inmate who is within 7 years of his
123 or her release date, the commission may schedule a subsequent
124 review prior to the 7-year schedule. With any subsequent review
125 the same procedure outlined above will be followed. If the judge
126 remains silent with respect to parole release, the commission
127 may authorize an effective parole release date. This subsection
128 applies if the commission desires to consider the establishment



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129 of an effective release date without delivery of the effective
130 parole release date interview. Notice of the effective release
131 date must be sent to the sentencing judge, and either the
132 judge's response to the notice must be received or the time
133 period allowed for such response must elapse before the
134 commission may authorize an effective release date.

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

136
137 ===== T I T L E A M E N D M E N T =====

138 And the title is amended as follows:

139
140 Delete everything before the enacting clause
141 and insert:

142
143 A bill to be entitled
144 An act relating to parole interview dates for certain
145 inmates; amending ss. 947.16, 947.174, and 947.1745,
146 F.S.; extending from 2 years to 7 years the period
147 between parole interview dates for inmates convicted
148 of committing specified crimes; requiring a periodic
149 parole interview for an inmate convicted of
150 kidnapping, or robbery, burglary of a dwelling, or
151 burglary of a structure or conveyance in which a human
152 being is present and a sexual act is completed or
153 attempted; providing an effective date.

By Senator Evers

2-00544-12

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A bill to be entitled

An act relating to parole interview dates for certain inmates; amending ss. 947.16, 947.174, and 947.1745, F.S.; extending from 2 years to 7 years the period between parole interview dates for inmates convicted of committing certain specified crimes; reenacting s. 947.165(1), F.S., relating to the Parole Commission developing and implementing objective parole guidelines to serve as the criteria upon which parole decisions are to be made, to incorporate the amendments made to s. 947.1745, F.S., in a reference thereto; providing an effective date.

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

Section 1. Paragraph (g) of subsection (4) of section 947.16, Florida Statutes, is amended to read:

947.16 Eligibility for parole; initial parole interviews; powers and duties of commission.—

(4) A person who has become eligible for an initial parole interview and who may, according to the objective parole guidelines of the commission, be granted parole shall be placed on parole in accordance with the provisions of this law; except that, in any case of a person convicted of murder, robbery, burglary of a dwelling or burglary of a structure or conveyance in which a human being is present, aggravated assault, aggravated battery, kidnapping, sexual battery or attempted sexual battery, incest or attempted incest, an unnatural and lascivious act or an attempted unnatural and lascivious act,

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lewd and lascivious behavior, assault or aggravated assault when a sexual act is completed or attempted, battery or aggravated battery when a sexual act is completed or attempted, arson, or any felony involving the use of a firearm or other deadly weapon or the use of intentional violence, at the time of sentencing the judge may enter an order retaining jurisdiction over the offender for review of a commission release order. This jurisdiction of the trial court judge is limited to the first one-third of the maximum sentence imposed. When any person is convicted of two or more felonies and concurrent sentences are imposed, then the jurisdiction of the trial court judge as provided herein applies to the first one-third of the maximum sentence imposed for the highest felony of which the person was convicted. When any person is convicted of two or more felonies and consecutive sentences are imposed, then the jurisdiction of the trial court judge as provided herein applies to one-third of the total consecutive sentences imposed.

(g) The decision of the original sentencing judge or, in her or his absence, the chief judge of the circuit to vacate any parole release order as provided in this section is not appealable. Each inmate whose parole release order has been vacated by the court shall be reinterviewed within 2 years after the date of receipt of the vacated release order and every 2 years thereafter, or earlier by order of the court retaining jurisdiction. However, each inmate whose parole release order has been vacated by the court and who has been:

1. Convicted of murder or attempted murder;
2. Convicted of sexual battery or attempted sexual battery;

☞

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59 3. Convicted of kidnapping;

60 4. Convicted of robbery;

61 5. Convicted of burglary of a dwelling or burglary of a
 62 structure or conveyance in which a human being is present and a
 63 sexual act is completed or attempted; or

64 ~~6.3-~~ Sentenced to a 25-year minimum mandatory sentence
 65 previously provided in s. 775.082,

66
 67 shall be reinterviewed once within 7 years after the date of
 68 receipt of the vacated release order and once every 7 years
 69 thereafter, if the commission finds that it is not reasonable to
 70 expect that parole would be granted during the following years
 71 and states the bases for the finding in writing. For an any
 72 inmate who is within 7 years of his or her tentative release
 73 date, the commission may establish a reinterview date before
 74 ~~prior to~~ the 7-year schedule.

75 Section 2. Paragraph (b) of subsection (1) of section
 76 947.174, Florida Statutes, is amended to read:

77 947.174 Subsequent interviews.—

78 (1)

79 (b) For any inmate convicted of murder, attempted murder,
 80 sexual battery~~r~~, or attempted sexual battery, kidnapping,
 81 robbery, or burglary of a dwelling or burglary of a structure or
 82 conveyance in which a human being is present and a sexual act is
 83 completed or attempted, or any inmate who has been sentenced to
 84 a 25-year minimum mandatory sentence previously provided in s.
 85 775.082, and whose presumptive parole release date is more than
 86 7 years after the date of the initial interview, a hearing
 87 examiner shall schedule an interview for review of the

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88 presumptive parole release date. The interview shall take place
 89 once within 7 years after the initial interview and once every 7
 90 years thereafter if the commission finds that it is not
 91 reasonable to expect that parole will be granted at a hearing
 92 during the following years and states the bases for the finding
 93 in writing. For an any inmate who is within 7 years of his or
 94 her tentative release date, the commission may establish an
 95 interview date before the 7-year schedule.

96 Section 3. Subsection (6) of section 947.1745, Florida
 97 Statutes, is amended to read:

98 947.1745 Establishment of effective parole release date.—If
 99 the inmate's institutional conduct has been satisfactory, the
 100 presumptive parole release date shall become the effective
 101 parole release date as follows:

102 (6) Within 90 days before the effective parole release date
 103 interview, the commission shall send written notice to the
 104 sentencing judge of any inmate who has been scheduled for an
 105 effective parole release date interview. If the sentencing judge
 106 is no longer serving, the notice must be sent to the chief judge
 107 of the circuit in which the offender was sentenced. The chief
 108 judge may designate any circuit judge within the circuit to act
 109 in the place of the sentencing judge. Within 30 days after
 110 receipt of the commission's notice, the sentencing judge, or the
 111 designee, shall send to the commission notice of objection to
 112 parole release, if the judge objects to such release. If there
 113 is objection by the judge, such objection may constitute good
 114 cause in exceptional circumstances as described in s. 947.173,
 115 and the commission may schedule a subsequent review within 2
 116 years, extending the presumptive parole release date beyond that

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117 time. However, for an inmate who has been:
 118 (a) Convicted of murder or attempted murder;
 119 (b) Convicted of sexual battery or attempted sexual
 120 battery; ~~or~~
 121 (c) Convicted of kidnapping;
 122 (d) Convicted of robbery;
 123 (e) Convicted of burglary of a dwelling or burglary of a
 124 structure or conveyance in which a human being is present and a
 125 sexual act is completed or attempted; or
 126 (f) (e) Sentenced to a 25-year minimum mandatory sentence
 127 previously provided in s. 775.082,
 128
 129 the commission may schedule a subsequent review under this
 130 subsection once every 7 years, extending the presumptive parole
 131 release date beyond that time if the commission finds that it is
 132 not reasonable to expect that parole would be granted at a
 133 review during the following years and states the bases for the
 134 finding in writing. For an ~~any~~ inmate who is within 7 years of
 135 his or her release date, the commission may schedule a
 136 subsequent review before ~~prior to~~ the 7-year schedule. With any
 137 subsequent review the same procedure outlined above will be
 138 followed. If the judge remains silent with respect to parole
 139 release, the commission may authorize an effective parole
 140 release date. This subsection applies if the commission desires
 141 to consider the establishment of an effective release date
 142 without delivery of the effective parole release date interview.
 143 Notice of the effective release date must be sent to the
 144 sentencing judge, and either the judge's response to the notice
 145 must be received or the time period allowed for such response

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146 must elapse before the commission may authorize an effective
 147 release date.
 148 Section 4. For the purpose of incorporating the amendment
 149 made by this act to section 947.1745, Florida Statutes, in a
 150 reference thereto, subsection (1) of section 947.165, Florida
 151 Statutes, is reenacted to read:
 152 947.165 Objective parole guidelines.—
 153 (1) The commission shall develop and implement objective
 154 parole guidelines which shall be the criteria upon which parole
 155 decisions are made. The objective parole guidelines shall be
 156 developed according to an acceptable research method and shall
 157 be based on the seriousness of offense and the likelihood of
 158 favorable parole outcome. The guidelines shall require the
 159 commission to aggravate or aggregate each consecutive sentence
 160 in establishing the presumptive parole release date. Factors
 161 used in arriving at the salient factor score and the severity of
 162 offense behavior category shall not be applied as aggravating
 163 circumstances. If the sentencing judge files a written objection
 164 to the parole release of an inmate as provided for in s.
 165 947.1745(6), such objection may be used by the commission as a
 166 basis to extend the presumptive parole release date.
 167 Section 5. This act shall take effect July 1, 2012.

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BXL TP'd

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/17/2011
Meeting Date

Topic Parole

Bill Number 506
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH

Phone 727-897-9291

Street
SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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 154

INTRODUCER: Senator Latvala

SUBJECT: Licensed Security Officers

DATE: November 14, 2011 REVISED: 11/17/11

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McCarthy</u>	<u>Hrdlicka</u>	<u>CM</u>	Favorable
2.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	Fav/1 amendment
3.	<u> </u>	<u> </u>	<u>BC</u>	<u> </u>
4.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

Currently, the Department of Agriculture and Consumer Services (department) is authorized by law 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. Further, any person who violates any provision of ch. 493, F.S., with one exception, commits a first degree misdemeanor.

The provisions of the bill:

- 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 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.
- 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 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.

- Authorize 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.
- Authorize 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 s. 493.6120, F.S., and creates an undesignated section of the Florida Statutes.

II. Present Situation:

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.¹ 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.

¹ 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.

- 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.²

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 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.”³

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.

² Section 493.6101(17), F.S.

³ Section 493.6102(1)-(4), F.S.

- 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.

License Classifications

Chapter 493, F.S., provides for numerous classifications of licenses within the three general categories of licenses, as follows:⁴

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”

⁴ See 5N-1.116(1), F.A.C.

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.

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.⁵ 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:

⁵ “Restricted area” is defined by 33 C.F.R. part 105. See also s. 311.12, F.S.

- 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.⁶ Section 493.6120, F.S., provides that any person who violates any provision of ch. 493, F.S., with one exception,⁷ commits a first degree misdemeanor.⁸ 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.⁹

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.¹⁰
- 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.

⁶ Section 493.6118(2)(c), F.S.

⁷ 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.

⁸ 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.

⁹ Section 493.6121(6), F.S.

¹⁰ "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).

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.

"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.¹¹

III. Effect of Proposed Changes:

Section 1 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 felony¹² 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 felony¹³ 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.¹⁴

¹¹ *Phoenix v. State*, 455 So.2d 1024 (Fla.1984).

¹² 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.

¹³ 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.

¹⁴ 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.

Section 2 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 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 3 provides that the bill would take effect on 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.

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:

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:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

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.

Although the Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, of legislation, has not reviewed this bill, it did determine that a very similar bill, SB 1588, during last year's session was estimated to have an insignificant prison bed impact. Further, the Legislature's Office of Economic and Demographic Research (EDR) has reviewed SB 154 and has indicated it intends to recommend to the CJIC that the bill has an insignificant prison bed impact.¹⁵

VI. Technical Deficiencies:

Throughout the bill the words "security officer or security agency manager" appear. However, on line 128 of the bill, only "security officer" is referenced. For consistency, the sponsor of the bill may want to consider a technical, conforming amendment.

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:**

Barcode 268380 by Criminal Justice on November 17, 2011:

Adds a reference to "security agency manager" to provide that a security officer or security agency manager may detain a person under provisions of the bill after the arrival of a law enforcement officer if the law enforcement officer requests the person's continuing detention.

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

¹⁵ E-mail from Kathleen McCharen, EDR, to Senate Criminal Justice staff, dated October 21, 2011 (on file with the committee).



268380

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
11/17/2011	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 128
and insert:
requests the security officer or security agency manager to
continue detaining the person.

By Senator Latvala

16-00053-12

2012154__

1 A bill to be entitled
 2 An act relating to licensed security officers;
 3 amending s. 493.6120, F.S.; providing that a person
 4 who engages in any activity for which ch. 493, F.S.,
 5 requires a license, but who acts without having a
 6 license, commits a misdemeanor of the first degree;
 7 providing that such person commits a felony of the
 8 third degree for a second or subsequent offense of
 9 engaging in activities without a license; authorizing
 10 the Department of Agriculture and Consumer Services to
 11 impose a civil penalty not to exceed a specified
 12 amount; providing that penalties do not apply if the
 13 person engaged in unlicensed activity within 90 days
 14 after the expiration date of the person's license;
 15 providing that a person who, while impersonating a
 16 security officer, private investigator, recovery
 17 agent, or other person required to have a license
 18 under ch. 493, F.S., knowingly and intentionally
 19 forces another person to assist the impersonator in an
 20 activity within the scope of duty of a professional
 21 licensed under ch. 493, F.S., commits a felony of the
 22 third degree; providing that a person who impersonates
 23 a security officer or other designated officer during
 24 the commission of a felony commits a felony of the
 25 second degree; providing that a person who
 26 impersonates a security officer or other designated
 27 officer during the commission a felony that results in
 28 death or serious bodily injury to another human being
 29 commits a felony of the first degree; authorizing a

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

16-00053-12

2012154__

30 licensed security officer or a licensed security
 31 agency manager to detain a person on the premises of a
 32 critical infrastructure facility in certain
 33 circumstances; requiring the security officer to
 34 notify the law enforcement agency as soon as possible;
 35 requiring that custody of any person temporarily
 36 detained be immediately transferred to the responding
 37 law enforcement officer; providing for an exception to
 38 the immediate transfer; providing that the
 39 responsibilities of the security officer are limited
 40 to specified locations; prohibiting a security officer
 41 from detaining a person longer than is reasonably
 42 necessary; authorizing the security officer to search
 43 the person detained under certain circumstances;
 44 defining the term "critical infrastructure facility";
 45 providing identification requirements for certain
 46 licensed security officers; providing an effective
 47 date.

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

50
 51 Section 1. Section 493.6120, Florida Statutes, is amended
 52 to read:

53 493.6120 Violations; penalty.—

54 (1)(a) Except as provided in paragraph (c), a person who
 55 engages in any activity for which this chapter requires a
 56 license and who does not hold the required license commits a
 57 misdemeanor of the first degree, punishable as provided in s.
 58 775.082 or s. 775.083.

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

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59 (b) A second or subsequent violation of paragraph (a) is a
 60 felony of the third degree, punishable as provided in s.
 61 775.082, s. 775.083, or s. 775.084, and the department may seek
 62 the imposition of a civil penalty not to exceed \$10,000.

63 (c) Paragraph (a) does not apply if the person engages in
 64 unlicensed activity within 90 days after the date of the
 65 expiration of his or her license.

66 (2) (a) A person who, while impersonating a security
 67 officer, private investigator, recovery agent, or other person
 68 required to have a license under this chapter, knowingly and
 69 intentionally forces another person to assist the impersonator
 70 in an activity within the scope of duty of a professional
 71 licensed under this chapter commits a felony of the third
 72 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 73 775.084.

74 (b) A person who violates paragraph (a) during the course
 75 of committing a felony commits a felony of the second degree,
 76 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

77 (c) A person who violates paragraph (a) during the course
 78 of committing a felony that results in death or serious bodily
 79 injury to another human being commits a felony of the first
 80 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 81 775.084.

82 (3) ~~(1)~~ A ~~Any~~ person who violates any provision of this
 83 chapter, except s. 493.6405, subsection (1), or subsection (2),
 84 commits a misdemeanor of the first degree, punishable as
 85 provided in s. 775.082 or s. 775.083.

86 (4) ~~(2)~~ A ~~Any~~ person who is convicted of any violation of
 87 this chapter is ~~shall~~ not ~~be~~ eligible for licensure for a period

Page 3 of 7

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

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88 of 5 years.

89 (5) ~~(3)~~ A ~~Any~~ person who violates or disregards any cease
 90 and desist order issued by the department commits a misdemeanor
 91 of the first degree, punishable as provided in s. 775.082 or s.
 92 775.083. In addition, the department may seek the imposition of
 93 a civil penalty not to exceed \$5,000.

94 (6) ~~(4)~~ A ~~Any~~ person who was an owner, officer, partner, or
 95 manager of a licensed agency at the time of any activity that is
 96 the basis for revocation of the agency or branch office license
 97 and who knew or should have known of the activity, shall have
 98 his or her personal licenses or approval suspended for 3 years
 99 and may not have any financial interest in or be employed in any
 100 capacity by a licensed agency during the period of suspension.

101 Section 2. Protecting critical infrastructure facilities.-

102 (1) A licensed security officer who possesses a valid Class
 103 "G" license, or a licensed security agency manager who possesses
 104 a valid Class "G" license, who is on duty, in uniform, providing
 105 security services on the premises of a critical infrastructure
 106 facility, and who has probable cause to believe that a person
 107 has committed or is committing a crime against the client, or
 108 the client's patron, of the licensed security officer or the
 109 licensed security agency manager, may temporarily detain the
 110 person for the purpose of ascertaining his or her identity and
 111 the circumstances of the activity that is the basis for the
 112 temporary detention. The security officer or security agency
 113 manager may detain the person in a reasonable manner until the
 114 responding law enforcement officer arrives at the premises of
 115 the client and is in the presence of the detainee.

116 (2) When temporarily detaining a person, the licensed

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

16-00053-12 2012154
 117 security officer or security agency manager shall notify the
 118 appropriate law enforcement agency as soon as reasonably
 119 possible. Temporary detention of a person by a licensed security
 120 officer or security agency manager must be done solely for the
 121 purpose of detaining the person before the arrival of a law
 122 enforcement officer. Custody of any person being temporarily
 123 detained shall be immediately transferred to the responding law
 124 enforcement officer.

125 (3) A licensed security officer or security agency manager
 126 may not detain a person under this section after the arrival of
 127 a law enforcement officer unless the law enforcement officer
 128 requests the security officer to continue detaining the person.
 129 The responsibilities of the licensed security officer or
 130 security agency manager do not extend beyond the place where the
 131 person was first detained or in the immediate vicinity.

132 (4) A person may not be temporarily detained under this
 133 section longer than is reasonably necessary to effect the
 134 purposes of this section.

135 (5) If a licensed security officer or security agency
 136 manager, while detaining a person under this section, observes
 137 that the person temporarily detained is armed with a firearm, a
 138 concealed weapon, or a destructive device that poses a threat to
 139 the safety of the security officer or security agency manager,
 140 or any person for whom the security officer or security agency
 141 manager is responsible for providing protection, or if the
 142 detainee admits to having a weapon in his or her possession, the
 143 security officer or security agency manager may conduct a search
 144 of the person and his or her belongings only to the extent
 145 necessary for the purpose of disclosing the presence of a

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 146 weapon. If the search reveals such a weapon, the weapon shall be
 147 seized and transferred to the responding law enforcement
 148 officer.

149 (6) As used in this section, the term "critical
 150 infrastructure facility" means any one of the following, if it
 151 employs measures such as fences, barriers, or guard posts that
 152 are designed to exclude unauthorized persons and is determined
 153 by a state or federal authority to be so vital to the state that
 154 the incapacity or destruction of the facility would have a
 155 debilitating impact on security, state economic stability, state
 156 public health or safety, or any combination of those matters:

157 (a) A chemical manufacturing facility;

158 (b) A refinery;

159 (c) An electrical power plant as defined in s. 403.031,
 160 Florida Statutes, including a substation, switching station,
 161 electrical control center, or electric transmission or
 162 distribution facility;

163 (d) A water intake structure, water treatment facility,
 164 wastewater treatment plant, or pump station;

165 (e) A natural gas transmission compressor station;

166 (f) A liquid natural gas terminal or storage facility;

167 (g) A telecommunications central switching office;

168 (h) A deepwater port or railroad switching yard;

169 (i) A gas processing plant, including a plant used in the
 170 processing, treatment, or fractionation of natural gas; or

171 (j) A public transportation facility as defined in s.
 172 343.62, Florida Statutes.

173 (7) A Class "D" or Class "MB" licensee shall perform duties
 174 regulated under this section in a uniform that bears at least

16-00053-12

2012154

175 one patch or emblem visible at all times clearly identifying the
176 employing agency.

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

Spoke

THE FLORIDA SENATE

APPEARANCE RECORD

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

11/17/2011

Meeting Date

Topic Security

Bill Number 154

(if applicable)

Name BRIAN PITTS

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

Waived in support

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/16/2011
Meeting Date

Topic Licensed Security Officers

Bill Number 154
(if applicable)

Name Lori Weems

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 112 E. Jefferson St.
Street

Phone 850-448-5379

~~Miami~~ Tallahassee FL 32301
City State Zip

E-mail lori@pwlobby.com

Speaking: For Against Information

Representing Florida Ass'n of Licensed Security Officers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: SB 426

INTRODUCER: Senators Smith and Gaetz

SUBJECT: Elderly Inmates

DATE: November 14, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	Pre-meeting
2.	_____	_____	JU	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill creates the Elderly Rehabilitated Inmate Program to provide a means for the release of inmates who are at least 60 years old, who have demonstrated that they have been rehabilitated while incarcerated for at least 25 years, and who have met certain other criteria. The release is in the form of conditional extension of the limits of confinement administered by the Florida Parole Commission (commission). The bill also requires the Department of Corrections to develop a pilot program based on restorative justice principles.

This bill amends s. 947.141 and creates sections 947.148 and 947.1481 of the Florida Statutes.

II. Present Situation:

Elderly Inmates

Florida considers an inmate who is 50 years old or older to be “aging or elderly.”¹ The age when an inmate is considered to be elderly is far lower than in the general population because of generally poorer health. This may be due to life experiences before and during incarceration that contribute to lower life expectancy.² Section 944.804, F.S., (the Elderly Offenders’ Correctional Facilities Program of 2000), reflected the Legislature’s concern that the population of elderly inmates was increasing then and would continue to increase. Because on average it costs approximately three times more to incarcerate an elderly offender as it does to incarcerate a younger inmate, the statute required exploration of alternatives to the current approaches to

¹ Chapter 33-601.217, Florida Administrative Code.

² State of Florida Correctional Medical Authority 2008-2009 Annual Report, p. 51.

housing, programming, and treating the medical needs of elderly offenders.³ There were no specific geriatric facilities at the time the law was passed, but the new statute specifically required the Department of Corrections (department) to establish River Junction Correctional Institution (RJCI) as a geriatric facility and to establish rules for which offenders are eligible to be housed there.

The elderly population has continued to increase since RJCI was opened as a geriatric facility. On June 30, 2011, 17,492 inmates in the department's custody fit into the elderly or aging classification. This represents approximately 17 percent of the entire inmate population.⁴

Section 944.8041, F.S., requires the department and the Correctional Medical Authority (CMA)⁵ to each submit an annual report on the status and treatment of elderly offenders in the state-administered and private state correctional systems, as well as specific information on RJCI. The report must also include an examination of promising geriatric policies, practices, and programs currently implemented in other correctional systems within the United States.

Parole

Parole is a discretionary prison release mechanism administered by the Florida Parole Commission (commission). There is no possibility of parole for offenses committed after 1995, but 5,360 inmates are still eligible for parole consideration for earlier offenses.⁶ These are inmates who:

- Committed an offense other than capital felony murder or capital felony sexual battery prior to October 1, 1983;
- Committed capital felony murder prior to May 25, 1994; or
- Committed capital felony sexual battery prior to October 1, 1995.

An inmate who is granted parole is allowed to serve the remainder of his or her prison sentence outside of confinement according to terms and conditions established by the commission. Parolees are supervised by department probation officers. As of June 30, 2011, 437 offenders were supervised on parole from Florida sentences.⁷

Conditional Medical Release

Section 947.149, F.S., provides for conditional medical release of inmates who are "permanently incapacitated" or "terminally ill." If an inmate's health deteriorates to the point that conditional medical release might be appropriate, the department's institutional health service staff reviews the case and provides medical information to the commission for consideration of release. If the inmate is granted conditional medical release and his or her medical condition improves, or if he/she violates the conditions of the release, the inmate can be returned to prison to resume service of the original sentence. If return is due to improved health, there is no penalty for having been on the program.

³ Section 944.804(1), F.S.

⁴ Department of Corrections Analysis of Senate Bill 426, p. 1.

⁵ House Bill 5305 (2011 Session) repealed all statutes relating to the CMA, and no appropriation was made for it. However, the Governor vetoed HB 5305. Therefore, the CMA exists in statute but is not operational.

⁶ Florida Parole Commission Analysis of Senate Bill 426, November 15, 2011, page 2.

⁷ Community Supervision Population Monthly Status Report, July 2011, Florida Department of Corrections, p. 2.

Extension of the Limits of Confinement

Section 945.091, F.S., gives the department authority to extend the limits of an inmate's confinement for certain purposes. Some types of extension of the limits of confinement, such as community work release, are integral to the department's reentry programming. The department makes the determination of whether it is appropriate to extend the limits of confinement for a particular inmate. Extension may be granted to:

- Allow a trusted inmate to go to a specifically designated place or places for a specified period of time for the purpose of: (1) visiting a dying relative or attending a relative's funeral; (2) arranging for post-release employment or residence; (3) aiding the inmate's rehabilitation and successful transition back into the community; or (4) another compelling reason in the public interest (s. 945.091(1)(a), F.S.).
- Allow an inmate to work at paid employment, participate in an education or training program, or volunteer with a public or nonprofit agency or faith-based service group in the community while still being confined by the department when not involved in any of the activities (s. 945.091(1)(b), F.S.).
- Allow an inmate to participate in a residential or nonresidential rehabilitative program operated by a public or private nonprofit agency, including faith-based service groups, with which the department has contracted (s. 945.091(1)(c), F.S.).
- Allow an inmate with college-level aptitude to attend classes at a local community college or university (s. 945.091(2), F.S.).

There are three statutory disqualifications from participation in extension of the limits of confinement: (1) an inmate who has been convicted of sexual battery under s. 794.011, F.S., is ineligible for any type of extension of limits of confinement⁸; (2) an inmate who has been convicted of escape under s. 944.40, F.S., is ineligible for any work release program⁹; and (3) an inmate who has been convicted of committing or attempting to commit murder, manslaughter, sexual battery, robbery, arson, aggravated assault, aggravated battery, kidnapping, escape, breaking and entering with intent to commit a felony, aircraft piracy, is ineligible to attend classes at any state community college or university that is part of the State University System.¹⁰

III. Effect of Proposed Changes:

The bill creates the Elderly Rehabilitated Inmate Supervision Program to provide for conditional extension of the limits of confinement for certain inmates. It applies retroactively to inmates who have already been sentenced and prospectively to those who are sentenced in the future. Basic eligibility requirements for the program would be that the inmate:

- (1) is at least 60 years of age;
- (2) has served at least 25 consecutive years of incarceration;
- (3) has not been sentenced for a capital felony;
- (4) is not eligible for parole or conditional medical release;

⁸ Section 945.091(3), F.S.

⁹ Section 945.092, F.S.

¹⁰ Section 945.091(5), F.S. Florida Senate Interim Project Report 2004-127, January 2004, "A Review of the Department of Corrections' Inmate Work Release Law."

- (5) is not serving a minimum mandatory sentence; and
- (6) has not received a disciplinary report within the previous 6 months.

The department identified 98 inmates who will potentially meet the eligibility criteria over the next 5 years. As indicated by the table below, most of the inmates are incarcerated for a violent offense.¹¹

Primary Offense of Potentially Eligible Inmates	Number
Murder	16
Kidnapping	6
Sexual Battery	15
Robbery/Robbery with Deadly Weapon	35
Aggravated Battery	2
Burglary (Armed and Assaults included)	16
Drugs, including Trafficking	6
Possession of Firearm by Felon	1
Trafficking in Stolen Property	1
Total	98

An inmate who meets the basic eligibility requirements can petition the commission to participate in supervised release under the program. If the petition is denied, the inmate can file a new petition one year after being notified of the denial. The petition must include:

- (1) A proposed release plan;
- (2) Documentation of the inmate’s relevant medical history, including current prognosis;
- (3) The inmate’s prison experience and criminal history. The criminal history must include any claim of innocence, the degree to which the inmate accepts responsibility for his or her acts leading to the conviction of the crime, and how the claim of responsibility has affected the inmate’s feelings of remorse;
- (4) Documentation of the inmate’s history of substance abuse and mental health;
- (5) Documentation of any disciplinary action taken against the inmate while in prison;
- (6) Documentation of the inmate’s participation in prison work and programs; and
- (7) Documentation of the inmate’s renunciation of gang activity.

Consideration of the Petition

The procedure for considering the inmate’s petition to participate in the program is similar to the process used to consider an application for parole. The commission must notify the victim, a lawful representative of the victim, or the victim’s next of kin if the victim is deceased within 30 days of receipt of the petition. An examiner must meet with the inmate within 90 days after the petition is filed. This meeting may be postponed for up to 90 days from the originally scheduled date for good cause. At the meeting, the examiner explains the program to the inmate and reviews the information contained in the petition. Within 10 days, the examiner must make a written recommendation of a release date to a panel of at least two commissioners.

¹¹ Department of Corrections Analysis of Senate Bill 426, p. 6. The data reflects the inmate population as of October, 2011.

The commission's decision as to whether to grant or deny supervised release must be made at a meeting that is open to the public. The victim, the victim's parents or guardian if the victim was a minor, a lawful representative of the victim (or of the parents or guardian if the victim was a minor), or a homicide victim's next of kin may make an oral or written statement regarding his or her views on granting or denying the petition.¹² If the chairman of the commission approves, these persons and any other person who is not a member or employee of the commission can participate in the deliberations as to whether the petition is granted. One of the persons who is authorized to receive notice of filing of the petition must be given at least 30 days notice in advance of the meeting, and must be notified of the commission's decision within 30 days from when it is made.

In making its determination as to whether the inmate will be allowed to participate in the program, the commission must review and consider the inmate's:

- Entire criminal history and record;
- Complete medical history including substance abuse and mental health history, and current medical prognosis;
- Prison disciplinary record;
- Work record;
- Participation in prison programs;
- Gang affiliation, if any; and
- Responsibility for the acts leading to the conviction, including any prior and continued statements of innocence and the inmate's feelings of remorse.

As is the case with parole, an inmate cannot be placed in the program solely as a reward for good conduct or efficient performance of assigned duties. The commission must find that there is a reasonable probability that the inmate would live and conduct himself or herself as a respectable and law-abiding person. It also must find that release would be compatible with the inmate's own welfare and the welfare of society. The inmate must demonstrate:

- Successful participation in programs designed to restore him or her as a useful and productive person in the community upon release;
- Genuine reform and changed behavior over a period of years;
- Remorse for actions that have caused pain or suffering to his or her victims;
- A renunciation of criminal activity and gang affiliation if the inmate was a member of a gang.

If the inmate is approved for release¹³, a panel of at least two commissioners must set the terms and conditions of supervision. The length of supervision would be the remaining time of the inmate's sentence, including gain-time credit as determined by the department. A certified copy

¹² It is not clear why the bill limits the right to make a statement to the next of kin of a homicide victim rather than the next of kin of a deceased victim, as is the case for the notification requirements.

¹³ The bill also creates a process for the sentencing court to retain jurisdiction over the offender to review a release order. This retention of jurisdiction is patterned after the retention of jurisdiction language in s. 947.16, F.S., that is applicable to inmates who are eligible for parole consideration. The court may retain jurisdiction for the first third of the sentence, so the retention provisions would only come into consideration for inmates whose sentence exceeds 75 years.

of these terms and conditions must be provided to the inmate, and the bill provides a process for an inmate to request that the commission review and modify the terms and conditions. Three conditions are required unless the commission finds reasons not to impose them:

- Participation in 10 hours of community service for each year served in prison;
- Electronic monitoring for at least one year; and
- Reparation or restitution to the victim for any damage or loss caused by the offense.

In addition, the commission may impose any special conditions that it considers to be warranted. The bill sets out four specific special conditions that may be considered, although the commission may impose others. The enumerated special conditions require the inmate to:

- Pay any debt due to the state under s. 960.17, F.S., or any attorney's fees and costs owed to the state under s. 938.29, F.S.;
- Not leave the state or a definite area within the state without the commission's consent;
- Not associate with persons engaged in criminal activity; and
- Carry out the instructions of his or her supervising correctional probation officer.

As is the case for all types of community supervision, the released inmate will be supervised by a DOC correctional probation officer. Section 4 of the bill amends s. 947.141, F.S., to include inmates released under the program in the current statutory process for addressing violations of the release conditions. The bill also adds a new subsection that authorizes a law enforcement officer to arrest a program participant without warrant if the officer has reasonable grounds to believe that the releasee has violated the terms and conditions of supervision in a material respect.

Restorative Justice Pilot Program

Section 3 of the bill requires the department to develop a pilot program patterned after the Neighborhood Restorative Justice Centers established under s. 985.155, F.S. This pilot program must be implemented at one prison for women and two prisons for men and be available to inmates on a voluntary basis. Inmates who are eligible to participate in the Elderly Rehabilitated Inmate Program must be given priority for participation in the restorative justice programs.

The bill requires that any proposed program or strategy must be developed based upon a finding of need for such program in the community after consulting with the public, judges, law enforcement agencies, state attorneys, and defense attorneys.

The department is authorized to either use its own staff or to contract with other public or private agencies to deliver services related to programs created by the bill. It is also authorized to adopt rules to administer the provisions of the bill.

Effective Date

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

Other Potential Implications:

Although it is not explicitly stated, it appears that the bill would permit discretionary release of some inmates who would otherwise be required to complete 85 percent of their sentence as required by s. 921.002(1)(e), F.S.

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 bill applies retroactively to sentences that were imposed for crimes that were committed prior to when it becomes law. Article X, section 9 of the Florida Constitution (the "Savings Clause") provides: "Repeal or amendment of a criminal statute shall not affect prosecution or punishment for any crime previously committed." This means that the criminal statutes in effect at the time an offense was committed apply to any prosecution or punishment for that offense. *See State v. Smiley*, 966 So.2d 330 (Fla. 2007). There are a number of decisions indicating that the clause prohibits application of a statutory change lessening the punishment for a crime to an offense that was committed before the change. However, it is not clear that a statutory change that expands eligibility for extension of the limits of confinement would be precluded by the Savings Clause.

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

None.

B. Private Sector Impact:

None, except to the extent that the Restorative Justice Pilot Program may be administered by a private contractor.

C. Government Sector Impact:**Elderly Rehabilitated Inmate Program**

Due to the Parole Commissions' discretion in release decisions, there is no way to predict in advance how many inmates will actually be released to supervision under the program.

Because the great majority of the inmates are violent offenders, the percentage of eligible inmates who are actually released may be low. Medical costs for inmates tends to rise with age, so inmates released under the program may have higher medical costs than the general inmate population.¹⁴

Assuming that the bill is intended to apply retroactively, the department estimates that 98 inmates will meet the basic eligibility requirements and be considered for release over the next 5 years:¹⁵

Projected Inmates Meeting Basic Eligibility Requirements	
First Year	16
Second Year	17
Third Year	27
Fourth Year	23
Fifth Year	15
5 Year Total	98

Savings from Releases and Costs of Supervision

- Parole Commission: The commission indicates that its costs for administering the program would be minimal.
- Criminal Justice Impact Conference (CJIC): CJIC has not yet assessed the fiscal impact of this bill, but forecast that last session’s similar SB 144 would have had an insignificant fiscal impact on the state prison population.
- Department of Corrections: Traditionally, the per diem cost of incarcerating an inmate is approximately \$50. As a general rule, this high cost always makes the cost of supervising an individual in the community less than the cost of incarceration. However, the department has noted the following with regard to costs saved from releases of small groups or individual inmates:

While the department uses the full per diem of \$53.34 for estimating cost avoidance for future inmates, two lesser per diems are used for impacts resulting from relatively small releases. If the projected change to the inmate population is less than a full facility but such that one or more dormitories could be closed, the dorm per diem including security staff of \$33.26 is used. If the projected change to the inmate population is small and implementation does not facilitate the closure of at least a dorm, the inmate variable per diem of \$14.01 is used.¹⁶

The department’s assessment is that the smaller per diem cost of \$14.01 is the most appropriate for estimating the bill’s reduction in incarceration costs. Currently, the basic cost of supervising an average probationer is \$4.84 per day, and the cost with electronic

¹⁴ However, the department notes that the program excludes inmates who are eligible for conditional medical release and therefore does not target those who are currently the most expensive to care for in the prison population.

¹⁵ Department of Corrections Analysis, p. 6.

¹⁶ Department of Corrections Analysis of SB 426, p. 8.

monitoring is \$13.78 per day.¹⁷ However, in its analysis of the bill the department notes that supervision of inmates released under the program is likely to be particularly labor intensive. Their lengthy incarceration makes it less likely that they will have support from family or friends and they may need significant assistance in readjusting to society. Also, the nature of their offenses is likely to place them in a high risk category that requires supervision by more senior personnel.

Restorative Justice Pilot Program

The department indicates that it would require one additional staff member at each of the 3 institutions that would have a Restorative Justice Pilot Program. The cost of this position for Fiscal Year 2012-2013 is \$52,969, and the total cost for 3 positions would be \$158,907. The department also projects that there would be an additional \$23,070 of annual recurring expenses.

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.

¹⁷The bill requires electronic monitoring for at least one year after the conditional release. It is anticipated that the cost of electronic monitoring will be significantly lower after completion of the current procurement for a new contract.

By Senator Smith

29-00439-12

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1 A bill to be entitled
 2 An act relating to elderly inmates; providing
 3 legislative intent; creating s. 947.148, F.S.;
 4 providing a short title; creating the Elderly
 5 Rehabilitated Inmate Supervision Program to authorize
 6 the Parole Commission to approve the early release of
 7 certain elderly inmates; providing eligibility
 8 requirements for an inmate to participate in the
 9 program; requiring that the petition to participate in
 10 the program include certain documents; authorizing
 11 members of the public to be present at meetings of the
 12 commission held to determine an inmate's eligibility
 13 for the program; authorizing a victim to make an oral
 14 statement or provide a written statement regarding the
 15 granting, denying, or revoking of an inmate's
 16 supervised release under the program; requiring that
 17 the commission notify the victim or the victim's
 18 family within a specified period regarding the filing
 19 of a petition, the date of the commission's meeting,
 20 and the commission's decision; authorizing the
 21 commission to approve an inmate's participation in the
 22 program under certain conditions; providing
 23 eligibility requirements that the commission must
 24 review; requiring an examiner to interview within a
 25 specified time an inmate who has filed a petition for
 26 supervised release under the program; authorizing the
 27 postponement of the interview; requiring the examiner
 28 to explain and review certain criteria during the
 29 interview; requiring that the examiner recommend a

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30 release date for the inmate; providing certain
 31 conditions under which an inmate may not be released;
 32 requiring a panel of commissioners to establish terms
 33 and conditions of the supervised release under certain
 34 circumstances; requiring that the inmate participate
 35 in community service, submit to electronic monitoring,
 36 and provide restitution to victims as a condition for
 37 participating in the program; authorizing the
 38 commission to impose special conditions of
 39 supervision; authorizing the inmate to request a
 40 review of the terms and conditions of his or her
 41 program supervision; requiring a panel of
 42 commissioners to render a decision within a specified
 43 period regarding a request to modify or continue the
 44 supervised release; providing that participation in
 45 the program is voluntary; requiring the commission to
 46 specify in writing the terms and conditions of
 47 supervision and provide a certified copy to the
 48 inmate; authorizing the trial court judge to enter an
 49 order to retain jurisdiction over the offender;
 50 providing a limitation of the trial court's
 51 jurisdiction; providing for gain-time to accrue;
 52 providing procedures if the trial court retains
 53 jurisdiction of the inmate; requiring a correctional
 54 probation officer to supervise an inmate who is
 55 released under the program; authorizing the Department
 56 of Corrections to conduct the program using
 57 departmental employees or private agencies; requiring
 58 the department and commission to adopt rules; creating

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59 the Restorative Justice Pilot Program; requiring the
 60 Department of Corrections to develop a pilot program
 61 patterned after the juvenile justice program offered
 62 by Neighborhood Restorative Justice Centers; requiring
 63 that inmates who are eligible to participate in the
 64 Elderly Rehabilitated Inmate Supervision Program be
 65 given priority for participating in the pilot program;
 66 providing that the pilot program be developed after
 67 consultation with specified persons; authorizing the
 68 department to conduct the pilot program using
 69 departmental employees or private agencies; requiring
 70 the department to adopt rules; amending s. 947.141,
 71 F.S.; conforming provisions to changes made by the
 72 act; authorizing a law enforcement officer or
 73 correctional probation officer to arrest an inmate
 74 under certain circumstances who has been released
 75 under the Elderly Rehabilitated Inmate Supervision
 76 Program; providing an effective date.

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

79
 80 Section 1. The Legislature recognizes the need to provide a
 81 means for the release of older inmates who have demonstrated
 82 that they have been rehabilitated while incarcerated. It is the
 83 intent of the Legislature to address this issue by establishing
 84 a conditional extension of the limits of confinement by
 85 providing a mechanism for determining eligibility for early
 86 release and supervising inmates who have been incarcerated for
 87 at least 25 consecutive years and who are 60 years of age or

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88 older. It is the Legislature's intent that the provisions of
 89 this act be applied to include inmates who have previously been
 90 sentenced as well as those who will be sentenced in the future.
 91 The Legislature intends to provide for victim input and the
 92 enforcement of penalties for those who fail to comply with
 93 supervision while outside a prison facility. The Legislature
 94 also intends that a pilot program patterned after the program
 95 offered by Neighborhood Restorative Justice Centers be
 96 implemented and offered to inmates who are eligible for release
 97 under the Elderly Rehabilitated Inmate Supervision Program.

98 Section 2. Section 947.148, Florida Statutes, is created to
 99 read:

100 947.148 Elderly Rehabilitated Inmate Supervision Program.—
 101 (1) This section may be cited as the "Elderly Rehabilitated
 102 Inmate Supervision Program Act."

103 (2) As used in this section, the term "program" means the
 104 Elderly Rehabilitated Inmate Supervision Program.

105 (3) An inmate may petition the commission for supervised
 106 release under the program if the inmate:

107 (a) Is 60 years of age or older;

108 (b) Has been convicted of a felony and has served at least
 109 25 consecutive years of incarceration;

110 (c) Is not eligible for parole or conditional medical
 111 release;

112 (d) Has not been sentenced for a capital felony;

113 (e) Is not serving a minimum mandatory sentence; and

114 (f) Has not received a disciplinary report within the
 115 previous 6 months.

116 (4) Each petition filed on behalf of an inmate to

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117 participate in the program must contain:

118 (a) A proposed release plan;

119 (b) Documentation of the inmate's relevant medical history,
 120 including current medical prognosis;

121 (c) The inmate's prison experience and criminal history.
 122 The criminal history must include any claim of innocence, the
 123 degree to which the inmate accepts responsibility for his or her
 124 acts leading to the conviction of the crime, and how the claim
 125 of responsibility has affected the inmate's feelings of remorse;

126 (d) Documentation of the inmate's history of substance
 127 abuse and mental health;

128 (e) Documentation of any disciplinary action taken against
 129 the inmate while in prison;

130 (f) Documentation of the inmate's participation in prison
 131 work and other prison programs; and

132 (g) Documentation of the inmate's renunciation of gang
 133 affiliation.

134 (5) An inmate may not file a new petition within 1 year
 135 after receiving notification of denial of his or her petition to
 136 participate in the program. Any petition that is filed before
 137 the 1-year period ends shall be returned to the inmate, along
 138 with a notation indicating the date that the petition may be
 139 refiled.

140 (6) All matters relating to the granting, denying, or
 141 revoking of an inmate's supervised release in the program shall
 142 be decided in a meeting at which the public may be present. A
 143 victim of the crime committed by the inmate, a victim's parent
 144 or guardian if the victim was a minor, a lawful representative
 145 of the victim or of the victim's parent or guardian if the

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146 victim was a minor, or a homicide victim's next of kin may make
 147 an oral statement or submit a written statement regarding his or
 148 her views as to the granting, denying, or revoking of
 149 supervision. A person who is not a member or employee of the
 150 commission, the victim of the crime committed by the inmate, the
 151 victim's parent or guardian if the victim was a minor, a lawful
 152 representative of the victim or of the victim's parent or
 153 guardian if the victim was a minor, or a homicide victim's next
 154 of kin may participate in deliberations concerning the granting
 155 and revoking of an inmate's supervised release in the program
 156 only upon the prior written approval of the chair of the
 157 commission. The commission shall notify the victim, the victim's
 158 parent or guardian if the victim was a minor, a lawful
 159 representative of the victim or of the victim's parent or
 160 guardian if the victim was a minor, or the victim's next of kin
 161 if the victim is deceased no later than 30 days after the
 162 petition is received by the commission, no later than 30 days
 163 before the commission's meeting, and no later than 30 days after
 164 the commission's decision.

165 (7) The commission may approve an inmate for participation
 166 in the program if the inmate demonstrates:

167 (a) Successful participation in programs designed to
 168 restore the inmate as a useful and productive person in the
 169 community upon release;

170 (b) Genuine reform and changed behavior over a period of
 171 years;

172 (c) Remorse for actions that have caused pain and suffering
 173 to the victims of his or her offenses; and

174 (d) A renunciation of criminal activity and gang

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175 affiliation if the inmate was a member of a gang.
 176 (8) In considering eligibility for participation in the
 177 program, the commission shall review the inmate's:
 178 (a) Entire criminal history and record;
 179 (b) Complete medical history, including history of
 180 substance abuse, mental health, and current medical prognosis;
 181 (c) Prison disciplinary record;
 182 (d) Work record;
 183 (e) Participation in prison programs; and
 184 (f) Gang affiliation, if any.
 185
 186 The commission shall consider the inmate's responsibility for
 187 the acts leading to the conviction, including any prior and
 188 continued statements of innocence and the inmate's feelings of
 189 remorse.
 190 (9) (a) An examiner shall interview the inmate within 90
 191 days after a petition is filed on behalf of the inmate. An
 192 interview may be postponed for a period not to exceed 90 days.
 193 Such postponement must be for good cause, which includes, but
 194 need not be limited to, the need for the commission to obtain a
 195 presentence or postsentence investigation report or a violation
 196 report. The reason for postponement shall be noted in writing
 197 and included in the official record. A postponement for good
 198 cause may not result in an interview being conducted later than
 199 90 days after the inmate's initial scheduled interview.
 200 (b) During the interview, the examiner shall explain the
 201 program to the inmate and review the inmate's institutional
 202 conduct record, criminal history, medical history, work records,
 203 participation in prison programs, gang affiliation, and release

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204 plan for supervision under the program.
 205 (c) Within 10 days after the interview, the examiner shall
 206 recommend in writing to a panel of no fewer than two
 207 commissioners appointed by the chair a release date for the
 208 inmate. The commissioners are not bound by the examiner's
 209 recommended release date.
 210 (10) An inmate may not be placed in the program merely as a
 211 reward for good conduct or efficient performance of duties
 212 assigned in prison. An inmate may not be placed in the program
 213 unless the commission finds that there is reasonable probability
 214 that, if the inmate is placed in the program, he or she will
 215 live and conduct himself or herself as a respectable and law-
 216 abiding person and that the inmate's release will be compatible
 217 with his or her own welfare and the welfare of society.
 218 (11) When the commission has accepted the petition,
 219 approved the proposed release plan, and determined that the
 220 inmate is eligible for the program, a panel of no fewer than two
 221 commissioners shall establish the terms and conditions of the
 222 supervision. When granting supervised release under the program,
 223 the commission shall require the inmate to participate in 10
 224 hours of community service for each year served in prison,
 225 require that the inmate be subject to electronic monitoring for
 226 at least 1 year, and require that reparation or restitution be
 227 paid to the victim for the damage or loss caused by the offense
 228 for which the inmate was imprisoned. The commission may elect
 229 not to impose any or all of the conditions if it finds reasons
 230 that it should not do so. If the commission does not order
 231 restitution or orders only partial restitution, the commission
 232 must state on the record the reasons for its decision. The

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233 amount of such reparation or restitution shall be determined by
 234 the commission.

235 (12) The commission may impose any special conditions it
 236 considers warranted from its review of the release plan and
 237 inmate's record, including, but not limited to, a requirement
 238 that the inmate:

239 (a) Pay any debt due and owing to the state under s. 960.17
 240 or pay attorney fees and costs that are owed to the state under
 241 s. 938.29;

242 (b) Not leave the state or a specified physical area within
 243 the state without the consent of the commission;

244 (c) Not associate with persons engaged in criminal
 245 activity; and

246 (d) Carry out the instructions of her or his supervising
 247 correctional probation officer.

248 (13) (a) An inmate may request a review of the terms and
 249 conditions of his or her supervised release under the program. A
 250 panel of at least two commissioners appointed by the chair shall
 251 consider the inmate's request, render a written decision and the
 252 reasons for the decision to continue or to modify the terms and
 253 conditions of the program supervision, and inform the inmate of
 254 the decision in writing within 30 days after the date of receipt
 255 of the request for review. During any period of review of the
 256 terms and conditions of supervision, the inmate shall be subject
 257 to the authorized terms and conditions of supervision until such
 258 time that a decision is made to continue or modify the terms and
 259 conditions of supervision.

260 (b) The length of supervision shall be the remaining amount
 261 of time the inmate has yet to serve, including calculations for

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262 gain-time credit, as determined by the department.

263 (c) An inmate's participation in the program is voluntary,
 264 and the inmate must agree to abide by all conditions of release.
 265 The commission, upon authorizing a supervision release date,
 266 shall specify in writing the terms and conditions of the program
 267 supervision and provide a certified copy of these terms and
 268 conditions to the inmate.

269 (14) (a) At the time of sentencing, the trial court judge
 270 may enter an order retaining jurisdiction over the offender for
 271 review of a release order by the commission under this section.
 272 This jurisdiction of the trial court judge is limited to the
 273 first one-third of the maximum sentence imposed. When a person
 274 is convicted of two or more felonies and concurrent sentences
 275 are imposed, the jurisdiction of the trial court applies to the
 276 first one-third of the maximum sentence imposed for the most
 277 severe felony for which the person was convicted. When any
 278 person is convicted of two or more felonies and consecutive
 279 sentences are imposed, the jurisdiction of the trial court judge
 280 applies to one-third of the total consecutive sentences imposed.

281 (b) In retaining jurisdiction for purposes of this
 282 subsection, the trial court must state the justification with
 283 individual particularity, and such justification shall be made a
 284 part of the court record. A copy of the justification and the
 285 uniform commitment form issued by the court pursuant to s.
 286 944.17 shall be delivered to the department.

287 (c) Gain-time as provided for by law shall accrue, except
 288 that an offender over whom the trial court has retained
 289 jurisdiction as provided in this subsection may not be released
 290 during the first one-third of her or his sentence by reason of

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291 gain-time.

292 (d) In such a case of retained jurisdiction, the
 293 commission, within 30 days after the entry of its release order,
 294 shall send notice of its release order to the original
 295 sentencing judge and to the appropriate state attorney. The
 296 release order shall be made contingent upon entry of an order by
 297 the appropriate circuit judge relinquishing jurisdiction as
 298 provided for in paragraph (e). If the original sentencing judge
 299 is no longer serving, notice shall be sent to the chief judge of
 300 the circuit in which the offender was sentenced. The chief judge
 301 may designate any circuit judge within the circuit to act in the
 302 place of the original sentencing judge.

303 (e) The original sentencing judge or her or his replacement
 304 shall notify the commission within 10 days after receipt of the
 305 notice provided for in paragraph (d) as to whether the court
 306 desires to retain jurisdiction. If the original sentencing judge
 307 or her or his replacement does not so notify the commission
 308 within the 10-day period or notifies the commission that the
 309 court does not desire to retain jurisdiction, the commission may
 310 dispose of the matter as it sees fit.

311 (f) Upon receipt of notice of intent to retain jurisdiction
 312 from the original sentencing judge or her or his replacement,
 313 the commission shall, within 10 days, forward to the court its
 314 release order, the examiner's report and recommendation, and all
 315 supporting information upon which its release order was based.

316 (g) Within 30 days after receipt of the items listed in
 317 paragraph (f), the original sentencing judge or her or his
 318 replacement shall review the order, findings, and evidence. If
 319 the judge finds that the order of the commission is not based on

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320 competent, substantial evidence or that participation in the
 321 program is not in the best interest of the community or the
 322 inmate, the court may vacate the release order. The judge or her
 323 or his replacement shall notify the commission of the decision
 324 of the court, and, if the release order is vacated, such
 325 notification must contain the evidence relied on and the reasons
 326 for denial. A copy of the notice shall be sent to the inmate.

327 (15) A correctional probation officer as defined in s.
 328 943.10 shall supervise the inmate released under this program.

329 (16) The department and commission shall adopt rules to
 330 administer this section.

331 Section 3. Restorative Justice Pilot Program.-

332 (1) As used in this section, the term "pilot program" means
 333 the Restorative Justice Pilot Program.

334 (2) The department shall develop the pilot program that is
 335 patterned after the program offered by the Neighborhood
 336 Restorative Justice Centers established under s. 985.155,
 337 Florida Statutes. The pilot program shall be implemented at one
 338 prison for women and at two prisons for men. The portion of the
 339 pilot program which includes classes on the effect that crime
 340 has on victims shall be voluntary. Inmates who are eligible to
 341 participate in the Elderly Rehabilitated Inmate Supervision
 342 Program shall be given priority for participation in the pilot
 343 program.

344 (3) The pilot program created under this section shall be
 345 developed after identifying a need in the community for the
 346 pilot program through consultation with representatives of the
 347 public, members of the judiciary, law enforcement agencies,
 348 state attorneys, and defense attorneys.

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349 (4) The department may provide departmental staff to
 350 conduct the pilot program or may contract with other public or
 351 private agencies for the delivery of services related to the
 352 pilot program.

353 (5) The department shall adopt rules to administer this
 354 section.

355 Section 4. Section 947.141, Florida Statutes, is amended to
 356 read:

357 947.141 Violations of conditional release, control release,
 358 ~~or~~ conditional medical release, ~~or~~ addiction-recovery
 359 supervision, or elderly rehabilitated inmate supervision.-

360 (1) If a member of the commission or a duly authorized
 361 representative of the commission has reasonable grounds to
 362 believe that an offender who is on release supervision under s.
 363 947.1405, s. 947.146, s. 947.148, s. 947.149, or s. 944.4731 has
 364 violated the terms and conditions of the release in a material
 365 respect, such member or representative may cause a warrant to be
 366 issued for the arrest of the releasee; if the offender was found
 367 to be a sexual predator, the warrant must be issued.

368 (2) Upon the arrest on a felony charge of an offender who
 369 is on release supervision under s. 947.1405, s. 947.146, s.
 370 947.148, s. 947.149, or s. 944.4731, the offender must be
 371 detained without bond until the initial appearance of the
 372 offender at which a judicial determination of probable cause is
 373 made. If the trial court judge determines that there was no
 374 probable cause for the arrest, the offender may be released. If
 375 the trial court judge determines that there was probable cause
 376 for the arrest, such determination also constitutes reasonable
 377 grounds to believe that the offender violated the conditions of

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378 the release. Within 24 hours after the trial court judge's
 379 finding of probable cause, the detention facility administrator
 380 or designee shall notify the commission and the department of
 381 the finding and transmit to each a facsimile copy of the
 382 probable cause affidavit or the sworn offense report upon which
 383 the trial court judge's probable cause determination is based.
 384 The offender must continue to be detained without bond for a
 385 period not exceeding 72 hours excluding weekends and holidays
 386 after the date of the probable cause determination, pending a
 387 decision by the commission whether to issue a warrant charging
 388 the offender with violation of the conditions of release. Upon
 389 the issuance of the commission's warrant, the offender must
 390 continue to be held in custody pending a revocation hearing held
 391 in accordance with this section.

392 (3) Within 45 days after notice to the Parole Commission of
 393 the arrest of a releasee charged with a violation of the terms
 394 and conditions of conditional release, control release,
 395 conditional medical release, ~~or~~ addiction-recovery supervision,
 396 or elderly rehabilitated inmate supervision, the releasee must
 397 be afforded a hearing conducted by a commissioner or a duly
 398 authorized representative thereof. If the releasee elects to
 399 proceed with a hearing, the releasee must be informed orally and
 400 in writing of the following:

401 (a) The alleged violation with which the releasee is
 402 charged.

403 (b) The releasee's right to be represented by counsel.

404 (c) The releasee's right to be heard in person.

405 (d) The releasee's right to secure, present, and compel the
 406 attendance of witnesses relevant to the proceeding.

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407 (e) The releasee's right to produce documents on the
408 releasee's own behalf.

409 (f) The releasee's right of access to all evidence used
410 against the releasee and to confront and cross-examine adverse
411 witnesses.

412 (g) The releasee's right to waive the hearing.

413 (4) Within a reasonable time following the hearing, the
414 commissioner or the commissioner's duly authorized
415 representative who conducted the hearing shall make findings of
416 fact in regard to the alleged violation. A panel of no fewer
417 than two commissioners shall enter an order determining whether
418 the charge of violation of conditional release, control release,
419 conditional medical release, ~~or~~ addiction-recovery supervision,
420 or elderly rehabilitated inmate supervision has been sustained
421 based upon the findings of fact presented by the hearing
422 commissioner or authorized representative. By such order, the
423 panel may revoke conditional release, control release,
424 conditional medical release, ~~or~~ addiction-recovery supervision,
425 or elderly rehabilitated inmate supervision and thereby return
426 the releasee to prison to serve the sentence imposed, reinstate
427 the original order granting the release, or enter such other
428 order as it considers proper. Effective for inmates whose
429 offenses were committed on or after July 1, 1995, the panel may
430 order the placement of a releasee, upon a finding of violation
431 pursuant to this subsection, into a local detention facility as
432 a condition of supervision.

433 (5) Effective for inmates whose offenses were committed on
434 or after July 1, 1995, notwithstanding the provisions of ss.
435 775.08, former 921.001, 921.002, 921.187, 921.188, 944.02, and

29-00439-12 2012426

436 951.23, or any other law to the contrary, by such order as
437 provided in subsection (4), the panel, upon a finding of guilt,
438 may, as a condition of continued supervision, place the releasee
439 in a local detention facility for a period of incarceration not
440 to exceed 22 months. Prior to the expiration of the term of
441 incarceration, or upon recommendation of the chief correctional
442 officer of that county, the commission shall cause inquiry into
443 the inmate's release plan and custody status in the detention
444 facility and consider whether to restore the inmate to
445 supervision, modify the conditions of supervision, or enter an
446 order of revocation, thereby causing the return of the inmate to
447 prison to serve the sentence imposed. The provisions of this
448 section do not prohibit the panel from entering such other order
449 or conducting any investigation that it deems proper. The
450 commission may only place a person in a local detention facility
451 pursuant to this section if there is a contractual agreement
452 between the chief correctional officer of that county and the
453 Department of Corrections. The agreement must provide for a per
454 diem reimbursement for each person placed under this section,
455 which is payable by the Department of Corrections for the
456 duration of the offender's placement in the facility. This
457 section does not limit the commission's ability to place a
458 person in a local detention facility for less than 1 year.

459 (6) Whenever a conditional release, control release,
460 conditional medical release, ~~or~~ addiction-recovery supervision,
461 or elderly rehabilitated inmate supervision is revoked by a
462 panel of no fewer than two commissioners and the releasee is
463 ordered to be returned to prison, the releasee, by reason of the
464 misconduct, shall be deemed to have forfeited all gain-time or

29-00439-12

2012426

465 commutation of time for good conduct, as provided for by law,
466 earned up to the date of release. However, if a conditional
467 medical release is revoked due to the improved medical or
468 physical condition of the releasee, the releasee shall not
469 forfeit gain-time accrued before the date of conditional medical
470 release. This subsection does not deprive the prisoner of the
471 right to gain-time or commutation of time for good conduct, as
472 provided by law, from the date of return to prison.

473 (7) If a law enforcement officer has probable cause to
474 believe that an offender who is on release supervision under s.
475 947.1405, s. 947.146, s. 947.148, s. 947.149, or s. 944.4731 has
476 violated the terms and conditions of his or her release by
477 committing a felony offense, the officer shall arrest the
478 offender without a warrant, and a warrant need not be issued in
479 the case.

480 (8) When a law enforcement officer or a correctional
481 probation officer has reasonable grounds to believe that an
482 offender who is supervised under the Elderly Rehabilitated
483 Inmate Supervision Program has violated the terms and conditions
484 of her or his supervision in a material respect, the officer may
485 arrest the offender without warrant and bring her or him before
486 one or more commissioners or a duly authorized representative of
487 the commission. Proceedings shall take place when a warrant has
488 been issued by a member of the commission or a duly authorized
489 representative of the commission.

490 Section 5. This act shall take effect July 1, 2012.

THE FLORIDA SENATE

APPEARANCE RECORD

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

11-17-11

Meeting Date

Topic Elderly Release

Bill Number SB 426
(if applicable)

Name Frank Mennert

Amendment Barcode _____
(if applicable)

Job Title _____

Address 2901 Sh Bradford

Phone 576-5858

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing FL Sheriff's Assoc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

BILL TP'd

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/17/2011

Meeting Date

Topic Elderly

Bill Number 426
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Tena M. Pate
Parole Commission

NOTICE OF HEARING

TO: Ms. Tena M. Pate

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Thursday, November 17, 2011, in the Mallory Home Committee Room, 37 Senate Office Building, commencing at 8:30 a.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 8th day of November, 2011

Committee on Criminal Justice



Senator Greg Evers
As Chair and by authority of the committee

cc: Members, Committee on Criminal Justice
Donald Severance, Sergeant at Arms

1705

STATE OF FLORIDA
DEPARTMENT OF STATE

Division of Elections

I, Kurt S. Browning, Secretary of State,
do hereby certify that

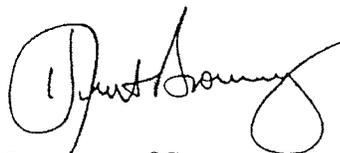
Tena M. Pate

is duly appointed a member of the

Parole Commission

for a term beginning on the
Sixteenth day of June, A.D., 2011,
until the Thirtieth day of June, A.D., 2016
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Thirteenth day of July, A.D., 2011.*



Secretary of State



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

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

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED
DEPARTMENT OF STATE

2011 JUL 12 AM 11:12

DIVISION OF ELECTIONS
TALLAHASSEE, FL

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

Parole Commissioner

(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.]

Jena M. Pate
Signature

Sworn to and subscribed before me this 5 day of July, 2011.

Jeffrey D. Rigdon
Signature of Officer Administering Oath or of Notary Public

Print, Type, or Stamp Commissioned Name of Notary Public



JEFFREY D. RIGDON
MY COMMISSION # EE 04676
EXPIRES: December 6, 2011
Bonded Thru Budget Notary Service

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

Jena M. Pate
Print name as you desire commission issued

City, State, Zip Code

Jena M. Pate
Signature



RICK SCOTT
GOVERNOR

RECEIVED
DEPARTMENT OF STATE

2011 JUN 22 PM 5:00

DIVISION OF ELECTIONS
TALLAHASSEE, FL

June 17, 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 the Cabinet and I have made the following reappointment under the provisions of Section 947.02, Florida Statutes:

Mrs. Tena M. Pate

as a member of the Parole Commission, subject to confirmation by the Senate. This appointment is effective June 16, 2011, for a term ending June 30, 2016.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/lm

9. Are you a United States citizen? Yes No If "No" explain:

None

If you are a naturalized citizen, date of naturalization: None

10. Since what year have you been a continuous resident of Florida? **1958 – native Floridian**

11. Are you a registered Florida voter? Yes No If "Yes" list:

A. County of registration: Leon B. Current party affiliation: Republican

12. Education

A. High School: Niceville Sr. High School, Niceville, FL 32578 Year Graduated: **1976**

(NAME AND LOCATION)

B. List all postsecondary educational institutions attended:

<u>NAME & LOCATION</u>	<u>DATES ATTENDED</u>	<u>CERTIFICATES/DEGREES RECEIVED</u>
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Okaloosa Walton Comm. College Niceville, Florida 32578	– 77-89 part-time	None – Transferred to TCC
------------------------------------------------------------------	-------------------	---------------------------

Tallahassee Community College 444 Appleyard Dr., Tall., FL	– 91-99 part-time	Associate of Arts/Criminology
----------------------------------------------------------------------	-------------------	-------------------------------

Florida State University	– 99-03 part-time	Bachelor of Science/Criminology
---------------------------------	-------------------	---------------------------------

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: None

B. Branch or component: None

C. Date & type of discharge: None

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.) If "Yes" give details:

<u>DATE</u>	<u>PLACE</u>	<u>NATURE</u>	<u>DISPOSITION</u>
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None

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.

<u>EMPLOYER'S NAME & ADDRESS</u>	<u>TYPE OF BUSINESS</u>	<u>OCCUPATION/JOB TITLE</u>	<u>PERIOD OF EMPLOYMENT</u>
--------------------------------------	-------------------------	-----------------------------	-----------------------------

Florida Parole Commission , State Agency/Public Safety, Commissioner, 8/2003 to present			
------------------------------------------------------------------------------------------------	--	--	--

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:

<u>POSITION</u>	<u>EMPLOYING AGENCY</u>	<u>PERIOD OF EMPLOYMENT</u>
Commissioner	Florida Parole Commission	8/2003 - present
Victims' Rights Coordinator	Executive Office of the Governor	1993-2003
State Attorney Liaison	Executive Office of the Governor	1993-2003
Clemency Assistant	Executive Office of the Governor	1993-2001
Personal Assistant to Chief of Staff, Executive Office of the Governor (Govs. Martinez and Chiles)		1990-1992
Admn. Assistant II/Office Manager, Exec. Office of the Governor		1989-1990
Victims' Coordinator, Office of State Attorney, Shalimar, FL (Okaloosa Co.),		1979-1989
Legal Secretary, Office of State Attorney, Shalimar, FL (Okaloosa County),		1979-1989

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

I have served as one of three Parole Commissioners for the state of Florida since 2003, currently serving as its Chair (since July 29, 2010). My over 25 years of experience in criminal justice/public safety related matters in both the judicial and executive branches of government have uniquely qualified me for this position and continued service to the citizens of this State. I have witnessed the tragic impact of crime on innocent persons and have also witnessed the transformation of persons who were once clients of the system, who are now living law-abiding lives. I believe in our system of justice, which not only provides for punishing an offender for wrongdoing, but also serves to deter the offender and others from engaging in similar or other unlawful behaviors, protect society and rehabilitate the offender. My overall experiences prior to becoming a commissioner and my actual experience as a Parole Commissioner enable me to recognize when these goals have been met.

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:

B.S. in Criminology, Florida State University

A.A. in Criminology, Tallahassee Community College

Certificate, Justice Institute, British of Columbia, Static -99R, Sex Offender Risk Assessment (21-hour course)

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes No

If "Yes", list:

2011 Distinguished Service Award in the Criminal Justice System, Florida Council on Crime and Delinquency, Chapter Two, – recognizing my work/contributions in the criminal justice system.

D. Identify all association memberships and association offices held by you that relate to this appointment:

Member, Association of Paroling Authorities International (APAI), 10/03 to Present (serve as V-Chair on Victims' Committee and co-chair of Professional Development Committee);

Member, American Probation and Parole Association (APPA), 2002 to present

Member, National Center for Victims of Crime (NCVC), 1995 to present

Member, Florida Police Chiefs Association (FPCA) 2003 to present

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

Parole Commissioner 2003 – 2016* State

*Appointed to fill an unexpired term in 2003 and reappointed in 2004 to begin first full six-year term through 6/30/2010. Reappointed to second term 7/29/2010 through 6/30/2016, and again 6/16/2011.

Commissioner 2010 – 2012 State

Appointed to the Florida Innocence Commission by Chief Justice Charles Canady, Florida Supreme Court,

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled:

The **Florida Innocence Commission** held its first meeting September 2010. Meetings are bi-monthly to quarterly. No meetings missed to date.

The **Attorney General McCollum's Domestic Violence Fatality Review Team** holds meetings bi-monthly/quarterly. I missed one due to a Parole Commission Hearing (6/1/2010).

The Florida Parole Commission holds approximately 36 meetings each year or 3 meetings per month.

(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).

The Florida Parole Commission held **285 meetings** between October 16, 2003 (my first vote), and June 30, 2011. **I was present and voted in 258 of the 285 meetings.** This represents an **absence of 27 meetings or 9%** of the total hearings held over a seven year period.

The majority of the absences occurred during the months leading up to and including the 2011 Legislative Session. As Chair, I attended to the business of the Commission at these meetings. The attached chart depicts my absences for the remaining years which were due to attending necessary conferences or participating in Child Abuse Death Review Team meetings or the Attorney General's Domestic Violence Fatality Review. Additionally, four absences occurred in September-October 2005, which were health related. See the attached chart for details.

(Attached Chart)

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

None

21. Have you ever been suspended from any office by the Governor of the State of Florida?

No If "Yes", list:

A. Title of office: None C. Reason for suspension: None

B. Date of suspension: None 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: Commissioner, Florida Parole Commissioner

B. Term of Appointment: 2003-2004; 2004-2010; 2010-2016*

C. Confirmation results: Confirmed for previous years. *Pending Confirmation for 2010-16. The Senate did not hold Confirmation proceedings during its 2011 Legislative Session for Parole Commission appointments. On June 16, 2011, I was reappointed by Governor Scott and the Cabinet by unanimous vote.

23. Have you ever been refused a fidelity, surety, performance, or other bond? No If "Yes", explain:

Chair Pate's Voting History/Missed Docket Hearings

2003	2004	2005	2006	2007	2008	2009	2010	2011 (Attending Committee Meetings and Legislative Session as Chair)
n/a	June 16 - KWS	Jul. 20 - JAW	Jul. 12 - CHL	May 16 -CHL	Feb. 6 - JAW	Oct. 28 - JAW	Sep. 15 - KWS	Jan. 12 - CHL
	June 28 - JAW	Jul. 27 - KWS		Jul. 17 - JAW	Oct. 29 - KWS	Dec. 9 - CHL		Jan. 26 - KWS
		Sep. 28 - JAW						Feb. 9 - CJS
		Oct. 5 - JAW						Feb. 23 - JAW
		Oct. 12 - KWS						Mar. 2 - JAW
		Oct. 19 - JAW						Mar. 9 - CHL
								Mar. 23 - KWS
								Mar. 30 - CJS
								Apr. 6 - CHL
								Apr. 20 - KWS
								Apr. 27 - JAW

10-6-2003 thru 6-30-2011 =

A Total of 285 meetings held – 27 missed (9%) = 258 attended (91%)

wa

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:

<u>LICENSE/CERTIFICATE</u>	<u>ORIGINAL</u>		
<u>TITLE & NUMBER</u>	<u>ISSUE DATE</u>	<u>ISSUING AUTHORITY</u>	<u>DISCIPLINARY</u>
<u>ACTION/DATE</u>			

Commissioner, Florida Parole Commission, 2003; 2004; 2010 active with no disciplinary actions;

Guardian Ad Litem, Florida Supreme Court, 1995; inactive with no disciplinary actions*

Victim Services Practitioner, Office of Attorney General, 1995; inactive with no disciplinary actions*

**Discontinued work in these areas upon appointment to the Florida Parole Commission.*

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:

<u>NAME OF BUSINESS</u>	<u>YOUR RELATIONSHIP TO BUSINESS</u>	<u>BUSINESS' RELATIONSHIP TO AGENCY</u>
-------------------------	--------------------------------------	-----------------------------------------

None

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? No If "Yes", explain:

<u>NAME OF BUSINESS</u>	<u>FAMILY MEMBER'S RELATIONSHIP TO YOU</u>	<u>FAMILY MEMBER'S RELATIONSHIP TO BUSINESS</u>	<u>BUSINESS' RELATIONSHIP TO AGENCY</u>
-------------------------	--------------------------------------------	-------------------------------------------------	-----------------------------------------

None

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 * (*As Chair of the FPC)

A. Did you receive any compensation other than reimbursement for expenses? **None**

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>AGENCY LOBBIED</u>	<u>PRINCIPAL REPRESENTED</u>
The Florida Legislature	Florida Parole Commission
Executive Office of the Governor	Florida Parole Commission

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

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 Association of Paroling Authorities International, George J. Beto Criminal Justice Center
Sam Houston State University, Huntsville, TX 77341-2296 - Member since 2003
American Probation and Parole Assn., P.O. Box 11910, Lexington, KY 40578-1910,
Member since 2002;
National Center for Victims of Crime, 2000 M Street NW, Suite 480, Washington, DC 20036,
Member,
Florida Police Chiefs Assn., 924 N. Gadsden Street, Tall., FL 32302, Member, 2003-present
The Character and Heritage Institute, P.O. Box 952, Tall., FL 32302, past Board Chair
6/2009 – 12/2010

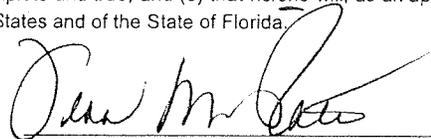
29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? **None**

30. If required by law or administrative rule, will you file financial disclosure statements? **X Yes**

CERTIFICATION

STATE OF FLORIDA, COUNTY OF

Before me, the undersigned Notary Public of Florida, personally appeared Tena M. Pate, who, after being duly 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 7th day of July, 2011.



Signature of Notary Public-State of Florida



JEFFREY D. RIGDON
MY COMMISSION # EE 046766
EXPIRES: December 6, 2014
Bonded Thru Budget Notary Services

(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 12/6/2014

Personally Known OR Produced Identification

Type of Identification Produced _____

(seal)

Spoke

THE FLORIDA SENATE

TAB 6

APPEARANCE RECORD

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

Nov 17, 2011

Meeting Date

Topic Appointment to the Commission

Bill Number N/A

(if applicable)

Name Tena Pate

Amendment Barcode _____

(if applicable)

Job Title Chair of the Parole Commission

Address 4070 Esplanade Way

Phone 487-1980

Street

Tallahassee FL 32399

E-mail TenaPate@fpc.state.fl.us

City

State

Zip

Speaking: For Against Information

Representing Florida Parole Commission

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

oppaga

Florida's Prison Diversion Drug Courts

Presentation to the Senate Criminal Justice Committee

November 17, 2011

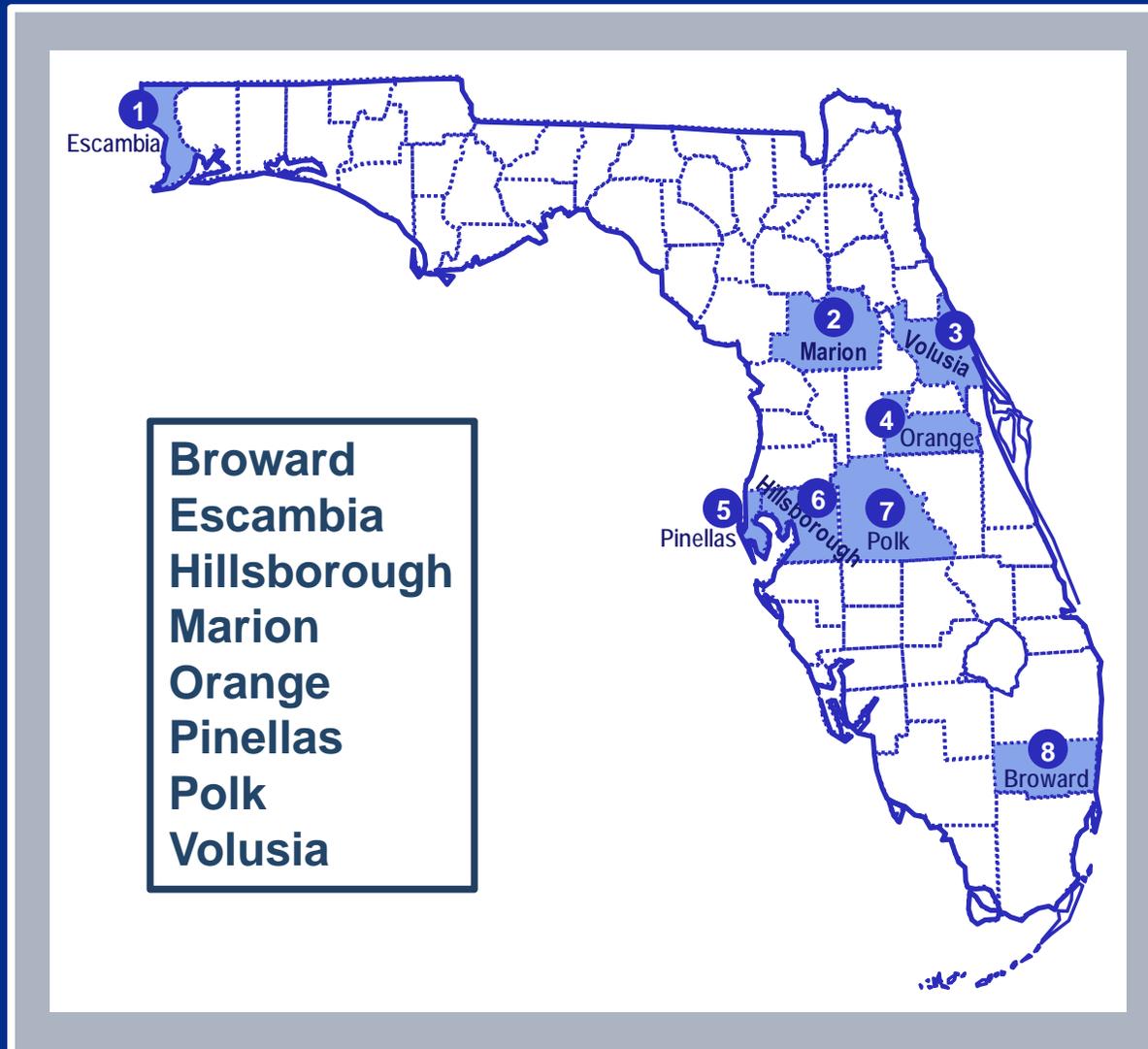
**LucyAnn Walker-Fraser
Senior Legislative Analyst**



2009 Legislature Expanded Post-Adjudicatory Drug Courts

- **\$18.6 million in federal funds from the Edward Byrne Memorial Justice Assistance Grant**
 - **Prison-bound non-violent offenders who need and agree to substance-abuse treatment**
 - **Current offense is a non-violent 3rd degree felony**
 - **Sentencing score of 52 points or fewer**
 - **Have violation of probation solely for a failed drug test**

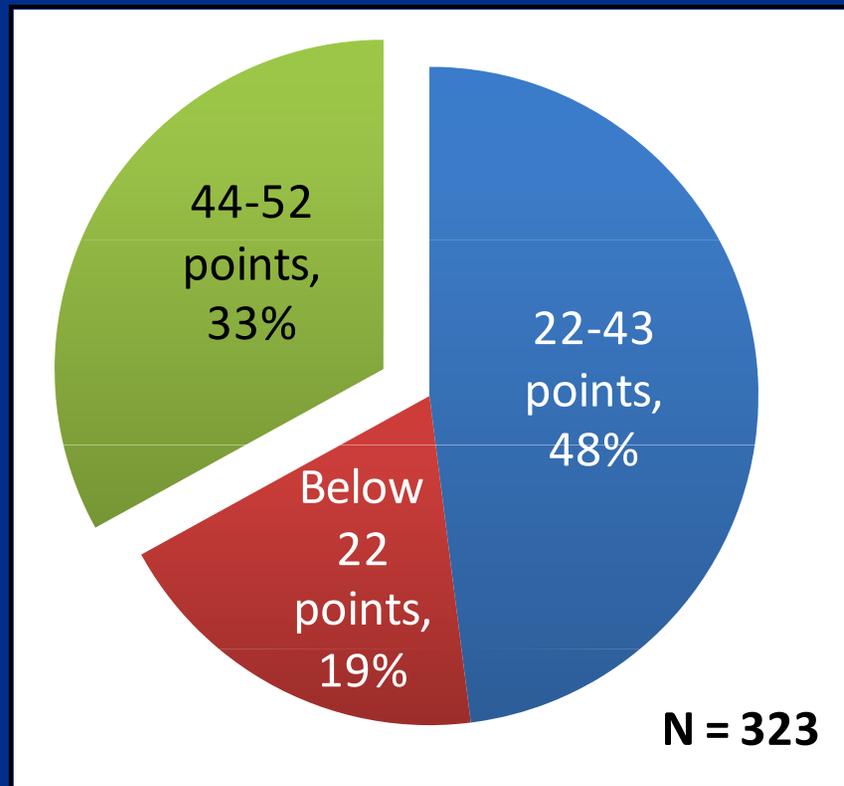
Expansion Drug Courts Were Implemented in Eight Counties



Expansion Drug Courts Served Fewer Offenders than Projected

- **Admissions were lower than expected**
 - initial estimates were overstated
 - too few counties were selected to reach goals
 - eligibility criteria restricted admissions
- **In their first six months of operation, expansion drug courts spent only 4% of the funds appropriated**

Initially, Most Expansion Drug Court Offenders Had Low Sentencing Scores



2011 Legislature Expanded the Eligibility Criteria

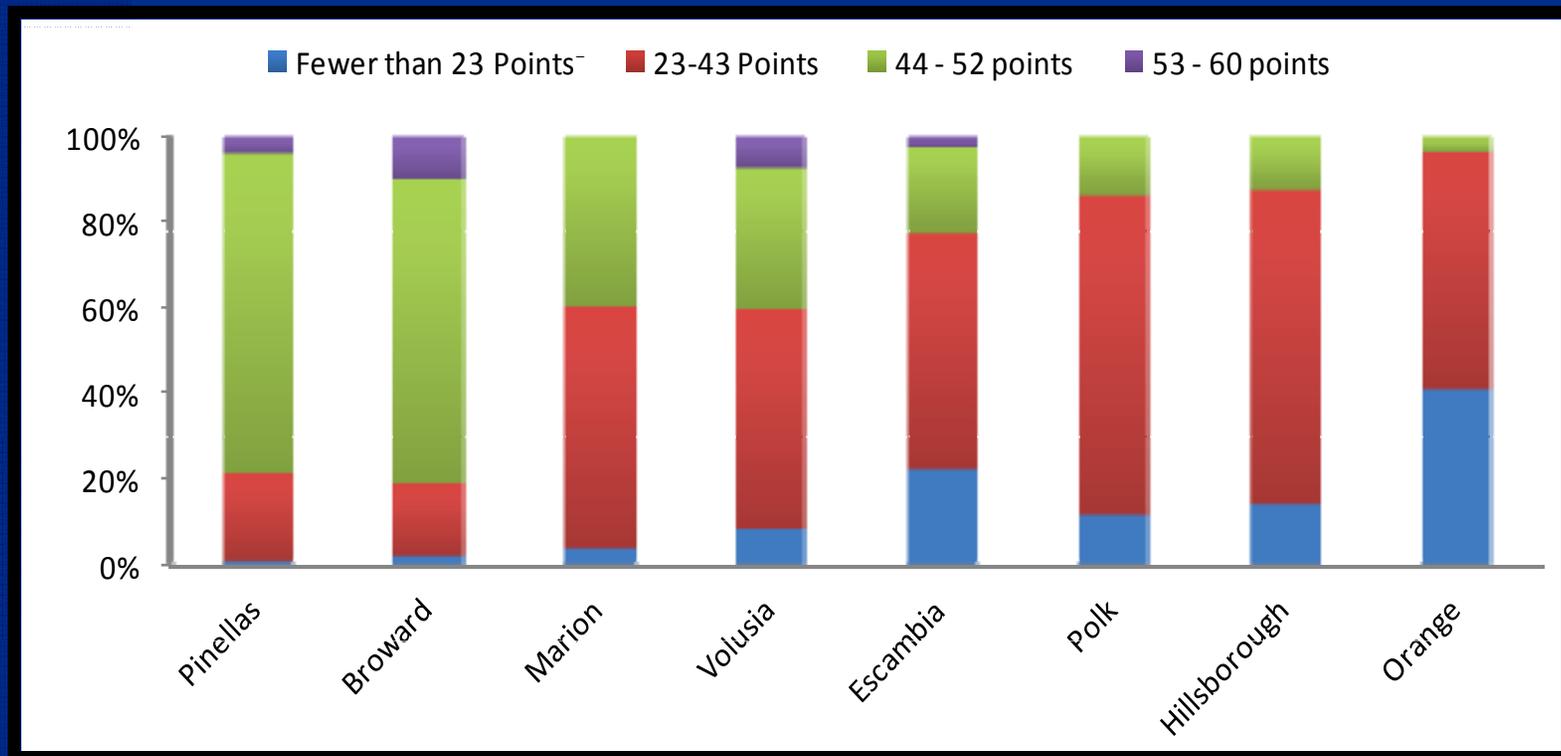
- **Authorized courts to serve prison-bound offenders**
 - **before the court for a non-violent offense**
 - **with a sentencing score of 60 points or fewer**
 - **those who violate probation for reasons other than a failed drug test**

Expansion Drug Courts Will Not Fully Expend Federal Funds

- **Goal: Serve 4,000 offenders**
- **Admissions : 1,190 offenders**
- **Percentage of funds spent:
39% (\$7.2 of \$18.6 million)**
- **Funding period ends :
March 31, 2013**

Sentencing Scores Varied Widely Among Drug Courts

- Expansion drug courts in Pinellas and Broward have served mostly offenders with 44 - 60 points
- Most circuits served offenders with 23 - 43 points



The Percentage of Admissions for Prison-bound Offenders Has Increased

Sentencing Scores of Participants	Fiscal Year 2009-10	Fiscal Year 2010-11	Fiscal Year 2011-12 (July – September)
1 – 22	19%	14%	11%
23 – 43	49%	46%	35%
44 – 52	32%	40%	29%
53 – 60 ¹	NA	NA	25%
			54%
Total Number of Participants	350	707	132

¹ Offenders with sentencing scores of 53 to 60 were not eligible for drug court prior to July 1, 2011.

Source: OPPAGA analysis of data from the Office of the State Courts Administrator for offenders with sentencing scores available.

Early Completion Rates May Exceed Those of Other Post-Adjudicatory Drug Courts

County	Percent of Unsuccessful Program Terminations	Completion Rate if All Remaining Participants Successfully Completed Program
Marion	25%	75%
Hillsborough	28%	72%
Orange	30%	70%
Broward	30%	70%
Volusia	35%	65%
Pinellas	57%	43%
Escambia	64%	36%
Polk	68%	33%
Total	44%	56%

Source: OPPAGA analysis of data from the Office of the Drug Court Administrator for offenders who entered the expansion drug court on or before June 30, 2010, allowing at least 15 months follow-up.

Factors Associated with Lower Termination Rates

- **Availability of alternatives for non-compliant offenders**
 - residential programs
 - in-jail treatment
 - work release programs

In Summary

- **The admissions rate has not increased**
- **To date, 39% of the federal grant funds have been spent**
- **Expansion drug courts are increasingly serving prison-bound offenders**
- **Completion rates for early participants are likely to exceed completion rates found in similar post-adjudicatory courts**

Questions?

LucyAnn Walker-Fraser

(850) 487-9168

walker-fraser.lucyann@oppaga.fl.gov

Claire K. Mazur

(850) 487-9211

mazur.claire@oppaga.fl.gov



Office of Program Policy Analysis & Government Accountability

OPPAGA supports the Florida Legislature by providing data, evaluative research,
and objective analyses that assist legislative budget and policy deliberations.

THE FLORIDA SENATE
APPEARANCE RECORD

Tab 7

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

11/17/11

Meeting Date

Topic DRUG ABUSE

Bill Number _____
(if applicable)

Name BRAD KING

Amendment Barcode _____
(if applicable)

Job Title STATE ATTORNEY, 5th CIRCUIT

Address 110 NW 1ST AVE
Street

Phone 352-671-5914

OCALA, FL 34475
City State Zip

E-mail _____

Speaking: For Against Information

Representing FLORIDA PROSECUTING ATTY ASSOC.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

APPEARANCE RECORD

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

11/17/2011

Meeting Date

Topic Drug Court program

Bill Number (if applicable)

Name Lucy Ann Walker-Fraser

Amendment Barcode (if applicable)

Job Title Legislative Policy Analyst

Address 111 W. Madison St. Ste 312

Phone (850) 487-9168

City

State

Zip

E-mail walker-fraser.lucyann@oppaga.fl.gov

Speaking: For Against Information

Representing OPPAGA

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.

CourtSmart Tag Report

Room: LL 37

Case:

Type:

Caption: Senate Criminal Justice

8:30 a.m.

Judge:

Started: 11/17/2011 8:35:23 AM

Ends: 11/17/2011 9:52:50 AM

Length: 01:17:28

8:35:26 AM Meeting called to order
8:35:37 AM Roll Call
8:36:08 AM Sen. Bennett and Margolis are excused
8:36:32 AM Senate Confirmation Hearing for Tena Pate to the Parole Commission
8:37:53 AM Sen. Dean moves in favor
8:38:01 AM Roll Call Vote
8:38:43 AM SB 506 is TPd
8:38:52 AM SB 426 is TPd
8:39:29 AM SB 154 by Latvala - Licensed Security Officers
8:39:31 AM Presented by Tracy Caddell
8:41:01 AM Amendment 268380
8:41:38 AM Amendment adopted
8:41:51 AM Brian Pitts - Justice 2 Jesus
8:45:00 AM Roll Call Vote
8:46:26 AM Chair Changed to Sen. Dean
8:46:45 AM SB 504 by Evers - Juvenile Justice
8:46:52 AM Amendment 760176
8:47:33 AM Amendment adopted
8:47:53 AM Brian Pitts - Justice 2 Jesus
8:50:22 AM Roll Call Vote
8:50:40 AM Sen. Hays moves for a CS
8:51:06 AM Chair changed to Sen. Evers
8:51:41 AM SB 448 by Bogdanoff - Inmate Reentry
8:54:01 AM
8:54:35 AM Handwritten amendment to Amendment 591120
8:55:34 AM Question - Sen. Dean
8:56:33 AM Question - Sen. Dean
8:57:20 AM Question - Sen. Hays
8:58:40 AM Question - Sen. Hays
8:59:50 AM Question - Sen. Dean
9:01:08 AM Question - Sen. Smith
9:02:02 AM Question - Sen. Smith
9:03:06 AM Question - Sen. Hays
9:04:13 AM Question - Sen. Evers
9:05:11 AM A to A adopted
9:05:21 AM Amendment 591120 adopted
9:05:40 AM Amendment 669808
9:06:07 AM Amendment adopted
9:06:45 AM Brian Pitts - Justice 2 Jesus
9:10:49 AM Frank Messersmith - FL. Sheriff's Association
9:13:45 AM Question - Sen. Smith
9:14:33 AM Question - Sen. Smith
9:14:56 AM Question - Sen. Dean
9:17:08 AM Graham Fountain - Walton County Sheriff's Dept.
9:20:42 AM Sen. Bogdanoff closes
9:23:34 AM Sen. Hays moves for a CS
9:23:46 AM Roll Call
9:24:20 AM Report on Drug Court Program by Lucy Ann Walker-Fraser, Legislative Policy Analyst with the OPPAGA
9:34:56 AM Question - Sen. Hays
9:35:52 AM Question - Sen. Hays
9:38:42 AM Brad King - FL. Prosecuting Attorneys
9:39:43 AM Question - Sen. Hays

9:40:09 AM Question - Sen. Evers
9:41:05 AM Question - Sen. Dean
9:43:09 AM Question - Sen. Hays
9:46:35 AM Question - Sen. Evers
9:49:53 AM Question - Sen. Evers
9:51:05 AM Question - Sen. Dean
9:52:41 AM Meeting Adjourned



THE FLORIDA SENATE
SENATOR MIKE HARIDOPOLOS
President

FILE COPY

November 2, 2011

The Honorable Anitere Flores
State Senator, District 38
316 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

*Excused from
Criminal Justice
11/17/11*

Dear Senator Flores:

I am hereby appointing Senator Mike Bennett to serve on the Senate Committee on Judiciary for November 17, 2011. Pursuant to Senate Rule 2.27(5), this appointment shall also count for quorum purposes.

Sincerely,

A handwritten signature in black ink that reads "Mike H." followed by a stylized flourish.

Mike Haridopolos
President
MH/avh

cc: Secretary Debbie Brown
Senator Mike Bennett
Jennifer Hrdlicka, Staff Director



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations,
Vice Chair
Reapportionment, *Vice Chair*
Banking and Insurance
Budget
Budget - Subcommittee on Finance and Tax
Communications, Energy, and Public Utilities
Criminal Justice
Governmental Oversight and Accountability
Rules

SENATOR GWEN MARGOLIS

35th District

November 16, 2011

Chair Evers,

Please excuse my absence from the Criminal Justice Committee meeting. I am still home recovering from hip replacement surgery.

My Legislative staff will be in Tallahassee in my absence and should you need anything, please do not hesitate to contact them.

I look forward to seeing you at the next committee meeting.

Thank you again for your continued support and understanding.

Sincerely,

A handwritten signature in cursive script that reads "Senator Gwen Margolis".

Gwen Margolis
State Senator

FILE COPY

REPLY TO:

- 3050 Biscayne Boulevard, Suite 600, Miami, Florida 33137 (305) 571-5777
- 414 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5121

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore