

CS/SB 644 by **BI, Richter**; (Similar to CS/CS/H 0665) Licensure by the Office of Financial Regulation

SB 742 by **Evers**; (Similar to H 0685) Parole Interview Dates for Certain Inmates

CS/SB 890 by **CJ, Braynon**; (Similar to H 0271) False Personation

CS/SB 1032 by **CJ, Altman**; (Similar to CS/H 7121) Inmate Reentry

382656	A	S	L	RCS	ACJ, Altman	Delete L.103 - 107:	04/11 12:17 PM
867416	A	S	L	RCS	ACJ, Altman	btw L.186 - 187:	04/11 12:17 PM
483108	A	S	L	RCS	ACJ, Bradley	Delete L.138 - 297.	04/11 12:17 PM
906692	A	S	L	RCS	ACJ, Bradley	Delete L.112 - 121.	04/11 12:17 PM

CS/SB 288 by **JU, Bradley**; (Identical to CS/H 0311) Costs of Prosecution, Investigation, and Representation

CS/SB 1350 by **CJ, Bradley**; (Similar to H 7137) Criminal Penalties

294184	D	S	L	WD	ACJ, Joyner	Delete everything after	04/11 12:17 PM
833124	AA	S	L	WD	ACJ, Joyner	Delete L.19:	04/11 12:17 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON CRIMINAL AND
CIVIL JUSTICE
Senator Bradley, Chair
Senator Joyner, Vice Chair

MEETING DATE: Thursday, April 11, 2013

TIME: 8:30 —10:00 a.m.

PLACE: *Mallory Horne Committee Room, 37 Senate Office Building*

MEMBERS: Senator Bradley, Chair; Senator Joyner, Vice Chair; Senators Altman, Braynon, Clemens, Dean, Diaz de la Portilla, Flores, Garcia, Grimsley, Hays, Smith, and Soto

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 644 Banking and Insurance / Richter (Similar CS/CS/H 665)	Licensure by the Office of Financial Regulation; Authorizing, rather than requiring, the Office of Financial Regulation to deny a mortgage broker license application if the applicant had a mortgage broker license revoked previously; revising the procedures and requirements for submitting fingerprints as part of an application to sell, or offer to sell, securities; requiring the Office of Financial Regulation to pay an annual fee to the Department of Law Enforcement; revising license application fees to include fingerprint retention fees as prescribed by rule, etc. BI 03/20/2013 Fav/CS CJ 04/08/2013 Favorable ACJ 04/11/2013 Favorable AP	Favorable Yeas 13 Nays 0
2	SB 742 Evers (Similar H 685)	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 03/04/2013 Not Considered CJ 03/11/2013 Favorable JU 04/01/2013 Favorable ACJ 04/11/2013 Favorable AP	Favorable Yeas 13 Nays 0
3	CS/SB 890 Criminal Justice / Braynon (Similar H 271)	False Personation; Prohibiting a person from falsely personating a firefighter; prohibiting operation or ownership of a motor vehicle falsely marked with the intent to mislead or cause another person to believe that such vehicle is authorized by a fire department for use by the person operating it; providing an exception, etc. CJ 04/01/2013 Fav/CS ACJ 04/11/2013 Favorable AP	Favorable Yeas 13 Nays 0

COMMITTEE MEETING EXPANDED AGENDAAppropriations Subcommittee on Criminal and Civil Justice
Thursday, April 11, 2013, 8:30 —10:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 1032 Criminal Justice / Altman (Similar CS/H 7121, Compare H 69, S 880, S 1704)	Inmate Reentry; Waiving the fee for identification cards issued to certain inmates; requiring the Department of Corrections to work with other agencies in acquiring necessary documents for certain inmates to acquire an identification card before release; authorizing the department to operate male and female faith- and character-based institutions; providing guidelines where the department shall terminate inmate's participation in program; authorizing use of postadjudicatory drug court for program participant, etc. CJ 04/01/2013 Fav/CS ACJ 04/11/2013 Fav/CS AP	Fav/CS Yeas 13 Nays 0
5	CS/SB 288 Judiciary / Bradley (Identical CS/H 311)	Costs of Prosecution, Investigation, and Representation; Providing for the withholding of unpaid costs of prosecution and representation from the return of a cash bond posted on behalf of a criminal defendant; requiring a notice on bond forms of such possible withholding; providing for assessment of costs of prosecution against a juvenile who has been adjudicated delinquent or has adjudication of delinquency withheld; providing that a child adjudicated delinquent may perform community service in lieu of certain costs and fees, etc. CJ 02/05/2013 Favorable JU 04/01/2013 Not Considered JU 04/08/2013 Fav/CS ACJ 04/11/2013 Favorable AP	Favorable Yeas 11 Nays 0
	CS/SB 1350 Criminal Justice / Bradley (Similar H 7137, Compare H 963)	Criminal Penalties; Providing criminal sentences applicable to a person who was under the age of 18 years at the time the offense was committed; requiring that a judge consider certain factors before determining if life imprisonment is an appropriate sentence, etc. CJ 04/01/2013 Not Considered CJ 04/08/2013 Fav/CS ACJ 04/11/2013 Favorable AP	Favorable Yeas 8 Nays 5

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 Appropriations Subcommittee on Criminal and Civil Justice

BILL: CS/SB 644

INTRODUCER: Banking and Insurance Committee and Senator Richter

SUBJECT: Licensure by the Office of Financial Regulation

DATE: April 9, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Burgess</u>	<u>BI</u>	Fav/CS
2.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	Favorable
3.	<u>Sadberry</u>	<u>Sadberry</u>	<u>ACJ</u>	Favorable
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

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

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

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 644 allows the Office of Financial Regulation (OFR) to exercise discretion regarding whether to deny an application for licensure as a mortgage broker or mortgage lender if the applicant’s licensure or its equivalent was revoked in any jurisdiction. Current law requires the automatic denial of the licensure application. The bill also changes the method by which the OFR collects fingerprints from applicants for registration as securities dealers, associated persons, or securities issuers and applicants for money services business licensure. The new method of fingerprinting is live-scan processing. Money services business initially approved for licensure before October 1, 2013, must re-submit fingerprints for live scan processing in order to obtain a renewed license set to expire between April 30, 2014, and December 31, 2015.

The Department of Law Enforcement would see an insignificant reduction in the amount of revenue generated from the fees for collecting fingerprints. The department has indicated the fiscal impact would be insignificant on their operations.

Sections 1, 2 and 6 of the bill are effective upon becoming law; the other sections of the bill are effective October 1, 2013.

This bill substantially amends the following sections of the Florida Statutes: 494.00321, 494.00611, 517.12, 560.141, and 560.143.

II. Present Situation:

Licensure as a Mortgage Broker or Mortgage Lender

The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 sets a minimum federal standard that an individual who is an applicant for a state loan originator license must have never had his or her loan originator license revoked in any governmental jurisdiction.¹ In 2009, Florida adopted this requirement for loan originators in s. 494.00312(5), F.S.² Florida also adopted parallel requirements for persons (employers, businesses, and individuals) who are applicants for licenses as mortgage brokers and mortgage lenders, exceeding the federal requirement.

According to representatives from the Office of Financial Regulation, the issue that has arisen is that states may use the term “revoked” differently. In Florida, if a licensee does not timely complete the annual renewal or pay the annual fee, their license “expires” on December 31. In other states, if the licensee does not pay that state’s annual assessment when due, the regulatory process may be to administratively revoke the permanent license. Therefore, because the license status will be “revoked” in the other state, it would cause the Florida license to be revoked, or a new license application in Florida to be denied, under current law.³

Office of Financial Regulation Fingerprint Requirements

Under ch. 517, F.S., no dealer, associated person, or issuer of securities may sell or offer for sale any securities in or from offices in this state, or sell securities to persons in this state from offices outside this state, without being registered with the OFR. Under ch. 560, F.S., persons engaged in business as a money services business (payment instrument seller, foreign currency exchanger, check casher, or money transmitter) must be licensed with the Office. The application for such registration or licensure requires the applicant to submit fingerprint cards that are subsequently processed by the Florida Department of Law Enforcement (FDLE) and Federal Bureau of Investigation (FBI). The FDLE and FBI no longer accept physical fingerprint cards; they now only accept electronic or live-scan fingerprints for processing.⁴

I. Effect of Proposed Changes:

Section 1 amends s. 494.00321(5), F.S., to allow the OFR discretion regarding whether to deny an application for mortgage broker licensure if the applicant has had a mortgage broker license, or its equivalent, revoked in any jurisdiction. Current law requires denial of the application.

¹ See 12 U.S.C. Sec. 5104(b)(1).

² See Ch. 2009-241, L.O.F.

³ Information for this paragraph comes from Analysis of SB 644, Office of Financial Regulation, Financial Services Commission (dated March 26, 2013) (on file with the Committee on Criminal Justice). This analysis is further cited as “OFR Analysis.”

⁴ *Id.*

Section 2 amends s. 494.00611(5), F.S., to allow the OFR discretion regarding whether to deny an application for mortgage lender licensure if the applicant has had a mortgage broker license, or its equivalent, revoked in any jurisdiction. Current law requires denial of the application.

Section 3 amends s. 517.12(7), F.S., to require securities dealers, associated persons, or securities issuers to submit the fingerprints for live scan processing as part of the mandatory requirement to register with the OFR. The costs of fingerprint processing are borne by the person subject to the background check. Under current law, a fingerprint card of a complete set of fingerprints must be taken by an authorized law enforcement agency or in a manner otherwise approved by rule, and the cost of the fingerprint processing may be borne by the OFR, the employer, or the person subject to the background check.

Section 4 amends s. 560.141, F.S., to require the applicant for money services business licensure to submit the fingerprints for live scan processing as part of the mandatory licensure requirements to register with the OFR. Money services business initially approved for licensure before October 1, 2013, must re-submit fingerprints for live scan processing in order to obtain a renewed license set to expire between April 30, 2014, and December 31, 2015.

The bill also requires the fingerprints to be entered into the statewide automated fingerprint identification system. The OFR must pay an annual fee to the Department of Law Enforcement to participate in the system. The costs of fingerprint processing are borne by the person subject to the background check. Under current law, a fingerprint card of a complete set of fingerprints must be taken by an authorized law enforcement agency, and the cost of the fingerprint processing may be borne by the OFR, the employer, or the person subject to the background check.

Section 5 amends s. 560.143, F.S., to provide that OFR fingerprint retention fees are prescribed by rule.

Section 6 provides effective dates. Sections 1, 2 and 6 of the bill are effective upon becoming law; the other sections of the bill are effective October 1, 2013.

II. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

III. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The provision of the Committee Substitute requiring currently licensed money services businesses to submit to live-scan fingerprinting may result in additional fees imposed on persons required to undergo live-scan fingerprinting.

The Florida Department of Law Enforcement has provided the following information regarding private sector impact:

Year 1: 500 new applicants x \$40.50 + 725 license renewals x \$40.50 = \$49,613

Year 2: 500 new applicants x \$40.50 + 1450 license renewals x \$40.50 + 1225 fingerprints retained x \$6 = \$86,325

Year 3: 500 new applicants x \$40.50 + 725 license renewals x \$40.50 + 3175 fingerprints retained x \$6 = \$ 68,663

Each request is \$40.50; \$24 goes into the FDLE Operating Trust Fund; \$16.50 from each request is forwarded to the FBI; not revenue for Florida; but expense for private sector.⁵

C. Government Sector Impact:

The Office of Financial Regulation currently collects fingerprint fees from applicants that are subsequently transferred to the Florida Department of Law Enforcement. Switching from fingerprint cards to live-scan fingerprint processing is estimated to result in the following reductions for Fiscal Year 2013-2014:

- A reduction of \$13,275 related to fingerprinting required under ch. 494, F.S. (mortgage brokers and mortgage lenders) and ch. 560, F.S. (money services businesses). The estimated non-operating budget authority needed in Category 310175 is reduced by \$95,000.
- A reduction of \$121,500 related to elimination of the processing fee for fingerprinting. The estimated non-operating budget authority needed in category 310175 is reduced by \$150,000.⁶

The provision of the Committee Substitute requiring currently licensed money services businesses to submit to live-scan fingerprinting may alter the fiscal impact of the bill.

⁵ Analysis of SB 644 (dated March 20, 2013), Florida Department of Law Enforcement (on file with the Committee on Criminal Justice).

⁶ Telephonic conversation with OFR staff on March 26, 2013, and OFR Analysis.

The Florida Department of Law Enforcement has provided the following information regarding fiscal impact:

		(FY 13-14)	(FY 14-15)	(FY 15-16)
		Amount/FTE	Amount/FTE	Amount/FTE
A.	Revenues OTF	29,400	54,150	48,450

Year 1: 500 new applicants x \$24 + 725 license renewals x \$24 = \$29,400

Year 2: 500 new applicants x \$24 + 1450 license renewals x \$24 + 1225 fingerprints retained x \$6 = \$54,150

Year 3: 500 new applicants x \$24 + 725 license renewals x \$24 + 3175 fingerprints retained x \$6 = \$ 48,450⁷

IV. Technical Deficiencies:

None.

V. Related Issues:

None.

VI. Additional Information:

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

CS by Banking and Insurance on March 20, 2013:

- Money services business initially approved for licensure before October 1, 2013, must re-submit fingerprints for live scan processing in order to obtain a renewed license set to expire between April 30, 2014, and December 31, 2015.
- Eliminates the repeal of s. 560.143(1)(f), F.S.
- Specifies that the OFR fingerprint retention fees will be prescribed by rule.

- B. **Amendments:**

None.

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

⁷ *Id.*

By the Committee on Banking and Insurance; and Senator Richter

597-02827-13

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1 A bill to be entitled
 2 An act relating to licensure by the Office of
 3 Financial Regulation; amending s. 494.00321, F.S.;
 4 authorizing, rather than requiring, the office to deny
 5 a mortgage broker license application if the applicant
 6 had a mortgage broker license revoked previously;
 7 amending s. 494.00611, F.S.; authorizing, rather than
 8 requiring, the office to deny a mortgage lender
 9 license application if the applicant had a mortgage
 10 lender license revoked previously; amending s. 517.12,
 11 F.S.; revising the procedures and requirements for
 12 submitting fingerprints as part of an application to
 13 sell, or offer to sell, securities; removing
 14 conflicting language; amending s. 560.141, F.S.;
 15 revising the procedures and requirements for
 16 submitting fingerprints to apply for a license as a
 17 money services business; requiring the Office of
 18 Financial Regulation to pay an annual fee to the
 19 Department of Law Enforcement; removing conflicting
 20 language; amending s. 560.143, F.S.; revising license
 21 application fees to include fingerprint retention fees
 22 as prescribed by rule; providing effective dates.

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

26 Section 1. Effective upon this act becoming a law,
 27 subsection (5) of section 494.00321, Florida Statutes, is
 28 amended to read:

29 494.00321 Mortgage broker license.—

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30 (5) The office ~~may shall~~ deny a license if the applicant
 31 has had a mortgage broker license, or its equivalent, revoked in
 32 any jurisdiction, and shall deny a license ~~or~~ if any of the
 33 applicant's control persons has had a loan originator license,
 34 or its equivalent, revoked in any jurisdiction.

35 Section 2. Effective upon this act becoming a law,
 36 subsection (5) of section 494.00611, Florida Statutes, is
 37 amended to read:

38 494.00611 Mortgage lender license.—

39 (5) The office may deny ~~not issue~~ a license if the
 40 applicant has had a mortgage lender license or its equivalent
 41 revoked in any jurisdiction, and shall deny a license if ~~or~~ any
 42 of the applicant's control persons has ~~ever~~ had a loan
 43 originator license or its equivalent revoked in any
 44 jurisdiction.

45 Section 3. Subsection (7) of section 517.12, Florida
 46 Statutes, is amended to read:

47 517.12 Registration of dealers, associated persons,
 48 investment advisers, and branch offices.—

49 (7) The application must shall also contain such
 50 information as the commission or office may require about the
 51 applicant; any member, principal, or director of the applicant
 52 or any person having a similar status or performing similar
 53 functions; any person directly or indirectly controlling the
 54 applicant; or any employee of a dealer or of an investment
 55 adviser rendering investment advisory services. Each applicant
 56 and any direct owners, principals, or indirect owners that are
 57 required to be reported on Form BD or Form ADV pursuant to
 58 subsection (15) shall submit fingerprints for live-scan

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59 processing in accordance with rules adopted by the commission.
 60 The fingerprints may be submitted through a third-party vendor
 61 authorized by the Department of Law Enforcement to provide live-
 62 scan fingerprinting. The costs of fingerprint processing shall
 63 be borne by the person subject to the background check. The
 64 Department of Law Enforcement shall conduct a state criminal
 65 history background check, and a federal criminal history
 66 background check must be conducted through the Federal Bureau of
 67 Investigation. The office shall review the results of the state
 68 and federal criminal history background checks and determine
 69 whether the applicant meets licensure requirements ~~file a~~
 70 ~~complete set of fingerprints. A fingerprint card submitted to~~
 71 ~~the office must be taken by an authorized law enforcement agency~~
 72 ~~or in a manner approved by the commission by rule. The office~~
 73 ~~shall submit the fingerprints to the Department of Law~~
 74 ~~Enforcement for state processing, and the Department of Law~~
 75 ~~Enforcement shall forward the fingerprints to the Federal Bureau~~
 76 ~~of Investigation for federal processing. The cost of the~~
 77 ~~fingerprint processing may be borne by the office, the employer,~~
 78 ~~or the person subject to the background check. The Department of~~
 79 ~~Law Enforcement shall submit an invoice to the office for the~~
 80 ~~fingerprints received each month. The office shall screen the~~
 81 ~~background results to determine if the applicant meets licensure~~
 82 ~~requirements.~~ The commission may waive, by rule, the requirement
 83 that applicants, including any direct owners, principals, or
 84 indirect owners that are required to be reported on Form BD or
 85 Form ADV pursuant to subsection (15), submit ~~file a set of~~
 86 fingerprints or the requirement that such fingerprints be
 87 processed by the Department of Law Enforcement or the Federal

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88 Bureau of Investigation. The commission or office may require
 89 information about any such applicant or person concerning such
 90 matters as:
 91 (a) His or her full name, and any other names by which he
 92 or she may have been known, and his or her age, social security
 93 number, photograph, qualifications, and educational and business
 94 history.
 95 (b) Any injunction or administrative order by a state or
 96 federal agency, national securities exchange, or national
 97 securities association involving a security or any aspect of the
 98 securities business and any injunction or administrative order
 99 by a state or federal agency regulating banking, insurance,
 100 finance, or small loan companies, real estate, mortgage brokers,
 101 or other related or similar industries, which injunctions or
 102 administrative orders relate to such person.
 103 (c) His or her conviction of, or plea of nolo contendere
 104 to, a criminal offense or his or her commission of any acts
 105 which would be grounds for refusal of an application under s.
 106 517.161.
 107 (d) The names and addresses of other persons of whom the
 108 office may inquire as to his or her character, reputation, and
 109 financial responsibility.
 110 Section 4. Subsection (1) of section 560.141, Florida
 111 Statutes, is amended to read:
 112 560.141 License application.—
 113 (1) To apply for a license as a money services business
 114 under this chapter, the applicant must submit:
 115 (a) ~~Submit~~ An application to the office on forms prescribed
 116 by rule which includes the following information:

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117 1. The legal name and address of the applicant, including
 118 any fictitious or trade names used by the applicant in the
 119 conduct of its business.
 120 2. The date of the applicant's formation and the state in
 121 which the applicant was formed, if applicable.
 122 3. The name, social security number, alien identification
 123 or taxpayer identification number, business and residence
 124 addresses, and employment history for the past 5 years for each
 125 officer, director, responsible person, the compliance officer,
 126 each controlling shareholder, and any other person who has a
 127 controlling interest in the money services business as provided
 128 in s. 560.127.
 129 4. A description of the organizational structure of the
 130 applicant, including the identity of any parent or subsidiary of
 131 the applicant, and the disclosure of whether any parent or
 132 subsidiary is publicly traded.
 133 5. The applicant's history of operations in other states if
 134 applicable and a description of the money services business or
 135 deferred presentment provider activities proposed to be
 136 conducted by the applicant in this state.
 137 6. If the applicant or its parent is a publicly traded
 138 company, copies of all filings made by the applicant with the
 139 United States Securities and Exchange Commission, or with a
 140 similar regulator in a country other than the United States,
 141 within the preceding year.
 142 7. The location at which the applicant proposes to
 143 establish its principal place of business and any other
 144 location, including branch offices and authorized vendors
 145 operating in this state. For each branch office and each

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146 location of an authorized vendor, the applicant shall include
 147 the nonrefundable fee required by s. 560.143.
 148 8. The name and address of the clearing financial
 149 institution or financial institutions through which the
 150 applicant's payment instruments are drawn or through which the
 151 payment instruments are payable.
 152 9. The history of the applicant's material litigation,
 153 criminal convictions, pleas of nolo contendere, and cases of
 154 adjudication withheld.
 155 10. The history of material litigation, arrests, criminal
 156 convictions, pleas of nolo contendere, and cases of adjudication
 157 withheld for each executive officer, director, controlling
 158 shareholder, and responsible person.
 159 11. The name of the registered agent in this state for
 160 service of process unless the applicant is a sole proprietor.
 161 12. Any other information specified in this chapter or by
 162 rule.
 163 (b) ~~In addition to the application form, submit:~~
 164 ~~1.~~ A nonrefundable application fee as provided in s.
 165 560.143.
 166 (c) 2. Fingerprints for each person listed in subparagraph
 167 (a) 3. for live-scan processing in accordance with rules adopted
 168 by the commission.
 169 1. The fingerprints may be submitted through a third-party
 170 vendor authorized by the Department of Law Enforcement to
 171 provide live-scan fingerprinting.
 172 2. The Department of Law Enforcement must conduct the state
 173 criminal history background check, and a federal criminal
 174 history background check must be conducted through the Federal

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175 Bureau of Investigation.

176 3. All fingerprints submitted to the Department of Law

177 Enforcement must be submitted electronically and entered into

178 the statewide automated fingerprint identification system

179 established in s. 943.05(2)(b) and available for use in

180 accordance with s. 943.05(2)(g) and (h). The office shall pay an

181 annual fee to the Department of Law Enforcement to participate

182 in the system and shall inform the Department of Law Enforcement

183 of any person whose fingerprints no longer must be retained.

184 4. The costs of fingerprint processing, including the cost

185 of retaining the fingerprints, shall be borne by the person

186 subject to the background check.

187 5. The office shall review the results of the state and

188 federal criminal history background checks and determine whether

189 the applicant meets licensure requirements.

190 6. For purposes of this paragraph, fingerprints are not

191 required to be submitted if ~~A fingerprint card for each of the~~

192 ~~persons listed in subparagraph (a)3. unless~~ the applicant is a

193 publicly traded corporation~~, or is exempted from this chapter~~

194 under s. 560.104(1). ~~The fingerprints must be taken by an~~

195 ~~authorized law enforcement agency. The office shall submit the~~

196 ~~fingerprints to the Department of Law Enforcement for state~~

197 ~~processing, and the Department of Law Enforcement shall forward~~

198 ~~the fingerprints to the Federal Bureau of Investigation for~~

199 ~~federal processing. The cost of the fingerprint processing may~~

200 ~~be borne by the office, the employer, or the person subject to~~

201 ~~the criminal records background check. The office shall screen~~

202 ~~the background results to determine if the applicant meets~~

203 ~~licensure requirements. As used in this section, The term~~

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204 "publicly traded" means a stock is currently traded on a

205 national securities exchange registered with the federal

206 Securities and Exchange Commission or traded on an exchange in a

207 country other than the United States regulated by a regulator

208 equivalent to the Securities and Exchange Commission and the

209 disclosure and reporting requirements of such regulator are

210 substantially similar to those of the commission.

211 7. Licensees initially approved before October 1, 2013,

212 seeking renewal must submit fingerprints for each person listed

213 in subparagraph (a)3. for live-scan processing pursuant to this

214 paragraph. Such fingerprints must be submitted before the office

215 may renew licenses set to expire between April 30, 2014, and

216 December 31, 2015.

217 ~~(d)3-~~ A copy of the applicant's written anti-money

218 laundering program required under 31 C.F.R. s. 103.125.

219 ~~(e)4-~~ Within the time allotted by rule, any information

220 needed to resolve any deficiencies found in the application.

221 Section 5. Subsections (1) and (2) of section 560.143,

222 Florida Statutes, are amended to read

223 560.143 Fees.-

224 (1) LICENSE APPLICATION FEES.-The applicable non-refundable

225 fees must accompany an application for licensure:

226 (a) Part II.....\$375.

227 (b) Part III.....\$188.

228 (c) Per branch office.....\$38.

229 (d) For each location of an authorized

230 vendor.....\$38.

231 (e) Declaration as a deferred presentment

232 provider.....\$1,000.

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233 (f) Fingerprint retention fees as prescribed by rule.
234 (g) License application fees for branch offices and
235 authorized vendors are limited to \$20,000 when such fees are
236 assessed as a result of a change in controlling interest as
237 defined in s. 560.127.
238 (2) LICENSE RENEWAL FEES.—The applicable non-refundable
239 license renewal fees must accompany a renewal of licensure:
240 (a) Part II.....\$750.
241 (b) Part III.....\$375.
242 (c) Per branch office.....\$38.
243 (d) For each location of an authorized
244 vendor.....\$38.
245 (e) Declaration as a deferred presentment
246 provider.....\$1,000.
247 (f) Renewal fees for branch offices and authorized vendors
248 are limited to \$20,000 biennially.
249 (g) Fingerprint retention fees as prescribed by rule.
250 Section 6. Except as otherwise expressly provided in this
251 act and except for this section, which shall take effect upon
252 this act becoming a law, this act shall take effect October 1,
253 2013.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 742

INTRODUCER: Senator Evers

SUBJECT: Parole Interview Dates for Certain Inmates

DATE: April 5, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	Favorable
2.	Shankle	Cibula	JU	Favorable
3.	Cantral	Sadberry	ACJ	Favorable
4.			AP	
5.				
6.				

I. Summary:

SB 742 permits the Florida Parole Commission to increase the interval between parole interviews to 7 years for offenders convicted of kidnapping or attempted kidnapping, or of a completed or attempted offense of robbery, burglary of a dwelling, burglary of a structure or conveyance, or breaking and entering when a human being is present and a sexual act is completed or attempted. Interviews for those offenders are currently every 2 years.

This bill substantially amends the following sections of the Florida Statutes: 947.16, 947.174, and 947.1745.

The bill has an indeterminate, but likely insignificant, fiscal impact.

The bill has an effective date of July 1, 2013.

This bill reenacts section 947.165(1), Florida Statutes.

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, 1983.¹ Approximately 5,200 Florida

¹ See s. 921.002(1)(e), F.S., requiring a person convicted of a crime that occurred on or after October 1, 1988, to serve at least 85 percent of the sentence and excluding such persons from eligibility for parole under chapter 947, F.S. This section is a

inmates are still eligible for parole consideration because parole applied to their offense at the time it was committed.²

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 December 31, 2012, 350 offenders were actively supervised on parole from Florida sentences.³

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 parole examiner reviews the inmate's file, interviews the inmate, and makes an initial recommendation.⁴

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.⁵
- 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.⁶

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

revision of ch. 83-87, s. 2, Laws of Fla. (1983), which mandated that all criminals convicted of non-capitol offenses occurring after October 1, 1983, are ineligible for parole.

² Florida Parole Commission, *Annual Report: 2011-2012*, p. 21, available at <https://fpc.state.fl.us/PDFs/FPCAnnualreport201112.pdf>.

³ Florida Department of Corrections, *Community Supervision Population Monthly Status Report*, p. 2, <http://www.dc.state.fl.us/pub/spop/2012/12/tab01.html> (last visited Mar. 28, 2013).

⁴ Section 947.172, F.S.

⁵ Section 947.16(g), F.S.

⁶ *Id.*

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:

The bill amends ss. 947.16, 947.174, and 947.1745, F.S., to extend the commission's authority to increase the interval between parole consideration re-interviews to include cases in which the offender was convicted of: (1) kidnapping or attempted kidnapping; or (2) a completed or attempted offense of robbery, burglary of a dwelling, burglary of a structure or conveyance, or breaking and entering, when 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.

The bill has an effective date of July 1, 2013.

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 (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 two to

five years.⁷ Because there is no legal distinction between increasing the interval from two to five years and increasing it from five to seven 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. If the interview interval for an inmate is changed from two years to seven years, there would be five fewer hearings over a fourteen year period. The total 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. The commission indicates that in Fiscal Year 2015-2016 the bill could result in 44 inmates having their next interview date set within seven years rather than within two years.⁸ However, the bill can have no fiscal impact before Fiscal Year 2015-2016 because it does not alter interview dates that are already scheduled at the time of the effective date.

There would be additional cost to incarcerate an inmate whose interview schedule is extended from two years to seven years if he or she is paroled at the seven year interview interval and would also have been paroled if the interview had been conducted earlier. The cost of incarcerating such an inmate would be approximately \$15,500 for each extra year of incarceration.⁹ However, it is anticipated that few inmates would fall into this category because the expanded interview interval applies only to those inmates whom the commission finds are unlikely to be granted parole.

⁷ See *Tuff v. State*, 732 So. 2d 461 (Fla. 3d DCA 1999) and *Pennoyer v. Briggs*, 206 Fed.Appx. 962 (11th Cir. 2006).

⁸ Florida Parole Commission Proposal Analysis and Economic Impact of HB 685 and SB 742 (February 18, 2013), on file with the Senate Committee on Criminal Justice.

⁹ The average annual cost per inmate for adult male custody DOC facilities, except private facilities, is approximately \$15,500. Department of Corrections Budget Summary (Fiscal Year 2010-2011), available at <http://www.dc.state.fl.us/pub/annual/1011/budget.html> (last viewed on February 22, 2013).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

By Senator Evers

2-00741-13

2013742__

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 development and implementation by the Parole Commission of 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. An ~~Each~~ inmate whose parole release order has been vacated by the court ~~must~~ 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, an ~~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 or attempted kidnapping;
 60 4. Convicted of robbery, burglary of a dwelling, burglary
 61 of a structure or conveyance, or breaking and entering, or the
 62 attempt of any of these crimes, in which a human being is
 63 present and a sexual act is attempted or completed; or
 64 ~~5.3-~~ 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 an any inmate convicted of murder, attempted
 80 murder, sexual battery, or attempted sexual battery, kidnapping
 81 or attempted kidnapping; or of robbery, burglary of a dwelling,
 82 burglary of a structure or conveyance, or breaking and entering
 83 or the attempt of any of these crimes, in which a human being is
 84 present and a sexual act is attempted or completed, or for an
 85 ~~any~~ inmate who has been sentenced to a 25-year minimum mandatory
 86 sentence previously provided in s. 775.082, and whose
 87 presumptive parole release date is more than 7 years after the

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88 date of the initial interview, a hearing examiner shall schedule
 89 an interview for review of the presumptive parole release date.
 90 The interview ~~must shall~~ take place once within 7 years after
 91 the initial interview and once every 7 years thereafter if the
 92 commission finds that it is not reasonable to expect that parole
 93 will be granted at a hearing during the following years and
 94 states the bases for the finding in writing. For an any inmate
 95 who is within 7 years of his or her tentative release date, the
 96 commission may establish an interview date before the 7-year
 97 schedule.
 98 Section 3. Subsection (6) of section 947.1745, Florida
 99 Statutes, is amended to read:
 100 947.1745 Establishment of effective parole release date.-If
 101 the inmate's institutional conduct has been satisfactory, the
 102 presumptive parole release date shall become the effective
 103 parole release date as follows:
 104 (6) Within 90 days before the effective parole release date
 105 interview, the commission shall send written notice to the
 106 sentencing judge of an any inmate who has been scheduled for an
 107 effective parole release date interview. If the sentencing judge
 108 is no longer serving, the notice must be sent to the chief judge
 109 of the circuit in which the offender was sentenced. The chief
 110 judge may designate any circuit judge within the circuit to act
 111 in the place of the sentencing judge. Within 30 days after
 112 receipt of the commission's notice, the sentencing judge, or the
 113 designee, shall send to the commission notice of objection to
 114 parole release, if the judge objects to the such release. If
 115 there is an objection by the judge, the such objection may
 116 constitute good cause in exceptional circumstances as described

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117 in s. 947.173, and the commission may schedule a subsequent
 118 review within 2 years, extending the presumptive parole release
 119 date beyond that time. However, for an inmate who has been:
 120 (a) Convicted of murder or attempted murder;
 121 (b) Convicted of sexual battery or attempted sexual
 122 battery; ~~or~~
 123 (c) Convicted of kidnapping or attempted kidnapping;
 124 (d) Convicted of robbery, burglary of a dwelling, burglary
 125 of a structure or conveyance, or breaking and entering, or the
 126 attempt of any of these crimes, in which a human being is
 127 present and a sexual act is attempted or completed; or
 128 (e)~~(e)~~ Sentenced to a 25-year minimum mandatory sentence
 129 previously provided in s. 775.082,
 130
 131 the commission may schedule a subsequent review under this
 132 subsection once every 7 years, extending the presumptive parole
 133 release date beyond that time if the commission finds that it is
 134 not reasonable to expect that parole would be granted at a
 135 review during the following years and states the bases for the
 136 finding in writing. For an ~~any~~ inmate who is within 7 years of
 137 his or her release date, the commission may schedule a
 138 subsequent review before ~~prior to~~ the 7-year schedule. With any
 139 subsequent review the same procedure outlined above will be
 140 followed. If the judge remains silent with respect to parole
 141 release, the commission may authorize an effective parole
 142 release date. This subsection applies if the commission desires
 143 to consider the establishment of an effective release date
 144 without delivery of the effective parole release date interview.
 145 Notice of the effective release date must be sent to the

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146 sentencing judge, and either the judge's response to the notice
 147 must be received or the time period allowed for such response
 148 must elapse before the commission may authorize an effective
 149 release date.
 150 Section 4. For the purpose of incorporating the amendment
 151 made by this act to section 947.1745, Florida Statutes, in a
 152 reference thereto, subsection (1) of section 947.165, Florida
 153 Statutes, is reenacted to read:
 154 947.165 Objective parole guidelines.-
 155 (1) The commission shall develop and implement objective
 156 parole guidelines which shall be the criteria upon which parole
 157 decisions are made. The objective parole guidelines shall be
 158 developed according to an acceptable research method and shall
 159 be based on the seriousness of offense and the likelihood of
 160 favorable parole outcome. The guidelines shall require the
 161 commission to aggravate or aggregate each consecutive sentence
 162 in establishing the presumptive parole release date. Factors
 163 used in arriving at the salient factor score and the severity of
 164 offense behavior category shall not be applied as aggravating
 165 circumstances. If the sentencing judge files a written objection
 166 to the parole release of an inmate as provided for in s.
 167 947.1745(6), such objection may be used by the commission as a
 168 basis to extend the presumptive parole release date.
 169 Section 5. This act shall take effect July 1, 2013.

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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 Appropriations Subcommittee on Criminal and Civil Justice

BILL: CS/SB 890

INTRODUCER: Criminal Justice Committee and Senator Braynon

SUBJECT: False Personation

DATE: April 2, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	Favorable
2.	<u>Cantral</u>	<u>Sadberry</u>	<u>ACJ</u>	Favorable
3.	_____	_____	<u>AP</u>	_____
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:

CS/SB 890 provides for various penalties for false personation of a firefighter.

The bill also punishes owning or operating a motor vehicle marked or identified with various indicia indicating the vehicle is used by a fire department (e.g., marked with the words “fire department”) with the intent to mislead or cause another person to believe that such vehicle is an official vehicle of that agency and is authorized to be used by that agency, unless the vehicle is owned or operated by the appropriate agency and its use is authorized by the agency, the fire department authorizes the use of the vehicle, or the person is appointed by the Governor pursuant to ch. 354, F.S. (special officers for carriers).

SB 890 has an insignificant fiscal impact. The Criminal Justice Impact Conference met on February 27, 2013 and determined the original bill would have an insignificant impact on prison beds. The bill further limits penalties to false personation of firefighters.

The bill has an effective date of October 1, 2013.

This bill substantially amends the following sections of the Florida Statutes: 843.08; 843.085; and 921.0022.

II. Present Situation:

False Personation of Law Enforcement Officers and Other Specified Officers/Positions (s. 843.08, F.S.)

Section 843.08, F.S., punishes false personation of a law enforcement officer and other specified persons. A person commits this false personation offense if he or she falsely assumes or pretends to be any of the following officers/positions and takes upon himself or herself to act as such or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer/position:

- A sheriff.
- Officer of the Florida Highway Patrol.
- Officer of the Fish and Wildlife Conservation Commission.
- Officer of the Department of Transportation.
- Officer of the Department of Financial Services.
- Officer of the Department of Corrections.
- Correctional probation officer.
- Deputy sheriff.
- State attorney or assistant state attorney.
- Statewide prosecutor or assistant statewide prosecutor.
- State attorney investigator.
- Coroner.
- Police officer.
- Lottery special agent or lottery investigator.
- Beverage enforcement agent.
- Watchman.
- Any member of the Parole Commission and any administrative aide or supervisor employed by the commission.
- Any personnel or representative of the Florida Department of Law Enforcement (FDLE).
- A federal law enforcement officer as defined in s. 901.1505, F.S.

It is a third degree felony to commit this offense.¹ However, a person who falsely personates any such officer/position during the course of the commission of a felony commits a second degree felony² or, if the commission of the felony results in the death or personal injury of another human being, a first degree felony.³

¹ A third degree felony is punishable by up to 5 years in state prison, a fine of up to \$5,000, or both. Sections 775.082 and 775.083, F.S.

² A second degree felony is punishable by up to 15 years in state prison, a fine of up to \$10,000, or both. Sections 775.082 and 775.083, F.S.

³ A first degree felony is generally punishable by up to 30 years in state prison, a fine of up to \$10,000, or both. Sections 775.082 and 775.083, F.S.

Unlawful Marking of a Motor Vehicle (s. 843.085, F.S.)

Section 843.085(2), F.S., provides that it is unlawful for a person to own or operate a motor vehicle marked or identified in any manner or combination by the word or words “police,” “patrolman,” “sheriff,” “deputy,” “trooper,” “highway patrol,” “commission officer,” “Wildlife Officer,” “Marine Patrol Officer,” “marshal,” “constable,” or “bailiff,” or by any lettering, marking, or insignia, or colorable imitation thereof, including, but not limited to, stars, badges, or shields, officially used to identify the vehicle as a federal, state, county, or municipal law enforcement vehicle or a vehicle used by a criminal justice agency as defined in s. 943.045, F.S., which could deceive a reasonable person into believing that such vehicle is authorized by any of these agencies for use by the person operating the motor vehicle, unless such vehicle is owned or operated by the appropriate agency and its use is authorized by such agency, or the local law enforcement agency authorizes the use of such vehicle or unless the person is appointed by the Governor pursuant to ch. 354, F.S. (special officers for carriers).

This offense is punishable as a first degree misdemeanor.⁴ Section 843.085, F.S., is cumulative to any law now in force in the state

In *Sult v. State*, 906 So.2d 1013 (Fla. 2005), the Florida Supreme Court held that s. 843.085, F.S., (2001), is unconstitutional as overbroad and vague, and also violates the right to substantive due process. The Court only discusses subsection (1) of this statute but the intent language the Court found objectionable also appears in subsections (2) and (3) of the statute.⁵

III. Effect of Proposed Changes:

The bill amends s. 843.08, F.S., to provide for various penalties (see “Present Situation” section of this analysis) for false personation of a firefighter.⁶

The bill also amends s. 843.085, F.S., to punish owning or operating a motor vehicle marked or identified with various indicia indicating the vehicle is used by a fire department (e.g., marked with the words “fire department”) with the intent to mislead or cause another person to believe that such vehicle is an official vehicle of that agency and is authorized to be used by that agency, unless the vehicle is owned or operated by the appropriate agency and its use is authorized by the agency, the fire department authorizes the use of the vehicle, or the person is appointed by the Governor pursuant to ch. 354, F.S. (special officers for carriers).

The inclusion of specific intent language is intended to address the case of *Sult v. State*, *supra*, and, if constitutionally sufficient, would make s. 843.085(2), F.S., enforceable both for unlawfully owning or operating a motor vehicle marked or identified with various indicia indicating the vehicle is used by a fire department and for owning or operating a motor vehicle

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

⁵ The bill does not amend current intent language in s. 843.085(2), F.S.

⁶ The bill does not define “firefighter” by reference to any specific definition of the term in the Florida Statutes. However, most of the descriptive terms for officers/positions listed in the statute are not defined by reference to a statutory definition (e.g., “police officer”). Statutory definitions of “firefighter” vary. *See e.g.*, ss. 633.30(1), 633.802(1), and 784.07(1)(b), F.S.

marked or identified with various indicia indicating the vehicle is used by a law enforcement agency.

The bill also amends s. 921.0022, F.S., the offense severity ranking chart of the Criminal Punishment Code, to make technical, corrective change to descriptive language regarding the current ranking of false personation under s. 843.08, F.S.

The effective date of the bill is October 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the official estimate of the prison bed impact, if any, of legislation, estimated that the original bill would have an insignificant prison bed impact. The penalty provisions of the bill are only modified by the committee substitute to the extent that they apply to false personation of firefighters only (original bill also included various “criminal justice agency” personnel).

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 April 1, 2013:

- Punishes only false personation of a firefighter (original bill also included various “criminal justice agency” personnel).
- Punishes owning or operating a motor vehicle marked or identified with various indicia indicating the vehicle is used by a fire department (e.g., marked with the words “fire department”) with the intent to mislead or cause another person to believe that such vehicle is an official vehicle of that agency and is authorized to be used by that agency, unless the vehicle is owned or operated by the appropriate agency and its use is authorized by the agency, the fire department authorizes the use of the vehicle, or the person is appointed by the Governor pursuant to ch. 354, F.S. (special officers for carriers).

- B. **Amendments:**

None.

By the Committee on Criminal Justice; and Senator Braynon

591-03342A-13

2013890c1

A bill to be entitled

An act relating to false personation; amending s. 843.08, F.S.; prohibiting a person from falsely personating a firefighter; amending s. 843.085, F.S.; prohibiting operation or ownership of a motor vehicle falsely marked with the intent to mislead or cause another person to believe that such vehicle is authorized by a fire department for use by the person operating it; providing an exception; amending s. 921.0022, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 843.08, Florida Statutes, is amended to read:

843.08 False personation ~~Falsely personating officer, etc.~~— A person who falsely assumes or pretends to be a firefighter, sheriff, officer of the Florida Highway Patrol, officer of the Fish and Wildlife Conservation Commission, officer of the Department of Transportation, officer of the Department of Financial Services, officer of the Department of Corrections, correctional probation officer, deputy sheriff, state attorney or assistant state attorney, statewide prosecutor or assistant statewide prosecutor, state attorney investigator, coroner, police officer, lottery special agent or lottery investigator, beverage enforcement agent, or watchman, or any member of the Parole Commission and any administrative aide or supervisor employed by the commission, or any personnel or representative

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591-03342A-13

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of the Department of Law Enforcement, or a federal law enforcement officer as defined in s. 901.1505, and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, a person who falsely personates any such officer during the course of the commission of a felony commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the commission of the felony results in the death or personal injury of another human being, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Subsections (2) and (4) of section 843.085, Florida Statutes, are amended to read:

843.085 Unlawful use of police badges or other indicia of authority.—It is unlawful for any person:

(2) To own or operate a motor vehicle marked or identified in any manner or combination by the word or words "police," "patrolman," "sheriff," "deputy," "trooper," "highway patrol," "commission officer," "Wildlife Officer," "Marine Patrol Officer," "marshal," "constable," ~~or~~ "bailiff," or "fire department," or by any lettering, marking, or insignia, or colorable imitation thereof, including, but not limited to, stars, badges, or shields, officially used to identify the vehicle as a federal, state, county, or municipal law enforcement vehicle or a vehicle used by a criminal justice agency as ~~now or hereafter~~ defined in s. 943.045, or a vehicle used by a fire department with the intent to mislead or cause

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591-03342A-13 2013890c1

59 another person to believe that such vehicle is an official
 60 vehicle of that agency and is authorized to be used by that
 61 ~~agency which could deceive a reasonable person into believing~~
 62 ~~that such vehicle is authorized by any of the agencies described~~
 63 ~~above for use by the person operating the motor vehicle,~~ unless
 64 such vehicle is owned or operated by the appropriate agency and
 65 its use is authorized by such agency, ~~or~~ the local law
 66 enforcement agency or fire department authorizes the use of such
 67 vehicle, or unless the person is appointed by the Governor
 68 pursuant to chapter 354.

69 (4) ~~Nothing in~~ This section does not shall prohibit a
 70 fraternal, benevolent, or labor organization or association, or
 71 their chapters or subsidiaries, from using the following words,
 72 in any manner or in any combination, if those words appear in
 73 the official name of the organization or association: "police,"
 74 "patrolman," "sheriff," "deputy," "trooper," "highway patrol,"
 75 "commission officer," "Wildlife Officer," "Marine Patrol
 76 Officer," "marshal," "constable," ~~or~~ "bailiff," or "fire
 77 department."

78 Section 3. Paragraph (b) of subsection (3) of section
 79 921.0022, Florida Statutes, is amended to read:
 80 921.0022 Criminal Punishment Code; offense severity ranking
 81 chart.-

82 (3) OFFENSE SEVERITY RANKING CHART
 83 (b) LEVEL 2

Florida Statute	Felony Degree	Description
-----------------	---------------	-------------

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379.2431	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
(1) (e) 3.		
379.2431	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
(1) (e) 4.		
403.413 (5) (c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07 (2)	3rd	Failure to furnish a prospectus meeting requirements.
590.28 (1)	3rd	Intentional burning of lands.
784.05 (3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04 (1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
806.13 (1) (b) 3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.

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	810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
94			
	810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
95			
	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or more but less than \$5,000.
96			
	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.
97			
	812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
98			
	817.234(1)(a)2.	3rd	False statement in support of insurance claim.
99			
	817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
100			
	817.52(3)	3rd	Failure to redeliver hired vehicle.
101			
	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.

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

	591-03342A-13		2013890c1
102			
	817.60(5)	3rd	Dealing in credit cards of another.
103			
	817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
104			
	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
105			
	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
106			
	831.01	3rd	Forgery.
107			
	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
108			
	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
109			
	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
110			
	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
111			
	831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.

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591-03342A-13

2013890c1

112

832.05(3)(a) 3rd Cashing or depositing item with intent
to defraud.

113

843.08 3rd False personation ~~Falsely impersonating
an officer.~~

114

893.13(2)(a)2. 3rd Purchase of any s. 893.03(1)(c),
(2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9.,
(3), or (4) drugs other than cannabis.

115

893.147(2) 3rd Manufacture or delivery of drug
paraphernalia.

116

117

Section 4. This act shall take effect October 1, 2013.

The bill substantially amends sections 322.051, 382.0255, 944.605, and 944.803 of the Florida Statutes.

II. Present Situation:

Reentry Programs for Nonviolent Offenders

Inmates who enter prison often have shortcomings in one or more areas of education, employment skills, substance abuse-free living, and mental health that contributed to their current situation. For example, 24.6 percent of the inmates admitted to prison during Fiscal Year 2011-2012 had been convicted of a drug crime¹ and almost two-thirds of inmates who enter prison for any crime also have a substance abuse problem.² Unless addressed, these deficiencies are likely to contribute to re-offending and a return to prison.

In the past decade the executive and legislative branches of state government have acknowledged the importance of reentry services and post-release planning and transition. In May 2007, the Department of Corrections revised its mission statement to include assisting offenders with reentry into society in order to reduce recidivism and to lower crime rates. The department's reported goal was to bring down the three-year post-release recidivism rate from 32 percent to 20 percent by 2012. The department reports that the three-year post-release recidivism rate for inmates released in 2008 was 27.6 percent.³

The department reports that it focuses on the following core programs in its reentry programming:⁴

- Faith and Character/Purposeful Living Units Serve
- United States Department of Labor apprenticeships
- Vocational training
- Thinking for a Change
- 100 Hour Transition⁵
- Veteran's units
- Education
- Substance abuse

Faith- and Character-based Programs

In 1999, the department opened its first faith-based dormitory in cooperation with Kairos Horizon at Tomoka Correctional Institution. Several other faith-based dormitories were opened

¹ Fla. Dep't of Corrections, *Inmate Admissions*, http://www.dc.state.fl.us/pub/annual/1112/stats/im_admis.html (last visited March 28, 2013).

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 Department of Corrections, *Recidivism Rates Over Time*, "<http://www.dc.state.fl.us/pub/recidivism/2013.html> (last visited on March 28, 2013).

⁴ Department of Corrections Reentry Core programs, <http://www.dc.state.fl.us/reentry/programs.shtml> (last visited on March 26, 2013).

⁵ This program is mandated by s. 944.7065, F.S., for inmates who are within 12 months of release.

around the state beginning in 2000. In 2001, the Legislature required the department to have six additional faith-based dormitory programs fully operational by June 1, 2002.⁶ In 2003, Lawtey Correctional Institution became the first faith-based institution. The department currently has faith and character-based programs at 11 institutions:⁷

Faith and Character Based Residential Facilities		
Location	Capacity	Gender
<i>Dormitories</i>		
Tomoka C.I.	290	Male
Polk C.I.	128	Male
Lowell RC.	344	Female
Gulf – Annex	128	Male
Everglades C.I.	128	Male
Lancaster C.I.	62	Youthful offenders
Union C.I.	96	Male over 50
Hernando CI	181	Female
<i>Total Dormitories</i>	1357	
<i>Prisons</i>		
Lawtey C.I.	835	Male
Wakulla C.I.	1,711	Male
Wakulla Annex	1532	Male
<i>Total Prison</i>	4078	
TOTAL CAPACITY	5435	

OPPAGA’s 2009 review of faith and character-based programs found that institution-wide programs had a positive effect on inmate institutional adjustment and security, and a positive but modest effect on reducing recidivism. Dormitory-based programs also had a positive effect on institutional adjustment and security, but had no effect on recidivism.⁸

Identification Cards and Social Security Cards

One of the challenges facing inmates when they reenter society is a lack of proper identification. Inmates are issued an identification card during the reception process and are required to display it at all times while incarcerated. This serves the department’s need to account for each inmate while incarcerated, and the inmate may retain the identification card for use when released from prison. However, the inmate identification card has limited usefulness outside the prison setting, carries an inherent stigma, and is not always accepted as identification. Any other identification card that the inmate had when incarcerated, such as a driver’s license or social security card, is returned to them upon release. However, many inmates do not bring identification with them when they enter prison, and identification left with someone else is often either lost or expired by

⁶ Section 13, Chapter 2001-110, Laws of Florida.

⁷ “Faith- and Character-Based Residential Programs,” <http://www.dc.state.fl.us/oth/faith/index.html> (last visited on April 2, 2013).

⁸ OPPAGA Report No. 09-38 (October 2009), “Faith- and Character-Based Prison Initiative Yields Institutional Benefits; Effect on Recidivism Modest,” pp. 3-6.

the time they are released. Without proper identification and documentation upon release, inmates may be unable to acquire public assistance, legitimate transportation or employment, and housing.⁹

Section 322.051, F.S., provides for issuance of an official state identification card by the DHSMV. Issuance of a state identification card requires presentation of documentation that is sufficient to prove the applicant's identity in accordance with the state statute and the federal REAL ID Act. Many released inmates do not have this required documentation, and very few have it available while they are incarcerated.

The department reports that it works in cooperation with DHSMV and the Department of Health's Bureau of Vital Statistics to obtain identification cards for inmates prior to release.¹⁰ The department obtains birth certificates from the DOH and works with DHSMV for dispatch of the FLOWmobile (Florida Licensing On Wheels vehicle) to department facilities. In 2011 and 2012, a total of 30 visits were made, with 1100 identification cards issued to inmates.¹¹

In addition to its efforts to obtain identification cards, the department has a Memorandum of Understanding with the Social Security Administration to expedite the process for inmates to obtain replacement Social Security cards.¹²

The inmate must pay \$9 to obtain a Florida birth certificate and \$25 to obtain an identification card. The cost and difficulty of obtaining an out-of-state birth certificate varies from state to state.

III. Effect of Proposed Changes:

Identification Cards

The bill requires the department to provide every Florida-born inmate with a certified copy of their birth certificate and a state identification card before release from prison. To obtain a birth certificate, the department must submit a photo and specified personal information of all Florida-born inmates in its custody to DOH. An inmate's failure to cooperate in providing the required information may result in disciplinary action. The department is also required to assist all inmates with obtaining a social security card before release if needed.

The bill requires the department to assist inmates born outside of Florida with completing forms needed to apply for a social security card, drivers license, or state identification card. The department must also provide the inmate with the address of the appropriate agency near his or her expected release address where an identification card can be obtained.

The bill amends s. 382.0255, F.S, to require DOH to waive all fees for an inmate to acquire a certified copy of his or her birth certification through the new process created in the bill. It also

⁹ See Office of Program Policy Analysis and Governmental Accountability (OPPAGA), *Department of Corrections Should Maximize Use of Best Practice in Inmate Rehabilitation Efforts*, Report No. 09-44 (December 2009), pages 5-6.

¹⁰ Department of Corrections Analysis of Senate Bill 1032 (2013), p. 9.

¹¹ House of Representatives Staff Analysis of PCB JDC 13-01 (now HB 7121), p. 3.

¹² Department of Corrections Analysis of Senate Bill 2616 (2009), p. 3.

amends s. 322.051, F.S., to require DHSMV to issue a state identification for no charge to an inmate who obtains the card through the new process created in the bill.

The department is not required to provide a birth certificate and state identification card to an inmate who:

- Already has a valid driver license or state identification card;
- Has an active detainer, unless cancellation of the detainer is likely or if the incarceration for which the detainer was issued will be for less than twelve months;
- Is released due to emergency release or conditional medical release;
- Is not in the department's physical custody at or within 180 days before release; or
- Is subject to sex offender residency restrictions and does not have a qualifying address.

The bill requires the department to make an annual report that identifies the number of inmates who are released with or without identification cards as well as any impediments to implementation of the identification card program, and recommends any needed improvements.

Faith and Character-Based Programs

The bill amends s. 944.803, F.S., to encourage the department to maintain faith and character-based institutions to serve both male and female inmates. Currently there are no faith and character based institutions for females. It also requires peer-to-peer programs, such as Alcoholics Anonymous and literacy instruction, to be offered at faith and character-based institutions.

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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill does not appear to have any fiscal impact on the private sector except to the extent that any private service providers are selected by the department and benefit from funds received for their services.

C. Government Sector Impact:

The bill may have a significant fiscal impact upon selected state revenues.

It does not appear the bill would require the Department of Health, the Department of Highway Safety and Motor Vehicles, or the judicial system to incur additional costs. The Department of Corrections would incur an additional cost if it provided access to the Florida Ready to Work Certification Program for all inmates who are within two years of their release date. This cost would be for training and education and the assessment tests, which cost \$12 per inmate. The department indicates that it spent \$24,000 on grant money in Fiscal Year 2011-2012, and that 1187 certificates were earned by inmates.

The bill will have a negative fiscal impact on state revenues due to the waiver of the fee for a state identification card¹³ and the waiver of the charge for a certified copy of a Florida birth certificate¹⁴. DOC estimates that an average of approximately 14,500 Florida-born inmates will be released annually for the next five years. The following table indicates the maximum amount of revenue that could potentially be lost as a result of the waiver of fees for issuing an identification card and a social security card to Florida-born inmates. However, the actual amount of lost revenue is expected to be much less for several reasons, including: (1) many inmates will not receive one or both documents because of the exclusions included in the bill and the logistical difficulties in getting inmates to a DHSMV facility or having an on-site FLOWmobile visit; (2) many inmates would not have obtained either or both documents on their own initiative either before or after release, so the agencies would not have otherwise received fees from those inmates; and (3) many inmates who receive a state identification card will obtain a driver's license after release, so the agencies will still receive fees from them.

¹³ Section 322.21(f), F.S., directs that the \$25 fee for issuing a state identification card goes to the General Revenue Fund. For renewals, \$6 of the fee goes to the Highway Safety Operating Trust Fund and \$19 to the General Revenue Fund.

¹⁴ Section 382.0255(4), F.S., provides that fees charged for issuing a copy of a birth certificate are deposited into a DOH trust fund.

Maximum Revenue Loss for Issue of Birth Certificates and Identification Cards to all Florida-born Inmates at No Cost (Assumes Issue to Every Released Inmate)			
Fiscal Year	Florida –born inmate releases (based on CJEC projections)	Maximum lost revenue for issue of birth certificates (\$9)*	Maximum lost revenue for issue of identification cards (\$25)*
2013-2014	14,821	\$133,389	\$370,525
2014-2015	14,604	\$131,436	\$365,100
2015-2016	14,646	\$131,814	\$366,150
2016-2017	14,754	\$132,786	\$368,850
2017-2018	14,945	\$134,586	\$373,625
* These amounts are based upon issue to every Florida-born inmate. As noted above, the actual amount of lost revenue is expected to be significantly less.			

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 and Civil Justice Appropriations on April 11, 2013:

- Deletes the provisions related to the reentry program sentence.
- Deletes the provisions requiring every inmate within two years of his or her projected release date to have access to skills assessment and training to complete a certificate program.
- Requires the Department of Corrections to annually report the number of inmates released with and without identification cards, identify impediments to this provision and provide recommendations to improve obtaining inmate release documents and identification cards.

CS by Criminal Justice on April 1, 2013:

- Requires the department to provide every Florida-born inmate with a state identification card and a certified copy of his or her birth certificate, with some exceptions.
- Requires the department to provide every inmate who is within two years of release access to the Florida Ready to Work Certification Program.
- Requires the department to use peer-to-peer programs at faith and character based institutions.

- Deletes provisions relating to the creation of Correctional Reentry Treatment Facilities.
- Creates a conditional split sentence of incarceration with reentry programming followed by drug offender probation for certain non-violent third degree felons who are determined by the court to have substance abuse issues.

B. Amendments:

None.

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



382656

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2013	.	
	.	
	.	
	.	

Appropriations Subcommittee on Criminal and Civil Justice
(Altman) recommended the following:

Senate Amendment

Delete lines 103 - 107
and insert:

(f) The department shall, as part of its annual report,
provide a report that identifies



867416

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2013	.	
	.	
	.	
	.	

Appropriations Subcommittee on Criminal and Civil Justice
(Altman) recommended the following:

Senate Amendment

Between lines 186 and 187
insert:

(b) The sentencing court, in evaluating an offender's
eligibility for the reentry program, may consider the offender's
prior arrest record.



483108

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2013	.	
	.	
	.	
	.	

Appropriations Subcommittee on Criminal and Civil Justice
(Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 138 - 297.

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

And the title is amended as follows:

Delete lines 17 - 29

and insert:

institutions; providing an effective date.



906692

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2013	.	
	.	
	.	
	.	

Appropriations Subcommittee on Criminal and Civil Justice
(Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 112 - 121.

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

And the title is amended as follows:

Delete lines 13 - 14

and insert:

state; requiring a report; amending s.

By the Committee on Criminal Justice; and Senator Altman

591-03344-13

20131032c1

1 A bill to be entitled
 2 An act relating to inmate reentry; amending s.
 3 322.051, F.S.; waiving the fee for identification
 4 cards issued to certain inmates; amending s. 382.0255,
 5 F.S.; requiring a waiver of fees for certain inmates
 6 receiving a copy of a birth certificate; amending s.
 7 944.605, F.S.; requiring the Department of Corrections
 8 to work with other agencies in acquiring necessary
 9 documents for certain inmates to acquire an
 10 identification card before release; providing
 11 exceptions; requiring the department to provide
 12 specified assistance to inmates born outside this
 13 state; requiring a report; amending s. 944.801, F.S.;
 14 requiring skills assessment and training; amending s.
 15 944.803, F.S.; authorizing the department to operate
 16 male and female faith- and character-based
 17 institutions; creating s. 948.0125, F.S.; directing
 18 the department to establish a reentry program for
 19 nonviolent offenders; providing eligibility and
 20 participation requirements; providing guidelines where
 21 the department shall terminate inmate's participation
 22 in program; providing for inmate to participate in
 23 drug offender probation upon completion of in-prison
 24 reentry program; authorizing use of postadjudicatory
 25 drug court for program participant; authorizing the
 26 department to contract for services; providing that no
 27 rights are conferred upon inmates to participate in
 28 reentry program; providing for reports and rulemaking
 29 authority; providing an effective date.

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20131032c1

30
 31 Be It Enacted by the Legislature of the State of Florida:
 32
 33 Section 1. Subsection (9) of section 322.051, Florida
 34 Statutes, is amended to read:
 35 322.051 Identification cards.—
 36 (9) Notwithstanding any other provision of this section or
 37 s. 322.21 to the contrary, the department shall issue or renew a
 38 card at no charge to a person who presents evidence satisfactory
 39 to the department that he or she is homeless as defined in s.
 40 414.0252(7) or to an inmate receiving a card issued pursuant to
 41 s. 944.605(7).
 42 Section 2. Subsection (3) of section 382.0255, Florida
 43 Statutes, is amended to read:
 44 382.0255 Fees.—
 45 (3) Fees shall be established by rule. However, until rules
 46 are adopted, the fees assessed pursuant to this section shall be
 47 the minimum fees cited. The fees established by rule must be
 48 sufficient to meet the cost of providing the service. All fees
 49 shall be paid by the person requesting the record, are due and
 50 payable at the time services are requested, and are
 51 nonrefundable, except that, when a search is conducted and no
 52 vital record is found, any fees paid for additional certified
 53 copies shall be refunded. The department may waive all or part
 54 of the fees required under this section for any government
 55 entity. The department shall waive all fees required under this
 56 section for a certified copy of a birth certificate issued for
 57 purposes of an inmate acquiring a state identification card
 58 before release pursuant to s. 944.605(7).

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

591-03344-13 20131032c1

59 Section 3. Subsection (7) is added to section 944.605,
 60 Florida Statutes, to read:
 61 944.605 Inmate release; notification; identification card.-
 62 (7) (a) The department, working in conjunction with the
 63 Department of Health and the Department of Highway Safety and
 64 Motor Vehicles, shall provide every Florida-born inmate with a
 65 certified copy of their birth certificate and a state
 66 identification card before his or her release upon expiration of
 67 the inmate's sentence.
 68 (b) Paragraph (a) does not apply to inmates who:
 69 1. The department determines have a valid driver license or
 70 state identification card.
 71 2. Have an active detainer, unless the department
 72 determines that cancellation of the detainer is likely or that
 73 the incarceration for which the detainer was issued will be less
 74 than 12 months in duration.
 75 3. Are released due to an emergency release or a
 76 conditional medical release under s. 947.149.
 77 4. Are not in the physical custody of the department at or
 78 within 180 days before release.
 79 5. Are subject to sex offender residency restrictions, and
 80 who, upon release under such restrictions, do not have a
 81 qualifying address.
 82 (c) The department shall assist each inmate in applying for
 83 and obtaining a social security card before release if the
 84 inmate needs a social security card.
 85 (d) The department, for purposes of assisting the inmate in
 86 obtaining a birth certificate, shall submit to the Department of
 87 Health on all Florida-born inmates in its custody, the

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88 department's inmate photo or digitized photo, and as provided by
 89 the inmate his or her date of birth, full name at birth and any
 90 subsequent legal name changes, city or county of birth, mother's
 91 full name including her maiden surname, and father's full name.
 92 Failure of the inmate to cooperate with the department in
 93 providing this information may subject the inmate to
 94 disciplinary action.
 95 (e) For inmates born outside of this state, the department
 96 shall assist the inmate in completing the necessary forms or
 97 applications to obtain a social security card, driver license,
 98 or state identification card. The department shall also provide
 99 the inmate with the location and address of the appropriate
 100 licensing authority the inmate will need to obtain a valid
 101 identification card in proximity to the inmate's release
 102 address.
 103 (f) By February 1, 2014, and annually thereafter, the
 104 department, in consultation with the Department of Highway
 105 Safety and Motor Vehicle and the Department of Health, shall
 106 provide a report to the Governor, the President of the Senate,
 107 and the Speaker of the House of Representatives that identifies
 108 the number of inmates released with and without identification
 109 cards, identifies any impediments in the implementation of this
 110 subsection, and provides recommendations to improve obtaining
 111 release documents and identification cards for all inmates.
 112 Section 4. Section 944.801, Florida Statutes is amended to
 113 create a new paragraph (j):
 114 (j) Ensure that every inmate within two years of his or her
 115 projected release date has access to skills assessment and
 116 training as defined by s. 445.06 and is offered the opportunity

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117 to complete the certificate program. The requirements of this
 118 paragraph are contingent upon and limited to the extent that
 119 funding is available and determination by the department that
 120 such access will not present a security, safety, or management
 121 risk.

122 Section 5. Subsections (2) and (6) of section 944.803,
 123 Florida Statutes, are amended to read:

124 944.803 Faith- and character-based programs.—

125 (2) It is the intent of the Legislature that the department
 126 expand the faith- and character-based initiative through the use
 127 of faith- and character-based institutions. The department is
 128 encouraged to phase out the faith-based and self improvement
 129 dormitory programs and move toward the goal of only implementing
 130 faith- and character-based institutions. The department is also
 131 encouraged to dedicate and maintain faith- and character-based
 132 institutions that serve both male and female inmates at their
 133 respective institutions.

134 (6) Within faith- and character-based institutions of the
 135 state correctional system, peer-to-peer programming shall be
 136 offered ~~allowed~~, such as Alcoholics Anonymous, literacy
 137 instruction, and other activities, ~~when appropriate~~.

138 Section 6. Section 948.0125, Florida Statutes, is created
 139 to read:

140 948.0125 Reentry program sentence.—

141 (1) PROGRAM DEVELOPMENT.—The department shall develop and
 142 implement a reentry program for nonviolent drug offenders. The
 143 program shall provide a mechanism by which an eligible,
 144 nonviolent offender for whom the reentry program has been
 145 ordered as part of his or her conditional split sentence by the

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146 court may be transitioned into the community during the last
 147 year of the sentence. The reentry program shall consist of a
 148 prison-based substance abuse treatment program for a minimum of
 149 180 days and a community-based aftercare treatment program. The
 150 reentry program may include a work-release component.

151 (2) ELIGIBILITY.—For an offender to participate in the
 152 reentry program, the court at the time of ordering a state
 153 prison sentence must have imposed a conditional split sentence
 154 whereby the offender is ordered into the department's reentry
 155 program that consists of an in-prison treatment component, and
 156 upon successful completion of the in-prison treatment, drug
 157 offender probation. Entry into the department's reentry program
 158 is subject to available funding and resources of the department.

159 (a) The sentencing court may order the offender into the
 160 department's reentry program if the offender meets the following
 161 criteria:

162 1. The offender's primary offense is a felony of the third
 163 degree.

164 2. The sentencing court, after requesting and reviewing a
 165 presentence investigation report prepared pursuant to s.
 166 921.231, has found that the offender has a substance abuse
 167 problem.

168 3. The offender has never been convicted of:

169 a. A forcible felony as defined in s. 776.08.

170 b. An offense listed in s. 775.082(9)(a)1.r. without regard
 171 to prior incarceration or release.

172 c. An offense described in chapter 847 involving a minor or
 173 a depiction of a minor.

174 d. An offense described in chapter 827.

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175 e. Any offense described in s. 784.07, s. 784.074, s.
 176 784.075, s. 784.076, s. 784.08, s. 784.083, or s. 784.085.
 177 f. An offense involving the possession or use of a firearm.
 178 g. A capital felony or a felony of the first or second
 179 degree.
 180 h. An offense that requires a person to register as a
 181 sexual offender pursuant to s. 943.0435.
 182 i. An offense that includes as an element of that offense
 183 the sale of a controlled substance.
 184 j. An offense in another jurisdiction that would be an
 185 offense described in this subparagraph if that offense had been
 186 committed in this state.
 187 (b) Placement on drug offender probation shall be
 188 conditioned upon the offender's successful completion of the in-
 189 prison treatment component of the program.
 190 (3) ADMISSION AND PARTICIPATION IN THE REENTRY PROGRAM.—If
 191 an offender meets the eligibility criteria under subsection (2),
 192 the sentencing court may order the reentry program at the time
 193 of sentencing. Admission into the reentry program, and an
 194 offender's continued participation in the program, is not a
 195 right. Accordingly, a sentencing court is not required to
 196 sentence an offender to the reentry program and an offender,
 197 based upon conduct in prison, may lose eligibility to continue
 198 participating in the reentry program.
 199 (4) PROCEDURE UPON ADMISSION TO PROGRAM; IN-PRISON
 200 TREATMENT.—If the sentencing court orders the offender into the
 201 reentry program, the department shall, subject to available
 202 funding and resources, place the offender into the in-prison
 203 treatment component not more than 9 months before the end of the

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204 offender's incarceration portion of the split sentence,
 205 including any gain time accrued.
 206 (a) Before the offender completes the in-prison treatment
 207 component, the department shall evaluate the offender's needs
 208 for community placement and develop a postrelease treatment plan
 209 that includes substance abuse aftercare services.
 210 (b) An offender in the in-prison component of the reentry
 211 program is subject to the rules of conduct established by the
 212 department and may have sanctions imposed, including loss of
 213 privileges, restrictions, disciplinary confinement, forfeiture
 214 of gain-time or the right to earn gain-time in the future,
 215 alteration of release plans, termination from the reentry
 216 program, or other program modifications in keeping with the
 217 nature and gravity of the program violation. The department may
 218 place an offender in the reentry program in an administrative or
 219 protective confinement, as necessary. Except as provided in
 220 paragraph (c), the offender shall be readmitted to the reentry
 221 program after completing the ordered discipline.
 222 (c) The department shall terminate an offender from the
 223 reentry program if:
 224 1. The offender commits a violent act;
 225 2. The department determines that the offender is unable to
 226 participate in the reentry program due to the offender's medical
 227 condition;
 228 3. The offender's sentence is modified or expires;
 229 4. The department reassigns the offender's classification
 230 status; or
 231 5. The department determines that removing the offender
 232 from the reentry program is in the best interest of the offender

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233 or the security of the institution.

234 (d) An offender must serve at least 85 percent of the
 235 incarceration portion of the conditional split sentence before
 236 being released to drug offender probation. If the offender does
 237 not successfully complete the in-prison treatment component of
 238 the reentry program, the drug offender probation portion of the
 239 conditional split sentence becomes a term of imprisonment to be
 240 served while incarcerated. The offender must then serve at least
 241 85 percent of the total term of imprisonment.

242 (5) PROCEDURE UPON COMPLETION OF IN-PRISON TREATMENT.-
 243 Following successful completion of the in-prison treatment
 244 component, the offender shall be transitioned into the community
 245 to serve the drug offender probation portion of the offender's
 246 conditional split sentence.

247 (a) While in the community, the offender shall be subject
 248 to all standard terms of probation under s. 948.03, and of drug
 249 offender probation under s. 948.20, a special condition of
 250 supervision ordered by the sentencing court, including
 251 participation in an aftercare substance abuse program, residence
 252 in a postrelease transitional residential halfway house, or
 253 other appropriate form of supervision or treatment.

254 (b) Violation of a condition or order may result in
 255 revocation of supervision by the court and imposition of a
 256 sentence that is authorized by law, subject to time served in
 257 prison.

258 (c) If there is a postadjudicatory drug court program as
 259 described in s. 397.334 in the county of the sentencing court,
 260 or the county to which the offender returns, and the drug court
 261 is willing to accept the case, the offender's case shall be

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262 transferred to the drug court for supervision for the probation
 263 portion of the offender's split sentence. The drug court judge
 264 shall be deemed the sentencing judge for purposes of ensuring
 265 compliance with this section.

266 (d) While on drug offender probation, the department shall
 267 collect from the offender the cost of supervision as provided
 268 for in s. 948.09. An offender who is financially able shall also
 269 pay all costs of his or her drug rehabilitation, including drug
 270 testing fees. The sentencing judge may impose on the offender
 271 additional conditions requiring payment of court costs and
 272 finances, public service, and compliance with other court-ordered
 273 special conditions.

274 (6) CONTRACTORS.-The department may develop and enter into
 275 performance-based contracts with qualified individuals,
 276 agencies, or corporations to supply any or all services provided
 277 in the reentry program. The department may establish incentives
 278 within the reentry program to promote participation by private-
 279 sector employers in the rehabilitative reentry programs and the
 280 orderly operation of institutions and facilities.

281 (7) NO RIGHTS CONFERRED UPON OFFENDERS.-This section does
 282 not create or confer a right to an offender to placement in the
 283 reentry program or a right to placement or early-release under
 284 supervision of any type. An offender does not have a cause of
 285 action against the department, a court, the state attorney, or a
 286 victim related to placement in or continued participation in the
 287 reentry program.

288 (8) REPORTING.-The department shall, as part of its annual
 289 report, provide a detailed account of the department's
 290 implementation of the reentry program, the number of offenders

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291 sentenced to the program, the number of inmates who successfully
292 complete the in-prison portion of the program, the number of
293 inmates who successfully complete the drug offender probation,
294 and recidivism numbers for inmates who have participated in the
295 reentry program.

296 (9) RULEMAKING.—The department may adopt rules to implement
297 this section.

298 Section 7. This act shall take effect July 1, 2013.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 288

INTRODUCER: Judiciary Committee and Senator Bradley

SUBJECT: Costs of Prosecution, Investigation and Representation

DATE: April 10, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Favorable
2.	Shankle	Cibula	JU	Fav/CS
3.	Harkness	Sadberry	ACJ	Favorable
4.			AP	
5.				
6.				

Please see Section VIII. for Additional Information:

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

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

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 288 adds costs of prosecution and costs of representation to the fees, costs, and penalties to be withheld from cash bond posted on behalf of a defendant. The bill provides clarification regarding the collection of cost payments in certain traffic cases and requires the assessment of costs of prosecution in juvenile delinquency proceedings. The committee substitute allows a court to order the juvenile to complete community service in lieu of paying the cost of prosecution if the court finds that the juvenile is unable to pay the cost.

The bill has an effective date of July 1, 2013.

The bill has a positive, but indeterminate fiscal impact.

This bill substantially amends the following sections of the Florida Statutes: 903.286, 938.27, 985.032, and 988.455.

II. Present Situation:

Costs of Prosecution

Section 938.27, F.S., provides that convicted persons are liable for costs of prosecution at the rate of \$50 in misdemeanor or criminal traffic offense cases and \$100 in felony criminal cases, unless the prosecutor proves that costs are higher in the particular case before the court.¹ The costs of prosecution are deposited into the State Attorneys Revenue Trust Fund.²

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

Costs of Representation

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

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

The court may order payment of the assessed application fee and attorney’s fees and costs as a condition of probation, of suspension of sentence, or of withholding the imposition of sentence.⁶ The clerk within the county where the defendant was tried or received services from a public defender is responsible for enforcing, satisfying, compromising, settling, subordinating, releasing, or otherwise disposing of any debt or lien imposed.⁷

Clerks to Collect and Disburse Funds

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

¹ Section 938.27(8), F.S.

² *Id.*

³ Section 938.27(1), F.S.

⁴ *Id.*

⁵ Section 27.562, F.S.

⁶ Section 938.29(1)(c), F.S.

⁷ Section 938.29(3), F.S.

The clerk may accept partial payments for all fees, charges, and costs in accordance with the terms of an established payment plan.⁸ The clerk may enter into a payment plan when an individual is determined to be indigent for costs by the court.⁹

Criminal Traffic Case Disposition

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

Cash Bond Used to Pay Fines, Costs, and Fees

Section 903.286, F.S., authorizes the clerk to withhold the return of a cash bond posted on behalf of a criminal defendant by a person other than a bail bond agent¹⁰ to pay the following:

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

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

Clerks are not currently authorized to withhold costs of prosecution or costs of representation.

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

Delinquency Cases Exempt

Currently, juveniles who are adjudicated delinquent or who have had the adjudication of delinquency withheld are not required to pay the costs of prosecution although they can be required to pay for the costs of representation.¹¹ A lien-enforcement procedure is currently available which allows the clerk to collect the costs of representation from the parents or guardians of the child.¹²

⁸ Section 28.246(4), F.S.

⁹ “A monthly payment amount, calculated based upon all fees and all anticipated costs, is presumed to correspond to the person’s ability to pay if the amount does not exceed 2 percent of the person’s annual net income, as defined in s. 27.52(1), divided by 12.” Section 28.246(4), F.S.

¹⁰ Licensed under ch. 648, F.S.

¹¹ Sections 27.52 (6) and 938.29(2)(a)2., F.S.

¹² *Id.*

III. Effect of Proposed Changes:

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

The bill requires the clerk to collect and disburse costs of prosecution in all cases, regardless of whether the cases are disposed of before a judge in open court. These particular cases may include criminal traffic violations disposed of pursuant to s. 318.14(10), F.S.¹³ (See the Technical Deficiencies section below.)

The bill also requires that costs of prosecution be assessed for juveniles who have been adjudicated delinquent or have adjudication of delinquency withheld. Although current law provides for a lien against the child's parents to aid in collecting costs of representation, there is no such provision in the bill for costs of prosecution. If the juvenile is found by the court to be unable to pay, the bill allows the court to order the juvenile to complete community service in lieu of paying the cost.

The bill takes effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹³ In these cases, the defendant may elect to show proof of compliance to the clerk of the court and enter a plea of nolo contendere. The clerk is authorized by s. 318.14(10), F.S., to assess certain fees. The assessment and collection of costs of prosecution are not specified in s. 318.14(10), F.S. Although s. 938.27(6), F.S., requires the clerk to "collect and dispense cost payments in any case," which would include costs of prosecution and investigation listed in s. 938.27(8), F.S., state attorneys report that the costs are not being collected in the criminal traffic cases disposed of pursuant to ch. 318, F.S.

B. Private Sector Impact:

Costs of prosecution will be assessed by the court in delinquency cases, which is a new cost not previously assessed. This assessment may be paid by the delinquent child if he or she has the ability to pay.

C. Government Sector Impact:

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

1. The costs of prosecution and costs of representation will be withheld by the clerk from the return of a cash bond posted on behalf of a criminal defendant by a person other than a bail bond agent. This provision is likely to result in a positive fiscal impact for state attorneys and public defenders.
2. The costs of prosecution will now be assessed from juveniles who have been adjudicated delinquent or have adjudication of delinquency withheld. This will likely result in a positive fiscal impact as these costs were not assessed in these specific cases in the past.
3. The state attorney may experience a positive fiscal impact from the costs of prosecution collected by the clerks of court in certain traffic violation cases.

VI. Technical Deficiencies:

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

VII. Related Issues:

None.

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

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

CS by Judiciary on April 8, 2013:

The committee substitute allows a court to order the juvenile to complete community service in lieu of paying the cost of prosecution if the court finds that the juvenile is unable to pay the cost. The committee substitute also makes a number of minor technical changes.

B. Amendments:

None.

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

By the Committee on Judiciary; and Senator Bradley

590-03886-13

2013288c1

1 A bill to be entitled
 2 An act relating to costs of prosecution,
 3 investigation, and representation; amending s.
 4 903.286, F.S.; providing for the withholding of unpaid
 5 costs of prosecution and representation from the
 6 return of a cash bond posted on behalf of a criminal
 7 defendant; requiring a notice on bond forms of such
 8 possible withholding; amending s. 938.27, F.S.;
 9 clarifying the types of cases that are subject to the
 10 collection and dispensing of cost payments by the
 11 clerk of the court; amending s. 985.032, F.S.;
 12 providing for assessment of costs of prosecution
 13 against a juvenile who has been adjudicated delinquent
 14 or has adjudication of delinquency withheld; amending
 15 s. 985.455, F.S.; providing that a child adjudicated
 16 delinquent may perform community service in lieu of
 17 certain costs and fees; providing an effective date.

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

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

21 903.286 Return of cash bond; requirement to withhold unpaid
 22 fines, fees, court costs; cash bond forms.—

23 (1) Notwithstanding s. 903.31(2), the clerk of the court
 24 shall withhold from the return of a cash bond posted on behalf
 25 of a criminal defendant by a person other than a bail bond agent
 26 licensed pursuant to chapter 648 sufficient funds to pay any
 27 unpaid costs of prosecution, costs of representation as provided
 28

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30 by ss. 27.52 and 938.29, court fees, court costs, and criminal
 31 penalties. If sufficient funds are not available to pay all
 32 unpaid costs of prosecution, costs of representation as provided
 33 by ss. 27.52 and 938.29, court fees, court costs, and criminal
 34 penalties, the clerk of the court shall immediately obtain
 35 payment from the defendant or enroll the defendant in a payment
 36 plan pursuant to s. 28.246.

37 (2) All cash bond forms used in conjunction with the
 38 requirements of s. 903.09 must prominently display a notice
 39 explaining that all funds are subject to forfeiture and
 40 withholding by the clerk of the court for the payment of costs
 41 of prosecution, costs of representation as provided by ss. 27.52
 42 and 938.29, court fees, court costs, and criminal penalties on
 43 behalf of the criminal defendant regardless of who posted the
 44 funds.

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

47 938.27 Judgment for costs of prosecution and investigation
 48 ~~on conviction.~~—

49 (1) In all criminal and violation-of-probation or
 50 community-control cases, convicted persons are liable for
 51 payment of the costs of prosecution, including investigative
 52 costs incurred by law enforcement agencies, by fire departments
 53 for arson investigations, and by investigations of the
 54 Department of Financial Services or the Office of Financial
 55 Regulation of the Financial Services Commission, if requested by
 56 such agencies. The court shall include these costs in every
 57 judgment rendered against the convicted person. For purposes of
 58 this section, "convicted" means a determination of guilt, or of

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

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59 violation of probation or community control, which is a result
60 of a plea, trial, or violation proceeding, regardless of whether
61 adjudication is withheld.

62 (2) (a) The court shall impose the costs of prosecution and
63 investigation notwithstanding the defendant's present ability to
64 pay. The court shall require the defendant to pay the costs
65 within a specified period or pursuant to a payment plan under s.
66 28.246(4).

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

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

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

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

76
77 However, the obligation to pay any unpaid amounts does not
78 expire if not paid in full within the period specified in this
79 paragraph.

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

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

87 (4) Any dispute as to the proper amount or type of costs

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88 shall be resolved by the court by the preponderance of the
89 evidence. The burden of demonstrating the amount of costs
90 incurred is on the state attorney. The burden of demonstrating
91 the financial resources of the defendant and the financial needs
92 of the defendant is on the defendant. The burden of
93 demonstrating such other matters as the court deems appropriate
94 is upon the party designated by the court as justice requires.

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

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

101 (7) Investigative costs that are recovered ~~must shall~~ be
102 returned to the appropriate investigative agency that incurred
103 the expense. Such costs include actual expenses incurred in
104 conducting the investigation and prosecution of the criminal
105 case; however, costs may also include the salaries of permanent
106 employees. Any investigative costs recovered on behalf of a
107 state agency must be remitted to the Department of Revenue for
108 deposit in the agency operating trust fund, and a report of the
109 payment must be sent to the agency, except that any
110 investigative costs recovered on behalf of the Department of Law
111 Enforcement ~~must shall~~ be deposited in the department's
112 Forfeiture and Investigative Support Trust Fund under s.
113 943.362.

114 (8) Costs for the state attorney ~~must shall~~ be set in all
115 cases at no less than \$50 per case when a misdemeanor or
116 criminal traffic offense is charged and no less than \$100 per

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117 case when a felony offense is charged, including a proceeding in
 118 which the underlying offense is a violation of probation or
 119 community control. The court may set a higher amount upon a
 120 showing of sufficient proof of higher costs incurred. Costs
 121 recovered on behalf of the state attorney under this section
 122 ~~must shall~~ be deposited into the State Attorneys Revenue Trust
 123 Fund to be used during the fiscal year in which the funds are
 124 collected, or in any subsequent fiscal year, for actual expenses
 125 incurred in investigating and prosecuting criminal cases, which
 126 may include the salaries of permanent employees, or for any
 127 other purpose authorized by the Legislature.

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

130 985.032 Legal representation for delinquency cases.—

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

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

136 Section 4. Paragraph (d) is added to subsection (1) of
 137 section 985.455, Florida Statutes, to read:

138 985.455 Other dispositional issues.—

139 (1) The court that has jurisdiction over an adjudicated
 140 delinquent child may, by an order stating the facts upon which a
 141 determination of a sanction and rehabilitative program was made
 142 at the disposition hearing:

143 (d) Order the child, upon a determination of the child's
 144 inability to pay, to perform community service in lieu of all
 145 court costs assessed against the delinquent child, including

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146 costs of prosecution, public defender application fees, and
 147 costs of representation.

148 Section 5. This act shall take effect July 1, 2013.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1350

INTRODUCER: Criminal Justice Committee and Senator Bradley

SUBJECT: Criminal Penalties

DATE: April 9, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	Favorable
2.	Cantral	Sadberry	ACJ	Favorable
3.			AP	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 1350 conforms Florida law concerning the sentencing of juvenile offenders to the requirements of the Eighth Amendment as set forth in recent opinions of the United States Supreme Court. It provides that a juvenile offender who is convicted of murder may be sentenced to life imprisonment only after a mandatory hearing at which the judge considers specified factors relating to the offender's age and attendant circumstances. The bill also limits the maximum sentence for a juvenile offender who does not commit homicide to a term of not more than 50 years.

The bill has an insignificant fiscal impact. The Criminal Justice Impact Conference met on March 21, 2013, and determined the bill has insignificant impact on prison beds.

This bill has an effective date of July 1, 2013.

This bill substantially amends section 775.082 of the Florida Statutes.

II. Present Situation:

In recent years, the United States Supreme Court has issued several opinions addressing the application of the Eighth Amendment's prohibition against cruel and unusual punishment in relation to the punishment of juvenile offenders.¹ The first of these was *Roper v. Simmons*, 543 U. S. 551 (2005), in which the Court found that juvenile offenders cannot be subject to the death penalty for any offense. More recently, the Court expanded constitutional doctrine regarding punishment of juvenile offenders in *Graham v. Florida*, 130 S.Ct. 2011 (2010) and *Miller v. Alabama*, 132 S.Ct. 2455 (2012).

Graham v. Florida

In *Graham*, the Court held that a juvenile offender cannot be sentenced to life in prison without the possibility of parole for any offense other than a homicide. More specifically, the Court found that if a non-homicide juvenile offender is sentenced to life in prison, the state must "provide him or her with some realistic opportunity to obtain release before the end of that term."² Because Florida has abolished parole³ and the Court deems the possibility of executive clemency to be remote,⁴ currently a juvenile offender in Florida cannot be given a life sentence for a non-homicide offense.

Graham applies retroactively to previously sentenced offenders because it established a fundamental constitutional right.⁵ Therefore, any juvenile offender serving a life sentence for a non-homicide offense that was committed after parole eligibility was eliminated is entitled to be resentenced to a term less than life.

The Supreme Court did not give any guidance as to the maximum permissible sentence for a non-homicide juvenile offender other than to exclude the possibility of life without parole. This has led to different results among the circuits in reviewing sentences for a lengthy term of years. The First Circuit Court of Appeals recognizes that a lengthy term of years is a *de facto* life sentence if it exceeds the juvenile offender's life expectancy.⁶ On the other hand, the Fourth and

¹ The term "juvenile offender" refers to an offender who was under 18 years of age at the time of committing the offense for which he or she was sentenced. Most crimes committed by juveniles are dealt with through delinquency proceedings as set forth in ch. 985, F.S. However, the law provides a mechanism for juveniles to be tried and handled as adults. A juvenile who commits a crime while 13 years old or younger may only be tried as an adult if a grand jury indictment is returned. A juvenile who is older than 13 may be tried as an adult for certain felony offenses if a grand jury indictment is returned, if juvenile court jurisdiction is waived and the case is transferred for prosecution as an adult pursuant to s. 985.556, F.S., or if the state attorney direct files an information in adult court pursuant to s. 985.557, F.S. Regardless of age, s. 985.58, F.S., requires a grand jury indictment to try a juvenile as an adult for an offense that is punishable by death or life imprisonment.

² See *Graham* at 2034

³ Parole was abolished in 1983 for all non-capital felonies committed on or after October 1, 1983, and was completely abolished in 1995 for any offense committed on or after October 1, 1995.

⁴ *Graham* at 2027

⁵ See, e.g.,

⁶ *Adams v. State*, --- So.3d ---, 37 Fla.L. Weekly D1865 (Fla. 1st DCA 2012). The First District Court of Appeals has struck down sentences of 60 years (*Adams*) and 80 years (*Floyd v. State*, 87 So.3d 45 (Fla. 1st DCA 2012)), while approving sentences of 50 years (*Thomas v. State*, 78 So.3d 644 (Fla. 1st DCA 2011)) and 70 years (*Gridine v. State*, 89 So.3d 909 (Fla. 1st DCA 2011)).

Fifth Circuit Courts of Appeal have strictly construed *Graham* to apply only to life sentences and not to affect sentences for a lengthy term of years.⁷

Miller v. Alabama

In *Miller*, the Court held that juvenile offenders who commit homicide cannot be sentenced to life in prison without the possibility of parole as the result of a mandatory sentencing scheme. The Court did not find that the Eighth Amendment prohibits sentencing a juvenile murderer to life without parole, but rather that individualized consideration of factors related to the offender's age must be considered before a life without parole sentence can be imposed. The Court also indicated that it expects that few juvenile offenders will be found to merit life without parole sentences.

Section 775.082, F.S., provides that the only permissible punishments for a capital offense are the death penalty or life imprisonment. As the result of the Court's holdings in *Roper* (invalidating the death penalty for juvenile offenders) and *Miller*, there is currently no statutory punishment for a juvenile who commits capital murder.

The majority opinion in *Miller* noted that mandatory life-without-parole sentences “preclude a sentencer from taking account of an offender's age and the wealth of characteristics and circumstances attendant to it.”⁸ Although the Court did not require consideration of specific factors, it highlighted the following considerations:

Mandatory life without parole for a juvenile precludes consideration of his chronological age and its hallmark features—among them, immaturity, impetuosity, and failure to appreciate risks and consequences. It prevents taking into account the family and home environment that surrounds him—and from which he cannot usually extricate himself—no matter how brutal or dysfunctional. It neglects the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected him. Indeed, it ignores that he might have been charged and convicted of a lesser offense if not for incompetencies associated with youth—for example, his inability to deal with police officers or prosecutors (including on a plea agreement) or his incapacity to assist his own attorneys. See, e.g., *Graham*, 560 U.S., at —, 130 S.Ct., at 2032 (“[T]he features that distinguish juveniles from adults also put them at a significant disadvantage in criminal proceedings”); *J.D.B. v. North Carolina*, 564 U.S. —, —, 131 S.Ct. 2394, 2400–2401, 180 L.Ed.2d 310 (2011) (discussing children's responses to interrogation). And finally, this mandatory punishment

⁷ See *Guzman v. State*, --- So.3d ----, 2013 WL 949889 (Fla. 4th Dist. 2013); *Henry v. State*, 82 So.3d 1084 (Fla. 5th DCA 2012). It also appears that the Second District Court of Appeal may agree with this line of reasoning - see *Young v. State*, --- So.3d --, 2013 WL 614247 (Fla. 2d DCA 2013). The reported longest sentence under the 85% law that was allowed to stand was 100 years for burglary of a dwelling while armed (*Johnson v. State*, --- So.3d ----, 2013 WL 1007663 (Fla. 5th Dist. 2013).

⁸ *Miller* at 2467.

disregards the possibility of rehabilitation even when the circumstances most suggest it.⁹

The First and Third District Courts of Appeal view *Miller* as a procedural change in the law and have held that it does not apply retroactively to sentences that were final before the opinion was issued.¹⁰ The retroactivity issue has not been addressed by the other District Courts of Appeal, the Florida Supreme Court, or the United States Supreme Court.

Graham and Miller Inmates

The Department of Corrections reports that it currently has custody of 222 juvenile offenders who received a mandatory life sentence for capital murder (*Miller* inmates); 43 inmates who received life sentences for non-homicide offenses (*Graham* inmates);¹¹ and 39 inmates who received life sentences for committing second degree murder, but who could have been sentenced to a lesser term.¹²

Life Expectancy

The Center for Disease Control's United States Life Tables for 2008 (the most recent published) reflect the following remaining life expectancies for 17-18 year olds in the United States:¹³

Remaining Life Expectancy: 17-18 Year Old Persons in the United States	
Hispanic Females	67.0 years
White Females	64.5 years
Hispanic Males	62.1 years
Black Females	61.3 years
White Males	59.8 years
Black Males	54.9 years

Parole

A January 2008 Blueprint Commission and Department of Juvenile Justice report, "Getting Smart about Juvenile Justice in Florida," included a recommendation that juveniles who received more than a 10 year adult prison sentence should be eligible for parole consideration. Florida Tax Watch also recommended parole consideration for inmates who were under 18 when they

⁹ *Miller* at 2468.

¹⁰ *See Gonzalez v. State*, 101 So.3d 886 (Fla. 1st DCA 2012); *Geter v. State*, --- So.3d ----, 2012 WL 4448860 (Fla. 3d DCA 2012).

¹¹ This includes inmates who were sentenced for attempted murder. In *Manuel v. State*, 48 So.3d 94 (Fla. 2d DCA 2010), the Second District Court of Appeals held that attempted murder is a nonhomicide offense because the act did not result in the death of a human being.

¹² The information is derived from an attachment to an e-mail dated March 22, 2013 from Department of Corrections staff to Senate Criminal Justice Committee staff, which is on file with the Senate Criminal Justice Committee.

¹³ The information is from Tables 5, 6, 8, 9, 11 and 12 in the *United States Life Tables, 2008*, National Vital Statistics Reports, Volume 61, Number 3 (September 24, 2012), available at www.cdc.gov/nchs/data/nvsr/nvsr61/nvsr61_03.pdf (last visited on March 28, 2013).

committed their offense, have served more than 10 years, were not convicted of capital murder, have no prior record, and demonstrated exemplary behavior while in prison.¹⁴

III. Effect of Proposed Changes:

The bill amends s. 775.082, F.S., to conform Florida law concerning the sentencing of juvenile offenders to the requirements of the Eighth Amendment set forth by the United States Supreme Court in the *Graham* and *Miller* decisions. It does so by making changes at the sentencing phase, rather than by creating parole or another post-sentencing release process.

***Graham* Defendants**

The bill provides that a juvenile offender who commits a non-homicide offense that is punishable by life imprisonment¹⁵ may be punished by a term of imprisonment not exceeding 50 years. This provision applies to offenses committed on or after July 1, 2013. Non-homicide juvenile offenders who commit such an offense prior to July 1, 2013, or who have already been sentenced to life imprisonment for such an offense, can be sentenced or resentenced to any punishment authorized by law at the time the crime was committed other than life imprisonment.¹⁶

***Miller* defendants and other juvenile offenders who commit homicides**

The bill provides that a juvenile offender who is convicted of a capital offense must be sentenced to either life imprisonment or to imprisonment for a term of not less than 50 years. The sentencing court is required to consider the following factors in determining the appropriate sentence:

1. The nature and circumstances of the offense committed by the defendant.
2. The effect of the crime on the victim's family and on the community.
3. The defendant's age, maturity, intellectual capacity, and mental and emotional health at the time of the offense.
4. The defendant's background, including his or her family, home, and community environment.
5. The effect, if any, of immaturity, impetuosity, or failure to appreciate risks and consequences on the defendant's participation in the offense.
6. The extent of the defendant's participation in the offense.
7. The effect, if any, of familial pressure or peer pressure on the defendant's actions.
8. The nature and extent of the defendant's prior criminal history.
9. The effect, if any, of characteristics attributable to the defendant's youth on the defendant's judgment.
10. The possibility of rehabilitating the defendant.

¹⁴ "Report and Recommendations of the Florida Tax Watch Government Cost Savings Task Force to Save More than \$3 Billion," Florida Tax Watch, March 2010, p.47.

¹⁵ This includes life felonies and first-degree felonies punishable by a term of years not exceeding life imprisonment.

¹⁶ As previously discussed, Florida intermediate appellate courts have split on the question of whether *Graham* requires resentencing for a juvenile offender who has been sentenced to a lengthy term of years if the court determines that it is functionally equivalent to a life sentence.

This list includes all of the factors from the portion of the *Miller* opinion that was quoted previously in this analysis.

Consideration of these factors is mandatory in the sentencing of a juvenile offender who has been convicted of a capital offense, or of a life felony or first-degree felony punishable by a term of years not exceeding life imprisonment for committing murder under s. 782.04, F.S.¹⁷

Under current law, Florida Statutes provide that any offender who is convicted of a life felony under s. 782.04, F.S., can be punished by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment. The bill does not change these punishments except to provide that a juvenile offender cannot be sentenced to life imprisonment or to a term of years equal to life imprisonment unless the sentencing court has considered the required factors and concluded that such punishment is appropriate.¹⁸

Florida Statutes currently provide that any offender who is convicted of murder under s. 782.04, F.S., that is a first-degree felony punishable by a term of years not exceeding life imprisonment can be sentenced to a term of years not exceeding life imprisonment or to a lesser term of years. The bill allows a sentence to a term of years equal to life imprisonment only if the sentencing court has considered the required factors and concluded that such punishment is appropriate.

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 does not specify whether its provisions concerning sentencing for murder under s. 782.04, F.S., are intended to apply retroactively or prospectively. A change in a statute is presumed to operate prospectively unless there is a clear showing that it is to be applied retroactively and its retroactive application is constitutionally permissible. *Metropolitan Dade County v. Chase Federal Housing Corp.*, 737 So.2d 494, 499 (Fla. 1999); *Bates v. State*, 750 So.2d 6, 10 (Fla. 1999).

¹⁷ Although *Miller* technically does not apply to non-mandatory life sentences, requiring consideration of the sentencing factors avoids the possibility of an equal protection claim by a juvenile offender who receives a life sentence after less consideration than is required for a juvenile offender who commits a more serious offense.

¹⁸ The bill creates the phrase “term of years equal to life imprisonment,” leaving the courts to decide whether a particular term of years is the equivalent of a life sentence.

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). The Savings Clause prevents retroactive application of a statute that affects prosecution or punishment for a crime, but does not prohibit retroactive application of a statute that is procedural or remedial in nature.

It is well-established that the Savings Clause prohibits application of a statutory reduction in the maximum sentence for a crime to be applied to an offense that was committed before the change. *See, e.g., Castle v. Sand*, 330 So.2d 10 (Fla. 1976) (reduction of maximum sentence for arson from 10 years to 5 years could not be applied to benefit defendant who committed offense before statutory change). Because current case law indicates that *Miller* does not apply retroactively, the Savings Clause prevents applying the bill’s provisions retroactively.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact conference determined that the bill will have no impact on the need for prison beds. The bill would potentially have an impact on the court system to the extent that sentencing hearings for the offenders affected by the bill may require more time and resources than current sentencing hearings.

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 April 8, 2013:

- Removes language indicating that the bill’s provisions concerning penalties for murder are retroactive to the extent required by *Miller*.

- Clarifies that the bill applies to offenses that are reclassified to the relevant offense levels by application of an enhancement statute.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/11/2013	.	
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Appropriations Subcommittee on Criminal and Civil Justice
(Joyner) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (1) and (3) of section 775.082,
Florida Statutes, are amended to read:

775.082 Penalties; applicability of sentencing structures;
mandatory minimum sentences for certain reoffenders previously
released from prison.—

(1) (a) Except as provided in paragraph (b), a person who
has been convicted of a capital felony shall be punished by
death if the proceeding held to determine sentence according to



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13 the procedure set forth in s. 921.141 results in findings by the
14 court that such person shall be punished by death, otherwise
15 such person shall be punished by life imprisonment and shall be
16 ineligible for parole.

17 (b) A person who is convicted under s. 782.04 for an
18 offense that was committed before the person was 18 years of age
19 may be punished by life imprisonment if the judge at a mandatory
20 sentencing hearing concludes that life imprisonment is an
21 appropriate sentence.

22 1. In determining whether life imprisonment is an
23 appropriate sentence, the judge shall consider factors relevant
24 to the offense and to the defendant's youth and attendant
25 circumstances, including, but not limited to:

26 a. The effect of the crime on the victim's family and on
27 the community.

28 b. The nature and circumstances of the offense committed by
29 the defendant.

30 c. The defendant's age, maturity, intellectual capacity,
31 and mental and emotional health at the time of the offense.

32 d. The defendant's background, including his or her family,
33 home, and community environment.

34 e. The effect, if any, of immaturity, impetuosity, or
35 failure to appreciate risks and consequences on the defendant's
36 participation in the offense.

37 f. The extent of the defendant's participation in the
38 offense.

39 g. The effect, if any, of familial pressure or peer
40 pressure on the defendant's actions.

41 h. The nature and extent of the defendant's prior criminal



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42 history.

43 i. The effect, if any, of characteristics attributable to
44 the defendant's youth on the defendant's judgment.

45 j. The defendant's capacity for rehabilitation.

46 2. If the judge concludes that life imprisonment is not an
47 appropriate sentence, the defendant shall be punished by
48 imprisonment for a term of not less than 50 years.

49 3. A person who is sentenced under this paragraph shall
50 have his or her sentence reviewed after 25 years. The sentencing
51 court shall retain original jurisdiction for the duration of the
52 sentence for this purpose.

53 a. The Department of Corrections shall notify juvenile
54 offenders who are committed to the department of their
55 eligibility to participate in a resentencing hearing 18 months
56 before the beginning of their 25th year of incarceration. The
57 juvenile offender may apply to the court of original
58 jurisdiction requesting that a resentencing hearing be held.

59 b. The court shall hold a resentencing hearing to determine
60 whether the juvenile offender's sentence should be modified. The
61 resentencing court shall consider all of the following:

62 (I) Whether the juvenile offender demonstrates maturity and
63 rehabilitation.

64 (II) Whether the juvenile offender remains at the same
65 level of risk to society as he or she did at the time of the
66 initial sentencing.

67 (III) The opinion of the victim's next of kin. The absence
68 of the victim's next of kin from the resentencing hearing may
69 not be a factor in the courts determination under this section.

70 (IV) Whether the juvenile offender was a relatively minor



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71 participant in the criminal offense or acted under extreme
72 duress or the domination of another person.

73 (V) Whether the juvenile has shown sincere and sustained
74 remorse for the criminal offense.

75 (VI) Whether the juvenile offender's age, maturity, and
76 psychological development at the time of the offense affected
77 his or her behavior.

78 (VII) Whether the juvenile offender has successfully
79 obtained a general educational development certificate or
80 completed another educational, technical, work, vocational, or
81 self-rehabilitation program.

82 (VIII) Whether the juvenile offender was a victim of
83 sexual, physical, or emotional abuse before he or she committed
84 the offense.

85 (IX) The results of any mental health assessment, risk
86 assessment, or evaluation of the juvenile offender as to
87 rehabilitation.

88 c. A juvenile offender is entitled to be represented by
89 counsel at the resentencing hearing and the court shall appoint
90 a public defender to represent the juvenile offender if the
91 juvenile cannot afford an attorney.

92 d. If the court determines at the resentencing hearing that
93 the juvenile offender has been rehabilitated and is reasonably
94 believed to be fit to reenter society based on the factors in
95 sub-subparagraph b., the court shall impose a term of probation
96 of at least 5 years. If the court determines that the juvenile
97 offender has not demonstrated rehabilitation and is not fit to
98 reenter society based on the factors in sub-subparagraph b., the
99 court shall not modify the juvenile offender's sentence and



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100 shall issue a written order stating the reasons therefore.

101 e. A juvenile offender who is not resentenced under this
102 subparagraph at his or her initial resentencing hearing is
103 eligible for a resentencing hearing every 5 years after the date
104 of the denial and every 5 years thereafter.

105 4. This paragraph shall apply retroactively to the extent
106 necessary to meet constitutional requirements for imposing a
107 life sentence on a defendant who is convicted of committing a
108 murder that occurred before the defendant was 18 years of age as
109 set forth by the United States Supreme Court in *Miller v.*
110 *Alabama*, 132 S. Ct. 2455 (2012).

111 (3) A person who has been convicted of any other designated
112 felony may be punished as follows:

113 (a)1. For a life felony committed before ~~prior to~~ October
114 1, 1983, by a term of imprisonment for life or for a term of
115 years not less than 30.

116 2. For a life felony committed on or after October 1, 1983,
117 by a term of imprisonment for life or by a term of imprisonment
118 not exceeding 40 years.

119 3. Except as provided in subparagraph 4., for a life felony
120 committed on or after July 1, 1995, by a term of imprisonment
121 for life or by imprisonment for a term of years not exceeding
122 life imprisonment.

123 4.a. Except as provided in sub-subparagraph b., for a life
124 felony committed on or after September 1, 2005, which is a
125 violation of s. 800.04(5)(b), by:

126 (I) A term of imprisonment for life; or

127 (II) A split sentence that is a term of not less than 25
128 years' imprisonment and not exceeding life imprisonment,



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129 followed by probation or community control for the remainder of
130 the person's natural life, as provided in s. 948.012(4).

131 b. For a life felony committed on or after July 1, 2008,
132 which is a person's second or subsequent violation of s.
133 800.04(5)(b), by a term of imprisonment for life.

134 5. A person convicted of a life felony or an offense
135 punishable by a term of years not exceeding life imprisonment,
136 other than an offense listed in 782.04, or an offense, other
137 than offense listed in 782.04 that was reclassified as a life
138 felony or an offense punishable by a term of years not exceeding
139 life, that was committed before the person was 18 years of age
140 shall be punished by a term of imprisonment not to exceed 50
141 years.

142 a. A person sentenced under this subparagraph shall have
143 his or her sentence reviewed after 15 years. The sentencing
144 court shall retain original jurisdiction for the duration of the
145 sentence for this purpose.

146 (I) The Department of Corrections shall notify juvenile
147 offenders who are committed to the department of their
148 eligibility to participate in a resentencing hearing 18 months
149 before the beginning of their 15th year of incarceration. The
150 juvenile offender may apply to the court of original
151 jurisdiction requesting that a resentencing hearing be held.
152 This subparagraph does not apply to juveniles sentenced to a
153 term of 15 years or less.

154 (II) The court shall hold a resentencing hearing to
155 determine whether the juvenile offender's sentence should be
156 modified. The resentencing court shall consider all of the
157 following:



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158 (A) Whether the juvenile offender demonstrates maturity and
159 rehabilitation.

160 (B) Whether the juvenile offender remains at the same level
161 of risk to society as he or she did at the time of the initial
162 sentencing.

163 (C) The opinion of the victim or the victim,'s next of kin.
164 The absence of the victim or the victim's next of kin from the
165 resentencing hearing may not be a factor in the court's
166 determination under this section.

167 (D) Whether the juvenile offender was a relatively minor
168 participant in the criminal offense or acted under extreme
169 duress or the domination of another person.

170 (E) Whether the juvenile has shown sincere and sustained
171 remorse for the criminal offense.

172 (F) Whether the juvenile offender's age, maturity, and
173 psychological development at the time of the offense affected
174 his or her behavior.

175 (G) Whether the juvenile offender has successfully obtained
176 a general educational development certificate or completed
177 another educational, technical, work, vocational, or self-
178 rehabilitation program.

179 (H) Whether the juvenile offender was a victim of sexual,
180 physical, or emotional abuse before he or she committed the
181 offense.

182 (I) The results of any mental health assessment, risk
183 assessment, or evaluation of the juvenile offender as to
184 rehabilitation.

185 (III) A juvenile offender is entitled to be represented by
186 counsel, and the court shall appoint a public defender to



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187 represent the juvenile offender if the juvenile offender cannot
188 afford an attorney.

189 (IV) If the court determines at the resentencing hearing
190 that the juvenile offender has been rehabilitated and is
191 reasonably believed to be fit to reenter society based on these
192 factors, then a term of probation of at least 5 years, shall be
193 imposed. If the court determines that the juvenile offender has
194 not demonstrated rehabilitation and is not fit to reenter
195 society based on these factors, the court shall not modify the
196 juvenile offender's sentence and shall issue a written order
197 stating the reasons therefore.

198 (V) A juvenile offender who is not resentenced under this
199 paragraph at the initial resentencing hearing is eligible for a
200 resentencing hearing 5 years after the date of the denial and
201 every 5 years after that.

202 b. This subparagraph shall apply retroactively to the
203 extent necessary to meet constitutional requirements as set
204 forth by the United States Supreme Court in Graham v. Florida,
205 560 US. (2010).

206 (b) For a felony of the first degree, by a term of
207 imprisonment not exceeding 30 years or, when specifically
208 provided by statute, by imprisonment for a term of years not
209 exceeding life imprisonment.

210 (c) For a felony of the second degree, by a term of
211 imprisonment not exceeding 15 years.

212 (d) For a felony of the third degree, by a term of
213 imprisonment not exceeding 5 years.

214 Section 2. This act shall take effect July 1, 2013.

215



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

217 And the title is amended as follows:

218 Delete everything before the enacting clause

219 and insert:

220 A bill to be entitled

221 An act relating to criminal penalties; amending s.
222 775.082, F.S.; providing criminal sentences applicable
223 to a person who was under the age of 18 years at the
224 time certain offenses were committed; requiring that a
225 judge consider certain factors before determining if
226 life imprisonment is an appropriate sentence;
227 providing for an alternative sentence if a sentence of
228 life imprisonment is inappropriate; establishing right
229 to resentencing hearing; specifying components of
230 resentencing hearing process; providing for
231 retroactive application to comply with constitutional
232 requirements; providing an effective date.



833124

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/11/2013	.	
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Appropriations Subcommittee on Criminal and Civil Justice
(Joyner) recommended the following:

Senate Amendment to Amendment (294184)

Delete line 19
and insert:
may be punished by life imprisonment, if such sentence is
otherwise authorized for the offense, if the judge at a
mandatory

By the Committee on Criminal Justice; and Senator Bradley

591-03860-13

20131350c1

A bill to be entitled

An act relating to criminal penalties; amending s. 775.082, F.S.; providing criminal sentences applicable to a person who was under the age of 18 years at the time the offense was committed; requiring that a judge consider certain factors before determining if life imprisonment is an appropriate sentence; providing an effective date.

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

Section 1. Subsections (1) and (3) of section 775.082, Florida Statutes, are amended to read:

775.082 Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison.—

(1) (a) Except as provided in paragraph (b), a person who has been convicted of a capital felony shall be punished by death if the proceeding held to determine sentence according to the procedure set forth in s. 921.141 results in findings by the court that such person shall be punished by death, otherwise such person shall be punished by life imprisonment and shall be ineligible for parole.

(b) A person who is convicted of a capital felony, or an offense that was reclassified as a capital felony, that was committed before the person was 18 years of age shall be punished by life imprisonment and is ineligible for parole if the judge at a mandatory sentencing hearing concludes that life imprisonment is an appropriate sentence. In determining whether

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life imprisonment is an appropriate sentence, the judge shall consider factors relevant to the offense and to the defendant's youth and attendant circumstances, including, but not limited to:

1. The nature and circumstances of the offense committed by the defendant.

2. The effect of the crime on the victim's family and on the community.

3. The defendant's age, maturity, intellectual capacity, and mental and emotional health at the time of the offense.

4. The defendant's background, including his or her family, home, and community environment.

5. The effect, if any, of immaturity, impetuosity, or failure to appreciate risks and consequences on the defendant's participation in the offense.

6. The extent of the defendant's participation in the offense.

7. The effect, if any, of familial pressure or peer pressure on the defendant's actions.

8. The nature and extent of the defendant's prior criminal history.

9. The effect, if any, of characteristics attributable to the defendant's youth on the defendant's judgment.

10. The possibility of rehabilitating the defendant.

If the judge concludes that life imprisonment is not an appropriate sentence, the defendant shall be punished by imprisonment for a term of not less than 50 years.

(3) A person who has been convicted of any other designated

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59 felony may be punished as follows:

60 (a)1. For a life felony committed ~~before~~ ~~prior to~~ October
61 1, 1983, by a term of imprisonment for life or for a term of
62 years not less than 30.

63 2. For a life felony committed on or after October 1, 1983,
64 by a term of imprisonment for life or by a term of imprisonment
65 not exceeding 40 years.

66 3. Except as provided in subparagraph 4., for a life felony
67 committed on or after July 1, 1995, by a term of imprisonment
68 for life or by imprisonment for a term of years not exceeding
69 life imprisonment.

70 4.a. Except as provided in sub-subparagraph b., for a life
71 felony committed on or after September 1, 2005, which is a
72 violation of s. 800.04(5)(b), by:

73 (I) A term of imprisonment for life; or

74 (II) A split sentence that is a term of not less than 25
75 years' imprisonment and not exceeding life imprisonment,
76 followed by probation or community control for the remainder of
77 the person's natural life, as provided in s. 948.012(4).

78 b. For a life felony committed on or after July 1, 2008,
79 which is a person's second or subsequent violation of s.
80 800.04(5)(b), by a term of imprisonment for life.

81 5. Notwithstanding subparagraphs 1.-4., a person convicted
82 under s. 782.04 for an offense that was reclassified as a life
83 felony that was committed before the person was 18 years of age
84 is eligible to be punished by a term of imprisonment for life or
85 by a term of years equal to life imprisonment if the judge at a
86 mandatory sentencing hearing considers factors relevant to the
87 offense and to the defendant's youth and attendant

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88 circumstances, including, but not limited to, the factors listed
89 in paragraph (1)(b) and concludes that imprisonment for life or
90 a term of years equal to life imprisonment is an appropriate
91 sentence.

92 6. For offenses committed on or after July 1, 2013, a
93 person convicted of a life felony or of an offense that was
94 reclassified as a life felony, other than an offense listed in
95 s. 782.04, that was committed before the person was 18 years of
96 age shall be punished by a term of imprisonment not to exceed 50
97 years.

98 (b) Except as provided in subparagraphs 1. and 2., for a
99 felony of the first degree, by a term of imprisonment not
100 exceeding 30 years or, when specifically provided by statute, by
101 imprisonment for a term of years not exceeding life
102 imprisonment.

103 1. A person convicted under s. 782.04 of a first-degree
104 felony punishable by a term of years not exceeding life
105 imprisonment, or an offense that was reclassified as a first-
106 degree felony punishable by a term of years not exceeding life
107 imprisonment, that was committed before the person was 18 years
108 of age is eligible for a term of years equal to life
109 imprisonment if the judge at a mandatory sentencing hearing
110 considers factors relevant to the offense and to the defendant's
111 youth and attendant circumstances, including, but not limited
112 to, the factors listed in paragraph (1)(b) and concludes that a
113 term of years equal to life imprisonment is an appropriate
114 sentence.

115 2. For offenses committed on or after July 1, 2013, a
116 person convicted for a first-degree felony punishable by a term

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117 of years not exceeding life imprisonment or of an offense that
118 was reclassified as a first-degree felony punishable by a term
119 of years not exceeding life imprisonment, other than an offense
120 listed in s. 782.04, that was committed before the person was
121 18 years of age shall be punished by a term of imprisonment not
122 to exceed 50 years.

123 (c) For a felony of the second degree, by a term of
124 imprisonment not exceeding 15 years.

125 (d) For a felony of the third degree, by a term of
126 imprisonment not exceeding 5 years.

127 Section 2. This act shall take effect July 1, 2013.

CourtSmart Tag Report

Room: LL 37

Case:

Type:

Caption: Senate Appropriations Subcommittee on Criminal and Civil Justice

Judge:

Started: 4/11/2013 8:38:51 AM

Ends: 4/11/2013 9:58:33 AM

Length: 01:19:43

8:38:55 AM Meeting called to order.
8:39:06 AM Chairman Bradley opens.
8:39:46 AM TAB 1- CS/SB 644
8:39:54 AM Senator Richter, recognized.
8:40:18 AM Senator Clemens asks if the state is notified of revocations in other states.
8:40:33 AM Senator Richter responds.
8:40:57 AM Senator Joyner asks about the rationale for the change from mandatory to permissive.
8:42:34 AM Senator Richter responds that this bill is addressing a jurisdictional inconsistency.
8:43:39 AM Senator Joyner responds that her question was answered.
8:44:19 AM French Brown, Legislation and Cabinet Affairs Director, Office of Financial Regulation, recognized.
8:44:48 AM By committee vote the bill is recommended favorably.
8:45:10 AM TAB 2- SB 742
8:45:25 AM Molly Caddell, Legislative Assistant for Senator Evers, recognized.
8:46:15 AM Senator Joyner asks a question.
8:46:39 AM Ms. Caddell responds.
8:46:43 AM Senator Joyner asks if anyone from the Parole Commission is present.
8:47:17 AM Tena Pate, Chair, Florida Parole Commission, recognized.
8:47:56 AM Senator Joyner asks a question about the present law.
8:48:01 AM Ms. Pate responds.
8:50:16 AM Senator Joyner thanks Ms. Pate for her explanation.
8:51:26 AM Senator Clemens asks about the inclusion of burglary offenses.
8:52:10 AM Ms. Caddell responds that it is burglary that includes attempted sexual acts.
8:52:50 AM Ms. Pate, recognized.
8:54:35 AM Ken Kopczynski, Lobbyist, Florida PBA Inc., recognized.
8:54:39 AM Bill Ridgeway, Chief of Police, Deland, Florida Police Chiefs Association, waives in support.
8:54:45 AM Kristopher Browning, Associate, Florida Smart Justice Alliance, waives in support.
8:55:17 AM By committee vote the bill is recommended favorably.
8:55:33 AM Senator Braynon expresses his support for CS/SB 644.
8:55:45 AM TAB 3- CS/SB 890
8:55:55 AM Senator Braynon, recognized.
8:56:31 AM Senator Smith asks if this has been an issue in our state.
8:56:46 AM Senator Braynon responds that it is an issue.
8:57:10 AM Senator Dean asks what could be gained by impersonating a firefighter.
8:57:37 AM Senator Braynon responds that you could gain entry into homes.
8:57:55 AM Senator Clemens asks about the use of the words "false personation."
8:58:21 AM Senator Smith asks if there is an exception for parades.
8:58:41 AM Senator Braynon responds that a parade would not be using a fire truck with an intent to deceive.
8:59:29 AM By committee vote the bill is recommended favorably.
8:59:50 AM TAB 4- CS/SB 1032
9:00:14 AM Senator Altman, recognized.
9:01:03 AM Am. 382656
9:02:51 AM Senator Dean asks what the fiscal impact of what they are trying to do is.
9:03:10 AM Senator Altman responds that this is something the DOC wanted and there is no fiscal impact.
9:03:34 AM Am. 867416
9:03:43 AM Senator Altman, recognized.
9:04:42 AM Am. 750948
9:04:43 AM Chairman Bradley, recognized.
9:07:19 AM Senator Diaz de la Portilla asks what is staying in the bill.
9:07:46 AM Chairman Bradley responds that it leaves the identification portion.
9:08:00 AM Senator Diaz de la Portilla asks if he is removing most of the bill.
9:08:09 AM Chairman Bradley responds that this is correct.
9:08:35 AM Senator Diaz de la Portilla asks for Senator Altman's opinion of the amendment.

9:08:48 AM Senator Altman responds that the amendment guts the bill and he feels it would increase the fiscal impact of the bill.

9:11:04 AM Senator Dean asks what the long range impacts are.

9:12:52 AM Will Kendrick, Legislative Affairs Director, Department of Corrections, recognized.

9:14:14 AM Senator Hays asks what we are currently doing with identification.

9:14:35 AM Mr. Kendrick responds that identification on release is a huge issue.

9:15:52 AM Senator Joyner asks if this bill is an expansion of what already exists, and what the department's opinion of the amendment is.

9:16:55 AM Mr. Kendrick responds.

9:17:28 AM Senator Clemens asks a question about the faith and character based component.

9:18:04 AM Senator Bradley responds that this amendment does away with the skills assessment portion.

9:18:20 AM Senator Clemens asks about the specific lines deleted.

9:18:22 AM Senator Bradley responds that it is a mistake in the amendment.

9:19:12 AM Senator Altman expresses his support for both of these amendments.

9:20:37 AM Chairman Bradley requests that they temporarily postpone this bill.

9:22:30 AM TAB 5- CS/SB 288

9:22:31 AM Chairman Bradley, recognized.

9:23:52 AM Julianne Holt, Public Defender, 13th Judicial Circuit, Florida Public Defender Association, recognized.

9:24:24 AM Monica Hofheinz, Assistant State Attorney, State Attorneys, recognized.

9:24:29 AM By committee vote the bill is recommended favorably.

9:24:48 AM TAB 6- CS/SB 1350

9:25:13 AM Senator Bradley, recognized.

9:28:33 AM Senator Smith asks a question.

9:29:10 AM Am. 294184

9:29:29 AM Senator Joyner, recognized.

9:31:37 AM Senator Hays asks a question about the numbers.

9:31:54 AM Senator Joyner responds that there are two parts to the amendment with different amounts of years.

9:33:44 AM Late filed amendment, handwritten.

9:34:03 AM Senator Joyner, recognized.

9:34:37 AM Senator Diaz de la Portilla asks if this is a technical amendment.

9:34:58 AM Scott Clodfelter, Legislative Analyst, Criminal Justice Committee, responds that it is very major and he is hesitant to call it a technical amendment.

9:35:28 AM Senator Bradley comments that this is an entirely different approach than that contemplated in his bill, and he does not support it.

9:36:35 AM Senator Hays comments that he does not believe that this is the proper venue to make these changes.

9:37:01 AM Senator Clemens comments on proper posture.

9:38:12 AM Sheila Hopkins, Director of Social Concerns/Respect for Life, Florida Conference of Catholic Bishops, recognized.

9:41:34 AM Senator Joyner, recognized.

9:43:13 AM Senator Altman asks what types of crimes the 25 and 15 year periods would cover, respectively.

9:43:50 AM Senator Joyner responds that 25 years is for homicides and 15 years is for non-homicides.

9:44:33 AM Senator Altman asks a follow up question.

9:45:07 AM Senator Joyner responds.

9:45:37 AM Senator Soto asks if the number of years could be increased as a compromise.

9:46:18 AM Senator Joyner responds that 25 years has always been the number used and is sufficient, and emphasizes that nothing is automatic.

9:48:44 AM Robert Trammell, General Counsel, Florida Public Defender Association, recognized.

9:50:14 AM Senator Garcia asks how the review process works.

9:50:29 AM Mr. Trammell responds that the individual would go back to the court of original jurisdiction and specific criteria would be evaluated in a comprehensive look.

9:51:38 AM Senator Bradley makes a comment.

9:51:55 AM Senator Smith makes a comment.

9:52:43 AM Senator Flores makes a comment.

9:53:18 AM Senator Dean comments that he agrees.

9:53:35 AM Senator Clemens expresses his support for the amendment.

9:54:03 AM Senator Joyner comments that she understands the concerns.

9:55:39 AM By committee vote the bill is recommended favorably.

9:56:32 AM TAB-4 CS/SB 1032

9:57:01 AM Am. 483108

9:57:06 AM Am. 639018

9:57:12 AM Am. 750948

9:57:16 AM Late filed amendment, handwritten.

9:58:23 AM By committee vote the bill is recommended favorably.
9:58:30 AM Meeting adjourned.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11

Meeting Date

Topic Licensure by OFR Bill Number 644
Name FRENCH BROWN Amendment Barcode _____
Job Title Legislative AND Cabinet Affairs Director
Address 200 E. GAMES ST. Phone 850-410-9544
Tallahassee FL 32399 E-mail French.Brown@FLOFR.com
City State Zip

Speaking: For Against Information

Representing OFFICE OF FINANCIAL REGULATION

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)

4/11/2013

Meeting Date

Topic Extended Interviews Bill Number SB 742
Name Tena Pate Amendment Barcode _____
Job Title Chair / Commissioner
Address Florida Parole Commission - 4070 Esplanade Phone _____
Tall., FL 32399-2450 E-mail _____
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.

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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)

4.11.13

Meeting Date

Topic Presumptive Release Bill Number 742
Name Ken Kopczynski "Copechen-ski" Amendment Barcode _____
Job Title Lobbyist
Address 300 East Brevard St Phone 222-3329
City Talla State FL Zip 32301 E-mail _____

Speaking: For Against Information

Representing FL PBA Inc

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)

4/11/13

Meeting Date

Topic Parole Interview Dates Bill Number SB 0742
Name Bill Rogeway Amendment Barcode _____
Job Title Chief of Police - Deland Fla.
Address 219 W Howry Ave. Deland Fla 32720 Phone 386-626-7414
City _____ State _____ Zip _____ E-mail _____

Speaking: For Against Information

Representing The Florida Police Chiefs Assn.

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)

4/11/13
Meeting Date

Topic Parole Interview Dates for Certain Inmate Bill Number 742
Name Kristopher Browning Amendment Barcode _____
Job Title Associate, Barney Bishop Consulting Phone (850) 907-3436
Address 204 South Monroe St. Ste 201 E-mail Kristopher@barneybishop.com
Street City State Zip
Tallahassee FL 32301
Speaking: For Against Information waive in support
Representing Florida Smart Justice Alliance

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/13
Meeting Date

Topic ReEntry Bill Number 1032
Name Will Kendrick Amendment Barcode _____
Job Title Leg. Affairs Dept. Phone 717-3030
Address 501 S. Calhoun St. E-mail Kendrick.will@mail.de.state.fl.us
Street City State Zip
Tallahassee FL 32399
Speaking: For Against Information
Representing Dept. of Corrections

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

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

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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)

4/11/13
Meeting Date

Topic COSTS OF PROSECUTION Bill Number 288
Name MONICA HOFHEINZ Amendment Barcode _____
Job Title ASST. STATE ATTORNEY Phone 954-831-8543
Address 201 SE 6th E-mail hofsai7@sa017.state.fl.us
City FT. LAUD State _____ Zip _____

Speaking: For Against Information

Representing STATE 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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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)

April 11, 2013
Meeting Date

Topic _____ Bill Number 0288
Name Julianne Holt Amendment Barcode _____
Job Title Public Defender, 13th Judicial Circuit Phone 813-272-5980
Address 700 Twiggs Street E-mail holtj@pd13.state.fl.us
City Tampa State FL Zip 33602

Speaking: For Against Information

Representing Florida Public Defender Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

Meeting Date _____

Topic REENTRY

Bill Number CS 1032
(if applicable)

Name RONALD SILVER

Amendment Barcode _____
(if applicable)

Job Title _____

Address 2031 NE 209 ST

Phone 305-502-1199

Street
MIAMI FL 33179
City State Zip

E-mail RSILVER378@AOL.CO

Speaking: For Against Information

Representing TEAMSTERS

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)

Meeting Date _____

Topic Inmate Reentry

Bill Number 1032
(if applicable)

Name Jill Gran (waives in support)

Amendment Barcode _____
(if applicable)

Job Title _____

Address 2808 Mahan Dr

Phone 251-6965

Street
Tallahassee FL 32308
City State Zip

E-mail jill@fadca.org

Speaking: For Against Information

Representing FL Alcohol + Drug Abuse Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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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)

3/11/2015

Meeting Date

Topic SB 1032

Bill Number 1032
(if applicable)

Name Jim DeBeaugrine

Amendment Barcode _____
(if applicable)

Job Title _____

Address 201 S Monroe St., Ste 301

Phone 850-508-8908

Street

Tallahassee, FL 32301

E-mail jim-debeaugrine@comcast.net

City

State

Zip

Speaking: For Against Information

Representing Bridges of America

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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 Apr 13

Meeting Date

Topic Re-entry Bill

Bill Number SB 1032
(if applicable)

Name Barney T. Bishop III

Amendment Barcode _____
(if applicable)

Job Title President & CEO

Address 204 S. Monroe St., Ste. 201

Phone 577-3032

Street

Tall FL 32301

City

State

Zip

Speaking: For Against Information

Representing Florida Smart Justice Alliance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/13

Meeting Date

Topic Criminal Penalties Bill Number 1350 (if applicable)
Name Shaika Hopkins Amendment Barcode _____ (if applicable)
Job Title Director of Social Concerns/Respect Life
Address 201 W. Park Ave. Phone 205-6826
Tallahassee FL 32301 E-mail Shopkins@flacathconf.org
City State Zip
Speaking: For Against Information
Representing Fl. Conference of Catholic Bishops
Bill in present form
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)

April 11, 2013

Meeting Date

Topic _____ Bill Number 1350 (if applicable)
Name Robert Trammell Amendment Barcode _____ (if applicable)
Job Title General Counsel
Address 103 North Gadsden Street Phone 850-510-2187
Tallahassee FL 32302 E-mail kaytram@yahoo.com
City State Zip
Speaking: For Against Information
Representing Florida Public Defender Association
Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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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)

4-11-13

Meeting Date

Topic CRIMINAL PENALTIES Bill Number SB 1350
(if applicable)
Name ERIC DIETRICH Amendment Barcode _____
(if applicable)
Job Title CAPTAIN
Address 951 SINGLETON DR Phone 386-736-5333
Street
Deland FL 32720
City State Zip
E-mail _____

Speaking: For Against Information

Representing FLORIDA SHERIFFS ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-11-13

Meeting Date

Topic Juvenile Criminal Penalties Bill Number 1350
(if applicable)
Name JEFF SIEGMEISTER Amendment Barcode _____
(if applicable)
Job Title State Attorney, Third Circuit
Address 100 SE Court Street Phone 386 362-2320
Street
Live Oak, FL 32060
City State Zip
E-mail jeff.siegmeister@sa3.state.fl

Speaking: For Against Information

Representing Florida Prosecuting Attorneys 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.