

CS/SB 224 by **RI, Benacquisto (CO-INTRODUCERS) Latvala, Sobel, Flores, Gibson, Bradley, Dean, Braynon;**
(Similar to H 0153) Nicotine Dispensing Devices

SB 360 by **Bradley, Evers;** (Compare to H 0099) Sentencing for Controlled Substance Violations

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

MEETING DATE: Thursday, February 6, 2014
TIME: 1:00 —3:00 p.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 224 Regulated Industries / Benacquisto (Similar H 153, Compare H 169)	Nicotine Dispensing Devices; Prohibiting the gift of sample nicotine dispensing devices to persons under 18 years of age; prohibiting the selling, delivering, bartering, furnishing, or giving of nicotine dispensing devices to persons under 18 years of age, to which penalties apply; prohibiting persons under 18 years of age from possessing, purchasing, or misrepresenting their age or military service to purchase nicotine dispensing devices; requiring certain signage where a dealer sells nicotine dispensing devices, etc. RI 11/07/2013 Fav/CS CJ 01/08/2014 Favorable ACJ 02/06/2014 AP	
2	SB 360 Bradley / Evers (Compare H 99)	Sentencing for Controlled Substance Violations; Providing that a person who knowingly sells, purchases, manufactures, delivers, or brings into this state specified quantities of oxycodone or hydrocodone, or who is knowingly in actual or constructive possession of specified quantities of oxycodone or hydrocodone, commits the offense of trafficking in illegal prescription drugs, a felony of the first degree; providing criminal penalties, etc. CJ 01/08/2014 Favorable ACJ 02/06/2014 AP	
3	Presentation on Governor's Fiscal Year 2014-2015 Budget Recommendations for: State Courts State Attorneys Public Defenders Statewide Guardian Ad Litem		

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 224

INTRODUCER: Regulated Industries Committee and Senator Benacquisto and others

SUBJECT: Alternative Nicotine Products

DATE: January 8, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
3.	<u>Harkness</u>	<u>Sadberry</u>	<u>ACJ</u>	<u>Pre-meeting</u>
4.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 224 extends the current prohibitions related to tobacco products for persons under the age of 18, to prohibit the sale, gifting, possession, or use of nicotine dispensing devices, which include electronic cigarettes (e-cigarettes), to and by persons under the age of 18. (Selling or giving tobacco products to persons under 18 years is currently punishable as a second degree misdemeanor, unless it is a repeat violation within one year of the first violation. If so, it becomes punishable as a first degree misdemeanor. On the other hand, it is a noncriminal violation for persons under 18 years to possess, purchase, or misrepresent their age or military service to obtain such products.)

The bill defines the term “nicotine dispensing devices” to mean any product that can be used to deliver nicotine to an individual by inhaling vaporized nicotine from the product, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product and any replacement nicotine cartridge for the device or product.

The bill provides an effective date of July 1, 2014.

II. Present Situation:

Electronic Cigarettes

Electronic cigarettes, also known as e-cigarettes, are electronic products that permit users to inhale vaporized nicotine, flavor, and other chemicals, without fire, smoke, ash, or carbon dioxide. Electronic cigarettes are manufactured to resemble cigarettes, cigars, or pipes, but some are manufactured to resemble pens and USB memory sticks.¹

Tobacco Regulation in Florida

The Division of Alcoholic Beverage and Tobacco (division) within the Department of Business and Professional Regulation (department) is the state agency responsible for the enforcement of the tobacco product regulation provisions in ch. 569, F.S.

Section 569.002(6), F.S., defines the term “tobacco products” to include:

loose tobacco leaves, and products made from tobacco leaves, in whole or in part, and cigarette wrappers, which can be used for smoking, sniffing, or chewing.

Section 210.25(11), F.S., relating to the tax on tobacco products other than cigarettes or cigars, defines the term “tobacco products” to mean:

loose tobacco suitable for smoking; snuff; snuff flour; cavendish; plug and twist tobacco; fine cuts and other chewing tobaccos; shorts; refuse scraps; clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing; but “tobacco products” does not include cigarettes, as defined by s. 210.01(1), or cigars.

Section 569.0075, F.S., prohibits the giving of sample tobacco products to persons under the age of 18.

Section 569.101, F.S., prohibits the sale, delivery, bartering, furnishing or giving of tobacco products to persons under the age of 18. A violation of this prohibition is a second degree misdemeanor.² A second or subsequent violation within one year of the first violation is a first degree misdemeanor.³

¹ What are Electronic Cigarette, Food and Drug Administration, at: <http://www.fda.gov/newsevents/publichealthfocus/ucm172906.htm> (Last visited October 27, 2013), and *Sottera, Inc. v. Food and Drug Administration*, 627 F.3d 891, 893 (D.C. Cir. 2010).

² Section 775.082, F.S., provides that the penalty for a misdemeanor of the second degree is punishable by a term of imprisonment not exceeding 60 days. Section 775.083, F.S. provides that the penalty for a misdemeanor of the second degree is punishable by a fine not to exceed \$500.

³ Section 775.082, F.S., provides that the penalty for a misdemeanor of the first degree is punishable by a term of imprisonment not exceeding one year. Section 775.083, F.S. provides that the penalty for a misdemeanor of the first degree is punishable by a fine not to exceed \$1,000.

Section 569.101(3), F.S., provides a complete defense to a person charged with a violation of this section if the buyer or recipient falsely evidenced that he or she was 18 years of age or older, a prudent person would believe the buyer or recipient to be 18 years of age or older, and the buyer or recipient presented false identification⁴ upon which the person relied upon in good faith.

Section 569.11, F.S., prohibits persons under the age of 18 from possessing, directly or indirectly, any tobacco products. A first violation of this prohibition is a non-criminal violation with a penalty of 16 hours of community service or a \$25 fine, and attendance at a school-approved anti-tobacco program, if locally available. A second violation within 12 weeks of the first violation is punishable with a \$25 fine. A third or subsequent violation within 12 weeks of the first violation requires that the person must be punished with the suspension or revocation of his or her driver's license or driving privilege, as provided in s. 322.056, F.S.

In Fiscal Year 2012-2013, the Department of Highway Safety and Motor Vehicles revoked the driver's license for one person and suspended the driver's license for 561 persons for underage possession of tobacco products, and suspended the driver's license for one underage person for misrepresenting the age to purchase tobacco products.⁵

Section 569.14, F.S., requires that tobacco retailers must post a clear and conspicuous sign that the sale of tobacco products is prohibited to persons under the age of 18 and that proof of age is required for purchase. The division is required to make the signs available to retail tobacco dealers. Retail tobacco dealers must also have instructional material in the form of a calendar or similar format to assist in determining the age of the person attempting to purchase a tobacco product.

It is not clear whether the tobacco prohibitions for minors in current law include e-cigarettes as tobacco products. In an attempt to restrict minors' access to e-cigarettes, the division's Internet site advises tobacco retailers that e-cigarettes containing nicotine from tobacco leaves are tobacco products regulated in the state, and that it is unlawful to sell tobacco products, including electronic cigarettes, to a person under 18 years of age.⁶ According to the division, this statement reflects the consensus among tobacco retailers that e-cigarettes should not be sold to persons under the age of 18. The division further states that the law should be amended to clarify the legal status of e-cigarettes.

Currently, the division's sworn law enforcement officers, as well as the non-sworn inspectors, routinely inspect retail tobacco permit holders for compliance with ch. 569, F.S. The division's sworn law enforcement officers also perform what is termed "surveys," which are undercover operations with underage operatives, as a means of enforcing the prohibitions on the sale of tobacco products to persons less than 18 years of age; and the prohibition on possession of tobacco products by persons less than 18 years of age.⁷

⁴ Identification includes carefully checking "driver's license or an identification card issued by this state or another state of the United States, a passport, or a United States armed services identification card presented by the buyer or recipient and acted in good faith and in reliance upon the representation and appearance of the buyer or recipient in the belief that the buyer or recipient was 18 years of age or older. (See s. 569.101(2)(c), F.S.).

⁵ 2014 Agency Legislative Bill Analysis for SB 224, Department of Highway Safety and Motor Vehicles, October 30, 2013.

⁶ See <http://www.myfloridalicense.com/dbpr/abt/index.html> (Last visited October 31, 2013).

⁷ 2014 Agency Legislative Bill Analysis for SB 224, Department of Business and Professional Regulation, October 30, 2013.

According to the department, for the period of January 1, 2012 through December 28, 2012, the division performed 2,805 visits of retail tobacco dealers to determine compliance with ch. 569, F.S. These inspections resulted in 270 arrests for selling, delivering, furnishing, or giving tobacco products to persons under the age of 18. These visits also found three violations for failure to hold a valid retail tobacco permit.

According to the division, 29 administrative cases were initiated against licensees for selling tobacco products to underage persons and 28 civil penalties were collected. Section 569.008(5), F.S., requires a pattern of three or more violations by the employees of the tobacco dealer permit before a permit holder can be sanctioned for sales made by his or her employee. During this same period, the division also cited 136 persons under the age of 18 for possession of tobacco products.

Federal Regulation of E-Cigarettes

The federal U.S. Food and Drug Administration (FDA) is a federal agency within the Department of Health and Human Services. The FDA's organization consists of the Office of the Commissioner and four directorates overseeing the core functions of the agency: Medical Products and Tobacco, Foods, Global Regulatory Operations and Policy, and Operations.⁸ The Office of Medical Products and Tobacco provides advice and regulatory oversight to the FDA Commissioner through the centers for drug, biologics, medical devices, and tobacco products. The office also oversees the agency's special medical programs.⁹

Electronic cigarettes that are marketed for therapeutic purposes are regulated by the FDA Center for Drug Evaluation and Research (CDER).¹⁰ The FDA Center for Tobacco Products regulates cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco.

The authority of the FDA to regulate e-cigarettes is based on the Family Smoking Prevention and Tobacco Control Act of 2009 (Tobacco Control Act).¹¹ Enacted on June 22, 2009, this act amended the Federal Food, Drug, and Cosmetic Act (FDCA) to authorize the FDA to regulate "tobacco products." The Tobacco Control Act defines the term "tobacco product," in part, as any product "made or derived from tobacco" that is not a "drug," "device," or combination product under the FDCA.

The Food and Drug Administration initially determined that certain e-cigarettes were both a drug and a device under the FDCA.¹² Products that fall under the authority of the FDCA as drugs or

⁸ See <http://www.fda.gov/AboutFDA/CentersOffices/default.htm>. (Last visited November 4, 2013).

⁹ See <http://www.fda.gov/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/default.htm>. (Last visited November 4, 2013).

¹⁰ See <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm172906.htm>. (Last visited November 4, 2013).

¹¹ Federal Food, Drug, and Cosmetic Act, 21 USC s. 351 et seq.

¹² See Department of Health & Human Service, Food and Drug Administration, Letter to Matt Salmon, President of Electronic Cigarette Association, dated September 8, 2010, available at: <http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/UCM225263.pdf> (Last visited October 10, 2013).

devices must go through a preapproval process before they can be marketed or sold to the consumer. Tobacco products do not have to go through a pre-approval process.

The regulatory classification of e-cigarettes as tobacco products was resolved by the United States Court of Appeals for the District of Columbia Circuit, in *Sottera, Inc. v. Food & Drug Administration*.¹³ The court determined whether the FDA has the authority to regulate e-cigarettes as “tobacco products” under the Family Smoking and Tobacco Control Act of 2009¹⁴ or whether they could be regulated by the FDA as drugs/devices under the FDCA.

The case involved Sottera, Inc., an importer and distributor of e-cigarettes, whose shipment of e-cigarettes had been denied entry by the FDA because, the FDA asserted, they appeared to be adulterated, misbranded, or unapproved drug-device combinations under the FDCA. The company sought an injunction to bar the FDA from denying their e-cigarettes entry into the United States and from regulating e-cigarettes under the drug-device combinations under the FDCA. The United States District Court for the District of Columbia granted the injunction and agreed that e-cigarettes were subject to regulation as tobacco products and were not subject to regulation as drugs/devices under FDCA.¹⁵

On appeal, the United States Court of Appeals for the District of Columbia Circuit held that e-cigarettes and other products made or derived from tobacco should be regulated as “tobacco products,” and not regulated as drugs/devices unless they are marketed for therapeutic purposes.

The FDA did not appeal this decision. The FDA has stated its intent to issue a proposed rule that would extend FDA’s tobacco product regulatory authority to products that meet the statutory definition of “tobacco product.”¹⁶

The National Association of Attorneys General (NAAG) issued a letter to the commissioner of the FDA urging the FDA to immediately regulate the sale and advertising of e-cigarettes as “tobacco products.” The letter was signed by 42 attorneys general, including Florida Attorney General Pam Bondi. The letter noted that, according to the U.S. Centers for Disease Control and Prevention, 1.8 million middle and high school students have said that they had tried e-cigarettes in 2012, which is double the amount for the previous year. The letter noted that e-cigarettes with fruit and candy flavors which appeal to youth and advertising have led consumers to believe that e-cigarettes are a safe alternative to cigarettes. The letter asserted that e-cigarettes are addictive, and regulatory oversight was needed to ensure the safety of e-cigarette ingredients.¹⁷

¹³ *Sottera, Inc. v. Food & Drug Administration*, 627 F.3d 891 (D.C. Cir. 2010).

¹⁴ The Family Smoking and Tobacco Control Act of 2009, Pub.L. 111-31, 123 Stat. 1776.

¹⁵ Another importer of e-cigarettes, Smoking Everywhere, Inc., had sought an injunction to bar the FDA from denying their e-cigarettes entry into the United States and from regulating e-cigarettes under the drug-device combinations under the FDCA. Sottera, Inc., then joined as an intervener-plaintiff and also sought an injunction. Smoking Everywhere, Inc., dismissed its complaint against the FDA while the appeal was pending.

¹⁶ See: Unified Agenda entry describing this rulemaking, Office of Information and Regulatory Affairs, Office of Management and Budget: <http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201210&RIN=0910-AG38> (Last visited October 31, 2013).

¹⁷ Letter from the National Association of Attorneys General to Margaret Hamburg, Commissioner of the U.S. Food and Drug Administration, October 23, 2013. A copy of the letter is available at: <http://www.naag.org/assets/files/pdf/signons/E%20Cigarette%20Final%20Letter%20w%20Florida.pdf> (Last visited November 1, 2013).

Some e-cigarettes specifically note in their marketing that e-cigarettes have not been evaluated by the Food and Drug Administration, are not intended to help people to stop smoking, and are not intended to treat, prevent or cure any disease or condition. Some retailers also assert that they voluntarily restrict sales to persons who are 18 years of age or older.

As noted above, the Centers for Disease Control and Prevention reported that the number of middle school and high school students in the United States who used electronic cigarettes doubled in 2012 compared to the previous year and that nearly 1.78 million students tried e-cigarettes in 2012 nationwide.¹⁸ In Florida, 4.3 percent of middle school students and 12.1 percent of high school students tried e-cigarettes in 2013. The number of Florida high school students who tried e-cigarettes has increased from 6 percent in 2011 to 12.1 percent in 2013.¹⁹

III. Effect of Proposed Changes:

The bill:

- Extends the current prohibitions related to tobacco products for persons under the age of 18, to prohibit the sale, gifting, possession, or use of nicotine dispensing devices, which include electronic cigarettes (e-cigarettes), to and by persons under the age of 18.
- Creates s. 569.002(8), F.S., to define the term “nicotine dispensing devices” to mean any product that can be used to deliver nicotine to an individual by inhaling vaporized nicotine from the product, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product and any replacement nicotine cartridge for the device or product.
- Amends s. 569.0075, F.S., to include nicotine dispensing devices in the prohibition against giving a sample of tobacco products to persons under the age of 18.
- Amends s. 569.101, F.S., to include nicotine dispensing devices in the prohibition against the sale, delivery, bartering, furnishing or giving of tobacco products to persons under the age of 18 (currently punishable as a second degree misdemeanor, unless it is a repeat violation within one year of the first violation and then it becomes a first degree misdemeanor).
- Amends s. 569.11, F.S., to include nicotine dispensing devices in the prohibition against persons under the age of 18 from possessing, directly or indirectly, any tobacco products (currently a noncriminal violation) and adds a nicotine component to the anti-tobacco program that a first offender must attend.
- Amends s. 569.19, F.S., to require the department to include the number of violations for selling nicotine dispensing devices to person under age 18 in its annual report.
- Amends s. 569.14, F.S., to include nicotine dispensing devices in the signage requirements.

The bill provides an effective date of July 1, 2014.

¹⁸ See <http://www.cdc.gov/media/releases/2013/p0905-ecigarettes-use.html>. (Last visited November 4, 2013).

¹⁹ See <http://newsroom.doh.state.fl.us/wp-content/uploads/newsroom/2013/05/090613-E-Cigarette-Use-Among-Teens-Doubles.pdf> (Last visited November 5, 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:

Tobacco permit holders would be required to replace their point of sale calendars that indicate the date that a person is of legal age to purchase tobacco products to new calendars that reference nicotine dispensing devices, unless the permit holders are using readers, scanners, or other electronic or automated systems. They would also be required to replace signage that gives notice that the sale of tobacco products to persons under the age of 18 is prohibited with signage that also references nicotine dispensing devices. The cost for this requirement is indeterminate.

C. Government Sector Impact:

The Department of Business and Professional Regulation currently conducts surveys (undercover stings) at licensed retail tobacco establishments to enforce existing state law prohibiting tobacco sale to minors. In Fiscal Year 2012-2013, the department performed 2,300 tobacco surveys. In order to conduct surveys at nicotine dispensing establishments, the department could use its existing law enforcement resources resulting in fewer tobacco surveys. If the Legislature wishes to maintain the current level of tobacco surveys, funds for an additional survey team for electronic cigarettes would be required. The department estimates that a new survey team, which consists of two law enforcement officers and one underage operative, can complete an average of three tobacco surveys in a four-hour time period or the equivalent of 1,191.75 surveys per year. The total cost would be \$273,259 in Fiscal Year 2014-2015 and \$176,415 in subsequent years.

The Office of State Courts Administrator indicates that any fiscal impact on expenditures of the State Courts System because of the bill is anticipated to be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the National Conference of State Legislatures, 27 states have banned the sale of electronic cigarettes to minors.²⁰

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 569.002, 569.0075, 569.101, 569.11, 569.14, and 569.19.

IX. Additional Information:

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

CS by Regulated Industries on March 7, 2013:

The committee substitute (CS) amends s. 569.002(8), F.S., to define the term “nicotine dispensing devices.” The CS also replaces the term “alternative nicotine products” with the term “nicotine dispensing devices” in ss. 569.0075, 569.101, 569.11, and 569.14, F.S.

The CS does not create s. 569.002(1)(a), F.S., to define the term “alternative nicotine product,” and to provide an exemption from the meaning of that term for tobacco products; a product that is a drug, as defined in 21 U.S.C. s. 37321(g)(1), a product that is a device as defined in 21 U.S.C. s. 39321(h); and a combination product that is a device regulated under 21 U.S.C. s. 353(g).

The CS also does not create s. 569.002(1)(c), F.S., to define the term “electronic cigarette.”

The CS amends s. 569.19, F.S., to require the department to include the number of violations for selling nicotine dispensing devices to person under age 18 in its annual report.

- B. **Amendments:**

None.

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

²⁰ Those states are: AK (products containing nicotine other than cigs), AL (age 19), AZ, AR, CA, CO, HI, ID, IL (signed August 2013) IN, KS, MD, MN, MS, NV (definition includes “or derived from tobacco”), NH, NJ (age 19), NY, NC, OR (All sales banned, ordered by DOJ), SC, TN, UT (age 19), VT, WA, WI, WY.

By the Committee on Regulated Industries; and Senators
Benacquisto, Latvala, Sobel, and Flores

580-00643-14

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1 A bill to be entitled
2 An act relating to nicotine dispensing devices;
3 amending s. 569.002, F.S.; providing a definition;
4 amending s. 569.0075, F.S.; prohibiting the gift of
5 sample nicotine dispensing devices to persons under 18
6 years of age; amending s. 569.101, F.S.; prohibiting
7 the selling, delivering, bartering, furnishing, or
8 giving of nicotine dispensing devices to persons under
9 18 years of age, to which penalties apply; amending s.
10 569.11, F.S.; prohibiting persons under 18 years of
11 age from possessing, purchasing, or misrepresenting
12 their age or military service to purchase nicotine
13 dispensing devices; providing civil penalties;
14 amending s. 569.14, F.S.; requiring certain signage
15 where a dealer sells nicotine dispensing devices;
16 amending s. 569.19, F.S.; requiring the Division of
17 Alcoholic Beverages and Tobacco of the Department of
18 Business and Professional Regulation to submit the
19 number of violations for selling nicotine dispensing
20 devices in its annual report; providing an effective
21 date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (8) is added to section 569.002,
26 Florida Statutes, to read:

27 569.002 Definitions.—As used in this chapter, the term:

28 (8) "Nicotine dispensing devices" mean any product that can
29 be used to deliver nicotine to an individual by inhaling

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30 vaporized nicotine from the product, including, but not limited
31 to, an electronic cigarette, electronic cigar, electronic
32 cigarillo, electronic pipe, or other similar device or product
33 and any replacement nicotine cartridge for the device or
34 product.

35 Section 2. Section 569.0075, Florida Statutes, is amended
36 to read:

37 569.0075 Gift of sample tobacco products or sample nicotine
38 dispensing devices prohibited.—The gift of sample tobacco
39 products or sample nicotine dispensing devices to any person
40 under the age of 18 by an entity licensed or permitted under the
41 provisions of chapter 210 or this chapter, or by an employee of
42 such entity, is prohibited and is punishable as provided in s.
43 569.101.

44 Section 3. Subsections (1) and (3) of section 569.101,
45 Florida Statutes, are amended to read:

46 569.101 Selling, delivering, bartering, furnishing, or
47 giving tobacco products or nicotine dispensing devices to
48 persons under 18 years of age; criminal penalties; defense.—

49 (1) It is unlawful to sell, deliver, barter, furnish, or
50 give, directly or indirectly, to any person who is under 18
51 years of age, any tobacco product or nicotine dispensing device.

52 (3) A person charged with a violation of subsection (1) has
53 a complete defense if, at the time the tobacco product or
54 nicotine dispensing device was sold, delivered, bartered,
55 furnished, or given:

56 (a) The buyer or recipient falsely evidenced that she or he
57 was 18 years of age or older;

58 (b) The appearance of the buyer or recipient was such that

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59 a prudent person would believe the buyer or recipient to be 18
60 years of age or older; and

61 (c) Such person carefully checked a driver's license or an
62 identification card issued by this state or another state of the
63 United States, a passport, or a United States armed services
64 identification card presented by the buyer or recipient and
65 acted in good faith and in reliance upon the representation and
66 appearance of the buyer or recipient in the belief that the
67 buyer or recipient was 18 years of age or older.

68 Section 4. Subsections (1), (2), and (6) of section 569.11,
69 Florida Statutes, are amended to read:

70 569.11 Possession, misrepresenting age or military service
71 to purchase, and purchase of tobacco products or nicotine
72 dispensing devices by persons under 18 years of age prohibited;
73 penalties; jurisdiction; disposition of fines.—

74 (1) It is unlawful for any person under 18 years of age to
75 knowingly possess any tobacco product or nicotine dispensing
76 device. Any person under 18 years of age who violates the
77 provisions of this subsection commits a noncriminal violation as
78 provided in s. 775.08(3), punishable by:

79 (a) For a first violation, 16 hours of community service
80 or, instead of community service, a \$25 fine. In addition, the
81 person must attend a school-approved anti-tobacco and nicotine
82 program, if locally available;

83 (b) For a second violation within 12 weeks of the first
84 violation, a \$25 fine; or

85 (c) For a third or subsequent violation within 12 weeks of
86 the first violation, the court must direct the Department of
87 Highway Safety and Motor Vehicles to withhold issuance of or

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88 suspend or revoke the person's driver's license or driving
89 privilege, as provided in s. 322.056.

90
91 Any second or subsequent violation not within the 12-week time
92 period after the first violation is punishable as provided for a
93 first violation.

94 (2) It is unlawful for any person under 18 years of age to
95 misrepresent his or her age or military service for the purpose
96 of inducing a dealer or an agent or employee of the dealer to
97 sell, give, barter, furnish, or deliver any tobacco product or
98 nicotine dispensing device, or to purchase, or attempt to
99 purchase, any tobacco product or nicotine dispensing device from
100 a person or a vending machine. Any person under 18 years of age
101 who violates a provision of this subsection commits a
102 noncriminal violation as provided in s. 775.08(3), punishable
103 by:

104 (a) For a first violation, 16 hours of community service
105 or, instead of community service, a \$25 fine and, in addition,
106 the person must attend a school-approved anti-tobacco and
107 nicotine program, if available;

108 (b) For a second violation within 12 weeks of the first
109 violation, a \$25 fine; or

110 (c) For a third or subsequent violation within 12 weeks of
111 the first violation, the court must direct the Department of
112 Highway Safety and Motor Vehicles to withhold issuance of or
113 suspend or revoke the person's driver's license or driving
114 privilege, as provided in s. 322.056.

115
116 Any second or subsequent violation not within the 12-week time

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117 period after the first violation is punishable as provided for a
118 first violation.

119 (6) Eighty percent of all civil penalties received by a
120 county court pursuant to this section shall be remitted by the
121 clerk of the court to the Department of Revenue for transfer to
122 the Department of Education to provide for teacher training and
123 for research and evaluation to reduce and prevent the use of
124 tobacco products or nicotine dispensing devices by children. The
125 remaining 20 percent of civil penalties received by a county
126 court pursuant to this section shall remain with the clerk of
127 the county court to cover administrative costs.

128 Section 5. Subsections (1), (2), and (3) of section 569.14,
129 Florida Statutes, are amended to read:

130 569.14 Posting of a sign stating that the sale of tobacco
131 products or nicotine dispensing devices to persons under 18
132 years of age is unlawful; enforcement; penalty.—

133 (1) Any dealer that sells tobacco products or nicotine
134 dispensing devices shall post a clear and conspicuous sign in
135 each place of business where such products are sold which
136 substantially states the following:

137
138 THE SALE OF TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES TO
139 PERSONS UNDER THE AGE OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE
140 IS REQUIRED FOR PURCHASE.

141
142 (2) The division shall make available to dealers of tobacco
143 products or nicotine dispensing devices signs that meet the
144 requirements of subsection (1).

145 (3) Any dealer that sells tobacco products or nicotine

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146 dispensing devices shall provide at the checkout counter in a
147 location clearly visible to the dealer, the dealer's agent or
148 employee, instructional material in a calendar format or similar
149 format to assist in determining whether a person is of legal age
150 to purchase tobacco products or nicotine dispensing devices.
151 This point of sale material must contain substantially the
152 following language:

153
154 IF YOU WERE NOT BORN BEFORE THIS DATE
155 (insert date and applicable year)
156 YOU CANNOT BUY TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES.

157
158 Upon approval by the division, in lieu of a calendar a dealer
159 may use card readers, scanners, or other electronic or automated
160 systems that can verify whether a person is of legal age to
161 purchase tobacco products or nicotine dispensing devices.
162 Failure to comply with the provisions contained in this
163 subsection shall result in imposition of administrative
164 penalties as provided in s. 569.006.

165 Section 6. Subsection (3) of section 569.19, Florida
166 Statutes, is amended to read:

167 569.19 Annual report.—The division shall report annually
168 with written findings to the Legislature and the Governor by
169 December 31, on the progress of implementing the enforcement
170 provisions of this chapter. This must include, but is not
171 limited to:

172 (3) The number of violations for selling tobacco products
173 or nicotine dispensing devices to persons under age 18, and the
174 results of administrative hearings on the above and related

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

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175 issues.

176 Section 7. This act shall take effect July 1, 2014.

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 360

INTRODUCER: Senators Bradley and Evers

SUBJECT: Sentencing for Controlled Substance Violations

DATE: January 8, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	Favorable
2.	<u>Clodfelter</u>	<u>Sadberry</u>	<u>ACJ</u>	Pre-meeting
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 360 increases from 4 to 14 grams the minimum weight threshold for trafficking in oxycodone and hydrocodone (prescription painkillers) under section 893.135, Florida Statutes, the drug trafficking statute. As a result of this change, persons who unlawfully possess, sell, etc., relatively small quantities of oxycodone or hydrocodone (less than 14 grams) will no longer be punished for drug trafficking. They still may be punished under section 893.13, Florida Statutes, for unlawful acts involving controlled substances, but the penalties are not as significant as drug trafficking penalties. Further, some persons who meet the revised weight threshold for trafficking in oxycodone or hydrocodone will receive a shorter mandatory minimum term than under current law.

Increasing weight thresholds for trafficking in prescription painkillers is an option that the Office of Program Policy Analysis and Government Accountability proposed in a 2012 report.

The bill provides that trafficking in 14 grams or more, but less than 30 kilograms, of oxycodone or hydrocodone is a first degree felony, and is subject to the following mandatory minimum terms and fines:

- Trafficking in 14 grams or more, but less than 28 grams, of oxycodone or hydrocodone: 3-year mandatory minimum term and \$50,000 fine. (Current law: 3-year mandatory minimum term/\$50,000 fine for trafficking in 4 grams or more, but less than 14 grams, of oxycodone or hydrocodone.)
- Trafficking in 28 grams or more, but less than 50 grams, of oxycodone or hydrocodone: 7-year mandatory minimum term and \$100,000 fine. (Current law: 15-year mandatory minimum term/\$100,000 fine for trafficking in 14 grams or more, but less than 28 grams, of oxycodone or hydrocodone.)
- Trafficking in 50 grams or more, but less than 200 grams, of oxycodone or hydrocodone: 15-year mandatory minimum term and \$500,000 fine. (Current law: 25-year mandatory

minimum term/\$500,000 fine for trafficking in 28 grams or more, but less than 30 kilograms, of oxycodone or hydrocodone.)

- Trafficking in 200 grams or more of oxycodone or hydrocodone: 25-year mandatory minimum term and \$750,000 fine. (Current law: 25-year mandatory minimum term/\$500,000 fine for trafficking in 28 grams or more, but less than 30 kilograms, of oxycodone or hydrocodone.)

The Legislature's Office of Economic and Demographic Research preliminarily estimates the increase in the minimum weight threshold for trafficking in oxycodone and hydrocodone (from 4 grams to 14 grams) will result in the need for 465 fewer prison beds cumulatively by Fiscal Year 2018-2019, with a cumulative savings of \$48,387,651 in operating and fixed capital outlay costs. The projected impact in Fiscal Year 2014-2015 is likely a reduction in prison bed need of one bed and a reduction in prison operating costs of \$9,434. See Section V.

II. Present Situation:

Unlawful activities involving controlled substance (e.g., possession or sale of controlled substances) are punishable under s. 893.13, F.S. (prohibited acts involving controlled substances), and s. 893.135, F.S. (drug trafficking). Oxycodone and hydrocodone are opioid prescription painkillers and Schedule II controlled substances, though materials, compounds, mixtures, or preparations containing limited quantities of hydrocodone are Schedule III controlled substances.¹

Drug Trafficking/Oxycodone and Hydrocodone

“Drug trafficking” consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state, or knowingly being in actual or constructive possession² of, certain controlled substances in a statutorily-specified quantity.

Whether a person is charged with drug trafficking depends, in part, on the type of controlled substance possessed, sold, etc. Only a limited number of controlled substances are covered under s. 893.135, F.S. Oxycodone and hydrocodone are covered drugs. Specifically, s. 893.135(1)(c), F.S., punishes “trafficking in illegal drugs.” The relevant “illegal drugs” include morphine, opium, oxycodone, hydrocodone, hydromorphone, and salts, derivatives, isomers, and salts of isomers of these substances, including heroin, and mixtures containing any of these substances.

The quantity of a covered controlled substance must also meet a minimum weight threshold prescribed in s. 893.135, F.S. Most drug trafficking offenses are first degree felonies and are subject to mandatory minimum terms.³ Section 893.135, F.S., establishes escalating weight ranges. The mandatory minimum term applicable to a drug trafficking act depends upon which

¹ Schedule III: not more than 300 milligrams of hydrocodone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium or with recognized therapeutic amounts of one or more active ingredients which are not controlled substances. Section 893.03(3)(c)3. and 4., F.S.

² One important and unique feature of the drug trafficking statute is that the prosecutor is not required to prove that the possession of the controlled substance was with the intent to sell, deliver, manufacture, etc., the substance.

³ Most drug offenses under s. 893.13, F.S., are not subject to mandatory minimum terms.

weight range is applicable to the quantity of the controlled substances that are possessed, sold, etc.

Trafficking in oxycodone and hydrocodone (first degree felony)

Section 893.135(1)(c)1., F.S., provides, in part, that it is a first degree felony⁴ to traffic in 4 grams⁵ or more of oxycodone or hydrocodone.

If the quantity involved:

- Is 4 grams or more, but less than 14 grams, the offender is subject to a mandatory minimum term of imprisonment of 3 years and a fine of \$50,000.⁶
- Is 14 grams or more, but less than 28 grams, the offender is subject to a mandatory minimum term of imprisonment of 15 years and a fine of \$100,000.⁷
- Is 28 grams or more, but less than 30 kilograms, the offender is subject to a mandatory minimum term of imprisonment of 25 calendar years and a fine of \$500,000.⁸

Trafficking in oxycodone or hydrocodone (first degree felony punishable by life imprisonment)

Section 893.135(1)(c)2., F.S., provides, in part, that it is a first degree felony punishable by life imprisonment⁹ and a fine of \$500,000 to traffic in 30 kilograms or more of oxycodone or hydrocodone. A person convicted of this offense is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149, F.S.

Trafficking in oxycodone or hydrocodone (capital felony)

Section 893.135(1)(c)2., F.S., provides, in part, that it is a capital felony¹⁰ to traffic in 30 kilograms or more of oxycodone or hydrocodone if:

- The offender intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result.

⁴ A first degree felony is generally punishable by up to 30 years in state prison. Section 775.082, F.S. Repeat offender sanctions may be available under ss. 775.082 and 775.084, F.S.

⁵ For purpose of comparison, the approximate weight of a U.S. currency note, regardless of denomination, is one gram. This information is available at <http://www.moneyfactory.gov/faqlibrary.html> (last visited on December 13, 2013).

⁶ Section 893.135(1)(c)1.a., F.S. This offense is ranked in Level 7 of the Criminal Punishment Code offense severity ranking chart. Section 921.0022(3)(g), F.S.

⁷ Section 893.135(1)(c)1.b., F.S. This offense is ranked in Level 8 of the Criminal Punishment Code offense severity ranking chart. Section 921.0022(3)(h), F.S.

⁸ Section 893.135(1)(c)1.c., F.S. This offense is ranked in Level 9 of the Criminal Punishment Code offense severity ranking chart. Section 921.0022(3)(i), F.S.

⁹ As previously indicated, in general, a first degree felony is punishable by up to 30 years in state prison under s. 775.082, F.S. However, this section also provides that a first degree felony may be punished by a term of years not exceeding life imprisonment when specifically provided by statute.

¹⁰ A capital felony is punishable by life imprisonment or death. Section 775.082, F.S. See s. 921.142, F.S. (further proceedings to determine sentence for capital trafficking felonies).

- The offender’s conduct in committing that act led to a natural, though not inevitable, lethal result.

The offender is also subject to a fine of \$500,000.

Capital importation of oxycodone or hydrocodone (capital felony)

Section 893.135(1)(c)3., F.S., provides, in part, that it is a capital felony to knowingly bring into this state (“import”) 60 kilograms or more of oxycodone or hydrocodone, knowing that the probable result of such importation would be the death of any person. The offender is also subject to a fine of \$500,000.

“Opioid” Medications and Drug Trafficking

Medications that contain oxycodone or hydrocodone (“opioid” medications) are within the ambit of s. 893.135(1)(c), F.S., which also covers “mixtures” containing these substances. Trafficking weight involving pills containing either of these controlled substances is determined by the total weight of each pill multiplied by the number of pills possessed, sold, etc. The total weight of a pill includes the weight of the controlled substance in the pill (e.g., hydrocodone) and the weight of noncontrolled substances or matter in the pill, such as coating, binders, and nonprescription drugs (e.g., acetaminophen).¹¹ A relatively small number of pills may meet the 4 gram threshold for trafficking.

In a 2012 report, the Office of Program Policy Analysis and Government Accountability (OPPAGA) provided a table¹² indicating how many hydrocodone and oxycodone pills would be necessary to meet the threshold gram weight for each gram weight range in s. 893.135(1)(c)1.a.-c., F.S. The weight ranges are:

- 4 grams or more, but less than 14 grams.
- 14 grams or more, but less than 28 grams.
- 28 grams or more, but less than 30 kilograms.

The table is based on a hydrocodone pill that weighs 0.65 grams with 10 mg. of hydrocodone and an oxycodone pill that weighs 0.13 grams with 30 mg. of oxycodone. Due to the different compositions of prescription opioids, noncontrolled substances may add significantly to the total weight of the pill or tablet as, for example, is the case with medication that contains hydrocodone and acetaminophen. Provided is the information from OPPAGA’s table and the mandatory minimum term applicable to the threshold weight for each gram weight range in s. 893.135(1)(c)1.a.-c., F.S. (i.e., 4 grams, 14 grams, and 28 grams):

¹¹ See ss. 893.02(16) and 893.135(6), F.S.

¹² *Opinions Are Mixed About Sentencing Laws for Painkiller Trafficking*, Report No. 12-02 (January 2012), at p. 5 (Exhibit 6), Office of Program Policy Analysis and Government Accountability, available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=12-02> (last visited on December 13, 2013). This report is further cited as “OPPAGA Report.”

Number of Pills and Gram Weight Thresholds to Meet Mandatory Minimum Term				
Prescription Drug	Pill Weight	3-year mandatory minimum term	15-year mandatory minimum term	25-year mandatory minimum term
Hydrocodone (10 mg.)	0.65 grams	7 pills (4 grams)	22 pills (14 grams)	44 pills (28 grams)
Oxycodone (30 mg.)	0.13 grams	31 pills (4 grams)	108 pills (14 grams)	215 pills (28 grams)

OPPAGA Report No. 12-02: Prison Admissions for Opioid Trafficking and Profile of Opioid Trafficking Offenders

Using Department of Corrections’ data for Fiscal Year 2006-2007 to Fiscal Year 2010-2011, the OPPAGA found prescription admissions for trafficking quadrupled over those five fiscal years. According to the OPPAGA, this substantial increase in admissions was primarily attributable to oxycodone trafficking convictions:

Department of Corrections data shows that prison admissions for trafficking in opioids have more than quadrupled over the past five years, from 262 admissions in Fiscal Year 2006-07 to 1,200 in Fiscal Year 2010-11.... This data does not distinguish among the types of opioids, and as a result, offenses involving heroin are grouped with those involving prescription painkillers. This is because these two controlled substances are addressed in the same section of the drug trafficking statute, and thus subject to the same weight thresholds and minimum mandatory sentences.

To evaluate the factors leading to the recent increase in prison admissions for trafficking in opioids, we reviewed data for a statewide random sample of 194 offenders admitted to prison for this offense during Fiscal Year 2010-11. We determined the type and amount of drugs involved in their offenses and the circumstances surrounding their arrests and convictions. Our analyses found that the recent increase in prison admissions for opioid trafficking was primarily due to convictions for prescription painkillers rather than heroin....¹³

A noteworthy postscript to the OPPAGA report is that the quadrupled prison admissions for trafficking in opioids began to wane in Fiscal Year 2011-2012. Between Fiscal Year 2010-2011 and Fiscal Year 2011-2012 there was a 14.1 percent decline in prison admissions for trafficking in opioids.¹⁴ Although the cause of this decline is empirically unknown, it is most likely attributable to a number of measures taken by Florida to reduce prescription drug abuse, such as removing so-called “pill mills” in the state.

The OPPAGA analyzed arrest reports for the sample 194 offenders and determined that “almost all (93%) were convicted of trafficking in prescription painkillers.... [A]rrests most commonly

¹³ OPPAGA Report, at pp. 2-3 (footnotes omitted).

¹⁴ Information provided on April 4, 2013, to staff (via e-mail) by the Office of Economic and Demographic Research.

involved oxycodone (73%) or hydrocodone (28%). In comparison, 6% of the offenders were convicted of trafficking in heroin.”¹⁵

The OPPAGA provided the following information regarding how most of these arrests occurred:

Most offenders in our sample (62%) were arrested for selling prescription painkillers to an undercover law enforcement officer or confidential informant.... In these cases, officers worked undercover to buy drugs from known dealers or monitored confidential informants during meetings they arranged to make purchases. In other cases, offenders were arrested for trafficking after a traffic stop or other law enforcement contact, or after being reported by a pharmacist for possible prescription fraud.¹⁶

The majority of the offenders in the OPPAGA’s sample illegally possessed or sold 30 to 90 pills:

For most of the offenders convicted of trafficking in oxycodone or hydrocodone, their convictions were based on the illegal possession or sale of a number of pills equivalent to one or two prescriptions. For those offenders sentenced for trafficking in hydrocodone, 50% were arrested for possessing or selling fewer than 30 pills and 25% were arrested for fewer than 15 pills. For offenders sentenced for trafficking in oxycodone, offenders possessed or sold a median number of 91 pills at the time of their arrests.

Following accepted medical practice, physicians may prescribe 30 or more prescription painkillers for patients with chronic pain or recovering from surgery. For example, a patient recovering from surgery may receive a one-time prescription of 30 to 60 hydrocodone or oxycodone pills, often in forms that also contain acetaminophen. Illegal possession of such an amount could trigger a minimum mandatory sentence.¹⁷

Most of the offenders in the OPPAGA sample did not have a prior drug trafficking record and were determined by prison staff to need substance abuse treatment:

Our analysis of Department of Corrections data on the 1,200 offenders admitted to prison for opioid trafficking in Fiscal Year 2010-11 found that 74% had not previously been admitted to prison.... Half had either never been on probation or had been on probation solely for drug possession, and 81% did not have a prior history of offenses involving selling or trafficking drugs. Most (84%) had no current or past violent offenses.

¹⁵ OPPAGA Report, at p. 3.

¹⁶ *Id.*

¹⁷ OPPAGA Report, at p. 4. In a footnote (n. 7, at p. 4) at the end of the second paragraph of this quote, the OPPAGA noted: “Law enforcement and other stakeholders reported that pain clinics they would consider as being ‘pill mills’ routinely prescribe much higher amounts of prescription painkillers, such as 180 oxycodone pills per month.”

These offenders tended to have substance abuse problems and were at low risk for recidivism. Prison staff assessments determined that 65% of these offenders needed substance abuse treatment and 61% were at low risk for recidivism.¹⁸

Drug Trafficking Sentencing

The Criminal Punishment Code (Code)¹⁹ is Florida's framework or mechanism for determining permissible sentencing ranges for noncapital felonies. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10). Points are assigned and accrue based upon the level ranking (sentence points escalate as the level escalates) assigned to the primary offense, additional offenses, and prior offenses. Points may be added or multiplied for other factors. For example, if the primary offense is drug trafficking, the subtotal sentence points are multiplied, at the discretion of the court, for a Level 7 or Level 8 offense, by 1.5.²⁰

Total sentence points are entered into a mathematical calculation (specified in statute) to determine the lowest permissible sentence. The permissible sentencing range is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S., for the primary offense and any additional offenses before the court for sentencing. The court is permitted to impose sentences concurrently or consecutively.

The Code includes a list of 'mitigating' factors. If a mitigating factor is found by the sentencing court, the court may decrease an offender's sentence below the lowest permissible sentence (a "downward departure"). A mandatory minimum term is not subject to these mitigating factors.²¹

Most of the mandatory minimum terms found in Florida law involve drug trafficking offenses. Mandatory minimum terms impact Code sentencing. "If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory minimum sentence takes precedence. If the lowest permissible sentence exceeds the mandatory sentence, the requirements of the ... Code and any mandatory minimum penalties apply."²²

¹⁸ *Id.* In a footnote (n. 8, at p. 4) at the end of the second paragraph of this quote, the OPPAGA noted: "Prison staff assessed offenders' risk of recidivism using the risk assessment instrument developed by the Department of Corrections. Recidivism is defined as return to prison within three years of release."

¹⁹ Sections 921.002 - 921.0027, F.S.

²⁰ Section 921.0024(1)(b), F.S.

²¹ *See State v. Vanderhoff*, 14 So.3d 1185 (Fla. 5th DCA 2009).

²² Rule 3.704(26) ("The Criminal Punishment Code"), Florida Rules of Criminal Procedure. A trafficking mandatory minimum term is a minimum sentencing 'floor' for the court and there is no prohibition to gain-time. If the court only sentences the defendant to the mandatory term specified by statute, the Department of Corrections (DOC) establishes an 85% minimum service date on the term and the offender is subject to s. 944.275(4)(b)3., F.S., which does not allow release prior to serving a minimum of 85% of the sentence. If the court imposes a sentence that exceeds the mandatory term specified by statute, the DOC establishes an 85% minimum service date on the sentence. *See Mastay v. McDonough*, 928 So.2d 512 (Fla. 1st DCA 2006) (Section 893.135, F.S., does not preclude earning gain-time during the mandatory term as long as it does not result in the prisoner's release prior to serving a minimum of 85% of the sentence).

A mandatory minimum sentence is often longer than a prison sentence scored as the lowest permissible sentence under the Code, so the sentencing range is narrowed. Further, with few exceptions, the sentencing court must impose the mandatory minimum term.²³

Mandatory minimums terms are not uniform for all controlled substances covered under s. 893.135, F.S. Further, the quantity of the controlled substance that will trigger mandatory minimum terms depends upon the controlled substance trafficked, as illustrated in the table below.

COMPARISON OF TRAFFICKING WEIGHT RANGES AND MANDATORY MINIMUM TERMS FOR CERTAIN CONTROLLED SUBSTANCES			
Trafficking Provision	First Weight Range	Second Weight Range	Third Weight Range
Trafficking in illegal drugs (includes prescription opioids) (s. 893.135(1)(c)1., F.S.)	3-year mandatory minimum term (4 grams to less than 14 grams)	15-year mandatory minimum term (14 grams to less than 28 grams)	25-year mandatory minimum term (28 grams to less than 30 kilograms)
Trafficking in cocaine (s. 893.135(1)(b)1., F.S.)	3-year mandatory minimum term (28 grams to less than 200 grams)	7-year mandatory minimum term (200 grams to less than 400 grams)	15-year mandatory minimum term (400 grams to less than 150 kilograms)
Trafficking in phencyclidine (s. 893.135(1)(d)1., F.S.)	3-year mandatory minimum term (28 grams to less than 200 grams)	7-year mandatory minimum term (200 grams to less than 400 grams)	15-year mandatory minimum term (400 grams or more)
Trafficking in methaqualone (s. 893.135(1)(e)1., F.S.)	3-year mandatory minimum term (200 grams to less than 5 kilograms)	7-year mandatory minimum term (5 kilograms to less than 25 kilograms)	15-year mandatory minimum term (25 kilograms or more)
Trafficking in amphetamine or methamphetamine (s. 893.135(1)(f)1., F.S.)	3-year mandatory minimum term (14 grams to less than 28 grams)	7-year mandatory minimum term (28 grams to less than 200 grams)	15-year mandatory minimum term (200 grams or more)

²³ Staff found only two circumstances in which a sentencing court is authorized by law to impose a sentence below the mandatory minimum term. The first circumstance is when the court sentences a defendant as a youthful offender. Section 958.04, F.S. See *Christian v. State*, 84 So.3d 437 (Fla. 5th DCA 2012). The second circumstance is when the court grants a motion from the state attorney to reduce or suspend a sentence based upon substantial assistance rendered by the defendant. Section 893.135(4), F.S.

OPPAGA Report No. 12-02: Increasing Weight Thresholds for Trafficking in Prescription Painkillers is an Option

In its report the OPPAGA provided a number of options for addressing trafficking in prescription painkillers. One of those options was to “[r]evise Florida statutes to increase the weight thresholds for prescription painkillers so that it would take more pills to be charged with drug trafficking offenses subject to minimum mandatory sentences.”²⁴

III. Effect of Proposed Changes:

The bill increases from 4 to 14 grams the minimum weight threshold for trafficking in oxycodone and hydrocodone (prescription painkillers) under s. 893.135, F.S., the drug trafficking statute. As a result of this change, persons who unlawfully possess, sell, etc., relatively small quantities of oxycodone or hydrocodone will no longer be punished for drug trafficking. They still may be punished under s. 893.13, F.S., for unlawful acts involving controlled substances, but the penalties are not as significant as drug trafficking penalties. Further, some persons who meet the revised weight threshold for trafficking in oxycodone or hydrocodone will receive a shorter mandatory minimum term than under current law.

The bill removes reference to “oxycodone” and “hydrocodone” wherever those words appear in s. 893.135(1)(c)1. and 2., F.S. (which punish trafficking in opium, morphine, heroin, hydromorphone, oxycodone, and hydrocodone, and other substances).

The bill creates a new subparagraph s. 893.135(1)(c)3., F.S., which punishes (as a first degree felony) “trafficking in illegal prescription drugs.” The new trafficking provision only applies to a person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of 14 grams or more of any oxycodone or hydrocodone, or 14 grams or more of any mixture containing any such substance.

Under the new trafficking provision, the minimum gram weight threshold for trafficking in oxycodone or hydrocodone, which is 14 grams, differs from current law in which the minimum gram weight threshold for trafficking in these substances is 4 grams. Gram weight ranges and applicable mandatory minimum terms differ from current law.²⁵

²⁴ OPPAGA Report, at p. 8.

²⁵ Fines are the same as current law with one exception. The bill provides for a \$750,000 fine for trafficking in 200 grams or more of oxycodone or hydrocodone. Current law provides for a \$500,000 fine for trafficking in the same quantity of oxycodone or hydrocodone. Section 893.135(1)(c)1.c., F.S.

CURRENT LAW AND SB 360 ON MANDATORY MINIMUM TERMS		
Drug Trafficking Mandatory Minimum Term	Quantity/Weight Required for Hydrocodone and Oxycodone Under Current Law	Quantity/Weight Required for Hydrocodone and Oxycodone Under SB 360
3 years	4 grams or more but less than 14 grams	14 grams or more but less than 28 grams
7 years	N/A	28 grams or more but less than 50 grams
15 years	14 grams or more but less than 28 grams	50 grams or more but less than 200 grams
25 years	28 grams or more but less than 30 kilograms	200 grams or more
Life	30 kilograms or more	N/A

Section 893.135(1)(c), F.S., currently includes a life imprisonment penalty (s. 893.135(1)(c)2., F.S.)²⁶ and two capital felonies (s. 893.135(1)(c)2. and 3., F.S.). Under the bill, the life imprisonment penalty and one of the two capital felonies would not apply to trafficking in oxycodone and hydrocodone.

The bill amends s. 921.022, F.S., the offense severity ranking chart of the Criminal Punishment Code, to rank the offenses relating to trafficking in oxycodone and hydrocodone that have been removed from s. 893.135(1)(c)1. and 2., F.S., and placed in their own subparagraph. The offenses are ranked as follows:

- Trafficking in 14 grams or more, but less than 28 grams, of oxycodone/hydrocodone: Level 6.
- Trafficking in 28 grams or more, but less than 50 grams, of oxycodone/hydrocodone: Level 7.
- Trafficking in 50 grams or more, but less than 200 grams, of oxycodone/hydrocodone: Level 8.
- Trafficking in 200 grams or more of oxycodone/hydrocodone: Level 9.

The bill reenacts ss. 787.087(2)(a) and (3)(a) and 782.04(1)(a), (3), and (4), F.S., to incorporate the amendments made to s. 893.135, F.S., in references to that statute.

The effective date of the bill is July 1, 2014.

²⁶ According to the OPPAGA, “[i]n Fiscal Year 2010-11, there were no offenders imprisoned for life for trafficking in opioids.” OPPAGA Report, at p. 2, n. 1.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will result in a positive fiscal impact (cost avoidance) in several ways. First, drug offenders who are convicted of possessing, selling, etc., less than 14 grams of oxycodone or hydrocodone will no longer be subject to the drug trafficking 3-year mandatory minimum term, but instead will be sentenced under the Criminal Punishment Code (based on a conviction for a drug offense under s. 893.13, F.S.).

According to a preliminary estimate from the Legislature's Office of Economic and Demographic Research (EDR), this change alone is estimated to result in the need for 465 fewer prison beds cumulatively by Fiscal Year 2018-2019, with a cumulative savings of \$48,387,615, including both operating costs and fixed capital outlay costs. However, the current prison bed surplus makes it unlikely that there will actually be any fixed capital outlay cost savings. Therefore, a more realistic projection would be a cumulative savings of \$16,930,000 in operations costs over the next five fiscal years.

The following table summarizes this projected fiscal impact:

Fiscal Impact of SB 360 Increasing from 4 Grams to 14 Grams the Threshold for the 3-Year Minimum Mandatory for Trafficking in Hydrocodone or Oxycodone For offenses after July 1, 2014						
Fiscal Year	Projected Cumulative Prison Beds Required	Projected Additional Annual Prison Beds Required	FUNDS REQUIRED			
			Annual Operating Costs	Annual Fixed Capital Outlay Costs	TOTAL Annual Funds	TOTAL Cumulative Funds
2014-2015	-1	-1	(\$9,434)	(\$2,543,927)	(\$2,553,361)	(\$2,553,361)
2015-2016	-41	-40	(\$402,570)	(\$9,440,046)	(\$9,842,616)	(\$12,395,977)
2016-2017	-188	-147	(\$2,234,468)	(\$13,002,052)	(\$15,236,520)	(\$27,632,497)
2017-2018	-384	-196	(\$5,681,676)	(\$5,502,330)	(\$11,184,006)	(\$38,816,503)
2018-2019	-465	-81	(\$8,602,068)	(\$969,080)	(\$9,571,148)	(\$48,387,651)
TOTAL	-465	-465	(\$16,930,216)	(\$31,457,435)	(\$48,387,651)	(\$48,387,651)

Prepared by Florida Legislature, Office of Economic and Demographic Research, November 13, 2013

The EDR notes that this impact statement does not represent the direct appropriations impact of the bill. Rather, it provides a stand-alone estimate of the prison bed need of the bill. Cost data are included to allow a comparison of the impact of the bill with other proposed legislation. The actual appropriation associated with passage of the bill will depend on a number of factors, including the existing inventory of prison beds.

Second, staff notes that an additional but indeterminate cost avoidance is also likely to be achieved based on the inclusion of an intermediate 7-year mandatory minimum term in the bill. Currently, s. 893.135(1)(c), F.S., jumps from a 3-year to a 15-year mandatory minimum term. The bill also includes changes to other weight thresholds and weight ranges. The impact of these changes will not be experienced for many years and is expected to be significantly less than the impact of removing possession of less than 14 grams from the trafficking statute.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 893.135 and 921.0022.

This bill reenacts provisions of the following sections of the Florida Statutes: 775.087 and 782.04.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

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House

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (c) of subsection (1) of section
893.135, Florida Statutes, is amended to read:

893.135 Trafficking; mandatory sentences; suspension or
reduction of sentences; conspiracy to engage in trafficking.—

(1) Except as authorized in this chapter or in chapter 499
and notwithstanding the provisions of s. 893.13:



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11 (c)1. A ~~Any~~ person who knowingly sells, purchases,
12 manufactures, delivers, or brings into this state, or who is
13 knowingly in actual or constructive possession of, 4 grams or
14 more of any morphine, opium, ~~oxycodone, hydrocodone,~~
15 hydromorphone, or any salt, derivative, isomer, or salt of an
16 isomer thereof, including heroin, as described in s.
17 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or more
18 of any mixture containing any such substance, but less than 30
19 kilograms of such substance or mixture, commits a felony of the
20 first degree, which felony shall be known as "trafficking in
21 illegal drugs," punishable as provided in s. 775.082, s.
22 775.083, or s. 775.084. If the quantity involved:

23 a. Is 4 grams or more, but less than 14 grams, such person
24 shall be sentenced to a mandatory minimum term of imprisonment
25 of 3 years~~7~~, and ~~the defendant~~ shall be ordered to pay a fine of
26 \$50,000.

27 b. Is 14 grams or more, but less than 28 grams, such person
28 shall be sentenced to a mandatory minimum term of imprisonment
29 of 15 years~~7~~, and ~~the defendant~~ shall be ordered to pay a fine of
30 \$100,000.

31 c. Is 28 grams or more, but less than 30 kilograms, such
32 person shall be sentenced to a mandatory minimum term of
33 imprisonment of 25 ~~calendar~~ years and shall be ordered to pay a
34 fine of \$500,000.

35 2. A person who knowingly sells, purchases, manufactures,
36 delivers, or brings into this state, or who is knowingly in
37 actual or constructive possession of, 14 grams or more of
38 hydrocodone, or 14 grams or more of any mixture containing any
39 such substance, commits a felony of the first degree, which



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40 felony shall be known as "trafficking in hydrocodone,"
41 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

42 If the quantity involved:

43 a. Is 14 grams or more, but less than 28 grams, such person
44 shall be sentenced to a mandatory minimum term of imprisonment
45 of 3 years and shall be ordered to pay a fine of \$50,000.

46 b. Is 28 grams or more, but less than 50 grams, such person
47 shall be sentenced to a mandatory minimum term of imprisonment
48 of 7 years and shall be ordered to pay a fine of \$100,000.

49 c. Is 50 grams or more, but less than 200 grams, such
50 person shall be sentenced to a mandatory minimum term of
51 imprisonment of 15 years and shall be ordered to pay a fine of
52 \$500,000.

53 d. Is 200 grams or more, but less than 30 kilograms, such
54 person shall be sentenced to a mandatory minimum term of
55 imprisonment of 25 years and shall be ordered to pay a fine of
56 \$750,000.

57 3. A person who knowingly sells, purchases, manufactures,
58 delivers, or brings into this state, or who is knowingly in
59 actual or constructive possession of, 7 grams or more of
60 oxycodone, or 7 grams or more of any mixture containing any such
61 substance, commits a felony of the first degree, which felony
62 shall be known as "trafficking in oxycodone," punishable as
63 provided in s. 775.082, s. 775.083, or s. 775.084. If the
64 quantity involved:

65 a. Is 7 grams or more, but less than 14 grams, such person
66 shall be sentenced to a mandatory minimum term of imprisonment
67 of 3 years and shall be ordered to pay a fine of \$50,000.

68 b. Is 14 grams or more, but less than 25 grams, such person



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69 shall be sentenced to a mandatory minimum term of imprisonment
70 of 7 years and shall be ordered to pay a fine of \$100,000.

71 c. Is 25 grams or more, but less than 100 grams, such
72 person shall be sentenced to a mandatory minimum term of
73 imprisonment of 15 years and shall be ordered to pay a fine of
74 \$500,000.

75 d. Is 100 grams or more, but less than 30 kilograms, such
76 person shall be sentenced to a mandatory minimum term of
77 imprisonment of 25 years and shall be ordered to pay a fine of
78 \$750,000.

79 4.2. A Any person who knowingly sells, purchases,
80 manufactures, delivers, or brings into this state, or who is
81 knowingly in actual or constructive possession of, 30 kilograms
82 or more of any morphine, opium, oxycodone, hydrocodone,
83 hydromorphone, or any salt, derivative, isomer, or salt of an
84 isomer thereof, including heroin, as described in s.
85 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
86 more of any mixture containing any such substance, commits the
87 first degree felony of trafficking in illegal drugs. A person
88 who has been convicted of the first degree felony of trafficking
89 in illegal drugs under this subparagraph shall be punished by
90 life imprisonment and is ineligible for any form of
91 discretionary early release except pardon or executive clemency
92 or conditional medical release under s. 947.149. However, if the
93 court determines that, in addition to committing any act
94 specified in this paragraph:

95 a. The person intentionally killed an individual or
96 counseled, commanded, induced, procured, or caused the
97 intentional killing of an individual and such killing was the



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98 result; or

99 b. The person's conduct in committing that act led to a
100 natural, though not inevitable, lethal result,

101
102 such person commits the capital felony of trafficking in illegal
103 drugs, punishable as provided in ss. 775.082 and 921.142. A ~~Any~~
104 person sentenced for a capital felony under this paragraph shall
105 also be sentenced to pay the maximum fine provided under
106 subparagraph 1.

107 ~~5.3.~~ A ~~Any~~ person who knowingly brings into this state 60
108 kilograms or more of any morphine, opium, oxycodone,
109 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
110 salt of an isomer thereof, including heroin, as described in s.
111 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or
112 more of any mixture containing any such substance, and who knows
113 that the probable result of such importation would be the death
114 of a ~~any~~ person, commits capital importation of illegal drugs, a
115 capital felony punishable as provided in ss. 775.082 and
116 921.142. A ~~Any~~ person sentenced for a capital felony under this
117 paragraph shall also be sentenced to pay the maximum fine
118 provided under subparagraph 1.

119 Section 2. Paragraphs (g) through (i) of subsection (3) of
120 section 921.0022, Florida Statutes, are amended to read:

121 921.0022 Criminal Punishment Code; offense severity ranking
122 chart.-

123 (3) OFFENSE SEVERITY RANKING CHART

124 (g) LEVEL 7

125



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	Florida Statute	Felony Degree	Description
126	316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
127	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
128	316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
129	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
130	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great



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			bodily harm, permanent disfiguration, permanent disability, or death.
131	409.920 (2) (b) 1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
132	409.920 (2) (b) 1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
133	456.065 (2)	3rd	Practicing a health care profession without a license.
134	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
135	458.327 (1)	3rd	Practicing medicine without a license.
136	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
137	460.411 (1)	3rd	Practicing chiropractic medicine without a



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138			license.
	461.012 (1)	3rd	Practicing podiatric medicine without a license.
139			
	462.17	3rd	Practicing naturopathy without a license.
140			
	463.015 (1)	3rd	Practicing optometry without a license.
141			
	464.016 (1)	3rd	Practicing nursing without a license.
142			
	465.015 (2)	3rd	Practicing pharmacy without a license.
143			
	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
144			
	467.201	3rd	Practicing midwifery without a license.
145			
	468.366	3rd	Delivering respiratory care services without a license.
146			



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147	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
148	483.901 (9)	3rd	Practicing medical physics without a license.
149	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
150	484.053	3rd	Dispensing hearing aids without a license.
151	494.0018 (2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
	560.123 (8) (b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money



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152

560.125 (5) (a) 3rd Money services business
by unauthorized person,
currency or payment
instruments exceeding
\$300 but less than
\$20,000.

153

655.50 (10) (b) 1. 3rd Failure to report
financial transactions
exceeding \$300 but less
than \$20,000 by
financial institution.

154

775.21 (10) (a) 3rd Sexual predator; failure
to register; failure to
renew driver ~~driver's~~
license or
identification card;
other registration
violations.

155

775.21 (10) (b) 3rd Sexual predator working
where children regularly
congregate.

156

775.21 (10) (g) 3rd Failure to report or
providing false



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157	782.051 (3)	2nd	information about a sexual predator; harbor or conceal a sexual predator.
158	782.07 (1)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
159	782.071	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
160	782.072	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
		2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel



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homicide).

161

784.045 (1) (a) 1. 2nd Aggravated battery;
intentionally causing
great bodily harm or
disfigurement.

162

784.045 (1) (a) 2. 2nd Aggravated battery;
using deadly weapon.

163

784.045 (1) (b) 2nd Aggravated battery;
perpetrator aware victim
pregnant.

164

784.048 (4) 3rd Aggravated stalking;
violation of injunction
or court order.

165

784.048 (7) 3rd Aggravated stalking;
violation of court
order.

166

784.07 (2) (d) 1st Aggravated battery on
law enforcement officer.

167

784.074 (1) (a) 1st Aggravated battery on
sexually violent
predators facility
staff.



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168 784.08 (2) (a) 1st Aggravated battery on a
person 65 years of age
or older.

169 784.081 (1) 1st Aggravated battery on
specified official or
employee.

170 784.082 (1) 1st Aggravated battery by
detained person on
visitor or other
detainee.

171 784.083 (1) 1st Aggravated battery on
code inspector.

172 787.06 (3) (a) 1st Human trafficking using
coercion for labor and
services.

173 787.06 (3) (e) 1st Human trafficking using
coercion for labor and
services by the transfer
or transport of any
individual from outside
Florida to within the
state.

174



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175	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
176	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
177	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
178	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
179	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting



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180

790.23

1st,PBL

to commit a felony.

Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.

181

794.08 (4)

3rd

Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.

182

796.03

2nd

Procuring any person under 16 years for prostitution.

183

800.04 (5) (c) 1.

2nd

Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.

184

800.04 (5) (c) 2.

2nd

Lewd or lascivious molestation; victim 12



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185			years of age or older but less than 16 years; offender 18 years or older.
186	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
187	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
188	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
189	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
190	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen



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191			while causing other property damage; 1st degree grand theft.
	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
192			
	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
193			
	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
194			
	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
195			
	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
196			



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197	812.131 (2) (a)	2nd	Robbery by sudden snatching.
198	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
199	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
200	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
201	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
202	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an



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203			insuring entity which are a significant cause of the insolvency of that entity.
204	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
205	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
206	825.103 (2) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
207	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age



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208			or older.
	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
209			
	838.015	2nd	Bribery.
210			
	838.016	2nd	Unlawful compensation or reward for official behavior.
211			
	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
212			
	838.22	2nd	Bid tampering.
213			
	843.0855 (2)	3rd	Impersonation of a public officer or employee.
214			
	843.0855 (3)	3rd	Unlawful simulation of legal process.
215			
	843.0855 (4)	3rd	Intimidation of a public officer or employee.
216			
	847.0135 (3)	3rd	Solicitation of a child,



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217			via a computer service, to commit an unlawful sex act.
218	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
219	872.06	2nd	Abuse of a dead human body.
220	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
221	874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
	893.13 (1) (c) 1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a),



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(2) (b), or (2) (c) 4.)
within 1,000 feet of a
child care facility,
school, or state,
county, or municipal
park or publicly owned
recreational facility or
community center.

222

893.13 (1) (e) 1.

1st

Sell, manufacture, or
deliver cocaine or other
drug prohibited under s.
893.03 (1) (a), (1) (b),
(1) (d), (2) (a), (2) (b),
or (2) (c) 4., within
1,000 feet of property
used for religious
services or a specified
business site.

223

893.13 (4) (a)

1st

Deliver to minor cocaine
(or other s.
893.03 (1) (a), (1) (b),
(1) (d), (2) (a), (2) (b),
or (2) (c) 4. drugs).

224

893.135 (1) (a) 1.

1st

Trafficking in cannabis,
more than 25 lbs., less
than 2,000 lbs.



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225	893.135 (1) (b) 1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
226	893.135 (1) (c) 1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
227	<u>893.135 (1) (c) 2.a.</u>	<u>1st</u>	<u>Trafficking in</u> <u>hydrocodone, 14 grams or</u> <u>more, less than 28</u> <u>grams.</u>
228	<u>893.135 (1) (c) 2.b.</u>	<u>1st</u>	<u>Trafficking in</u> <u>hydrocodone, 28 grams or</u> <u>more, less than 50</u> <u>grams.</u>
229	<u>893.135 (1) (c) 3.a.</u>	<u>1st</u>	<u>Trafficking in</u> <u>oxycodone, 7 grams or</u> <u>more, less than 14</u> <u>grams.</u>
230	<u>893.135 (1) (c) 3.b.</u>	<u>1st</u>	<u>Trafficking in</u> <u>oxycodone, 14 grams or</u> <u>more, less than 25</u> <u>grams.</u>



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231	893.135 (1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
232	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
233	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
234	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
235	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
236	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram



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237	893.135 (1) (k) 2.a.	1st	or more, less than 5 kilograms. Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
238	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
239	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
240	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
241	943.0435 (4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with



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242			reporting requirements.
	943.0435 (8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
243			
	943.0435 (9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
244			
	943.0435 (13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
245			
	943.0435 (14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
246			
	944.607 (9)	3rd	Sexual offender; failure to comply with reporting requirements.



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247	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
248	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
249	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
250	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
251	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual



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offender.

252

985.4815(13)

3rd

Sexual offender; failure to report and reregister; failure to respond to address verification.

253

254

255

(h) LEVEL 8

256

Florida
Statute

Felony
Degree

Description

257

316.193

2nd

DUI manslaughter.

(3) (c) 3.a.

258

316.1935(4) (b)

1st

Aggravated fleeing or attempted eluding with serious bodily injury or death.

259

327.35(3) (c) 3.

2nd

Vessel BUI manslaughter.

260

499.0051(7)

1st

Knowing trafficking in contraband prescription drugs.

261

499.0051(8)

1st

Knowing forgery of



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262	560.123 (8) (b) 2.	2nd	prescription labels or prescription drug labels. Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.
263	560.125 (5) (b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.
264	655.50 (10) (b) 2.	2nd	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
265	777.03 (2) (a)	1st	Accessory after the fact, capital felony.
266			



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782.04(4) 2nd Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.

267

782.051(2) 1st Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).

268

782.071(1)(b) 1st Committing vehicular homicide and failing to render aid or give information.

269

782.072(2) 1st Committing vessel homicide and failing to render aid or give information.

270



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271	787.06(3)(b)	1st	Human trafficking using coercion for commercial sexual activity.
272	787.06(3)(c)	1st	Human trafficking using coercion for labor and services of an unauthorized alien.
273	787.06(3)(f)	1st	Human trafficking using coercion for commercial sexual activity by the transfer or transport of any individual from outside Florida to within the state.
274	790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
275	794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
	794.08(3)	2nd	Female genital



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			mutilation, removal of a victim younger than 18 years of age from this state.
276	800.04 (4)	2nd	Lewd or lascivious battery.
277	806.01 (1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
278	810.02 (2) (a)	1st, PBL	Burglary with assault or battery.
279	810.02 (2) (b)	1st, PBL	Burglary; armed with explosives or dangerous weapon.
280	810.02 (2) (c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
281	812.014 (2) (a) 2.	1st	Property stolen; cargo valued at \$50,000 or



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282			more, grand theft in 1st degree.
283	812.13 (2) (b)	1st	Robbery with a weapon.
284	812.135 (2) (c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
285	817.535 (2) (b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.
286	817.535 (3) (a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.
287	817.535 (4) (a) 1.	2nd	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.
	817.535 (5) (a)	2nd	Filing false lien or other unauthorized document; owner of the



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288	817.568 (6)	2nd	property incurs financial loss as a result of the false instrument.
289	825.102 (2)	1st	Fraudulent use of personal identification information of an individual under the age of 18.
290	825.1025 (2)	2nd	Aggravated abuse of an elderly person or disabled adult.
291	825.103 (2) (a)	1st	Lewd or lascivious battery upon an elderly person or disabled adult.
292	837.02 (2)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
			Perjury in official proceedings relating to prosecution of a capital felony.



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293	837.021 (2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
294	860.121 (2) (c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
295	860.16	1st	Aircraft piracy.
296	893.13 (1) (b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b) .
297	893.13 (2) (b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b) .
298	893.13 (6) (c)	1st	Possess in excess of 10 grams of any substance specified in s.



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299			893.03(1) (a) or (b) .
	893.135(1) (a) 2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
300			
	893.135 (1) (b) 1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
301			
	893.135 (1) (c) 1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
302			
	<u>893.135(1) (c) 2.c.</u>	<u>1st</u>	<u>Trafficking in</u> <u>hydrocodone, 50 grams or</u> <u>more, less than 200</u> <u>grams.</u>
303			
	<u>893.135(1) (c) 3.c.</u>	<u>1st</u>	<u>Trafficking in</u> <u>oxycodone, 25 grams or</u> <u>more, less than 100</u> <u>grams.</u>
304			
	893.135 (1) (d) 1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.



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305	893.135 (1) (e) 1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
306	893.135 (1) (f) 1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
307	893.135 (1) (g) 1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
308	893.135 (1) (h) 1.b.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
309	893.135 (1) (j) 1.b.	1st	Trafficking in 1,4- Butanediol, 5 kilograms or more, less than 10 kilograms.
310	893.135 (1) (k) 2.b.	1st	Trafficking in Phenethylamines, 200



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311	893.1351(3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
312	895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
313	895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
314	895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
315	896.101(5)(b)	2nd	Money laundering, financial transactions totaling or exceeding \$20,000, but less than



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\$100,000.

316

896.104 (4) (a) 2.

2nd

Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.

317

318

319

(i) LEVEL 9

320

Florida
Statute

Felony
Degree

Description

321

316.193
(3) (c) 3.b.

1st

DUI manslaughter;
failing to render aid or give information.

322

327.35 (3) (c) 3.b.

1st

BUI manslaughter;
failing to render aid or give information.

323

409.920
(2) (b) 1.c.

1st

Medicaid provider fraud;
\$50,000 or more.

324

499.0051 (9)

1st

Knowing sale or purchase
of contraband



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325			prescription drugs resulting in great bodily harm.
	560.123 (8) (b) 3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
326			
	560.125 (5) (c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
327			
	655.50 (10) (b) 3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
328			
	775.0844	1st	Aggravated white collar crime.
329			
	782.04 (1)	1st	Attempt, conspire, or solicit to commit premeditated murder.



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330	782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, aggravated fleeing or eluding with serious bodily injury or death, and other specified felonies.
331	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
332	782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
333	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
334	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
335			



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336	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
337	787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
338	787.06(3)(d)	1st	Human trafficking using coercion for commercial sexual activity of an unauthorized alien.
339	787.06(3)(g)	1st,PBL	Human trafficking for commercial sexual activity of a child under the age of 18.
340	787.06(4)	1st	Selling or buying of minors into human trafficking.



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341	790.161	1st	Attempted capital destructive device offense.
342	790.166 (2)	1st, PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
343	794.011 (2)	1st	Attempted sexual battery; victim less than 12 years of age.
344	794.011 (2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
345	794.011 (4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
346	794.011 (8) (b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.



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347	794.08 (2)	1st	Female genital mutilation; victim younger than 18 years of age.
348	796.035	1st	Selling or buying of minors into prostitution.
349	800.04 (5) (b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
350	812.13 (2) (a)	1st, PBL	Robbery with firearm or other deadly weapon.
351	812.133 (2) (a)	1st, PBL	Carjacking; firearm or other deadly weapon.
352	812.135 (2) (b)	1st	Home-invasion robbery with weapon.
	817.535 (3) (b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or



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353

817.535 (4) (a) 2.

1st

employee.

Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.

354

817.535 (5) (b)

1st

Filing false lien or other unauthorized document; second or subsequent offense; owner of the property incurs financial loss as a result of the false instrument.

355

817.568 (7)

2nd,
PBL

Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.

356

827.03 (2) (a)

1st

Aggravated child abuse.

357

847.0145 (1)

1st

Selling, or otherwise



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358

847.0145(2)

1st

transferring custody or
control, of a minor.

Purchasing, or otherwise
obtaining custody or
control, of a minor.

359

859.01

1st

Poisoning or introducing
bacteria, radioactive
materials, viruses, or
chemical compounds into
food, drink, medicine,
or water with intent to
kill or injure another
person.

360

893.135

1st

Attempted capital
trafficking offense.

361

893.135(1)(a)3.

1st

Trafficking in cannabis,
more than 10,000 lbs.

362

893.135
(1)(b)1.c.

1st

Trafficking in cocaine,
more than 400 grams,
less than 150 kilograms.

363

893.135
(1)(c)1.c.

1st

Trafficking in illegal
drugs, more than 28
grams, less than 30



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kilograms.

364

893.135 (1) (c) 2.d.

1st

Trafficking in hydrocodone, 200 grams or more, less than 30 kilograms.

365

893.135 (1) (c) 3.d.

1st

Trafficking in oxycodone, 100 grams or more, less than 30 kilograms.

366

893.135
(1) (d) 1.c.

1st

Trafficking in phencyclidine, more than 400 grams.

367

893.135
(1) (e) 1.c.

1st

Trafficking in methaqualone, more than 25 kilograms.

368

893.135
(1) (f) 1.c.

1st

Trafficking in amphetamine, more than 200 grams.

369

893.135
(1) (h) 1.c.

1st

Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.

370



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893.135 1st Trafficking in 1,4-
(1) (j) 1.c. Butanediol, 10 kilograms
or more.

371

893.135 1st Trafficking in
(1) (k) 2.c. Phenethylamines, 400
grams or more.

372

896.101 (5) (c) 1st Money laundering,
financial instruments
totaling or exceeding
\$100,000.

373

896.104 (4) (a) 3. 1st Structuring transactions
to evade reporting or
registration
requirements, financial
transactions totaling or
exceeding \$100,000.

374

375

376 Section 3. For the purpose of incorporating the amendment
377 made by this act to section 893.135, Florida Statutes, in a
378 reference thereto, paragraph (a) of subsection (2) and paragraph
379 (a) of subsection (3) of section 775.087, Florida Statutes, are
380 reenacted to read:

381 775.087 Possession or use of weapon; aggravated battery;
382 felony reclassification; minimum sentence.-

383 (2) (a) 1. Any person who is convicted of a felony or an



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384 attempt to commit a felony, regardless of whether the use of a
385 weapon is an element of the felony, and the conviction was for:
386 a. Murder;
387 b. Sexual battery;
388 c. Robbery;
389 d. Burglary;
390 e. Arson;
391 f. Aggravated assault;
392 g. Aggravated battery;
393 h. Kidnapping;
394 i. Escape;
395 j. Aircraft piracy;
396 k. Aggravated child abuse;
397 l. Aggravated abuse of an elderly person or disabled adult;
398 m. Unlawful throwing, placing, or discharging of a
399 destructive device or bomb;
400 n. Carjacking;
401 o. Home-invasion robbery;
402 p. Aggravated stalking;
403 q. Trafficking in cannabis, trafficking in cocaine, capital
404 importation of cocaine, trafficking in illegal drugs, capital
405 importation of illegal drugs, trafficking in phencyclidine,
406 capital importation of phencyclidine, trafficking in
407 methaqualone, capital importation of methaqualone, trafficking
408 in amphetamine, capital importation of amphetamine, trafficking
409 in flunitrazepam, trafficking in gamma-hydroxybutyric acid
410 (GHB), trafficking in 1,4-Butanediol, trafficking in
411 Phenethylamines, or other violation of s. 893.135(1); or
412 r. Possession of a firearm by a felon



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413
414 and during the commission of the offense, such person actually
415 possessed a "firearm" or "destructive device" as those terms are
416 defined in s. 790.001, shall be sentenced to a minimum term of
417 imprisonment of 10 years, except that a person who is convicted
418 for aggravated assault, possession of a firearm by a felon, or
419 burglary of a conveyance shall be sentenced to a minimum term of
420 imprisonment of 3 years if such person possessed a "firearm" or
421 "destructive device" during the commission of the offense.

422 However, if an offender who is convicted of the offense of
423 possession of a firearm by a felon has a previous conviction of
424 committing or attempting to commit a felony listed in s.
425 775.084(1)(b)1. and actually possessed a firearm or destructive
426 device during the commission of the prior felony, the offender
427 shall be sentenced to a minimum term of imprisonment of 10
428 years.

429 2. Any person who is convicted of a felony or an attempt to
430 commit a felony listed in sub-subparagraphs (a)1.a.-q.,
431 regardless of whether the use of a weapon is an element of the
432 felony, and during the course of the commission of the felony
433 such person discharged a "firearm" or "destructive device" as
434 defined in s. 790.001 shall be sentenced to a minimum term of
435 imprisonment of 20 years.

436 3. Any person who is convicted of a felony or an attempt to
437 commit a felony listed in sub-subparagraphs (a)1.a.-q.,
438 regardless of whether the use of a weapon is an element of the
439 felony, and during the course of the commission of the felony
440 such person discharged a "firearm" or "destructive device" as
441 defined in s. 790.001 and, as the result of the discharge, death



442 or great bodily harm was inflicted upon any person, the
443 convicted person shall be sentenced to a minimum term of
444 imprisonment of not less than 25 years and not more than a term
445 of imprisonment of life in prison.

446 (3) (a) 1. Any person who is convicted of a felony or an
447 attempt to commit a felony, regardless of whether the use of a
448 firearm is an element of the felony, and the conviction was for:

- 449 a. Murder;
- 450 b. Sexual battery;
- 451 c. Robbery;
- 452 d. Burglary;
- 453 e. Arson;
- 454 f. Aggravated assault;
- 455 g. Aggravated battery;
- 456 h. Kidnapping;
- 457 i. Escape;
- 458 j. Sale, manufacture, delivery, or intent to sell,
459 manufacture, or deliver any controlled substance;
- 460 k. Aircraft piracy;
- 461 l. Aggravated child abuse;
- 462 m. Aggravated abuse of an elderly person or disabled adult;
- 463 n. Unlawful throwing, placing, or discharging of a
464 destructive device or bomb;
- 465 o. Carjacking;
- 466 p. Home-invasion robbery;
- 467 q. Aggravated stalking; or
- 468 r. Trafficking in cannabis, trafficking in cocaine, capital
469 importation of cocaine, trafficking in illegal drugs, capital
470 importation of illegal drugs, trafficking in phencyclidine,



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471 capital importation of phencyclidine, trafficking in
472 methaqualone, capital importation of methaqualone, trafficking
473 in amphetamine, capital importation of amphetamine, trafficking
474 in flunitrazepam, trafficking in gamma-hydroxybutyric acid
475 (GHB), trafficking in 1,4-Butanediol, trafficking in
476 Phenethylamines, or other violation of s. 893.135(1);
477

478 and during the commission of the offense, such person possessed
479 a semiautomatic firearm and its high-capacity detachable box
480 magazine or a machine gun as defined in s. 790.001, shall be
481 sentenced to a minimum term of imprisonment of 15 years.

482 2. Any person who is convicted of a felony or an attempt to
483 commit a felony listed in subparagraph (a)1., regardless of
484 whether the use of a weapon is an element of the felony, and
485 during the course of the commission of the felony such person
486 discharged a semiautomatic firearm and its high-capacity box
487 magazine or a "machine gun" as defined in s. 790.001 shall be
488 sentenced to a minimum term of imprisonment of 20 years.

489 3. Any person who is convicted of a felony or an attempt to
490 commit a felony listed in subparagraph (a)1., regardless of
491 whether the use of a weapon is an element of the felony, and
492 during the course of the commission of the felony such person
493 discharged a semiautomatic firearm and its high-capacity box
494 magazine or a "machine gun" as defined in s. 790.001 and, as the
495 result of the discharge, death or great bodily harm was
496 inflicted upon any person, the convicted person shall be
497 sentenced to a minimum term of imprisonment of not less than 25
498 years and not more than a term of imprisonment of life in
499 prison.



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500 Section 4. For the purpose of incorporating the amendment
501 made by this act to section 893.135, Florida Statutes, in a
502 reference thereto, paragraph (a) of subsection (1) and
503 subsections (3) and (4) of section 782.04, Florida Statutes, are
504 reenacted to read:

505 782.04 Murder.—

506 (1) (a) The unlawful killing of a human being:

507 1. When perpetrated from a premeditated design to effect
508 the death of the person killed or any human being;

509 2. When committed by a person engaged in the perpetration
510 of, or in the attempt to perpetrate, any:

511 a. Trafficking offense prohibited by s. 893.135(1),

512 b. Arson,

513 c. Sexual battery,

514 d. Robbery,

515 e. Burglary,

516 f. Kidnapping,

517 g. Escape,

518 h. Aggravated child abuse,

519 i. Aggravated abuse of an elderly person or disabled adult,

520 j. Aircraft piracy,

521 k. Unlawful throwing, placing, or discharging of a
522 destructive device or bomb,

523 l. Carjacking,

524 m. Home-invasion robbery,

525 n. Aggravated stalking,

526 o. Murder of another human being,

527 p. Resisting an officer with violence to his or her person,

528 q. Aggravated fleeing or eluding with serious bodily injury



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529 or death,
530 r. Felony that is an act of terrorism or is in furtherance
531 of an act of terrorism; or
532 3. Which resulted from the unlawful distribution of any
533 substance controlled under s. 893.03(1), cocaine as described in
534 s. 893.03(2)(a)4., opium or any synthetic or natural salt,
535 compound, derivative, or preparation of opium, or methadone by a
536 person 18 years of age or older, when such drug is proven to be
537 the proximate cause of the death of the user,
538
539 is murder in the first degree and constitutes a capital felony,
540 punishable as provided in s. 775.082.
541 (3) When a human being is killed during the perpetration
542 of, or during the attempt to perpetrate, any:
543 (a) Trafficking offense prohibited by s. 893.135(1),
544 (b) Arson,
545 (c) Sexual battery,
546 (d) Robbery,
547 (e) Burglary,
548 (f) Kidnapping,
549 (g) Escape,
550 (h) Aggravated child abuse,
551 (i) Aggravated abuse of an elderly person or disabled
552 adult,
553 (j) Aircraft piracy,
554 (k) Unlawful throwing, placing, or discharging of a
555 destructive device or bomb,
556 (l) Carjacking,
557 (m) Home-invasion robbery,



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- 558 (n) Aggravated stalking,
559 (o) Murder of another human being,
560 (p) Aggravated fleeing or eluding with serious bodily
561 injury or death,
562 (q) Resisting an officer with violence to his or her
563 person, or
564 (r) Felony that is an act of terrorism or is in furtherance
565 of an act of terrorism,
566
567 by a person other than the person engaged in the perpetration of
568 or in the attempt to perpetrate such felony, the person
569 perpetrating or attempting to perpetrate such felony commits
570 murder in the second degree, which constitutes a felony of the
571 first degree, punishable by imprisonment for a term of years not
572 exceeding life or as provided in s. 775.082, s. 775.083, or s.
573 775.084.
- 574 (4) The unlawful killing of a human being, when perpetrated
575 without any design to effect death, by a person engaged in the
576 perpetration of, or in the attempt to perpetrate, any felony
577 other than any:
- 578 (a) Trafficking offense prohibited by s. 893.135(1),
579 (b) Arson,
580 (c) Sexual battery,
581 (d) Robbery,
582 (e) Burglary,
583 (f) Kidnapping,
584 (g) Escape,
585 (h) Aggravated child abuse,
586 (i) Aggravated abuse of an elderly person or disabled



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587 adult,
588 (j) Aircraft piracy,
589 (k) Unlawful throwing, placing, or discharging of a
590 destructive device or bomb,
591 (l) Unlawful distribution of any substance controlled under
592 s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or
593 opium or any synthetic or natural salt, compound, derivative, or
594 preparation of opium by a person 18 years of age or older, when
595 such drug is proven to be the proximate cause of the death of
596 the user,
597 (m) Carjacking,
598 (n) Home-invasion robbery,
599 (o) Aggravated stalking,
600 (p) Murder of another human being,
601 (q) Aggravated fleeing or eluding with serious bodily
602 injury or death,
603 (r) Resisting an officer with violence to his or her
604 person, or
605 (s) Felony that is an act of terrorism or is in furtherance
606 of an act of terrorism,
607
608 is murder in the third degree and constitutes a felony of the
609 second degree, punishable as provided in s. 775.082, s. 775.083,
610 or s. 775.084.

611 Section 5. This act shall take effect July 1, 2014.

612
613 ===== T I T L E A M E N D M E N T =====

614 And the title is amended as follows:

615 Delete everything before the enacting clause



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616 and insert:

617 A bill to be entitled
618 An act relating to sentencing for controlled substance
619 violations; amending s. 893.135, F.S.; providing that
620 a person who knowingly sells, purchases, manufactures,
621 delivers, or brings into this state specified
622 quantities of hydrocodone or a mixture containing
623 hydrocodone or who is knowingly in actual or
624 constructive possession of specified quantities of
625 hydrocodone or a mixture containing hydrocodone
626 commits the offense of trafficking in hydrocodone;
627 providing criminal penalties; providing that a person
628 who knowingly sells, purchases, manufactures,
629 delivers, or brings into this state specified
630 quantities of oxycodone or a mixture containing
631 oxycodone or who is knowingly in actual or
632 constructive possession of specified quantities of
633 oxycodone or a mixture containing oxycodone commits
634 the offense of trafficking in oxycodone; providing
635 criminal penalties; amending s. 921.0022, F.S.;
636 ranking the offenses of trafficking in hydrocodone and
637 trafficking in oxycodone for purposes of the criminal
638 punishment code; reenacting s. 775.087(2)(a) and
639 (3)(a), F.S., relating to mandatory minimum sentences
640 for the possession or use of a weapon during the
641 commission of certain offenses, to incorporate the
642 amendments made to s. 893.135, F.S., in a reference
643 thereto; reenacting s. 782.04(1)(a), (3), and (4),
644 F.S., relating to the classification of a murder



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645 committed during the commission of certain offenses,
646 to incorporate the amendments made to s. 893.135,
647 F.S., in a reference thereto; providing an effective
648 date.



629836

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

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

1 **Senate Amendment to Amendment (879190) (with title**
2 **amendment)**

3
4 Between lines 4 and 5
5 insert:

6 Section 1. Subsection (6) of section 893.13, Florida
7 Statutes, is amended to read:

8 893.13 Prohibited acts; penalties.—

9 (6) (a) It is unlawful for any person to be in actual or
10 constructive possession of a controlled substance unless such



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11 controlled substance was lawfully obtained from a practitioner
12 or pursuant to a valid prescription or order of a practitioner
13 while acting in the course of his or her professional practice
14 or to be in actual or constructive possession of a controlled
15 substance except as otherwise authorized by this chapter. Any
16 person who violates this provision commits a felony of the third
17 degree, punishable as provided in s. 775.082, s. 775.083, or s.
18 775.084.

19 (b) If the offense is the possession of more than 14 grams,
20 but not more than 30 ~~not more than 20~~ grams, of cannabis, as
21 defined in this chapter, or 3 grams or less of a controlled
22 substance described in s. 893.03(1)(c)46.-50., 114.-142., 151.-
23 159., or 166.-169., the person commits a misdemeanor of the
24 first degree, punishable as provided in s. 775.082 or s.
25 775.083. If the offense is possession of 14 grams or less of
26 cannabis, as defined in this chapter, the person commits a
27 misdemeanor of the second degree, punishable as provided in s.
28 775.083. For the purposes of this subsection, "cannabis" does
29 not include the resin extracted from the plants of the genus
30 *Cannabis*, or any compound manufacture, salt, derivative,
31 mixture, or preparation of such resin, and a controlled
32 substance described in s. 893.03(1)(c)46.-50., 114.-142., 151.-
33 159., or 166.-169., does not include the substance in a powdered
34 form.

35 (c) Except as provided in this chapter, it is unlawful to
36 possess in excess of 10 grams of any substance named or
37 described in s. 893.03(1)(a) or (1)(b), or any combination
38 thereof, or any mixture containing any such substance. Any
39 person who violates this paragraph commits a felony of the first



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40 degree, punishable as provided in s. 775.082, s. 775.083, or s.
41 775.084.

42 (d) Notwithstanding any provision to the contrary of the
43 laws of this state relating to arrest, a law enforcement officer
44 may arrest without warrant any person who the officer has
45 probable cause to believe is violating the provisions of this
46 chapter relating to possession of cannabis.

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

49 And the title is amended as follows:

50 Delete line 619

51 and insert:

52 violations; amending s. 893.13, F.S.; revising
53 penalties; providing that it is a first degree
54 misdemeanor to possess more than 14 grams, but not
55 more than 30 grams, of cannabis; providing that it is
56 a second degree misdemeanor, which is only punishable
57 by a fine, to possess 14 grams or less of cannabis;
58 amending s. 893.135, F.S.; providing that

By Senator Bradley

7-00124-14

2014360__

A bill to be entitled

An act relating to sentencing for controlled substance violations; amending s. 893.135, F.S.; providing that a person who knowingly sells, purchases, manufactures, delivers, or brings into this state specified quantities of oxycodone or hydrocodone, or who is knowingly in actual or constructive possession of specified quantities of oxycodone or hydrocodone, commits the offense of trafficking in illegal prescription drugs, a felony of the first degree; providing criminal penalties; amending s. 921.0022, F.S.; ranking the offenses of trafficking in illegal prescription drugs for purposes of the criminal punishment code; reenacting s. 775.087(2)(a) and (3)(a), F.S., relating to mandatory minimum sentences for the possession or use of a weapon during the commission of certain offenses, to incorporate the amendments made to s. 893.135, F.S., in a reference thereto; reenacting s. 782.04(1)(a), (3), and (4), F.S., relating to the classification of a murder committed during the commission of certain offenses, to incorporate the amendments made to s. 893.135, F.S., in a reference thereto; providing an effective date.

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

Section 1. Paragraph (c) of subsection (1) of section 893.135, Florida Statutes, is amended to read:

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893.135 Trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.—

(1) Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13:

(c)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of any morphine, opium, ~~oxycodone, hydrocodone,~~ hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or more of any mixture containing any such substance, but less than 30 kilograms of such substance or mixture, commits a felony of the first degree, which felony shall be known as "trafficking in illegal drugs," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 4 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, ~~and the defendant~~ shall be ordered to pay a fine of \$50,000.

b. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years, ~~and the defendant~~ shall be ordered to pay a fine of \$100,000.

c. Is 28 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 ~~calendar~~ years and pay a fine of \$500,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in

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59 actual or constructive possession of, 30 kilograms or more of
 60 any morphine, opium, ~~oxycodone, hydrocodone~~, hydromorphone, or
 61 any salt, derivative, isomer, or salt of an isomer thereof,
 62 including heroin, as described in s. 893.03(1)(b), (2)(a),
 63 (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture
 64 containing any such substance, commits the first degree felony
 65 of trafficking in illegal drugs. A person who has been convicted
 66 of the first degree felony of trafficking in illegal drugs under
 67 this subparagraph shall be punished by life imprisonment and is
 68 ineligible for any form of discretionary early release except
 69 pardon or executive clemency or conditional medical release
 70 under s. 947.149. However, if the court determines that, in
 71 addition to committing any act specified in this paragraph:

72 a. The person intentionally killed an individual or
 73 counseled, commanded, induced, procured, or caused the
 74 intentional killing of an individual and such killing was the
 75 result; or

76 b. The person's conduct in committing that act led to a
 77 natural, though not inevitable, lethal result,
 78
 79 such person commits the capital felony of trafficking in illegal
 80 drugs, punishable as provided in ss. 775.082 and 921.142. Any
 81 person sentenced for a capital felony under this paragraph shall
 82 also be sentenced to pay the maximum fine provided under
 83 subparagraph 1.

84 3. Any person who knowingly sells, purchases, manufactures,
 85 delivers, or brings into this state, or who is knowingly in
 86 actual or constructive possession of, 14 grams or more of any
 87 oxycodone or hydrocodone, or 14 grams or more of any mixture

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88 containing any such substance, commits a felony of the first
 89 degree, which felony shall be known as "trafficking in illegal
 90 prescription drugs," punishable as provided in s. 775.082, s.
 91 775.083, or s. 775.084. If the quantity involved:

92 a. Is 14 grams or more, but less than 28 grams, such person
 93 shall be sentenced to a mandatory minimum term of imprisonment
 94 of 3 years and shall be ordered to pay a fine of \$50,000.

95 b. Is 28 grams or more, but less than 50 grams, such person
 96 shall be sentenced to a mandatory minimum term of imprisonment
 97 of 7 years and shall be ordered to pay a fine of \$100,000.

98 c. Is 50 grams or more, but less than 200 grams, such
 99 person shall be sentenced to a mandatory minimum term of
 100 imprisonment of 15 years and shall be ordered to pay a fine of
 101 \$500,000.

102 d. Is 200 grams or more, such person shall be sentenced to
 103 a mandatory minimum term of imprisonment of 25 years and shall
 104 be ordered to pay a fine of \$750,000.

105 4.3- Any person who knowingly brings into this state 60
 106 kilograms or more of any morphine, opium, oxycodone,
 107 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
 108 salt of an isomer thereof, including heroin, as described in s.
 109 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or
 110 more of any mixture containing any such substance, and who knows
 111 that the probable result of such importation would be the death
 112 of any person, commits capital importation of illegal drugs, a
 113 capital felony punishable as provided in ss. 775.082 and
 114 921.142. Any person sentenced for a capital felony under this
 115 paragraph shall also be sentenced to pay the maximum fine
 116 provided under subparagraph 1.

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117 Section 2. Paragraphs (f) through (i) of subsection (3) of
 118 section 921.0022, Florida Statutes, are amended to read:
 119 921.0022 Criminal Punishment Code; offense severity ranking
 120 chart.—
 121 (3) OFFENSE SEVERITY RANKING CHART
 122 (f) LEVEL 6

Florida Statute	Felony Degree	Description
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
499.0051(3)	2nd	Knowing forgery of pedigree papers.
499.0051(4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
499.0051(5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
775.0875(1)	3rd	Taking firearm from law enforcement officer.

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784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
784.041	3rd	Felony battery; domestic battery by strangulation.
784.048(3)	3rd	Aggravated stalking; credible threat.
784.048(5)	3rd	Aggravated stalking of person under 16.
784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
784.08(2)(b)	2nd	Aggravated assault on a person 65 years of

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			age or older.	
136	784.081(2)	2nd	Aggravated assault on specified official or employee.	
137	784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.	
138	784.083(2)	2nd	Aggravated assault on code inspector.	
139	787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.	
140	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.	
141	790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.	
142				

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	790.164(1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.	
143	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.	
144	794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.	
145	794.05(1)	2nd	Unlawful sexual activity with specified minor.	
146	800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender less than 18 years.	
147	800.04(6)(b)	2nd	Lewd or lascivious	

	7-00124-14		2014360	conduct; offender 18 years of age or older.
148	806.031(2)	2nd		Arson resulting in great bodily harm to firefighter or any other person.
149	810.02(3)(c)	2nd		Burglary of occupied structure; unarmed; no assault or battery.
150	810.145(8)(b)	2nd		Video voyeurism; certain minor victims; 2nd or subsequent offense.
151	812.014(2)(b)1.	2nd		Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
152	812.014(6)	2nd		Theft; property stolen \$3,000 or more; coordination of others.
153	812.015(9)(a)	2nd		Retail theft; property

	7-00124-14		2014360	stolen \$300 or more; second or subsequent conviction.
154	812.015(9)(b)	2nd		Retail theft; property stolen \$3,000 or more; coordination of others.
155	812.13(2)(c)	2nd		Robbery, no firearm or other weapon (strong-arm robbery).
156	817.4821(5)	2nd		Possess cloning paraphernalia with intent to create cloned cellular telephones.
157	825.102(1)	3rd		Abuse of an elderly person or disabled adult.
158	825.102(3)(c)	3rd		Neglect of an elderly person or disabled adult.
159	825.1025(3)	3rd		Lewd or lascivious molestation of an

	7-00124-14		2014360__	elderly person or disabled adult.
160	825.103(2)(c)	3rd		Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.
161	827.03(2)(c)	3rd		Abuse of a child.
162	827.03(2)(d)	3rd		Neglect of a child.
163	827.071(2) & (3)	2nd		Use or induce a child in a sexual performance, or promote or direct such performance.
164	836.05	2nd		Threats; extortion.
165	836.10	2nd		Written threats to kill or do bodily injury.
166	843.12	3rd		Aids or assists person to escape.
167	847.011	3rd		Distributing, offering

	7-00124-14		2014360__	to distribute, or possessing with intent to distribute obscene materials depicting minors.
168	847.012	3rd		Knowingly using a minor in the production of materials harmful to minors.
169	847.0135(2)	3rd		Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
170	<u>893.135(1)(c)3.a.</u>	<u>1st</u>		<u>Trafficking in illegal prescription drugs, 14 grams or more, less than 28 grams.</u>
171	914.23	2nd		Retaliation against a witness, victim, or informant, with bodily injury.
172	944.35(3)(a)2.	3rd		Committing malicious

173	7-00124-14		2014360	
				battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
174	944.40	2nd		Escapes.
	944.46	3rd		Harboring, concealing, aiding escaped prisoners.
175	944.47(1) (a) 5.	2nd		Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
176	951.22(1)	3rd		Intoxicating drug, firearm, or weapon introduced into county facility.
177	(g) LEVEL 7			
178	Florida	Felony		
	Statute	Degree		Description
179				

	7-00124-14		2014360	
	316.027(1) (b)	1st		Accident involving death, failure to stop; leaving scene.
180	316.193(3) (c) 2.	3rd		DUI resulting in serious bodily injury.
181	316.1935(3) (b)	1st		Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
182	327.35(3) (c) 2.	3rd		Vessel BUI resulting in serious bodily injury.
183	402.319(2)	2nd		Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfigurement, permanent disability, or death.

184	7-00124-14		2014360__
	409.920	3rd	Medicaid provider fraud;
	(2) (b) 1.a.		\$10,000 or less.
185	409.920	2nd	Medicaid provider fraud;
	(2) (b) 1.b.		more than \$10,000, but
			less than \$50,000.
186	456.065(2)	3rd	Practicing a health care
			profession without a
			license.
187	456.065(2)	2nd	Practicing a health care
			profession without a
			license which results in
			serious bodily injury.
188	458.327(1)	3rd	Practicing medicine
			without a license.
189	459.013(1)	3rd	Practicing osteopathic
			medicine without a
			license.
190	460.411(1)	3rd	Practicing chiropractic
			medicine without a
			license.
191	461.012(1)	3rd	Practicing podiatric

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			medicine without a
			license.
192	462.17	3rd	Practicing naturopathy
			without a license.
193	463.015(1)	3rd	Practicing optometry
			without a license.
194	464.016(1)	3rd	Practicing nursing
			without a license.
195	465.015(2)	3rd	Practicing pharmacy
			without a license.
196	466.026(1)	3rd	Practicing dentistry or
			dental hygiene without a
			license.
197	467.201	3rd	Practicing midwifery
			without a license.
198	468.366	3rd	Delivering respiratory
			care services without a
			license.
199	483.828(1)	3rd	Practicing as clinical
			laboratory personnel
			without a license.

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200	7-00124-14		2014360__	
	483.901(9)	3rd	Practicing medical physics without a license.	
201				
	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.	
202				
	484.053	3rd	Dispensing hearing aids without a license.	
203				
	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.	
204				
	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.	
205				
	560.125(5)(a)	3rd	Money services business	

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	7-00124-14		2014360__	
				by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
206				
	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.	
207				
	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew <u>driver</u> driver's license or identification card; other registration violations.	
208				
	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.	
209				
	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual	

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	7-00124-14		2014360__	predator.
210	782.051(3)	2nd		Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
211	782.07(1)	2nd		Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
212	782.071	2nd		Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
213	782.072	2nd		Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
214	784.045(1)(a)1.	2nd		Aggravated battery;

	7-00124-14		2014360__	intentionally causing great bodily harm or disfigurement.
215	784.045(1)(a)2.	2nd		Aggravated battery; using deadly weapon.
216	784.045(1)(b)	2nd		Aggravated battery; perpetrator aware victim pregnant.
217	784.048(4)	3rd		Aggravated stalking; violation of injunction or court order.
218	784.048(7)	3rd		Aggravated stalking; violation of court order.
219	784.07(2)(d)	1st		Aggravated battery on law enforcement officer.
220	784.074(1)(a)	1st		Aggravated battery on sexually violent predators facility staff.
221	784.08(2)(a)	1st		Aggravated battery on a person 65 years of age

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222	784.081(1)	1st		Aggravated battery on specified official or employee.
223	784.082(1)	1st		Aggravated battery by detained person on visitor or other detainee.
224	784.083(1)	1st		Aggravated battery on code inspector.
225	787.06(3) (a)	1st		Human trafficking using coercion for labor and services.
226	787.06(3) (e)	1st		Human trafficking using coercion for labor and services by the transfer or transport of any individual from outside Florida to within the state.
227	790.07(4)	1st		Specified weapons violation subsequent to previous conviction of

	7-00124-14		2014360__	s. 790.07(1) or (2).
228	790.16(1)	1st		Discharge of a machine gun under specified circumstances.
229	790.165(2)	2nd		Manufacture, sell, possess, or deliver hoax bomb.
230	790.165(3)	2nd		Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
231	790.166(3)	2nd		Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
232	790.166(4)	2nd		Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
233	790.23	1st,PBL		Possession of a firearm

	7-00124-14		2014360__	
				by a person who qualifies for the penalty enhancements provided for in s. 874.04.
234	794.08(4)	3rd		Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
235	796.03	2nd		Procuring any person under 16 years for prostitution.
236	800.04(5)(c)1.	2nd		Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
237	800.04(5)(c)2.	2nd		Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or

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				older.
238	806.01(2)	2nd		Maliciously damage structure by fire or explosive.
239	810.02(3)(a)	2nd		Burglary of occupied dwelling; unarmed; no assault or battery.
240	810.02(3)(b)	2nd		Burglary of unoccupied dwelling; unarmed; no assault or battery.
241	810.02(3)(d)	2nd		Burglary of occupied conveyance; unarmed; no assault or battery.
242	810.02(3)(e)	2nd		Burglary of authorized emergency vehicle.
243	812.014(2)(a)1.	1st		Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.

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244	812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
245	812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
246	812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
247	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
248	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
249	812.131(2)(a)	2nd	Robbery by sudden snatching.
250			

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	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
251	817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
252	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
253	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
254	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
255	817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of

	7-00124-14		2014360__	
				that entity.
256	817.535(2)(a)	3rd		Filing false lien or other unauthorized document.
257	825.102(3)(b)	2nd		Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
258	825.103(2)(b)	2nd		Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
259	827.03(2)(b)	2nd		Neglect of a child causing great bodily harm, disability, or disfigurement.
260	827.04(3)	3rd		Impregnation of a child under 16 years of age by person 21 years of age or older.
261	837.05(2)	3rd		Giving false information

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				about alleged capital felony to a law enforcement officer.
262	838.015	2nd		Bribery.
263	838.016	2nd		Unlawful compensation or reward for official behavior.
264	838.021(3)(a)	2nd		Unlawful harm to a public servant.
265	838.22	2nd		Bid tampering.
266	843.0855(2)	3rd		Impersonation of a public officer or employee.
267	843.0855(3)	3rd		Unlawful simulation of legal process.
268	843.0855(4)	3rd		Intimidation of a public officer or employee.
269	847.0135(3)	3rd		Solicitation of a child, via a computer service, to commit an unlawful sex act.

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270	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
271	872.06	2nd	Abuse of a dead human body.
272	874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
273	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
274	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility,

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			school, or state, county, or municipal park or publicly owned recreational facility or community center.
275	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
276	893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
277	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
278	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less

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279	7-00124-14		2014360__	than 200 grams.
	893.135	1st		Trafficking in illegal
	(1) (c) 1.a.			drugs, more than 4
				grams, less than 14
280				grams.
	<u>893.135(1) (c) 3.b.</u>	<u>1st</u>		<u>Trafficking in illegal</u>
				<u>prescription drugs, 28</u>
				<u>grams or more, less than</u>
281				<u>50 grams.</u>
	893.135(1) (d) 1.	1st		Trafficking in
				phencyclidine, more than
				28 grams, less than 200
282				grams.
	893.135(1) (e) 1.	1st		Trafficking in
				methaqualone, more than
				200 grams, less than 5
283				kilograms.
	893.135(1) (f) 1.	1st		Trafficking in
				amphetamine, more than
				14 grams, less than 28
284				grams.
	893.135	1st		Trafficking in
	(1) (g) 1.a.			flunitrazepam, 4 grams

285	7-00124-14		2014360__	or more, less than 14
				grams.
	893.135	1st		Trafficking in gamma-
	(1) (h) 1.a.			hydroxybutyric acid
				(GHB), 1 kilogram or
286				more, less than 5
				kilograms.
	893.135	1st		Trafficking in 1,4-
	(1) (j) 1.a.			Butanediol, 1 kilogram
				or more, less than 5
287				kilograms.
	893.135	1st		Trafficking in
	(1) (k) 2.a.			Phenethylamines, 10
				grams or more, less than
288				200 grams.
	893.1351(2)	2nd		Possession of place for
				trafficking in or
				manufacturing of
289				controlled substance.
	896.101(5) (a)	3rd		Money laundering,
				financial transactions
				exceeding \$300 but less
290				than \$20,000.

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	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
291	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
292	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
293	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
294	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual

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			offender.
295	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
296	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
297	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
298	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
299	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.

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	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.	
301	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.	
302	985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.	
303				
304	(h) LEVEL 8			
	Florida Statute	Felony Degree	Description	
305	316.193 (3) (c) 3.a.	2nd	DUI manslaughter.	
306	316.1935(4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or	

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307			death.	
	327.35(3) (c) 3.	2nd	Vessel BUI manslaughter.	
308	499.0051(7)	1st	Knowing trafficking in contraband prescription drugs.	
309	499.0051(8)	1st	Knowing forgery of prescription labels or prescription drug labels.	
310	560.123(8) (b) 2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.	
311	560.125(5) (b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.	
312	655.50(10) (b) 2.	2nd	Failure to report	

	7-00124-14		2014360	financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
313	777.03(2)(a)	1st		Accessory after the fact, capital felony.
314	782.04(4)	2nd		Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.
315	782.051(2)	1st		Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
316	782.071(1)(b)	1st		Committing vehicular

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	7-00124-14		2014360	homicide and failing to render aid or give information.
317	782.072(2)	1st		Committing vessel homicide and failing to render aid or give information.
318	787.06(3)(b)	1st		Human trafficking using coercion for commercial sexual activity.
319	787.06(3)(c)	1st		Human trafficking using coercion for labor and services of an unauthorized alien.
320	787.06(3)(f)	1st		Human trafficking using coercion for commercial sexual activity by the transfer or transport of any individual from outside Florida to within the state.
321	790.161(3)	1st		Discharging a destructive device which results in bodily harm

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			or property damage.	
322	794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.	
323	794.08(3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.	
324	800.04(4)	2nd	Lewd or lascivious battery.	
325	806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.	
326	810.02(2)(a)	1st,PBL	Burglary with assault or battery.	
327	810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.	

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328	810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.	
329	812.014(2)(a)2.	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.	
330	812.13(2)(b)	1st	Robbery with a weapon.	
331	812.135(2)(c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.	
332	817.535(2)(b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.	
333	817.535(3)(a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.	
334				

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	817.535(4)(a)1.	2nd	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.	
335	817.535(5)(a)	2nd	Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the false instrument.	
336	817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.	
337	825.102(2)	1st	Aggravated abuse of an elderly person or disabled adult.	
338	825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.	
339				

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	825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.	
340	837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.	
341	837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.	
342	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.	
343	860.16	1st	Aircraft piracy.	
344	893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).	

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345	7-00124-14	2014360__	
	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
346			
	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
347			
	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
348			
	893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
349			
	893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
350			
	<u>893.135(1)(c)3.c.</u>	<u>1st</u>	<u>Trafficking in illegal prescription drugs, 50 grams or more, less than 200 grams.</u>
351			

352	7-00124-14	2014360__	
	893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
353			
	893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
354			
	893.135 (1)(f)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
355			
	893.135 (1)(g)1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
356			
	893.135 (1)(h)1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
	893.135 (1)(j)1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10

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			kilograms.	
357	893.135	1st	Trafficking in	
	(1) (k) 2.b.		Phenethylamines, 200	
			grams or more, less than	
			400 grams.	
358	893.1351(3)	1st	Possession of a place	
			used to manufacture	
			controlled substance	
			when minor is present or	
			resides there.	
359	895.03(1)	1st	Use or invest proceeds	
			derived from pattern of	
			racketeering activity.	
360	895.03(2)	1st	Acquire or maintain	
			through racketeering	
			activity any interest in	
			or control of any	
			enterprise or real	
			property.	
361	895.03(3)	1st	Conduct or participate	
			in any enterprise	
			through pattern of	
			racketeering activity.	
362				

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	896.101(5)(b)	2nd	Money laundering,	
			financial transactions	
			totaling or exceeding	
			\$20,000, but less than	
			\$100,000.	
363	896.104(4)(a)2.	2nd	Structuring transactions	
			to evade reporting or	
			registration	
			requirements, financial	
			transactions totaling or	
			exceeding \$20,000 but	
			less than \$100,000.	
364				
365	(i) LEVEL 9			
	Florida	Felony		
	Statute	Degree	Description	
366	316.193	1st	DUI manslaughter;	
	(3) (c) 3.b.		failing to render aid or	
			give information.	
367	327.35(3)(c)3.b.	1st	BUI manslaughter;	
			failing to render aid or	
			give information.	
368	409.920	1st	Medicaid provider fraud;	
	(2) (b) 1.c.		\$50,000 or more.	
369				

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	499.0051(9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
370			
	560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
371			
	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
372			
	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
373			
	775.0844	1st	Aggravated white collar crime.
374			
	782.04(1)	1st	Attempt, conspire, or

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			solicit to commit premeditated murder.
375			
	782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, aggravated fleeing or eluding with serious bodily injury or death, and other specified felonies.
376			
	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
377			
	782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
378			
	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
379			
	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any

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 felony.
 380 787.01(1)(a)4. 1st,PBL Kidnapping with intent
 to interfere with
 performance of any
 governmental or
 political function.
 381 787.02(3)(a) 1st False imprisonment;
 child under age 13;
 perpetrator also commits
 aggravated child abuse,
 sexual battery, or lewd
 or lascivious battery,
 molestation, conduct, or
 exhibition.
 382 787.06(3)(d) 1st Human trafficking using
 coercion for commercial
 sexual activity of an
 unauthorized alien.
 383 787.06(3)(g) 1st,PBL Human trafficking for
 commercial sexual
 activity of a child
 under the age of 18.
 384 787.06(4) 1st Selling or buying of
 minors into human

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 trafficking.
 385 790.161 1st Attempted capital
 destructive device
 offense.
 386 790.166(2) 1st,PBL Possessing, selling,
 using, or attempting to
 use a weapon of mass
 destruction.
 387 794.011(2) 1st Attempted sexual
 battery; victim less
 than 12 years of age.
 388 794.011(2) Life Sexual battery; offender
 younger than 18 years
 and commits sexual
 battery on a person less
 than 12 years.
 389 794.011(4) 1st Sexual battery; victim
 12 years or older,
 certain circumstances.
 390 794.011(8)(b) 1st Sexual battery; engage
 in sexual conduct with
 minor 12 to 18 years by
 person in familial or

	7-00124-14		2014360__	custodial authority.
391	794.08(2)	1st		Female genital mutilation; victim younger than 18 years of age.
392	796.035	1st		Selling or buying of minors into prostitution.
393	800.04(5)(b)	Life		Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
394	812.13(2)(a)	1st, PBL		Robbery with firearm or other deadly weapon.
395	812.133(2)(a)	1st, PBL		Carjacking; firearm or other deadly weapon.
396	812.135(2)(b)	1st		Home-invasion robbery with weapon.
397	817.535(3)(b)	1st		Filing false lien or other unauthorized document; second or subsequent offense;

	7-00124-14		2014360__	property owner is a public officer or employee.
398	817.535(4)(a)2.	1st		Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.
399	817.535(5)(b)	1st		Filing false lien or other unauthorized document; second or subsequent offense; owner of the property incurs financial loss as a result of the false instrument.
400	817.568(7)	2nd, PBL		Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.
401	827.03(2)(a)	1st		Aggravated child abuse.

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402 847.0145(1) 1st Selling, or otherwise
transferring custody or
control, of a minor.

403 847.0145(2) 1st Purchasing, or otherwise
obtaining custody or
control, of a minor.

404 859.01 1st Poisoning or introducing
bacteria, radioactive
materials, viruses, or
chemical compounds into
food, drink, medicine,
or water with intent to
kill or injure another
person.

405 893.135 1st Attempted capital
trafficking offense.

406 893.135(1)(a)3. 1st Trafficking in cannabis,
more than 10,000 lbs.

407 893.135 1st Trafficking in cocaine,
(1)(b)1.c. more than 400 grams,
less than 150 kilograms.

408 893.135 1st Trafficking in illegal

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(1)(c)1.c. drugs, more than 28
grams, less than 30
kilograms.

409 893.135(1)(c)3.d. 1st Trafficking in illegal
prescription drugs, 200
grams or more.

410 893.135 1st Trafficking in
(1)(d)1.c. phencyclidine, more than
400 grams.

411 893.135 1st Trafficking in
(1)(e)1.c. methaqualone, more than
25 kilograms.

412 893.135 1st Trafficking in
(1)(f)1.c. amphetamine, more than
200 grams.

413 893.135 1st Trafficking in gamma-
(1)(h)1.c. hydroxybutyric acid
(GHB), 10 kilograms or
more.

414 893.135 1st Trafficking in 1,4-
(1)(j)1.c. Butanediol, 10 kilograms
or more.

415

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893.135 1st Trafficking in
 (1)(k)2.c. Phenethylamines, 400
 grams or more.

416 896.101(5)(c) 1st Money laundering,
 financial instruments
 totaling or exceeding
 \$100,000.

417 896.104(4)(a)3. 1st Structuring transactions
 to evade reporting or
 registration
 requirements, financial
 transactions totaling or
 exceeding \$100,000.

418 Section 3. For the purpose of incorporating the amendment
 419 made by this act to section 893.135, Florida Statutes, in a
 420 reference thereto, paragraph (a) of subsection (2) and paragraph
 421 (a) of subsection (3) of section 775.087, Florida Statutes, are
 422 reenacted to read:

424 775.087 Possession or use of weapon; aggravated battery;
 425 felony reclassification; minimum sentence.—

426 (2)(a)1. Any person who is convicted of a felony or an
 427 attempt to commit a felony, regardless of whether the use of a
 428 weapon is an element of the felony, and the conviction was for:

- 429 a. Murder;
 430 b. Sexual battery;
 431 c. Robbery;

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432 d. Burglary;
 433 e. Arson;
 434 f. Aggravated assault;
 435 g. Aggravated battery;
 436 h. Kidnapping;
 437 i. Escape;
 438 j. Aircraft piracy;
 439 k. Aggravated child abuse;
 440 l. Aggravated abuse of an elderly person or disabled adult;
 441 m. Unlawful throwing, placing, or discharging of a
 442 destructive device or bomb;
 443 n. Carjacking;
 444 o. Home-invasion robbery;
 445 p. Aggravated stalking;
 446 q. Trafficking in cannabis, trafficking in cocaine, capital
 447 importation of cocaine, trafficking in illegal drugs, capital
 448 importation of illegal drugs, trafficking in phencyclidine,
 449 capital importation of phencyclidine, trafficking in
 450 methaqualone, capital importation of methaqualone, trafficking
 451 in amphetamine, capital importation of amphetamine, trafficking
 452 in flunitrazepam, trafficking in gamma-hydroxybutyric acid
 453 (GHB), trafficking in 1,4-Butanediol, trafficking in
 454 Phenethylamines, or other violation of s. 893.135(1); or
 455 r. Possession of a firearm by a felon

456 and during the commission of the offense, such person actually
 457 possessed a "firearm" or "destructive device" as those terms are
 458 defined in s. 790.001, shall be sentenced to a minimum term of
 459 imprisonment of 10 years, except that a person who is convicted
 460

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461 for aggravated assault, possession of a firearm by a felon, or
 462 burglary of a conveyance shall be sentenced to a minimum term of
 463 imprisonment of 3 years if such person possessed a "firearm" or
 464 "destructive device" during the commission of the offense.

465 However, if an offender who is convicted of the offense of
 466 possession of a firearm by a felon has a previous conviction of
 467 committing or attempting to commit a felony listed in s.
 468 775.084(1)(b)1. and actually possessed a firearm or destructive
 469 device during the commission of the prior felony, the offender
 470 shall be sentenced to a minimum term of imprisonment of 10
 471 years.

472 2. Any person who is convicted of a felony or an attempt to
 473 commit a felony listed in sub-subparagraphs (a)1.a.-q.,
 474 regardless of whether the use of a weapon is an element of the
 475 felony, and during the course of the commission of the felony
 476 such person discharged a "firearm" or "destructive device" as
 477 defined in s. 790.001 shall be sentenced to a minimum term of
 478 imprisonment of 20 years.

479 3. Any person who is convicted of a felony or an attempt to
 480 commit a felony listed in sub-subparagraphs (a)1.a.-q.,
 481 regardless of whether the use of a weapon is an element of the
 482 felony, and during the course of the commission of the felony
 483 such person discharged a "firearm" or "destructive device" as
 484 defined in s. 790.001 and, as the result of the discharge, death
 485 or great bodily harm was inflicted upon any person, the
 486 convicted person shall be sentenced to a minimum term of
 487 imprisonment of not less than 25 years and not more than a term
 488 of imprisonment of life in prison.

489 (3)(a)1. Any person who is convicted of a felony or an

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490 attempt to commit a felony, regardless of whether the use of a
 491 firearm is an element of the felony, and the conviction was for:

- 492 a. Murder;
- 493 b. Sexual battery;
- 494 c. Robbery;
- 495 d. Burglary;
- 496 e. Arson;
- 497 f. Aggravated assault;
- 498 g. Aggravated battery;
- 499 h. Kidnapping;
- 500 i. Escape;
- 501 j. Sale, manufacture, delivery, or intent to sell,
 502 manufacture, or deliver any controlled substance;
- 503 k. Aircraft piracy;
- 504 l. Aggravated child abuse;
- 505 m. Aggravated abuse of an elderly person or disabled adult;
- 506 n. Unlawful throwing, placing, or discharging of a
 507 destructive device or bomb;
- 508 o. Carjacking;
- 509 p. Home-invasion robbery;
- 510 q. Aggravated stalking; or
- 511 r. Trafficking in cannabis, trafficking in cocaine, capital
 512 importation of cocaine, trafficking in illegal drugs, capital
 513 importation of illegal drugs, trafficking in phencyclidine,
 514 capital importation of phencyclidine, trafficking in
 515 methaqualone, capital importation of methaqualone, trafficking
 516 in amphetamine, capital importation of amphetamine, trafficking
 517 in flunitrazepam, trafficking in gamma-hydroxybutyric acid
 518 (GHB), trafficking in 1,4-Butanediol, trafficking in

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519 Phenethylamines, or other violation of s. 893.135(1);

520

521 and during the commission of the offense, such person possessed
522 a semiautomatic firearm and its high-capacity detachable box
523 magazine or a machine gun as defined in s. 790.001, shall be
524 sentenced to a minimum term of imprisonment of 15 years.

525 2. Any person who is convicted of a felony or an attempt to
526 commit a felony listed in subparagraph (a)1., regardless of
527 whether the use of a weapon is an element of the felony, and
528 during the course of the commission of the felony such person
529 discharged a semiautomatic firearm and its high-capacity box
530 magazine or a "machine gun" as defined in s. 790.001 shall be
531 sentenced to a minimum term of imprisonment of 20 years.

532 3. Any person who is convicted of a felony or an attempt to
533 commit a felony listed in subparagraph (a)1., regardless of
534 whether the use of a weapon is an element of the felony, and
535 during the course of the commission of the felony such person
536 discharged a semiautomatic firearm and its high-capacity box
537 magazine or a "machine gun" as defined in s. 790.001 and, as the
538 result of the discharge, death or great bodily harm was
539 inflicted upon any person, the convicted person shall be
540 sentenced to a minimum term of imprisonment of not less than 25
541 years and not more than a term of imprisonment of life in
542 prison.

543 Section 4. For the purpose of incorporating the amendment
544 made by this act to section 893.135, Florida Statutes, in a
545 reference thereto, paragraph (a) of subsection (1) and
546 subsections (3) and (4) of section 782.04, Florida Statutes, are
547 reenacted to read:

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548 782.04 Murder.—

549

(1) (a) The unlawful killing of a human being:

550

551 1. When perpetrated from a premeditated design to effect
552 the death of the person killed or any human being;

552

553 2. When committed by a person engaged in the perpetration
554 of, or in the attempt to perpetrate, any:

554

a. Trafficking offense prohibited by s. 893.135(1),

555

b. Arson,

556

c. Sexual battery,

557

d. Robbery,

558

e. Burglary,

559

f. Kidnapping,

560

g. Escape,

561

h. Aggravated child abuse,

562

i. Aggravated abuse of an elderly person or disabled adult,

563

j. Aircraft piracy,

564

565 k. Unlawful throwing, placing, or discharging of a
566 destructive device or bomb,

566

l. Carjacking,

567

m. Home-invasion robbery,

568

n. Aggravated stalking,

569

o. Murder of another human being,

570

p. Resisting an officer with violence to his or her person,

571

q. Aggravated fleeing or eluding with serious bodily injury

572

or death,

573

r. Felony that is an act of terrorism or is in furtherance

574

of an act of terrorism; or

575

3. Which resulted from the unlawful distribution of any

576

substance controlled under s. 893.03(1), cocaine as described in

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577 s. 893.03(2)(a)4., opium or any synthetic or natural salt,
 578 compound, derivative, or preparation of opium, or methadone by a
 579 person 18 years of age or older, when such drug is proven to be
 580 the proximate cause of the death of the user,
 581
 582 is murder in the first degree and constitutes a capital felony,
 583 punishable as provided in s. 775.082.
 584 (3) When a human being is killed during the perpetration
 585 of, or during the attempt to perpetrate, any:
 586 (a) Trafficking offense prohibited by s. 893.135(1),
 587 (b) Arson,
 588 (c) Sexual battery,
 589 (d) Robbery,
 590 (e) Burglary,
 591 (f) Kidnapping,
 592 (g) Escape,
 593 (h) Aggravated child abuse,
 594 (i) Aggravated abuse of an elderly person or disabled
 595 adult,
 596 (j) Aircraft piracy,
 597 (k) Unlawful throwing, placing, or discharging of a
 598 destructive device or bomb,
 599 (l) Carjacking,
 600 (m) Home-invasion robbery,
 601 (n) Aggravated stalking,
 602 (o) Murder of another human being,
 603 (p) Aggravated fleeing or eluding with serious bodily
 604 injury or death,
 605 (q) Resisting an officer with violence to his or her

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606 person, or
 607 (r) Felony that is an act of terrorism or is in furtherance
 608 of an act of terrorism,
 609
 610 by a person other than the person engaged in the perpetration of
 611 or in the attempt to perpetrate such felony, the person
 612 perpetrating or attempting to perpetrate such felony commits
 613 murder in the second degree, which constitutes a felony of the
 614 first degree, punishable by imprisonment for a term of years not
 615 exceeding life or as provided in s. 775.082, s. 775.083, or s.
 616 775.084.
 617 (4) The unlawful killing of a human being, when perpetrated
 618 without any design to effect death, by a person engaged in the
 619 perpetration of, or in the attempt to perpetrate, any felony
 620 other than any:
 621 (a) Trafficking offense prohibited by s. 893.135(1),
 622 (b) Arson,
 623 (c) Sexual battery,
 624 (d) Robbery,
 625 (e) Burglary,
 626 (f) Kidnapping,
 627 (g) Escape,
 628 (h) Aggravated child abuse,
 629 (i) Aggravated abuse of an elderly person or disabled
 630 adult,
 631 (j) Aircraft piracy,
 632 (k) Unlawful throwing, placing, or discharging of a
 633 destructive device or bomb,
 634 (l) Unlawful distribution of any substance controlled under

7-00124-14

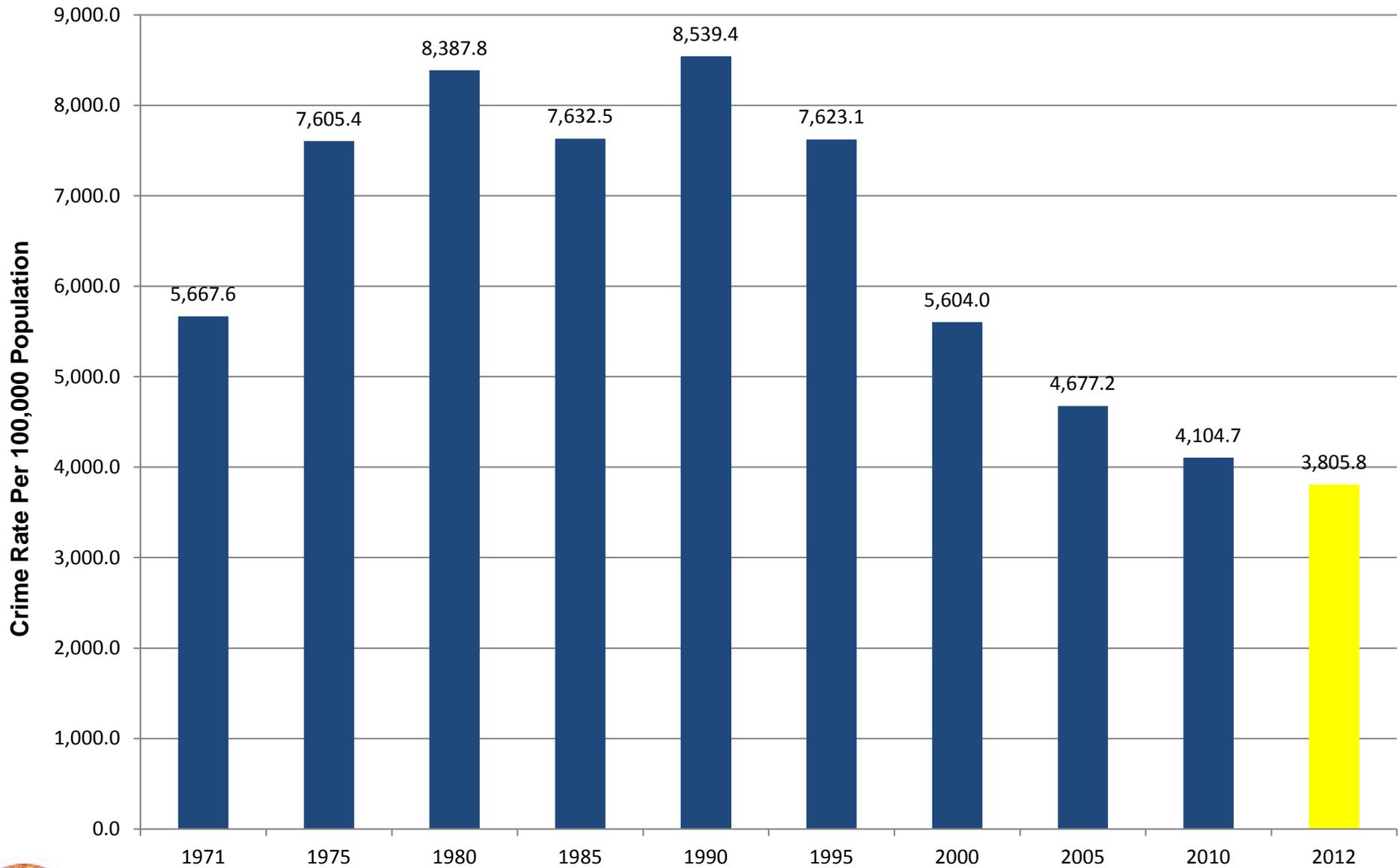
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635 s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or
636 opium or any synthetic or natural salt, compound, derivative, or
637 preparation of opium by a person 18 years of age or older, when
638 such drug is proven to be the proximate cause of the death of
639 the user,
640 (m) Carjacking,
641 (n) Home-invasion robbery,
642 (o) Aggravated stalking,
643 (p) Murder of another human being,
644 (q) Aggravated fleeing or eluding with serious bodily
645 injury or death,
646 (r) Resisting an officer with violence to his or her
647 person, or
648 (s) Felony that is an act of terrorism or is in furtherance
649 of an act of terrorism,
650
651 is murder in the third degree and constitutes a felony of the
652 second degree, punishable as provided in s. 775.082, s. 775.083,
653 or s. 775.084.
654 Section 5. This act shall take effect July 1, 2014.

GOVERNOR RICK SCOTT
Fiscal Year 2014-2015
Public Safety
Budget Recommendations

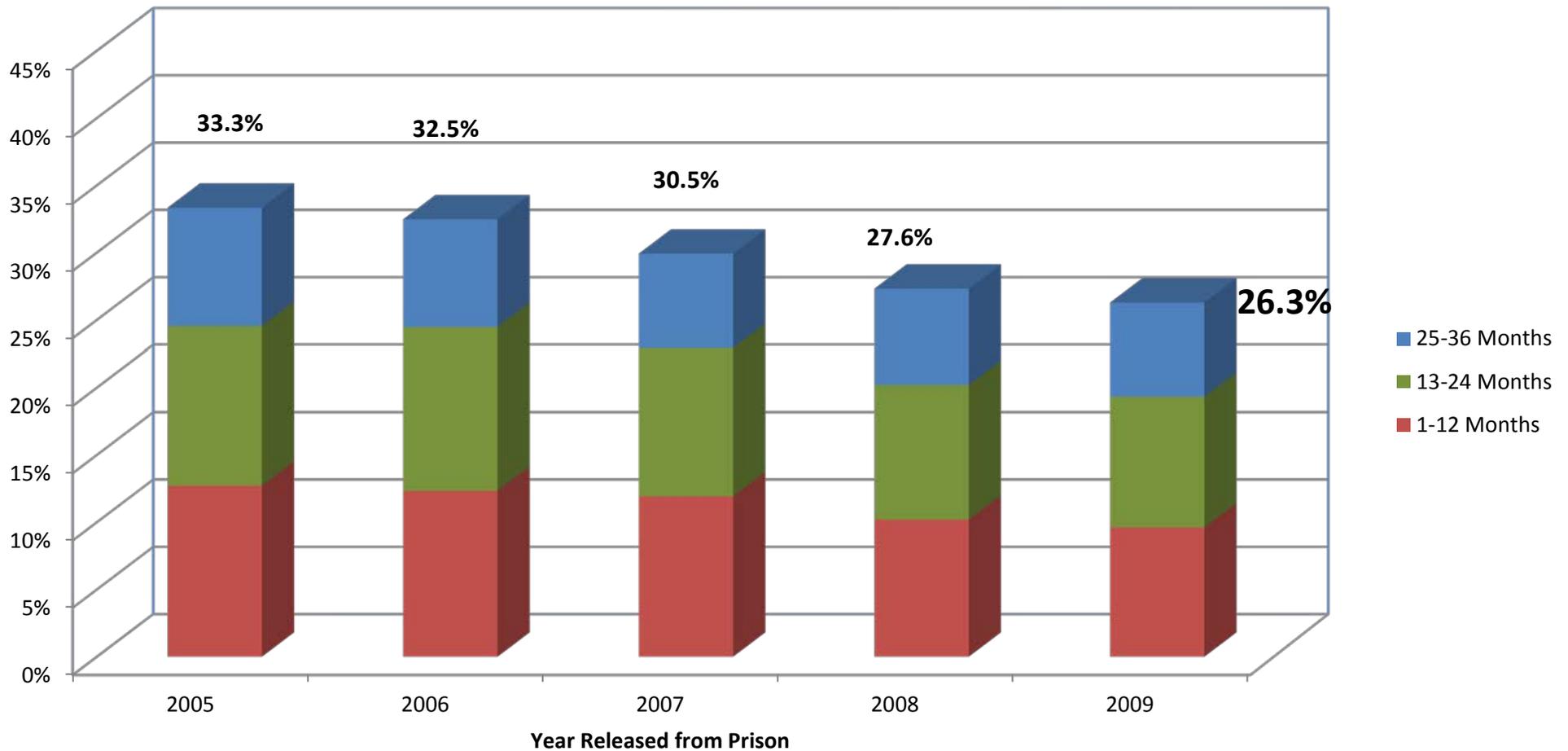


Crime Rate Per 100,000 Population

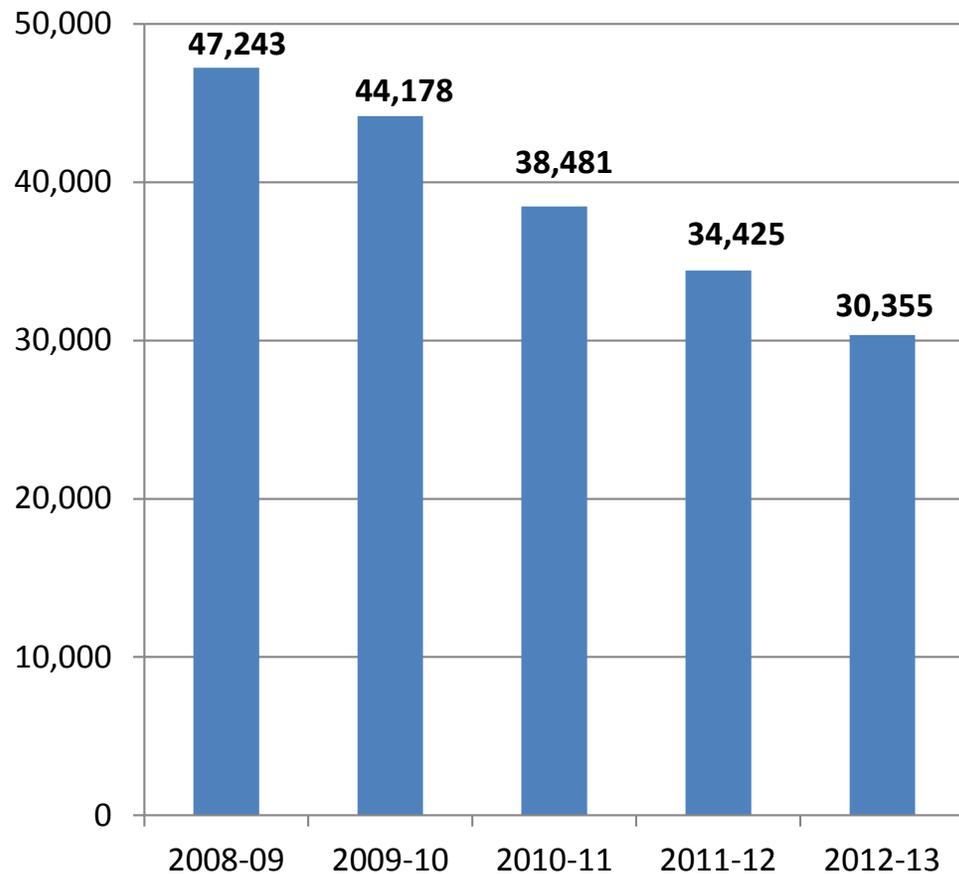


Public Safety- Key Trends in Corrections *Recidivism Rate Declining (return to prison)*

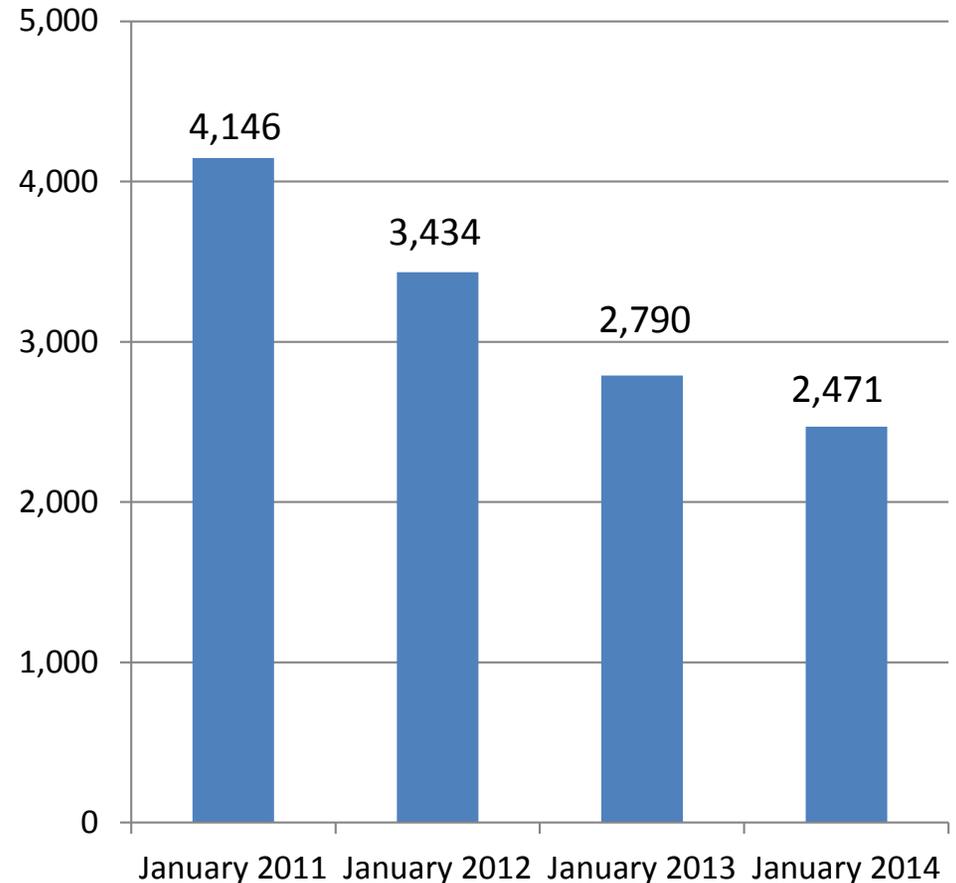
Recidivism Rates



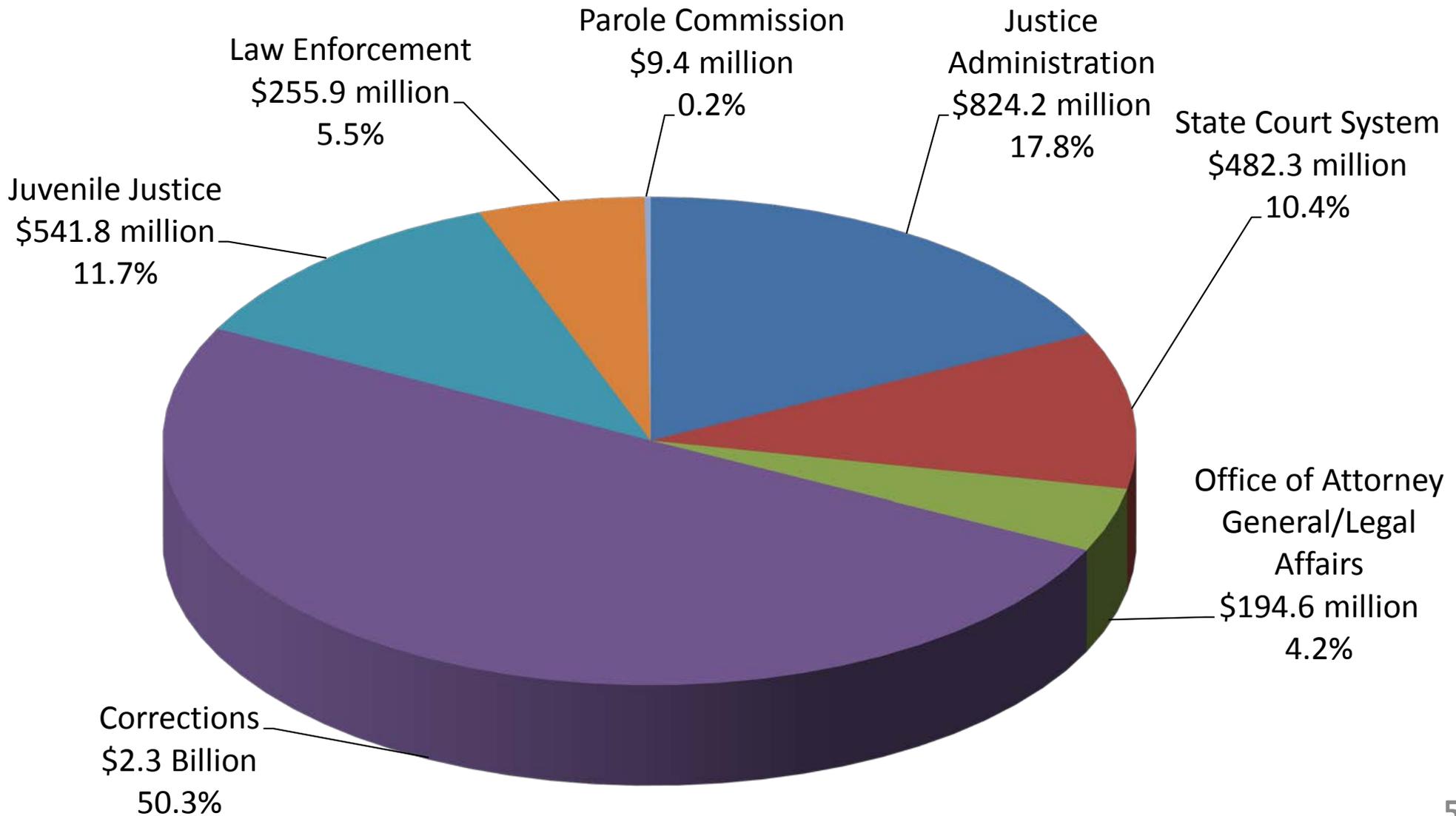
Juvenile Detention



Juvenile Residential Beds



Public Safety- \$4.6 Billion



Public Safety Efficiencies

Description	Amount
Administrative and Operational Efficiencies <ul style="list-style-type: none">• DJJ Unfunded Vacancies• DOC Unfunded Vacancies• Courts Unfunded Vacancies• Reduce Positions Held in Reserve	(221 positions); \$ -0- (11 positions); \$ -0- (1 position); \$ -0- (38 positions); \$ -0-
Debt Service Reduction	(\$8.2 million)
Unfunded Trust Fund Budget Authority	(\$4.9 million)



Department of Corrections- Budget Highlights

Major Issues Funded	Amount
Inmate Growth (CJEC) <ul style="list-style-type: none">•2 Re-Entry Centers•3 Work Camps	\$47.7 million
Prison Security Vacancies	\$11.7 million
Electronic Monitoring	\$8.0 million
Residential Drug Treatment Expansion	\$7.2 million
Inmate Identification Requirements	\$796,703
Automated Time & Attendance	\$9.7 million
Health Consumer Price Index	\$10.4 million
Facility Maintenance & Repairs	\$10 million



Department of Corrections- Current Year Funding Adjustment (Back of Bill)

Major Issues	Amount
CJEC Adjustment	\$14.6 million
Close Deficit	\$41.1 million



Department of Juvenile Justice- Budget Highlights

Major Issue Funded	Amount
Behavioral Health Service	\$18.2 million
State Share of Detention	\$17.2 million
Expand PACE (Gender specific programs)	\$637,500
Human Trafficking	\$1.5 million
Facility Maintenance & Repair	\$2.9 million



Department of Juvenile Justice- Current Year Funding Adjustment (Back of Bill)

Major Issues	Amount
Behavioral Health Services	\$19 million
Detention Cost Share	\$18.4 million



Florida Department of Law Enforcement - Budget Highlights

Major Issue Funded	Amount
Law Enforcement Training	\$3.2 million
Complete Biometric Identification System Expansion	\$1.9 million
Firearm Purchase Program Workload	\$2.1 million
Combat Internet Crimes	\$925,056
Replace Computerized Criminal History System <i>(Yr 1 of 3 -- Requires Conforming Bill)</i>	\$2.9 million
Contract Staff Support for Data Systems	\$1.6 million



Department of Legal Affairs - Budget Highlights

Major Issue Funded	Amount
Criminal and Capital Appeals	\$440,609
Statewide Prosecution	\$522,288
E-Discovery and Data Management	\$992,740
Victims Compensation	\$166,148
Crime Stoppers	\$55,382



State Courts - Budget Highlights

Major Issue Funded	Amount
Fund 21 New Judges <i>(Requires conforming bill)</i> <ul style="list-style-type: none">➤ 3 DCA (2nd, 5th)➤ 7 Circuit (1st, 5th, 7th, 9th)➤ 11 County (Citrus, Duval, Hillsborough, Lake, Lee, Miami-Dade, Osceola, Palm Beach, Seminole)	\$5 million
Continue Drug Courts	\$5.5 million
Continue Veterans Courts	\$600,000
Maintenance and Repairs -District Courts of Appeal	\$6 million



Justice Administrative Commission – Budget Highlights

Major Issue Funded	Amount
JAC -- <ul style="list-style-type: none">• Replace Computers	\$205,120
State Attorneys -- <ul style="list-style-type: none">• E-Filing Workload• Public Records• Replace vehicles	\$1.1 million \$2.2 million \$1.3 million
Public Defenders -- <ul style="list-style-type: none">• E-Filing Workload• Replace Vehicles• Complete Clemency Cases	\$213,921 \$122,000 \$125,000
Capital Collateral Representatives -- <ul style="list-style-type: none">• Replace Computers	\$ 80,865
Regional Conflict Counsels -- <ul style="list-style-type: none">• E-Filing Workload• Replace Computers	\$288,291 \$195,060



Guardian ad Litem – Budget Highlights

Major Issue Funded	Amount
Staffing / Volunteer Recruitment	\$2.9 million

Parole Commission - Budget Highlights

Major Issues Funded	Amount
Workload <ul style="list-style-type: none">• Reduce pending applications for RCR	\$462,132
Capital Clemency (<i>Requires Conforming Bill</i>)	\$125,000



Office of Policy & Budget Public Safety Unit

**Bonnie Rogers,
Policy Coordinator**

**Bonnie.Rogers@laspbs.state.fl.us
(850) 717-9435**





Legislative Budget Request Priorities FY 2014-15

**Senate Criminal and Civil Justice Subcommittee
February 6, 2014**

Presenters:

Elisabeth H. Goodner, State Courts Administrator

The Honorable C. Alan Lawson, Chair, District Court of Appeal Budget Commission

Mission Statement

The mission of the Judicial Branch is to protect rights and liberties, uphold and interpret the law, and provide for the peaceful resolution of disputes.

Vision Statement

Justice in Florida will be accessible, fair, effective, responsive, and accountable.

Legislative Budget Request

The legislative budget request for the State Courts System focuses on people, places, and tools needed to achieve that vision.

State Courts System FY 2014-15 Legislative Budget Request Priorities

State Courts System Pay Issues – Judicial Branch #1 Priority

- **Competitive Pay Adjustment:** Request State Courts System (SCS) employees be included in any general competitive salary increase as may be provided to other state employees. The SCS would request the increase be 3.5%, at a minimum.

- **Equity and Retention Pay:** Request \$9,866,302 in recurring salary dollars branch wide, effective July 1, 2014, to address critical salary issues uniquely impacting the recruitment and retention of State Courts System employees and to bring salaries inline with other state government employees.
 - Trial Courts - \$7,662,013
 - District Courts of Appeal - \$1,268,710
 - OSCA - \$610,719
 - Supreme Court - \$324,860

State Courts System

FY 2014-2015 Legislative Budget Request Priorities

“Case Processing/Management, Building Security and Maintenance, and Legal Research”

Supreme Court

ISSUES	FTE	GENERAL REVENUE	GENERAL REVENUE (NONRECURRING)
Death Penalty Case Processing	1.0	\$59,717	\$3,818
Case Management Support	1.0	\$76,331	\$3,818
Supreme Court – Meet Acceptable Security Standards	3.0	\$254,310	\$11,454
Interior Space Refurbishing		\$237,360	
Law Library – Legal Research		\$17,069	
Total Supreme Court Priority Issues:	5.0	\$644,787	\$19,090

State Courts System
FY 2014-2015 Legislative Budget Request Priorities
“Improving Case Processing”

Trial Courts

ISSUES	FTE	GENERAL REVENUE	GENERAL REVENUE (NONRECURRING)	TRUST FUNDS
Due Process Costs for Criminal Conflict Counsel Payments Over the Flat Fee		\$2,081,103*		
Death Penalty Case Processing	27.0	\$1,918,731	\$76,160	
Trial Courts General Counsel Support	10.0	\$1,181,043	\$23,800	
Fund Shift Cost Sharing from Justice Administrative Commission (JAC) to State Courts System – SCRTF to GR		\$3,695,347		(\$3,695,347)

*Amended from the original October 2013 LBR submission through the supplemental LBR process.

State Courts System

FY 2014-2015 Legislative Budget Request Priorities

“Improving Case Processing”

Trial Courts (continued)

ISSUES	FTE	GENERAL REVENUE	GENERAL REVENUE (NONRECURRING)
Funding for Backlog of Foreclosure Cases		\$3,837,624	\$3,837,624
Post Adjudicatory Drug Court Continuation		\$544,013	
Problem Solving Courts Education and Training*		\$100,000	\$100,000

*New issues submitted through the supplemental LBR process.

State Courts System

FY 2014-2015 Legislative Budget Request Priorities

“Tools”

Trial Courts (continued)

ISSUES	FTE	GENERAL REVENUE	GENERAL REVENUE (NONRECURRING)
Court Reporting Equipment Refresh and Maintenance		\$4,806,925	\$2,223,562
Court Reporting Equipment Expansion		\$1,446,114	\$1,446,114
Electronic Transmission of Judicial Orders to Clerks of Court*		\$4,705,116	\$3,929,275
Remote Interpreting Technology*		\$81,428	\$53,588

*New issues submitted through the supplemental LBR process.

State Courts System
FY 2014-2015 Legislative Budget Request Priorities
“Courthouse Requirements”

Trial Courts (continued)

ISSUES	FTE	GENERAL REVENUE	GENERAL REVENUE (NONRECURRING)
Courthouse Furnishings – Nonpublic Areas (1 st , 4 th , 14 th , & 17 th * Circuits)		\$953,999*	\$953,999*
Total Trial Court Priority Issues:		\$25,351,443	\$12,644,122

**Amended from the original October 2013 LBR submission through the supplemental LBR process.*

State Courts System
FY 2014-2015 Legislative Budget Request Priorities
“Improving Effectiveness and Efficiencies in Processing of Cases “

Office of the State Courts Administrator

ISSUES	GENERAL REVENUE	GENERAL REVENUE (NONRECURRING)
eFACTS Productivity Support	\$172,834	\$125,164
Judicial Data Management Services	\$502,086	\$107,887
Legal Research Support (Court KM)	\$91,840	\$40,000
Total Executive Direction/Support Services (OSCA) Priority Issues:	\$766,760	\$273,051

State Courts System FY 2014-2015 Legislative Budget Request Priorities

Certification of Additional Judgeships

49 additional judgeships certified

(3 appellate judgeship; 7 circuit judgeships; 39 county judgeships)

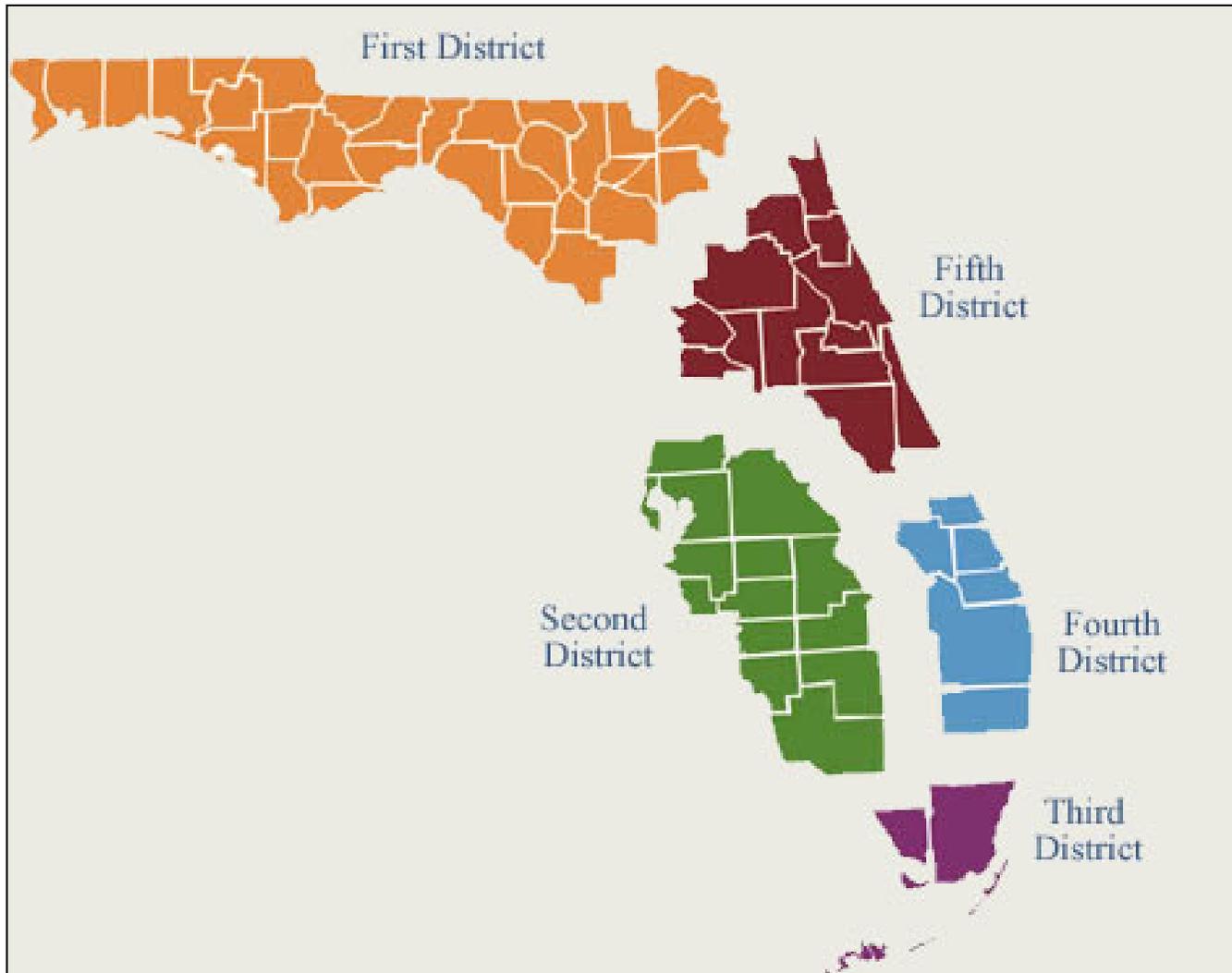
Total Request:

113.0 FTE

\$14,093,270 General Revenue

(\$286,196 non-recurring)

Florida's District Courts of Appeal



State Courts System

FY 2014-2015 Legislative Budget Request Priorities

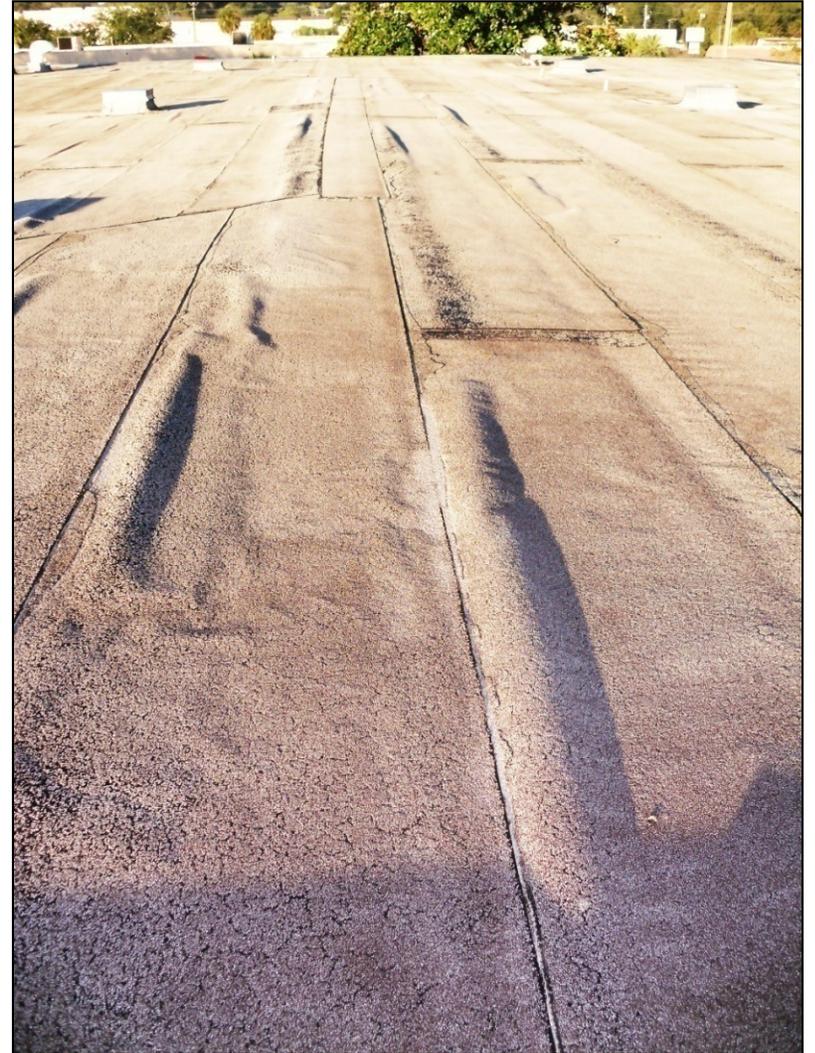
“Building Improvements and On-going Facility Maintenance”

2nd District Court of Appeal

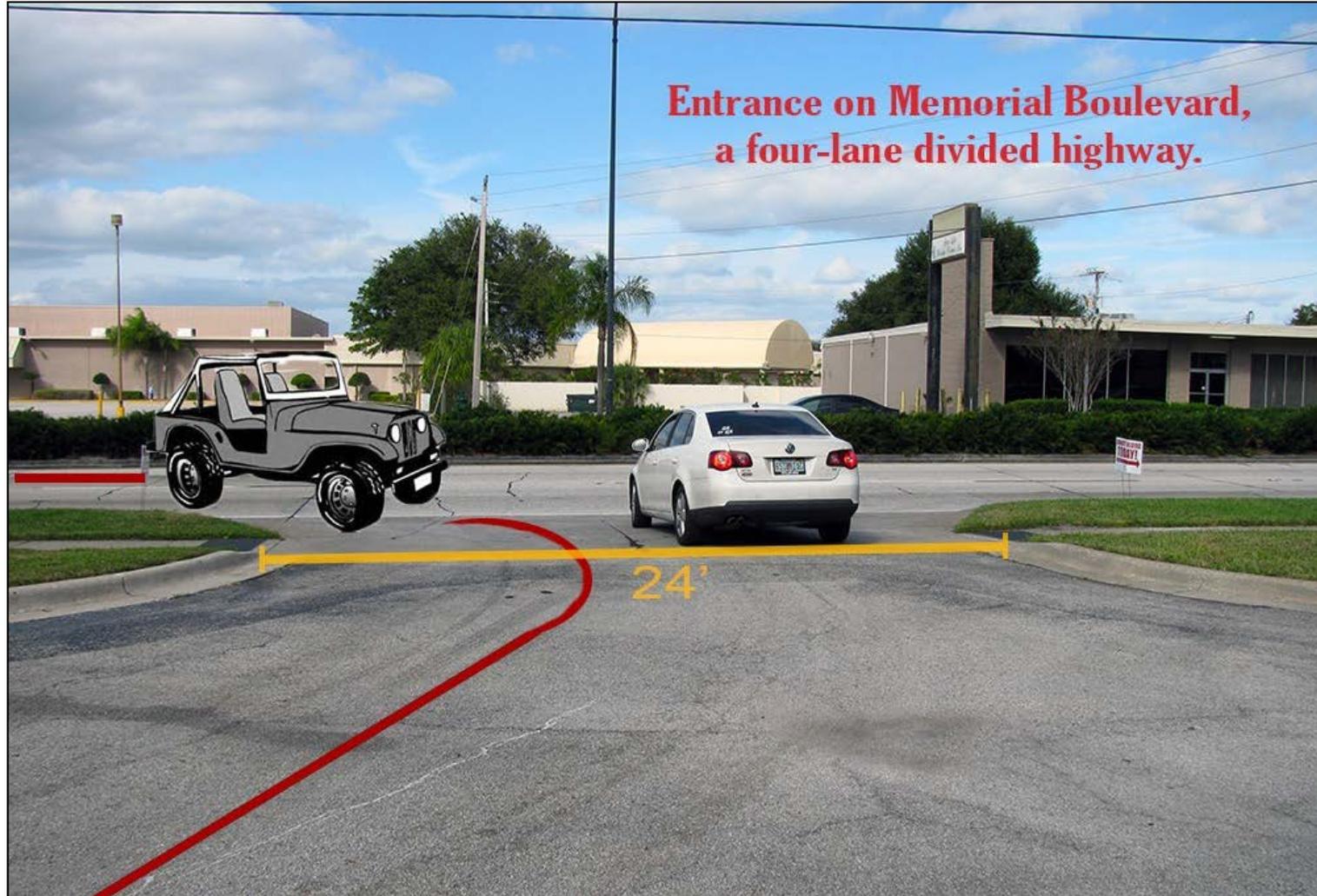


- Roof Repairs and Parking Lot Maintenance - \$19,750 (Other Facility Maintenance/nonrecurring)
- Driveway Expansion - \$30,450 (FCO/non-recurring)

2nd District Court of Appeal Roof



2nd District Court of Appeal Driveway



State Courts System

FY 2014-2015 Legislative Budget Request Priorities

“Building Improvements and On-going Facility Maintenance”

3rd District Court of Appeal



- \$2,137,505 FCO (nonrecurring) – Remodel for Security and Building System Upgrades
- \$64,023 FCO (nonrecurring) – Entrance Door Replacement
- \$212,814 FCO (nonrecurring) – Emergency Generator System
- \$48,889 Maintenance (nonrecurring) – Office Workstation Replacements
- \$88,294 FCO (nonrecurring) – Hurricane Storm Shutters

3rd District Court of Appeal



3rd District Court of Appeal

Security Checkpoint



3rd District Court of Appeal

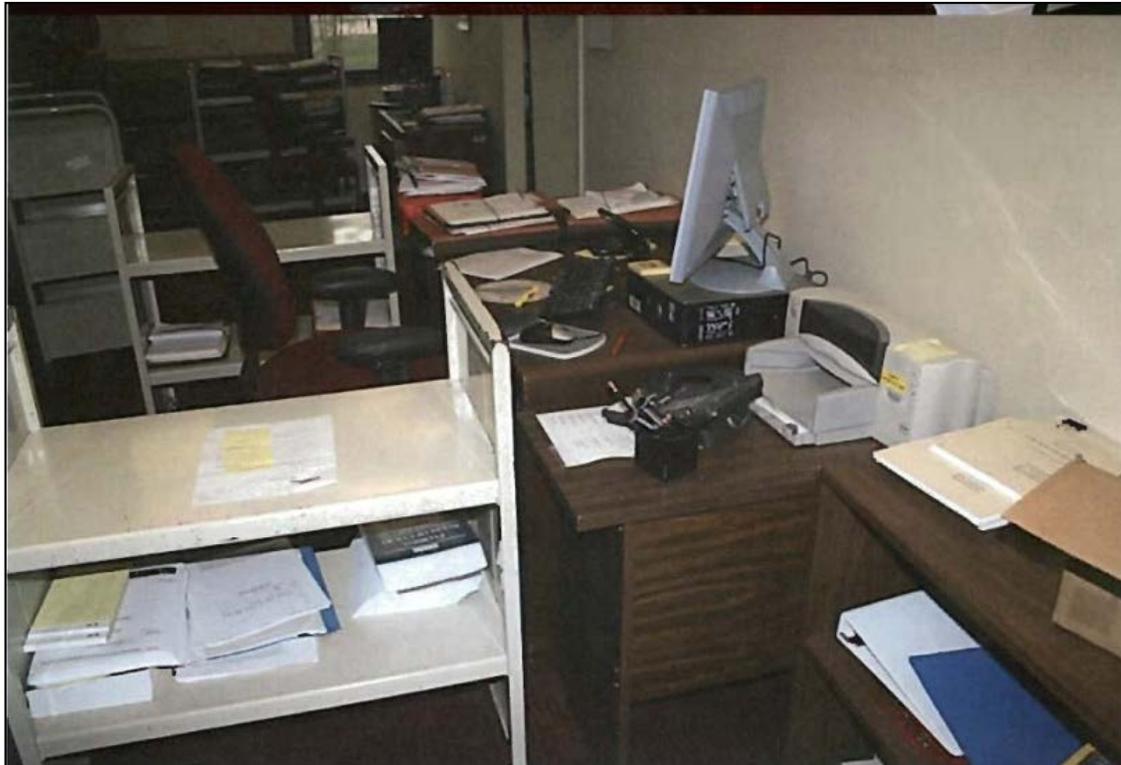
SANITARY LIFT STATION



COURTHOUSE LOT IS LOWER THAN THE STREET



3rd District Court of Appeal Office Workstations



3rd District Court of Appeal

Hurricane Shutters for Annex Building, CIP-5. \$88,845



State Courts System

FY 2014-2015 Legislative Budget Request Priorities

“Building Improvements and On-going Facility Maintenance”

4th District Court of Appeal

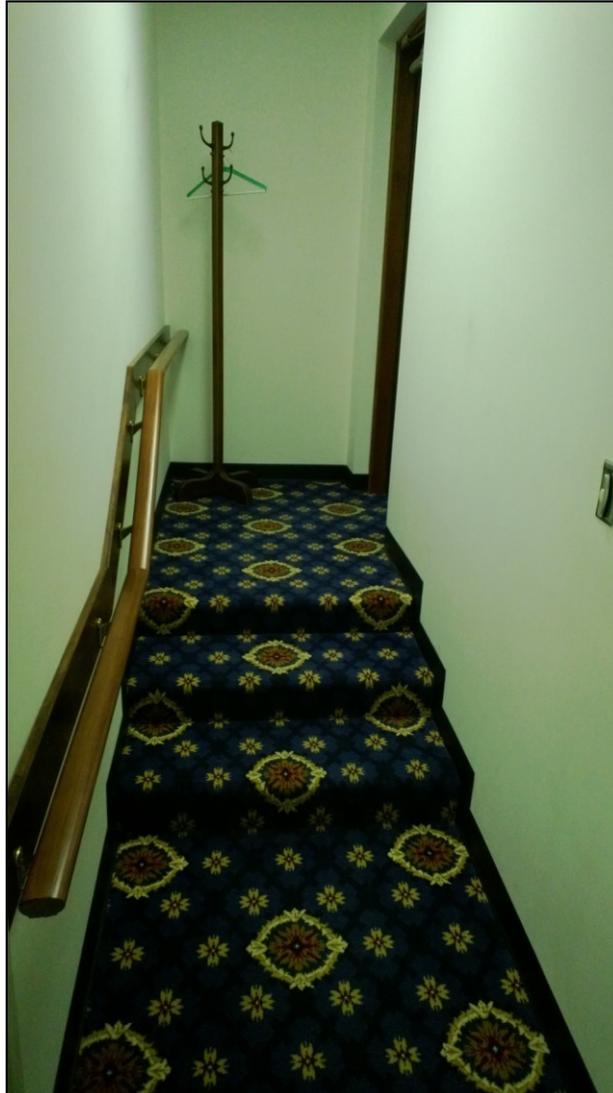


- 4th DCA Court Building Remodeling for Security and Building System Upgrades: \$3,052,327 (nonrecurring)
- Mold Remediation – Costs?

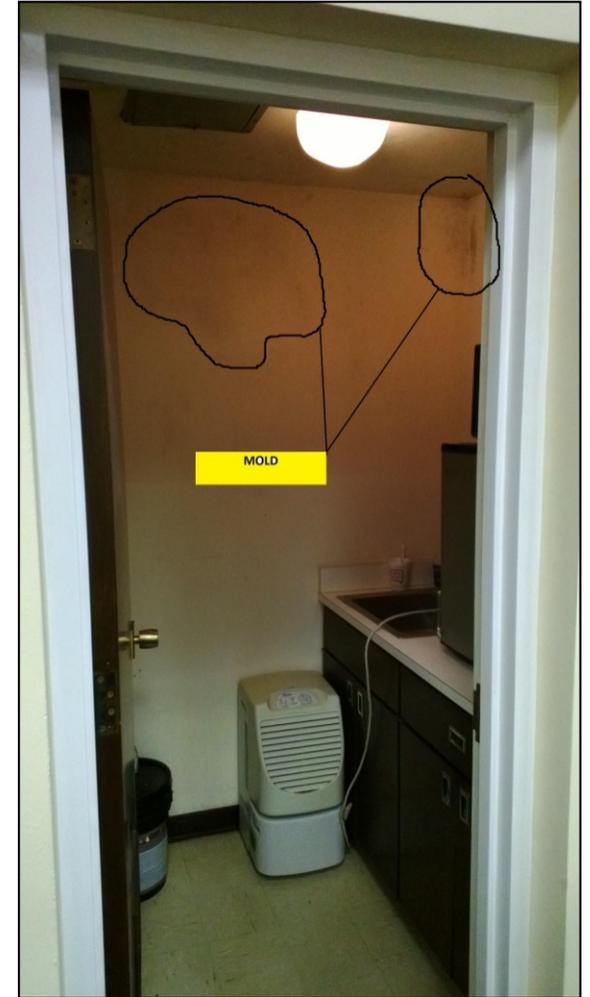
4th District Court of Appeal Entrance



4th District Court of Appeal Robing Room Stairs to Bench



4th District Court of Appeal Mold



4th District Court of Appeal Water Chiller Tower



State Courts System

FY 2014-2015 Legislative Budget Request Priorities

“Building Improvements and On-going Facility Maintenance”

5th District Court of Appeal



- \$125,000 FCO (nonrecurring)
 - Security Enhancements
- \$724,839 FCO (nonrecurring)
 - HVAC Replacement

5th District Court of Appeal Original Carrier Chiller installed during building construction in 1980



5th District Court of Appeal Back Side of Carrier Chiller



5th District Court of Appeal Chilled Water Pumps Associated with Carrier Chiller



5th District Court of Appeal Compressor: Must Be on 24/7/365 to Run Associated Pneumatic Actuators



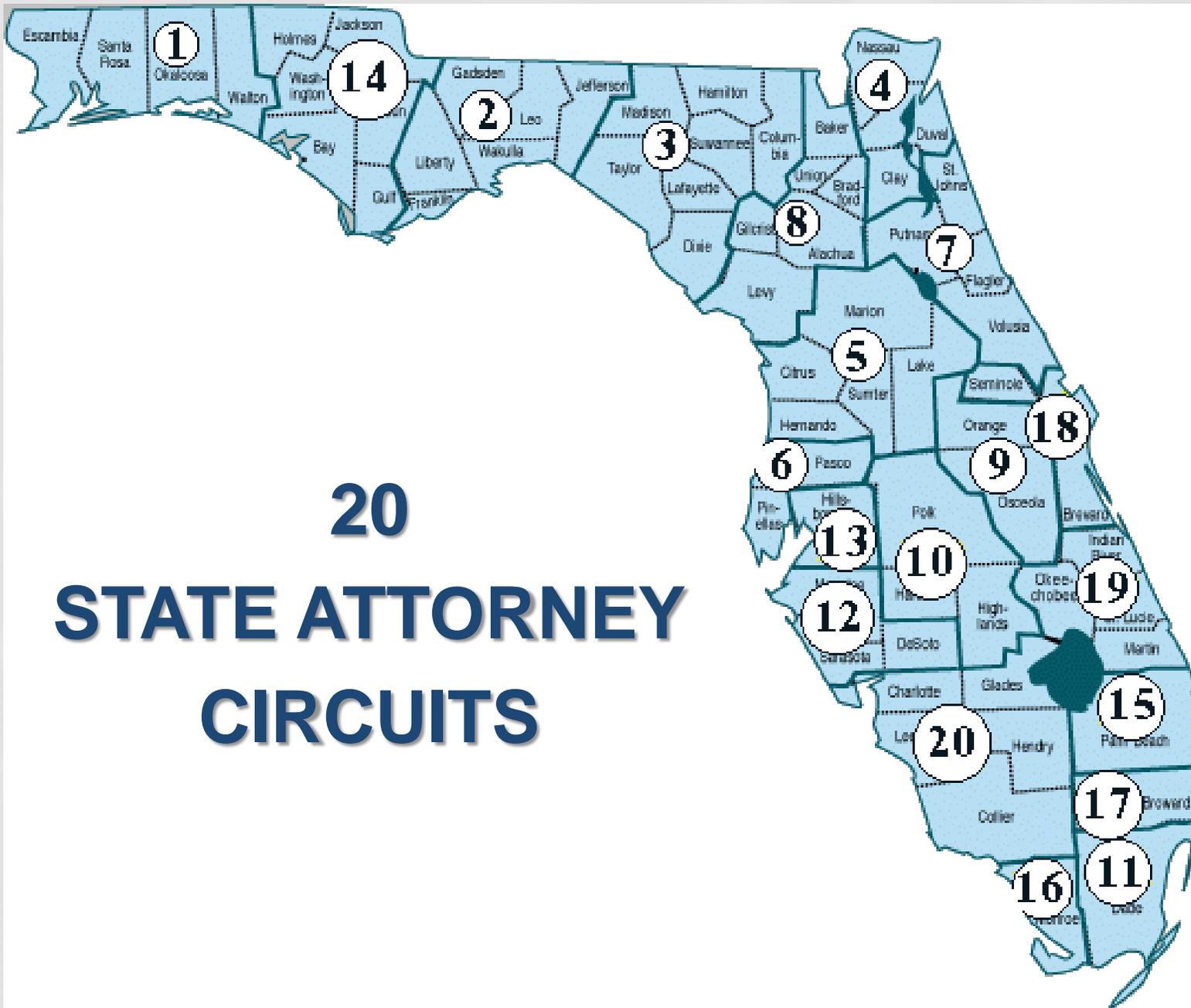
State Courts System
FY 2014-2015 Legislative Budget Request Priorities
“Building Improvements and On-going Facility Maintenance”

District Courts of Appeal

ISSUES	GENERAL REVENUE	GENERAL REVENUE (NONRECURRING)
Statewide Facilities Maintenance Fund	\$400,000	
OR		
2nd DCA Driveway Expansion	\$30,450	\$30,450
3rd DCA Entrance Door Replacement	64,023	\$64,023
3rd DCA Hurricane Storm Shutters	\$88,294	\$88,294
5th DCA Security Enhancements	\$125,000	\$125,000
2nd DCA Roof Repairs and Parking Lot Maintenance	\$19,750	\$19,750
3rd DCA Office Workstation Replacements	\$48,889	\$48,889

Presentation to the Senate Subcommittee on Civil and Criminal Justice Appropriations

**Hon. Brad King, State Attorney
Fifth Judicial Circuit**



20
STATE ATTORNEY
CIRCUITS

BASE BUDGET SIGNIFICANT NOTES

Personnel Costs as a Percentage of Budget:
93%

Personnel Composition –

Total FTE: 6,060

Support FTE: 4,210

Attorney FTE: 1,850

Attorney Turnover Rate – 16+% ↑

STATE ATTORNEY SERVICES

PROSECUTION SERVICES - Duties before the Court

- **Felony - Intake and Prosecution**
- **Misdemeanor - Traffic - Intake and Prosecution**
- **Juvenile – Intake and Prosecution**
- **Grand Jury Legal Advisor**
- **Medical Examiners and Autopsies**
- **Post conviction relief cases**
- **Prosecution Alternative and Diversion Services**
- **Victim Witness Services**
- **Clemency, Pardon and Parole Hearings**

STATE ATTORNEY SERVICES

INVESTIGATION SERVICES

- **Sunshine Law**
- **Public corruption**
- **White collar crime**
- **Search warrants**
- **Wire tap applications**
- **Grand jury investigations**
- **Governor Assignments**

STATE ATTORNEY SERVICES

CIVIL SERVICES

- Extraditions
- Baker Acts
- Sexual Predator
review and commitment
- Truancy Court
- Bond Validations
- Public Records

STATE ATTORNEY OUTPUT MEASURES

**Criminal Allegations,
2012-13
1,391,206**

**Civil Cases, 2012-13
36,698**

**Cases Referred to
State Attorneys
1,427,904**

STATE ATTORNEY

Comparison to other Legal Entities

**Cases Referred to State Attorneys
“From the Street Up” Responsibility
1,427,904**

**Public Defender
Percentage
45%**

**Regional Conflict
Percentage
4.5%**

**Registry Counsel
Percentage
.8%**

CRIMINAL ALLEGATIONS

State Attorneys must evaluate ALL cases, arrested AND non-arrested, to determine if a person should be charged.
(Not counting investigative services.)

394,880	Felony cases
880,935	Misdemeanor / Traffic Cases
<u>115,391</u>	Juvenile Cases
1,391,206	

Source: LRPP Report 2012-2013

TOTAL CASES

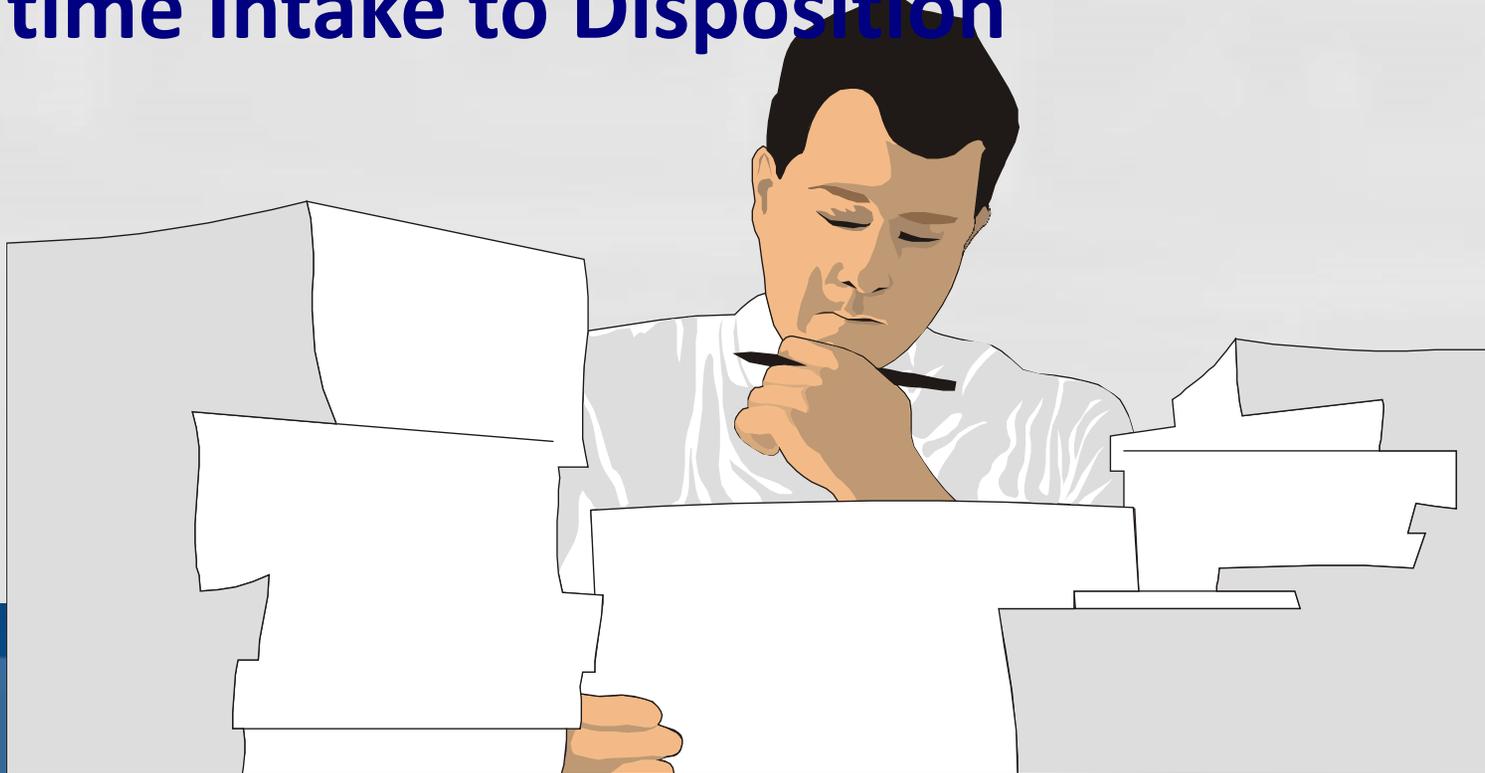
- **1.391 million cases referrals**
- **1,850 ASA's**
- **772 case referrals per ASA annually**
- **2.5 hours per case referral**



FELONY CASES

- **394,880 felony case referrals**
- **1,232 Felony ASA's**
- **321 case referrals per ASA annually**
- **6.2 hours per case referral**

Total time Intake to Disposition



MISDEMEANOR CASES

- 880,935 misdemeanor case referrals
- 458 Misdemeanor ASA's
- 1,922 case referrals per ASA annually
- 1 hour per case referral

Total time Intake to Disposition.



JUVENILE CASES

- **115,391 juvenile case referrals**
- **160 Juvenile Division ASA's**
- **721 case referrals per ASA annually**
- **2.75 hours per case referral**

Total time Intake to Disposition.



ASSISTANT STATE ATTORNEY EXPERIENCE

- 19%** 6-10 Years Experience
- 9%** 11-15 Years Experience
- 5%** 16-20 Years Experience
- 11%** 21 or More Years Experience

ASSISTANT STATE ATTORNEY EXPERIENCE

- ★ Average turn over is 16% and rising
- ★ Over 50% have LESS THAN 5 Years
- ★ 67 % of ASA's are Assigned to Felony Cases
- ★ Caseload of 320 per year

NEEDS OF OUR CITIZENS

EXPERIENCED PROSECUTORS FOR EXCEPTIONAL CASES

- Prosecution of serious and career criminals. 10-20-Life, PRR, HO, HVO
- Sex crimes, crimes against children, Sexual Predator Commitment cases.
- Sophisticated fraud and white collar cases.
- Public Records, E filing

ATTORNEY SALARY SURVEY

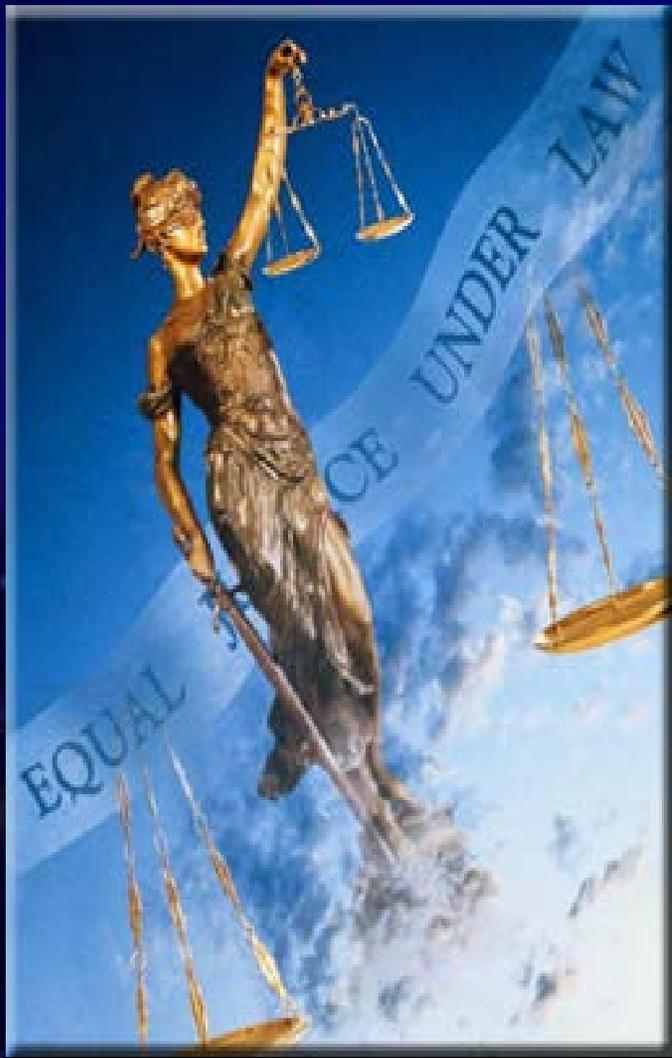
	Low	Median	High	ASA
Start	53,200	73,000	97,200	41,000
10 yrs	143,800	166,900	194,900	76,400

Average of reported salaries for attorneys from 14 Florida cities, Dec. 2013
Private, government, and non-profit employers.

CRITICAL NEEDS FOR FY 2014-15

- Salary incentive for staff
- Funding to meet requirements of E-filing and E-service of documents
- Funding for dedicated public records attorneys and support staff
- Re invest the \$40.6 million lost in budget crisis 07-2011 over 3 years

Public Defender



2014/2015 Legislative Presentation

Julianne Holt, President Florida Public
Defender Association

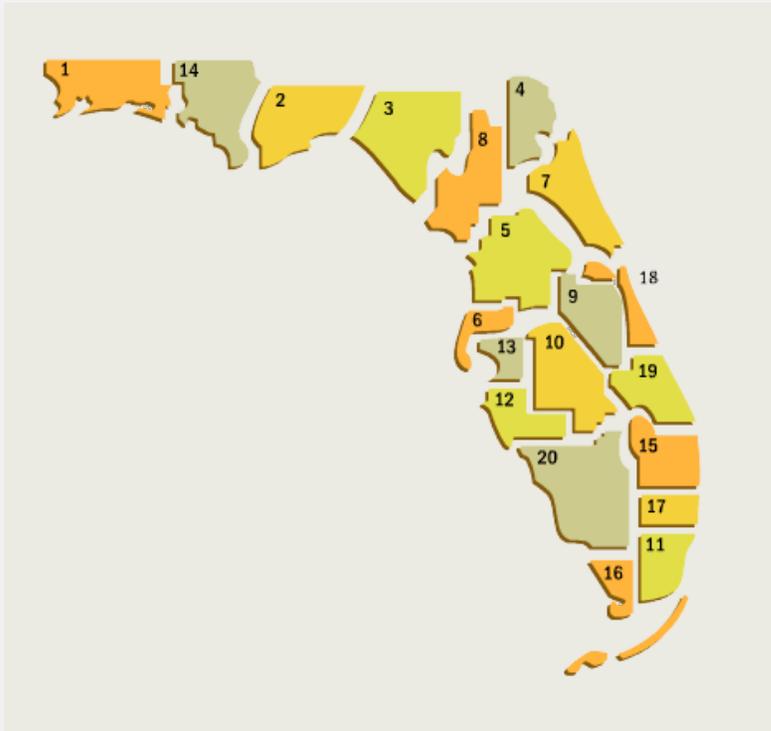
Nancy Daniels, Co-Chair FPDA
Appropriations Committee

February 6, 2014



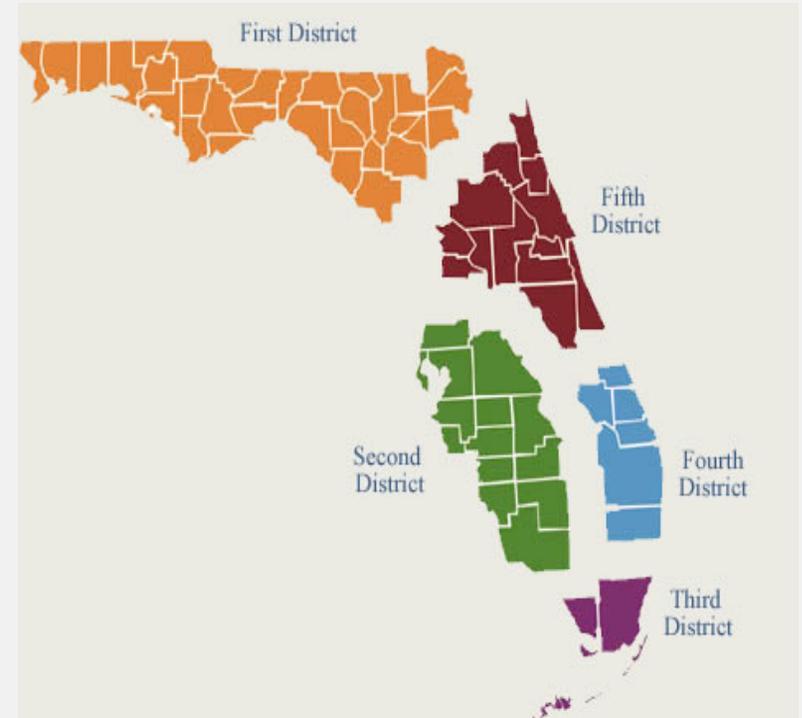
Florida Public Defender System

- 20 Judicial Circuits



- Correspond to State Attorneys' Offices

- 5 Appellate Districts



- Correspond to Attorney General Criminal Appeals Departments



Public Defender Services: Chapter 27

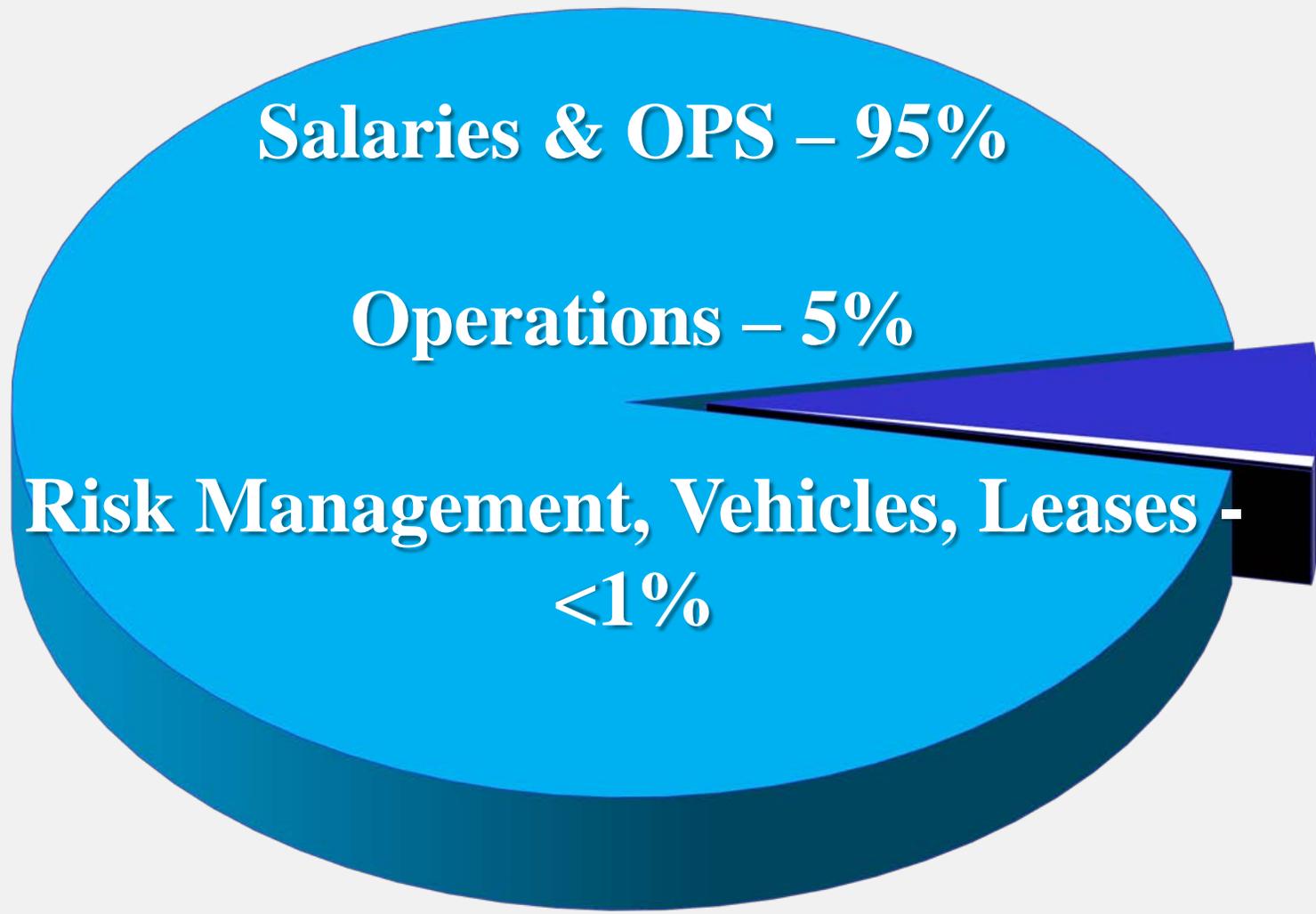
- **Criminal Defense**
 - Capital homicide/death penalty
 - Capital sexual battery
 - Non-capital felony
 - Juvenile delinquency and juvenile dependency cross-over
 - Misdemeanor, traffic, and criminal contempt
 - Violations of probation, orders to show cause
- **Civil Commitment Defense**
 - Baker Act
 - Sexually Violent Predator civil commitment (Ryce Act)
- **Post-conviction Relief** (Rules 3.800, 3.850, 3.853)
- **Appeals**
 - United States Supreme Court
 - Florida Supreme Court
 - District Courts of Appeal
 - Circuit Courts
- **Clemency**



Public Defender Services: Rules of Conduct, Procedure

- First Appearance Hearings (365 days/year - “weekends, holidays, and hurricanes”)
- Client visitation in county jails and state prisons
- Regular client communication
- Motion practice
- Criminal defense investigations
- Mitigation development and presentation
- Developing alternatives to prosecution
- Witness and victim coordination
- Writs and Petitions for Extraordinary Relief

Budget Breakdown





Budget Priorities – Trial

- Trial Workload – additional \$5 million
 - 50% to offices with critical needs
 - 50% distributed according to FPDA formula
- Due Process - additional \$1.8 million
 - Restore reductions from 2010
 - Address historical deficit
- Executive Clemency - additional \$50,000
- *Brady* Training - \$32,000
- Legislative Reporting/Case Management - \$375,000
- Employee Salary and Benefits



Budget Priorities - Appeals

- Workload – commensurate with Attorney General Criminal Appeals request
- Realignment of Appellate Budget Authority - \$110,000 (from PD11 to other Appeals Offices)
- E-filing and Production of Physical Records - \$29,980
 - Additional funding needed to provide clients with their appellate record
 - Recurring until DOC allows electronic records

Workload 2012/2013

Trial Cases Appointed	Appeals Cases Appointed	Total Cases Appointed	Total Clients
744,095	5,197	749,292	609,315

- Trial Caseloads = 503 trial cases per attorney
- Appeals Caseloads = 49 appeals cases per attorney
- Exceed the national standards for maximum caseloads in every category
- Standards:
 - Felonies: 150 cases per year
 - Non-traffic Misdemeanors: 400 cases per year
 - Juvenile Cases: 200 cases per year
 - Mental Health: 200 cases per year
 - Appeals: 25 cases per year

Due Process Funding Needs

PD Due Process: FY 2004/05 – FY 2013/14

Public Defender LBR	2004/05 Appropriation	Diff. from LBR	2013/14 Appropriation	9 Year Change
\$ 25,017,255	\$ 18,499,999	\$ (6,517,256)	\$ 18,663,034	\$ 163,035

- 2004/05 appropriation (post Article V) was \$6,517,256 less than projected needs
- Not recovered from \$982,265 reduction in 2010
- Start each fiscal year with a deficit
- Meet existing obligations and new demands: *Graham/Miller* resentencing & mental health
- Need additional \$1,800,000



Executive Clemency

- Last fiscal year received \$250,000 for clemency work
- 10th Circuit PD presently handling 6 clemency cases and can conclude these within initial appropriation
- The Governor's recommendation is sufficient to conclude these cases and handle the cases we anticipate by 6/30/14
- No objection to assigning these cases to private counsel; note that it requires revisions to Chapter 27 (§27.40; §27.51; §27.511; §27.5303; §27.7001; §27.702)



Maintain Employee Benefits

- Avoid any further reductions employee salary or benefits
- Employee benefits “package” is a significant recruitment tool for government-sector lawyers
 - APDs are in the “Senior Management Class” (*or “Agency Pay All”*)
 - APD salary will be significantly negatively impacted if benefits are reduced or lost

Salary Parity: Government Attorneys

Position	Area	Starting Salary
Assistant County Attorney	Pinellas	\$ 57,721
Assistant County Attorney	Leon	\$ 59,741
Trial Court Staff Attorney	Leon	\$ 43,304
Assistant City Attorney	St. Pete	\$ 50,000
Assistant City Attorney	Tallahassee	\$ 55,910
Assistant County Attorney	Hillsborough	\$ 56,600
Assistant County Attorney	Miami-Dade	\$ 87,266
Assistant Attorney General	Miami-Dade	\$ 51,627
Federal Assistant Public Defender	Florida Average	\$ 50,287
Assistant State Attorney (0-5 years)	Florida Average	\$ 48,435
Assistant Public Defender (0-5 years)	Florida Average	\$ 48,011

- *Phased approach; \$3 million 2014/15 (or as budget can allow)*
- *Achieve parity on incoming salary and ability to give retention/merit bonus for those affected by starting salary increase*



Cost of turnover is significant

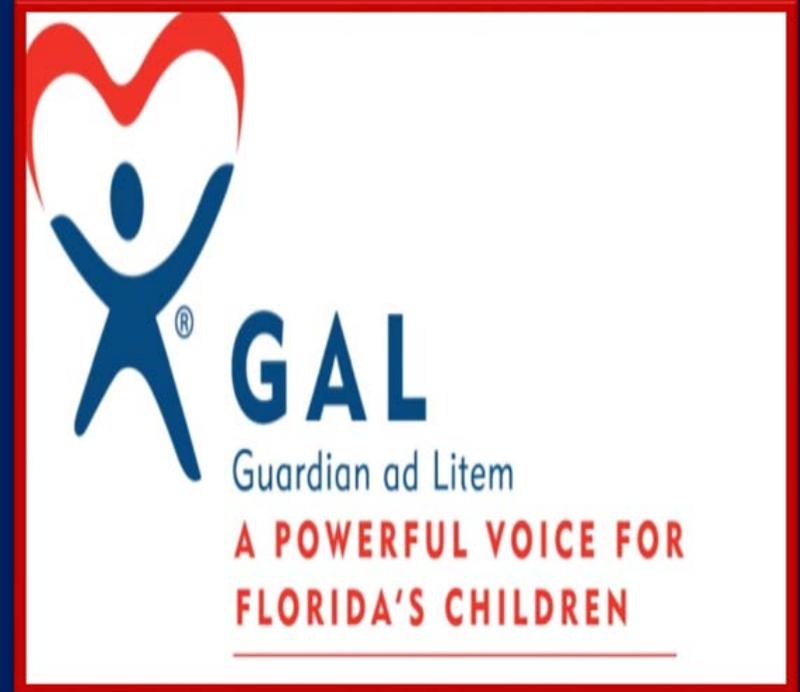
- Delays in handling cases (including capital and other serious crimes, appeals and other post-conviction cases)
- Increased jail and prison populations
- Increased appellate & post-conviction costs
- Administrative Costs:
 - Recruitment
 - New Employee Processing
 - Training

**THE GUARDIAN AD
LITEM PROGRAM
(A PUBLIC – PRIVATE
PARTNERSHIP)**

**PRESENTATION TO THE SENATE
APPROPRIATIONS SUBCOMMITTEE ON
CRIMINAL AND CIVIL JUSTICE
ON
THE FY 14-15 LEGISLATIVE BUDGET
REQUEST**

February 6, 2014

www.GuardianadLitem.org



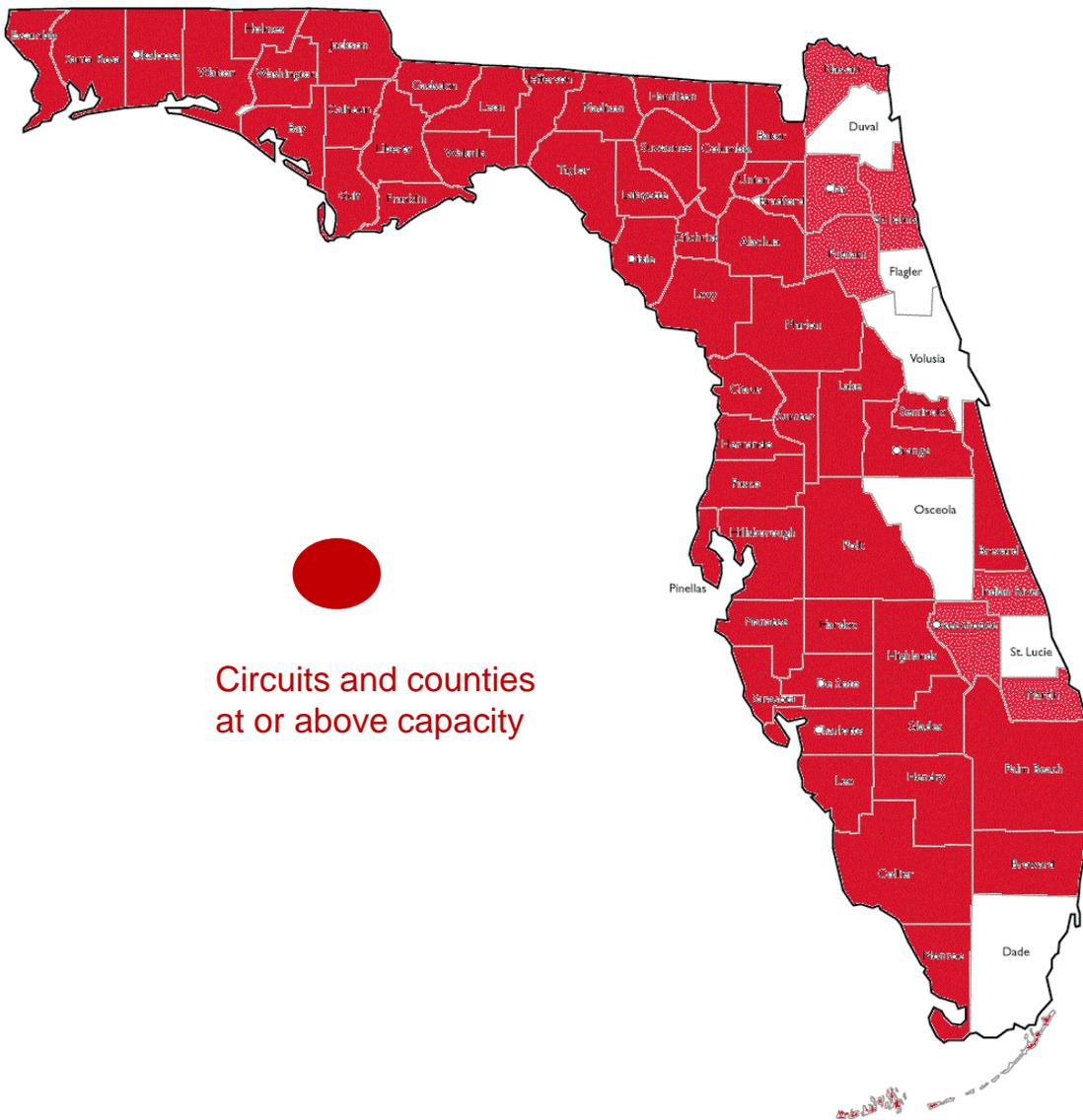
by
Alan F. Abramowitz
Executive Director



GAL Funding and Growth

YEAR	FUNDING	FTEs	VOLUNTEERS
2007	\$35.1 million	610	4,772
2014	\$34.1 million	590	8,838

We Are Almost at Capacity

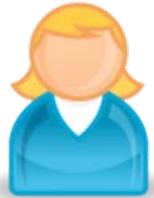


- 15 of 20 judicial circuits are at or above full capacity
- In the remaining circuits, most counties are at capacity.
- Our ability to support new volunteers in those areas is severely strained

GAL Team Workload



Volunteer



GAL
Volunteer
Coordinator



GAL Best Interest
Attorney



Each volunteer supports 2 or more children



Each
Coordinator
supports 38
volunteers



Each Best Interest Attorney
supports 150 children

1. \$6.1 Million Recurring Funding

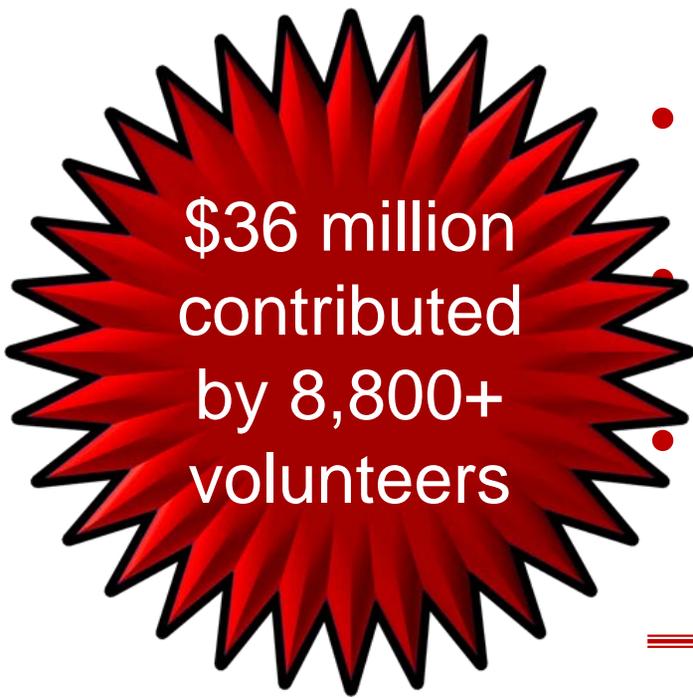
- Reach more than 80% of dependent children
- Represent all children in out of home care
- Reach 10,000 volunteers by the end of 2015, our 35th anniversary.



2. Transfer Data Processing Services to Northwest Regional Data Center

- Savings and efficiency measure

Return on Investment



\$36 million
contributed
by 8,800+
volunteers

- The average GAL volunteer stays 32 months.
- It costs the State \$3,397 to recruit, train and supervise the volunteer over that period.
- The volunteer donates \$7,474 in time and gas over that period.
- **The State accrues an average of \$4,076 in benefits for each volunteer!**

CHILDREN WHO HAVE A GAL VOLUNTEER:

- ★ Do better in school
- ★ Receive more services
- ★ Spend less time in foster care
- ★ Have fewer placement changes
- ★ Are 50% less likely to return to foster care
- ★ Are more likely to be adopted, if appropriate



- ***Eagle Award*** Winner 2012, Award Winner 2013, Prudential - Davis Productivity Awards
- ***Angels in Adoption Award*** Winner 2012
Congressional Coalition on Adoption Institute
- Miami Dade Minority Chamber 2013
Public-Private Partnership Organization of the Year



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Environmental Preservation and Conservation, *Chair*
Appropriations Subcommittee on Criminal and Civil Justice
Appropriations Subcommittee on General Government
Children, Families, and Elder Affairs
Criminal Justice
Gaming
Military Affairs, Space, and Domestic Security

SENATOR CHARLES S. DEAN, SR.
5th District

January 31, 2014

The Honorable Rob Bradley
208 Senate Office Building
404 South Monroe St.
Tallahassee, FL 32399-1100

SENATE APPROPRIATION
POST OFFICE
JAN 31 PM 12:59
STAFF

Dear Chairman Bradley,

The purpose of this letter is to seek your permission to be excused from the scheduled Appropriations Subcommittee on Criminal and Civil Justice Committee meeting on February 6, 2014. Due to unforeseen circumstances, I will not be able to attend.

Should you have any questions concerning this matter, please do not hesitate to contact me personally.

Sincerely,

Charles S. Dean
State Senator District 5

cc: Tim Sadberry, Staff Director
Chris Clark, President's Office

REPLY TO:

- 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- 311 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005
- 315 SE 25th Avenue, Ocala, Florida 34471-2689 (352) 873-6513

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Communications, Energy, and Public Utilities, Vice
Chair
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Health and Human
Services
Transportation
Health Policy
Agriculture
Transportation

JOINT COMMITTEE:

Joint Committee on Administrative Procedures

SENATOR RENE GARCIA

38th District

February 5, 2014

The Honorable Rob Bradley
208 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Bradley:

Due to a funeral of a dear constituent in my community; I will not be able to attend the Criminal and Civil Justice Appropriations Meeting which is scheduled for Thursday February 6, 2014. Please do not hesitate to contact my office if you have any questions.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "René García".

State Senator René García
District 38
RG:dm

CC: Tim Sadberry, Staff Director

REPLY TO:

- 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
- 312 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore