

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS

Senator Sobel, Chair
Senator Hays, Vice Chair

MEETING DATE: Tuesday, February 18, 2014
TIME: 10:00 a.m.—12:00 noon
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Sobel, Chair; Senator Hays, Vice Chair; Senators Altman, Braynon, Clemens, Dean, Detert, Diaz de la Portilla, Grimsley, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SM 576 Abruzzo (Identical HM 925)	Supportive Housing for the Elderly Program; Urging Congress to restore funding for the Supportive Housing for the Elderly Program, etc. CF 02/18/2014 Favorable CA	Favorable Yeas 10 Nays 0
2	SB 588 Richter (Similar CS/H 409)	Offenses Against Vulnerable Persons; Revising when an out-of-court statement by an elderly person or disabled adult is admissible in certain proceedings; deleting a requirement that property of an elderly person or disabled adult be obtained by deception or intimidation in order to constitute exploitation of such a person; creating a presumption that certain inter vivos transfers are a result of exploitation, etc. CF 02/18/2014 Fav/CS CJ JU	Fav/CS Yeas 10 Nays 0
3	SB 744 Detert	Motor Vehicle Insurance and Driver Education for Children in Care; Directing the Department of Children and Families to establish a statewide pilot program to pay specified costs of driver education, licensure and costs incidental to licensure, and motor vehicle insurance for a child in care who meets certain qualifications; requiring the department to contract with a qualified not-for-profit entity to operate and develop procedures for the pilot program; removing the disability of nonage of minors for purposes of obtaining motor vehicle insurance; providing for preferential enrollment in driver education for specified children in care, etc. CF 02/18/2014 Fav/CS TR BI AP	Fav/CS Yeas 10 Nays 0
4	Workshop - Discussion and testimony only on the following (no vote to be taken):		

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Tuesday, February 18, 2014, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	- Child Welfare Legislation		Discussed

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 Committee on Children, Families, and Elder Affairs

BILL: SM 576

INTRODUCER: Senator Abruzzo

SUBJECT: Supportive Housing for the Elderly Program

DATE: February 17, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Favorable
2.			CA	

I. Summary:

SM 576 finds that the elderly population in Florida are in need of affordable housing. The memorial urges the United States Congress to provide adequate funding for the Supportive Housing for the Elderly Program.

II. Present Situation:

The Supportive Housing for the Elderly Program is a federal program that provides assistance to expand the supply of housing with supportive services for the elderly. The program provides capital advances to eligible private, nonprofit sponsors and, in cases of mixed-finance, for-profit limited partnerships where the sole general partner is (i) a nonprofit organization or (ii) a for-profit corporation wholly owned and controlled by one or more nonprofit organizations; or (iii) a limited liability company wholly owned and controlled by one or more nonprofit organizations to finance the development of rental housing with supportive services for the elderly. The advance is interest free and does not have to be repaid so long as the housing remains available for very low-income elderly persons for at least 40 years. Project rental assistance covers the difference between the HUD-approved operating cost of the project and the tenants' contributions toward rent.¹

Private, nonprofit organizations and consumer cooperatives may qualify for assistance, and may partner with private, for-profit entities so long as the sole general partner is a nonprofit organization that meets the statutory requirements. Occupancy is open to very low-income households which include at least one person 62 years of age or older.²

The legal authority for the program is contained in section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended by section 210 of the Housing and Community Development Act of

¹ U.S. Department of Housing and Urban Development website, *available at* http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/progdesc/eld202 (last visited Feb. 12, 2014).

² *Id.*

1974 (Public Law 86-372); section 801 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625); the Housing and Community Development Act of 1992 (Public Law 102-550); the Rescissions Act (Public Law 104-19); the American Homeownership and Economic Opportunity Act of 2000 (Public Law 106-569); the Housing and Economic Recovery Act of 2008 (Public Law 110-289); and section 202 Supportive Housing for the Elderly Act of 2010 (Public Law 111-372). Regulations are at 24 CFR part 891.³ The program is administered by the U.S. Department of Housing and Urban Development.

III. Effect of Proposed Changes:

The memorial expresses the Legislature's finding that the elderly population in Florida is in need of affordable housing. The memorial requests that the United States Congress provide adequate funding of the Supportive Housing for the Elderly Program. Copies of the memorial are to be distributed to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

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:

None.

³ *Id.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

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.

By Senator Abruzzo

25-00836-14

2014576__

1 Senate Memorial

2 A memorial to the Congress of the United States,
3 urging Congress to restore funding for the Supportive
4 Housing for the Elderly Program.

5
6 WHEREAS, the senior population nationwide increased from
7 3.1 million to 33.2 million during the 20th century and, by
8 2030, the number of seniors is projected to increase to 80
9 million, and

10 WHEREAS, half of people age 65 or older reside in nine
11 states, led by Florida, California, and New York, and

12 WHEREAS, interest rates for personal savings accounts have
13 dropped to less than one-half of 1 percent, pension and health
14 care payments for retirees are decreasing, and the value of
15 investments in 401(k) retirement savings accounts and stocks
16 have dramatically decreased, and

17 WHEREAS, federal funding for low-cost housing was
18 eliminated in 2012 after being cut dramatically from \$650
19 million in 2005 to \$78 million in 2011, and

20 WHEREAS, with thousands of low-income seniors on waiting
21 lists, some for as many as 3 years, there is a desperate need
22 for low-cost housing for seniors, NOW, THEREFORE,

23
24 Be It Resolved by the Legislature of the State of Florida:

25
26 That the Congress of the United States is urged to assist
27 our nation's low-income seniors by restoring and adequately
28 funding the Supportive Housing for the Elderly Program.

29 BE IT FURTHER RESOLVED that copies of this memorial be

Page 1 of 2

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

25-00836-14

2014576__

30 dispatched to the President of the United States, to the
31 President of the United States Senate, to the Speaker of the
32 United States House of Representatives, and to each member of
33 the Florida delegation to the United States Congress.

Page 2 of 2

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-18-14
Meeting Date

Topic Elderly Housing

Bill Number SM 576
(if applicable)

Name Barbara DeVane

Amendment Barcode _____
(if applicable)

Job Title independent contractor

Address 625 E. Brevard ST

Phone 850-222-3969

Tallahassee FL 32308
City State Zip

E-mail barbaradevane1@
yahoo.com

Speaking: For Against Information

Representing FL Alliance for Retired Americans

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/18/14
Meeting Date

Topic Supportive Housing for the Elderly

Bill Number SM 576
(if applicable)

Name Laura Cantwell

Amendment Barcode _____
(if applicable)

Job Title Associate State Director

Address 200 W College Avenue, St. 304

Phone 850-570-2110

Tallahassee FL 32301
City State Zip

E-mail lcantwell@aarp.org

Speaking: For Against Information

Representing AARP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/18/14
Meeting Date

Topic SM 576 Housing for Elderly

Bill Number SM 576
(if applicable)

Name Tom Randle

Amendment Barcode _____
(if applicable)

Job Title Vice President

Address 1812 Riggs Rd

Phone 671-3700

Tallahassee FL 32309
Street City State Zip

E-mail TRandle@LeadingAge Florida

Speaking: For Against Information

Representing LEADING AGE FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date

Topic Elder Housing

Bill Number 576
(if applicable)

Name Mary Lou Wozniak

Amendment Barcode _____
(if applicable)

Job Title Pres. Granny Mannies

Address 1150 W Minnetonka Ave

Phone _____

Dermont FL 34711
Street City State Zip

E-mail _____

Speaking: For Against Information

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Feb 18 2014
Meeting Date

Topic Supportive Housing for the Elderly

Bill Number SM 576
(if applicable)

Name LISA MURRAY

Amendment Barcode _____
(if applicable)

Job Title Legislative Analyst

Address 4040 Esplanade Way

Phone 914 2130

Tallahassee FL 32399
City State Zip

E-mail murrayl@elderaffa.org

Speaking: For Against Information

Representing Elder Affairs

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: CS/SB 588

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Richter

SUBJECT: Offenses Against Vulnerable Persons

DATE: February 18, 2014 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Fav/CS
2.	_____	_____	CJ	_____
3.	_____	_____	JU	_____

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 588 provides additional protections for elderly and disabled citizens that are vulnerable to instances of exploitation and increases the penalties for committing such acts. The bill amends the hearsay exception for statements of an elderly person or disabled adult in s. 90.803, F.S., to allow an out of court statement by an elderly person or disabled adult in certain circumstances to be admissible. The bill also amends the definition of “exploitation of an elderly person or disabled adult” to delete the requirement that a person use deception or intimidation to obtain or use a vulnerable adult’s funds, assets or property. The bill specifies that “unauthorized appropriation” occurs when a vulnerable adult does not receive reasonably equivalent financial value in goods or services or when specified fiduciaries violate specified duties. The bill creates additional instances that constitute “exploitation of an elderly person or disabled adult.” The bill also amends s. 825.103, F.S., to specify when an unlawful appropriation occurs, decreases the property threshold values for exploitation of vulnerable adults offenses, creates a presumption that certain inter vivos transfers are a result of exploitation, requires the court in specified cases to return the vulnerable adult’s property before trial if, after conducting an evidentiary hearing, the court makes certain findings.

CS/SB 588 also amends s. 817.568, F.S., to clarify that any person, including any person in the relationship of parent or legal guardian, that willfully and without authorization uses the personal

identification of an individual younger than 18 or 60 years of age or older without first obtaining the consent of the individual commits a second degree felony.

The bill is not expected to have a fiscal impact and is effective October 1, 2014.

II. Present Situation:

Elderly and Disabled Populations

The 2010 Census recorded the greatest number and proportion of people aged 65 and over in the history of the United States – 40,300,000, or 13 percent of the total population.¹ In 2010, Florida had the highest proportion of people over the age of 65, making up 17 percent of the total state population.²

In 2011, there were 11,468,487 people aged 18 to 64 in Florida.³ Of that number of people, 1,131,661, or 9.9 percent, had at least one disability.⁴ The number of individuals aged 65 and older in Florida in 2011 totaled 3,296,861.⁵ Of that number of people, 1,136,372, or 34.5 percent, had at least one disability.⁶

Nationwide, life expectancies of individuals reaching the ages of 65 and 85 are increasing. Individuals who survive to the age of 65 can be expected to live another 19.2 years.⁷ As the population of elderly and disabled persons in Florida increases, so does the pool of potential victims of abuse.

Hearsay Exception for Vulnerable Adults

“Hearsay” is a statement,⁸ other than one made by the declarant⁹ while testifying at trial or a hearing offered in evidence to prove the truth of the matter asserted.¹⁰ Currently, hearsay statements are not admissible at trial unless a statutory exception applies.¹¹

Section 90.803(24), F.S., creates a hearsay exception specifically relating to vulnerable adults. The statute specifies that unless the source of information or the method or circumstances by

¹ Administration on Aging, National Center for Elder Abuse, *America's Growing Elderly Population*, available at <http://www.ncea.aoa.gov/Library/Data/index.aspx> (citing U.S. Department of Commerce, U.S. Census Bureau, *The older population; 2010*, Publication C2010BR-09 (last visited Feb. 11, 2014)).

² *Id.*

³ U.S. Department of Commerce, U.S. Census Bureau, American FactFinder, *Selected Social Characteristics in the U.S.-Florida-2011 American Community Survey 1 year estimates*, available at http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_11_1YR_DP02&prodType=table (last visited Feb. 11, 2014).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 24.

⁸ A “statement” is either an oral or written assertion or nonverbal conduct of a person if it is intended by the person as an assertion; *See* s. 90.801(1)(a), F.S.

⁹ The “declarant” is the person who made the statement; *See* s. 90.801(1)(b), F.S.

¹⁰ Section 90.801(1)(c), F.S.

¹¹ Section 90.802, F.S.

which the statement is reported indicates a lack of trustworthiness, an out of court statement made by a vulnerable adult describing any act of abuse or neglect, any act of exploitation, the offense of battery or aggravated battery or assault or aggravated assault or sexual battery, or any other violent act on the declarant vulnerable adult, not otherwise admissible, is admissible in evidence in any civil or criminal proceeding if:

- The court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and
- The vulnerable adult either:
 - Testifies; *or*
 - Is unavailable as a witness, provided that there is corroborative evidence of the abuse or offense. Unavailability must include a finding by the court that the vulnerable adult's participation in the trial or proceeding would result in a substantial likelihood of severe emotional, mental, or physical harm, in addition to findings pursuant to s. 90.804(1), F.S.¹²

The party seeking to introduce a hearsay statement under the exception in s. 90.803, F.S., bears the burden of establishing that the declarant is unavailable as a witness at a pretrial hearing.¹³ In the time since the hearsay exception for vulnerable adults was enacted,¹⁴ the United States Supreme Court (Court) has held the admission of certain out of court statements violates the Confrontation Clause of the Sixth Amendment.¹⁵¹⁶ In *Crawford*, the Court held that before an out of court statement that is testimonial in nature can be admissible in a criminal proceeding the Confrontation Clause requires the:

- Declarant to be unavailable; and
- Defendant to have had a prior opportunity to cross-examine such declarant.

The Court later held that the distinction of whether evidence is testimonial or nontestimonial in nature rests on the primary purpose of the statement.

Further, in *State v. Hosty*, the Florida Supreme Court has examined s. 90.803(24), F.S., in light of *Crawford* and held that the Confrontation Clause requires the declarant to be unavailable for testimonial hearsay statements to be admissible.¹⁷

The statute does not currently conform with this ruling since it states certain hearsay statements may be admitted even if the declarant testifies.

¹² Section 90.804(1), F.S.

¹³ See *Jones v. State*, 678 So.2d 309, 314 (Fla. 1996).

¹⁴ The hearsay exception in s. 90.803(24), F.S., was enacted by the Legislature in 1996. *Conner v. State*, 748 So.2d 950, 957 (Fla. 1999).

¹⁵ *Crawford v. Washington* 124 S.Ct. 1354 (2004).

¹⁶ The Sixth Amendment of the U.S. Constitution provides, in part: "In all criminal prosecutions...the accused shall enjoy the right to ...be confronted with the witnesses against him."

¹⁷ 944 So.2d 255 (Fla. 2006)

Financial Exploitation of Elderly Persons and Disabled Adults

According to the National Center on Elder Abuse, financial exploitation of the elderly includes “the illegal or improper use of an elder’s funds, property or assets.”¹⁸ For example, forging an older person’s signature, misusing or stealing an older person’s money or possessions, coercing or deceiving an older person into signing a document and improperly using a conservatorship, guardianship, or power of attorney are examples of financial exploitation.¹⁹ Disabled adults, who can be equally vulnerable to financial crimes, are often victims of similar offenses.

Financial exploitation of the elderly and disabled is reported less than other forms of abuse. It is believed that only 1 in 14 cases of financial exploitation against disabled adults are reported and that the yearly number of cases nationwide could exceed 850,000.²⁰ The “typical” victim of financial exploitation is between 70 and 89 years of age, Caucasian, female, frail, and cognitively impaired.²¹ It has been estimated that the financial loss to victims of these types of crimes is at least \$2.9 billion nationwide.²²

Florida Law – “Exploitation of an Elderly Person or Disabled Adult”

Section 825.101, F.S., defines the following terms:

- “Elderly person” means a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunction to the extent that the ability to provide adequately for his or her own care is impaired; and
- “Disabled adult” means a person 18 years or older who suffers from physical or mental incapacitation due to developmental disability, organic brain damages, or mental illness, or has at least one physical or mental limitation that restricts his or her ability to perform normal activities of daily living.

Section 825.103(1), F.S., defines exploitation of an elderly person or disabled adult as:

- Knowingly, by deception²³ or intimidation,²⁴ obtaining or using, or endeavoring to obtain or use, a vulnerable adult’s funds, assets, or property with the intent to temporarily or

¹⁸ The National Center on Elder Abuse, *Types of Abuse-Financial or Material Exploitation*, available at <http://www.ncea.aoa.gov/faq/index.aspx> (last visited Feb. 11, 2014).

¹⁹ *Id.*

²⁰ MetLife Mature Market Institute, the National Committee for the Prevention of Elder Abuse, and the Center for Gerontology at Virginia Polytechnic Institute and State University, *Broken Trust: Elders, Family, and Finances, A Study on Elder Financial Abuse Prevention*, (March 2009), page 8; see also The National Committee for the Prevention of Elder Abuse and the National Adult Protective Services Association, *The 2004 Survey of State Adult Protective Services: Abuse of Adults 60 years of Age and Older*, (February 2006), page 20. (on file with the Senate Committee on Children, Families, and Elder Affairs.)

²¹ *Id.*

²² Andrew Jay McClurg, *Preying on the Graying: A Statutory Presumption to Prosecute Elder Financial Exploitation*, *Hastings Law Journal*, Vol.65, No. 4 at 125 (2014) this report is further cited as “*Preying on the Graying.*” (on file with the Senate Committee on Children, Families, and Elder Affairs.)

²³ Section 825.101(3), F.S.

²⁴ Section 825.101(8), F.S.

permanently deprive the vulnerable adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the vulnerable adult, by a person who:

- Stands in a position of trust and confidence with the vulnerable adult; or
- Has a business relationship with the vulnerable adult.
- Obtaining or using, endeavoring to obtain or use, or conspiring with another to obtain or use a vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the vulnerable adult, by a person who knows or reasonable should know that the vulnerable adult lacks the capacity to consent.²⁵ or
- Breaching a fiduciary duty to a vulnerable adult by the person's guardian or agent under a power of attorney which result in an unauthorized appropriation, sale, or transfer of property.

If the funds, assets, or property involved in a violation of the offense are:

- Valued at \$100,000 or more, it is a first degree felony;²⁶
- Valued at \$20,000 or more but less than \$100,000, it is a second degree felony;²⁷ and
- Valued at less than \$20,000, it is a third degree felony.²⁸

Prosecutions of financial exploitation of elderly persons often face significant roadblocks due to the difficulty in proving what may superficially look like voluntary gifts is actually exploitation.²⁹ Exploited elders frequently are unable, and sometimes unwilling, to effectively assist prosecutors.³⁰ Prosecutions are further complicated by the fact that the transactions often occur in secret and often times the elderly person may not be a good witness as a result of cognitive or other impairments.³¹

This bill creates a permissive presumption that an inter vivos transfer of money or property valued in excess of \$10,000 at the time of transfer, whether in a single transaction or multiple transactions, by a person 65 years or older to a nonrelative known for fewer than 2 years before the first transfer and the transferor did not receive reciprocal value in goods or services was the result of exploitation. Section 825.103, F.S., does not currently provide any presumptions.

A presumption in a legal proceeding is an assumption of the existence of a fact which is in reality unproved by direct evidence.³² A presumption is derived from another fact or group of facts that has been proven in the action.³³ There are two types of presumptions: conclusive presumptions, which *require* the jury to find the presumed fact if the underlying facts are proved; and permissive presumptions, which *allow*, but do not require, the jury to find the presumed fact if it finds the underlying fact to be true.³⁴

²⁵ Section 825.101(9), F.S.

²⁶ Sections 775.082 and 775.083, F.S.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Preying on the Graying*, at 125.

³⁰ *Id.*

³¹ *Id.*

³² *Ibarrondo v. State*, 1 So.3d 226, 232 (Fla. 5th DCA 2008)

³³ *Id.*

³⁴ *Marcolini v. State*, 673 So. 2d 3, 5 (Fla. 1996); *see also State v. Rygwelski*, 899 So.2d 498, 501 (Fla.2d DCA 2005) and *Ibarrondo*, at 232.

Hundreds of presumptions exist in American jurisprudence.³⁵ There are several premises that support the creation of presumptions in the law, including fairness, the desire to advance substantive policies, and the need for some device to resolve certain issues that could not otherwise be resolved due to a lack of proof.³⁶ The strongest justification for most presumptions is the probabilistic determination that the existence of certain facts can be logically inferred from other facts.³⁷

Personal Identification Information

Section 817.568, F.S., contains a variety of provisions criminalizing the fraudulent use of a person's personal identification information. Personal identification information is defined as "any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual."³⁸

Subsections (6) and (7) of the statute makes it a second degree felony for a person:

- To willfully and without authorization fraudulently use personal identical information concerning an individual who is less than 18 years of age without first obtaining the consent of that individual or of his or her legal guardian commits a felony of the second degree.
- Who is in the relationship of parent or legal guardian, or who otherwise exercises custodial authority over an individual who is less than 18 years of age, who willfully and fraudulently uses personal identification information of that individual commits a felony of the second degree.

III. Effect of Proposed Changes:

Section 1 amends s. 90.803(24), F.S., deleting the language that allows a testimonial hearsay statement to be admissible even if the declarant testifies, thus conforming this exception to the holding in *Crawford* and *Hosty*.

Section 2 amends s. 817.568(6) and (7), F.S., to make it a second degree felony for any person, including a parent or legal guardian, who otherwise exercises custodial authority over an individual, younger than 18 years of age or 60 years of age or older to willfully and without authorization fraudulently use personal identification information of that individual.

Section 3 deletes the definition of "deception" in s. 825.101(3), F.S. This deletion then amends s. 825.103(a), F.S., to remove the requirement that a person use *deception or intimidation* to obtain or use a vulnerable adult's funds, assets or property.³⁹ This will allow prosecution against individuals who exploit elderly persons or vulnerable adults in a broader range of instances.

Section 4 amends the definition of an exploitation of a vulnerable adult in s. 825.103(1)(c), F.S., to specify that an "unauthorized appropriation" occurs when a:

³⁵ *Preying on the Graying*, at 125.

³⁶ *Id.*

³⁷ *Id.*

³⁸ Section 817.568, F.S.

³⁹ The bill also deletes the definitions of the terms "misrepresentation" and "intimidation" as they are no longer applicable to chapter 825, F.S.

- Vulnerable adult does not receive reciprocal financial value in goods or services; or
- Persons appointed under chapters 709, 736, and 744, F.S., violate specified duties.

This section creates additional instances that constitute “exploitation of an elderly person or disabled adult” by:

- Adding the misappropriation, misuse or unauthorized transfer of moneys from a personal or joint account and which the elderly person or disabled adult placed, owned and was the sole contributor or payee of the funds prior to the misappropriation, misuse or unauthorized transfer.
- Intentionally or negligently failing to effectively use an elderly person’s or disabled person’s income and assets for the necessities required for that person’s support and maintenance, by a caregiver⁴⁰ or a person who stands in a position of trust and confidence with the elderly person or disabled adult.

This section creates a permissive presumption in s. 825.103, F.S., that an inter vivos transfer of money or property valued in excess of \$10,000 at the time of transfer, whether in a single transaction or multiple transactions, by a person 65 years or older to a nonrelative known for fewer than 2 years before the first transfer and the transferor did not receive reciprocal value in goods or services was the result of exploitation.

The presumption applies regardless of whether the transfer or transfers are identified by the parties as a gift or loan. However, the presumption does not apply to a valid loan evidenced in writing that includes definite repayment dates, unless repayment of such loan is in default, in whole or in part, for more than 65 days. The bill provides exemptions from the presumption for:

- Persons who are in the business of making loans; or
- Bona fide charitable donations to nonprofit organizations that qualify for tax exempt status under the Internal Revenue code.

This bill also requires the court to instruct a jury that:

- They may, but are not required to, draw an inference of exploitation upon proof beyond a reasonable doubt of the facts listed in this subsection; and
- The presumption imposes no burden of proof on the defendant.

This presumption does not apply to disabled adults.

Sections 5 amends s. 775.0844, F.S., to correctly identify the statutory definition of an elderly person to s. 825.101, F.S.

Section 6 amends s. 921.0022(3)(f), (g) and (h), F.S., the offense severity ranking chart of the Criminal Punishment Code, to reflect the new threshold dollar amounts (3rd degree felony – less than \$10,000, 2nd degree felony – greater than \$10,000 but less than \$50,000 and 1st degree felony - \$50,000 or more) for the exploitation of an elderly person or disabled adult.

Section 7 reenacts s. 772.11(1), F.S., relating to a civil remedy for theft or exploitation to incorporate the amendment to s. 825.103, F.S.

⁴⁰ Section 825.101(2), F.S. defines “caregiver.”

Section 8 provides an effective date of October 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The Due Process Clauses of the United States and Florida Constitutions require the State to prove every element of a criminal offense beyond a reasonable doubt.⁴¹ Conclusive presumptions that shift the burden of persuasion of a statutorily defined element of the offense to the defendant are impermissible under the Due Process Clause.⁴² Permissive presumptions can be constitutional, but only if they do not shift the burden of persuasion to the defendant.⁴³

When reviewing a permissive presumption, the United States Supreme Court requires the challenging party to demonstrate its invalidity as applied.⁴⁴ Since a permissive presumption allows the trier of fact to be free to accept or reject the inference and does not shift the burden of proof, the only instance that affects the application of the “beyond a reasonable doubt” standard is if, under the facts of the case, there is no rational way the trier could make the connection permitted by the inference.⁴⁵ This is the only situation where any risk that an explanation of the permissible inference to a jury, or its use by a jury, has caused the presumptively rational fact finder to make an erroneous factual determination.⁴⁶

For a permissive inference to withstand constitutional challenge, a rational connection must exist between the facts in the record and the ultimate fact to be presumed.⁴⁷ A permissive presumption will be upheld if it can be said with substantial assurance that the presumed fact is more likely to flow from the proved fact on which it is made to depend.⁴⁸

⁴¹ *Buttram v. State*, 780 S.2d 224 (Fla. 2d DCA 2001).

⁴² *Francis v. Franklin*, 105 S.Ct. 1965, 1971 (1985); *Sandstrom v. Montana*, 99 S.Ct. 2450, 2459 (1979); *State v. Rolle*, 560 So.2d 1154, 1159 (Fla. 1990); and *Tatum v. State*, 857 So.2d 331 (Fla.2d DCA 2003).

⁴³ *County Court of Ulster County, N.Y. v. Allen*, 99 S.Ct. 2213 (1979).

⁴⁴ *U.S. v. Gainey*, 85 S.Ct. 754, 757 (1965)

⁴⁵ *County Court of Ulster County, N.Y. v. Allen*, 99 S.Ct. 2213 at 225 (1979).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *State v. Brake*, 796 So.2d 522 (Fla. 2001).

The bill creates a permissive presumption of exploitation if the State proves the occurrence of an inter vivos transfer of \$10,000 by an elderly person to someone the elderly person knew less than two years, which did not result in receipt of reciprocal value in good or services. To the extent that the bill relieves the State of its obligation to prove the elements of a specified instance of exploitation of an elderly person beyond a reasonable doubt, the presumption could be challenged as being unconstitutional.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None

C. Government Sector Impact:

The bill may have an impact on the prison population. The Criminal Justice Impact Conference has not reviewed the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 90.803, 772.11, 775.0844, 817.568, 825.101, 825.103, and 921.0022.

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 Children, Families, and Elder Affairs on February 18, 2014:

- The amendment revises s. 817.568, F.S., to clarify that any person, including any person in the relationship of parent or legal guardian, that willfully and without authorization uses the personal identification of an individual younger than 18 years

of age or 60 years of age or older without first obtaining the consent of the individual commits a second degree felony.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/18/2014	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (24) of section
90.803, Florida Statutes, is amended to read:

90.803 Hearsay exceptions; availability of declarant
immaterial.—The provision of s. 90.802 to the contrary
notwithstanding, the following are not inadmissible as evidence,
even though the declarant is available as a witness:



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11 (24) HEARSAY EXCEPTION; STATEMENT OF ELDERLY PERSON OR
12 DISABLED ADULT.—

13 (a) Unless the source of information or the method or
14 circumstances by which the statement is reported indicates a
15 lack of trustworthiness, an out-of-court statement made by an
16 elderly person or disabled adult, as defined in s. 825.101,
17 describing any act of abuse or neglect, any act of exploitation,
18 the offense of battery or aggravated battery or assault or
19 aggravated assault or sexual battery, or any other violent act
20 on the declarant elderly person or disabled adult, not otherwise
21 admissible, is admissible in evidence in any civil or criminal
22 proceeding if:

23 1. The court finds in a hearing conducted outside the
24 presence of the jury that the time, content, and circumstances
25 of the statement provide sufficient safeguards of reliability.
26 In making its determination, the court may consider the mental
27 and physical age and maturity of the elderly person or disabled
28 adult, the nature and duration of the abuse or offense, the
29 relationship of the victim to the offender, the reliability of
30 the assertion, the reliability of the elderly person or disabled
31 adult, and any other factor deemed appropriate; and

32 2. The elderly person or disabled adult ~~either:~~

33 ~~a. Testifies; or~~

34 ~~b.~~ is unavailable as a witness, provided that there is
35 corroborative evidence of the abuse or offense. Unavailability
36 shall include a finding by the court that the elderly person's
37 or disabled adult's participation in the trial or proceeding
38 would result in a substantial likelihood of severe emotional,
39 mental, or physical harm, in addition to findings pursuant to s.



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40 90.804(1).

41 Section 2. Subsections (6) and (7) of section 817.568,
42 Florida Statutes, are amended to read:

43 817.568 Criminal use of personal identification
44 information.—

45 (6) Any person who willfully and without authorization
46 fraudulently uses personal identification information concerning
47 an individual who is younger less than 18 years of age or 60
48 years of age or older without first obtaining the consent of
49 that individual or of his or her legal guardian commits a felony
50 of the second degree, punishable as provided in s. 775.082, s.
51 775.083, or s. 775.084.

52 (7) Any person who is in the relationship of parent or
53 legal guardian, or who otherwise exercises custodial authority
54 over an individual who is younger less than 18 years of age or
55 60 years of age or older, who willfully and fraudulently uses
56 personal identification information of that individual commits a
57 felony of the second degree, punishable as provided in s.
58 775.082, s. 775.083, or s. 775.084.

59 Section 3. Subsections (2), (3), and (8) of section
60 825.101, Florida Statutes, are amended to read:

61 825.101 Definitions.—As used in this chapter:

62 (2) "Caregiver" means a person who has been entrusted with
63 or has assumed responsibility for the care or the property of an
64 elderly person or disabled adult. "Caregiver" includes, but is
65 not limited to, relatives, court-appointed or voluntary
66 guardians, adult household members, neighbors, health care
67 providers, and employees and volunteers of facilities as defined
68 in subsection (6) ~~(7)~~.



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69 ~~(3) "Deception" means:~~
70 ~~(a) Misrepresenting or concealing a material fact relating~~
71 ~~to:~~
72 ~~1. Services rendered, disposition of property, or use of~~
73 ~~property, when such services or property are intended to benefit~~
74 ~~an elderly person or disabled adult;~~
75 ~~2. Terms of a contract or agreement entered into with an~~
76 ~~elderly person or disabled adult; or~~
77 ~~3. An existing or preexisting condition of any property~~
78 ~~involved in a contract or agreement entered into with an elderly~~
79 ~~person or disabled adult; or~~
80 ~~(b) Using any misrepresentation, false pretense, or false~~
81 ~~promise in order to induce, encourage, or solicit an elderly~~
82 ~~person or disabled adult to enter into a contract or agreement.~~
83 ~~(8) "Intimidation" means the communication by word or act~~
84 ~~to an elderly person or disabled adult that the elderly person~~
85 ~~or disabled adult will be deprived of food, nutrition, clothing,~~
86 ~~shelter, supervision, medicine, medical services, money, or~~
87 ~~financial support or will suffer physical violence.~~
88 Section 4. Section 825.103, Florida Statutes, is amended to
89 read:
90 825.103 Exploitation of an elderly person or disabled
91 adult; penalties.-
92 (1) "Exploitation of an elderly person or disabled adult"
93 means:
94 (a) Knowingly, ~~by deception or intimidation,~~ obtaining or
95 using, or endeavoring to obtain or use, an elderly person's or
96 disabled adult's funds, assets, or property with the intent to
97 temporarily or permanently deprive the elderly person or



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98 disabled adult of the use, benefit, or possession of the funds,
99 assets, or property, or to benefit someone other than the
100 elderly person or disabled adult, by a person who:

101 1. Stands in a position of trust and confidence with the
102 elderly person or disabled adult; or

103 2. Has a business relationship with the elderly person or
104 disabled adult;

105 (b) Obtaining or using, endeavoring to obtain or use, or
106 conspiring with another to obtain or use an elderly person's or
107 disabled adult's funds, assets, or property with the intent to
108 temporarily or permanently deprive the elderly person or
109 disabled adult of the use, benefit, or possession of the funds,
110 assets, or property, or to benefit someone other than the
111 elderly person or disabled adult, by a person who knows or
112 reasonably should know that the elderly person or disabled adult
113 lacks the capacity to consent; or

114 (c) Breach of a fiduciary duty to an elderly person or
115 disabled adult by the person's guardian or agent under a power
116 of attorney which results in an unauthorized appropriation,
117 sale, or transfer of property. An unauthorized appropriation
118 under this paragraph occurs when the elderly person or disabled
119 adult does not receive the reasonably equivalent financial value
120 in goods or services, or when the fiduciary violates any of
121 these duties:

122 1. For agents appointed under chapter 709:

123 a. Committing fraud in obtaining their appointments;

124 b. Abusing their powers;

125 c. Wasting, embezzling, or intentionally mismanaging the

126 assets of the ward or beneficiary of the trust; or



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127 d. Acting contrary to the principal's sole benefit or best
128 interest.

129 2. For guardians and trustees appointed under chapter 736
130 or chapter 744:

131 a. Committing fraud in obtaining their appointments;

132 b. Abusing their powers; or

133 c. Wasting, embezzling, or intentionally mismanaging the
134 assets of the ward or beneficiary of the trust.

135 (d) Misappropriating, misusing, or transferring without
136 authorization money belonging to an elderly person or disabled
137 adult from an account in which the elderly person or disabled
138 adult placed the funds, owned the funds, and was the sole
139 contributor or payee of the funds before the misappropriation,
140 misuse, or unauthorized transfer. This paragraph only applies to
141 the following types of accounts:

142 1. Personal accounts;

143 2. Joint accounts created with the intent that only the
144 elderly person or disabled adult enjoys all rights, interests,
145 and claims to moneys deposited into such account; or

146 3. Convenience accounts created in accordance with s.
147 655.80.

148 (e) Intentionally or negligently failing to effectively use
149 an elderly person's or disabled adult's income and assets for
150 the necessities required for that person's support and
151 maintenance, by a caregiver or a person who stands in a position
152 of trust and confidence with the elderly person or disabled
153 adult.

154 (2) Any inter vivos transfer of money or property valued in
155 excess of \$10,000 at the time of the transfer, whether in a



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156 single transaction or multiple transactions, by a person age 65
157 or older to a nonrelative whom the transferor knew for fewer
158 than 2 years before the first transfer and for which the
159 transferor did not receive the reasonably equivalent financial
160 value in goods or services creates a permissive presumption that
161 the transfer was the result of exploitation.

162 (a) This subsection applies regardless of whether the
163 transfer or transfers are denoted by the parties as a gift or
164 loan, except that it does not apply to a valid loan evidenced in
165 writing that includes definite repayment dates. However, if
166 repayment of any such loan is in default, in whole or in part,
167 for more than 65 days, the presumption of this subsection
168 applies.

169 (b) This subsection does not apply to:

170 1. Persons who are in the business of making loans.

171 2. Bona fide charitable donations to nonprofit

172 organizations that qualify for tax exempt status under the
173 Internal Revenue Code.

174 (c) In a criminal case to which this subsection applies, if
175 the trial is by jury, jurors shall be instructed that they may,
176 but are not required to, draw an inference of exploitation upon
177 proof beyond a reasonable doubt of the facts listed in this
178 subsection. The presumption of this subsection imposes no burden
179 of proof on the defendant.

180 (3)-(2)(a) If the funds, assets, or property involved in the
181 exploitation of the elderly person or disabled adult is valued
182 at \$50,000 ~~\$100,000~~ or more, the offender commits a felony of
183 the first degree, punishable as provided in s. 775.082, s.
184 775.083, or s. 775.084.



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185 (b) If the funds, assets, or property involved in the
186 exploitation of the elderly person or disabled adult is valued
187 at \$10,000 ~~\$20,000~~ or more, but less than \$50,000 ~~\$100,000~~, the
188 offender commits a felony of the second degree, punishable as
189 provided in s. 775.082, s. 775.083, or s. 775.084.

190 (c) If the funds, assets, or property involved in the
191 exploitation of an elderly person or disabled adult is valued at
192 less than \$10,000 ~~\$20,000~~, the offender commits a felony of the
193 third degree, punishable as provided in s. 775.082, s. 775.083,
194 or s. 775.084.

195 (4) If a person is charged with financial exploitation of
196 an elderly person or disabled adult that involves the taking of
197 or loss of property valued at more than \$5,000 and property
198 belonging to a victim is seized from the defendant pursuant to a
199 search warrant, the court shall hold an evidentiary hearing and
200 determine, by a preponderance of the evidence, whether the
201 defendant unlawfully obtained the victim's property. If the
202 court finds that the property was unlawfully obtained, the court
203 may order it returned to the victim for restitution purposes
204 before trial on the charge. This determination is inadmissible
205 in evidence at trial on the charge and does not give rise to any
206 inference that the defendant has committed an offense under this
207 section.

208 Section 5. Paragraph (a) of subsection (5) of section
209 775.0844, Florida Statutes, is amended to read:

210 775.0844 White Collar Crime Victim Protection Act.—

211 (5) Any person who commits an aggravated white collar crime
212 as defined in this section and in so doing either:

213 (a) Victimizes 10 or more elderly persons, as defined in s.



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214 825.101~~(5)~~;

215

216 and thereby obtains or attempts to obtain \$50,000 or more,
217 commits a felony of the first degree, punishable as provided in
218 s. 775.082, s. 775.083, or s. 775.084.

219 Section 6. Paragraphs (f), (g), and (h) of subsection (3)
220 of section 921.0022, Florida Statutes, are amended to read:

221 921.0022 Criminal Punishment Code; offense severity ranking
222 chart.—

223 (3) OFFENSE SEVERITY RANKING CHART

224 (f) LEVEL 6

225

Florida Statute	Felony Degree	Description
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226

316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
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227

499.0051(3)	2nd	Knowing forgery of pedigree papers.
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228

499.0051(4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
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229

499.0051(5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
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230



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231	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
232	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
233	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
234	784.041	3rd	Felony battery; domestic battery by strangulation.
235	784.048 (3)	3rd	Aggravated stalking; credible threat.
236	784.048 (5)	3rd	Aggravated stalking of person under 16.
237	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
238	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
239	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
	784.081 (2)	2nd	Aggravated assault on specified



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247	794.011 (8) (a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
248	794.05 (1)	2nd	Unlawful sexual activity with specified minor.
249	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.
250	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
251	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
252	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
253	810.145 (8) (b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
254	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or



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more, but less than \$100,000,
grand theft in 2nd degree.

255

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

256

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

257

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

258

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

259

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

260

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

261

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

262

825.1025 (3) 3rd Lewd or lascivious molestation



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of an elderly person or
disabled adult.

263

825.103(3)(c)
~~825.103(2)(c)~~

3rd

Exploiting an elderly person or
disabled adult and property is
valued at less than \$10,000
~~\$20,000~~.

264

827.03(2)(c)

3rd

Abuse of a child.

265

827.03(2)(d)

3rd

Neglect of a child.

266

827.071(2) & (3)

2nd

Use or induce a child in a
sexual performance, or promote
or direct such performance.

267

836.05

2nd

Threats; extortion.

268

836.10

2nd

Written threats to kill or do
bodily injury.

269

843.12

3rd

Aids or assists person to
escape.

270

847.011

3rd

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

271



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272	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
273	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
274	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
275	944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
276	944.40	2nd	Escapes.
277	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
278	944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
	951.22(1)	3rd	Intoxicating drug, firearm, or



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weapon introduced into county
facility.

279 (g) LEVEL 7

280

281

Florida Statute	Felony Degree	Description
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282

316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
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283

316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
-----------------	-----	--

284

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.
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285

327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
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286

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

287

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

288

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

289

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

290

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

291

458.327 (1) 3rd Practicing medicine without a
license.

292

459.013 (1) 3rd Practicing osteopathic medicine
without a license.

293

460.411 (1) 3rd Practicing chiropractic
medicine without a license.

294

461.012 (1) 3rd Practicing podiatric medicine
without a license.



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295	462.17	3rd	Practicing naturopathy without a license.
296	463.015(1)	3rd	Practicing optometry without a license.
297	464.016(1)	3rd	Practicing nursing without a license.
298	465.015(2)	3rd	Practicing pharmacy without a license.
299	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
300	467.201	3rd	Practicing midwifery without a license.
301	468.366	3rd	Delivering respiratory care services without a license.
302	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
303	483.901(9)	3rd	Practicing medical physics without a license.
304			



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305 484.013 (1) (c) 3rd Preparing or dispensing optical
devices without a prescription.

306 484.053 3rd Dispensing hearing aids without
a license.

307 494.0018 (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.

308 560.123 (8) (b) 1. 3rd Failure to report currency or
payment instruments exceeding
\$300 but less than \$20,000 by a
money services business.

309 560.125 (5) (a) 3rd Money services business by
unauthorized person, currency
or payment instruments
exceeding \$300 but less than
\$20,000.

310 655.50 (10) (b) 1. 3rd Failure to report financial
transactions exceeding \$300 but
less than \$20,000 by financial
institution.



311	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
312	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
313	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
314	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
315	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
	782.071	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular



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324	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
325	784.081(1)	1st	Aggravated battery on specified official or employee.
326	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
327	784.083(1)	1st	Aggravated battery on code inspector.
328	787.06(3)(a)	1st	Human trafficking using coercion for labor and services.
329	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.
330	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
331			



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- 332 790.16(1) 1st Discharge of a machine gun
under specified circumstances.
- 333 790.165(2) 2nd Manufacture, sell, possess, or
deliver hoax bomb.
- 334 790.165(3) 2nd Possessing, displaying, or
threatening to use any hoax
bomb while committing or
attempting to commit a felony.
- 335 790.166(3) 2nd Possessing, selling, using, or
attempting to use a hoax weapon
of mass destruction.
- 336 790.166(4) 2nd Possessing, displaying, or
threatening to use a hoax
weapon of mass destruction
while committing or attempting
to commit a felony.
- 337 790.23 1st,PBL Possession of a firearm by a
person who qualifies for the
penalty enhancements provided
for in s. 874.04.
- 794.08(4) 3rd Female genital mutilation;
consent by a parent, guardian,
or a person in custodial



authority to a victim younger
than 18 years of age.

338

796.03 2nd Procuring any person under 16
years for prostitution.

339

800.04 (5) (c) 1. 2nd Lewd or lascivious molestation;
victim less than 12 years of
age; offender less than 18
years.

340

800.04 (5) (c) 2. 2nd Lewd or lascivious molestation;
victim 12 years of age or older
but less than 16 years;
offender 18 years or older.

341

806.01 (2) 2nd Maliciously damage structure by
fire or explosive.

342

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

343

810.02 (3) (b) 2nd Burglary of unoccupied
dwelling; unarmed; no assault
or battery.

344

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



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345	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
346	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.
347	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
348	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
349	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
350	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
351	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the



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theft of property and traffics
in stolen property.

352

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

353

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

354

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

355

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

356

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

357

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

358

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



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359	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
360	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
361	<u>825.103 (3) (b)</u> 825.103 (2) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at <u>\$10,000</u> \$20,000 or more, but less than <u>\$50,000</u> \$100,000 .
362	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
363	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
364	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
365	838.015	2nd	Bribery.
366			



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367	838.016	2nd	Unlawful compensation or reward for official behavior.
368	838.021(3)(a)	2nd	Unlawful harm to a public servant.
369	838.22	2nd	Bid tampering.
370	843.0855(2)	3rd	Impersonation of a public officer or employee.
371	843.0855(3)	3rd	Unlawful simulation of legal process.
372	843.0855(4)	3rd	Intimidation of a public officer or employee.
373	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
374	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
375	872.06	2nd	Abuse of a dead human body.
	874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or



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subsequent offense.

376

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

377

893.13(1)(c)1. 1st Sell, manufacture, or deliver
cocaine (or other drug
prohibited under s.
893.03(1)(a), (1)(b), (1)(d),
(2)(a), (2)(b), or (2)(c)4.)
within 1,000 feet of a child
care facility, school, or
state, county, or municipal
park or publicly owned
recreational facility or
community center.

378

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.

379

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).

380

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

381

893.135 1st Trafficking in cocaine, more
(1)(b)1.a. than 28 grams, less than 200
grams.

382

893.135 1st Trafficking in illegal drugs,
(1)(c)1.a. more than 4 grams, less than 14
grams.

383

893.135(1)(d)1. 1st Trafficking in phencyclidine,
more than 28 grams, less than
200 grams.

384

893.135(1)(e)1. 1st Trafficking in methaqualone,
more than 200 grams, less than
5 kilograms.

385

893.135(1)(f)1. 1st Trafficking in amphetamine,
more than 14 grams, less than
28 grams.

386

893.135 1st Trafficking in flunitrazepam, 4



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387	(1) (g) 1.a.		grams or more, less than 14 grams.
	893.135	1st	Trafficking in gamma-
	(1) (h) 1.a.		hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
388			
	893.135	1st	Trafficking in 1,4-Butanediol,
	(1) (j) 1.a.		1 kilogram or more, less than 5 kilograms.
389			
	893.135	1st	Trafficking in Phenethylamines,
	(1) (k) 2.a.		10 grams or more, less than 200 grams.
390			
	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
391			
	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
392			
	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.



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393	943.0435 (4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
394	943.0435 (8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
395	943.0435 (9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
396	943.0435 (13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
397	943.0435 (14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
398	944.607 (9)	3rd	Sexual offender; failure to comply with reporting requirements.
399			



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400 944.607(10) (a) 3rd Sexual offender; failure to
submit to the taking of a
digitized photograph.

401 944.607(12) 3rd Failure to report or providing
false information about a
sexual offender; harbor or
conceal a sexual offender.

402 944.607(13) 3rd Sexual offender; failure to
report and reregister; failure
to respond to address
verification.

403 985.4815(10) 3rd Sexual offender; failure to
submit to the taking of a
digitized photograph.

404 985.4815(12) 3rd Failure to report or providing
false information about a
sexual offender; harbor or
conceal a sexual offender.

405 985.4815(13) 3rd Sexual offender; failure to
report and reregister; failure
to respond to address
verification.

406 (h) LEVEL 8



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407	Florida Statute	Felony Degree	Description
408	316.193 (3) (c) 3.a.	2nd	DUI manslaughter.
409	316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
410	327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
411	499.0051 (7)	1st	Knowing trafficking in contraband prescription drugs.
412	499.0051 (8)	1st	Knowing forgery of prescription labels or prescription drug labels.
413	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.
414	560.125 (5) (b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling



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or exceeding \$20,000, but less than \$100,000.

415

655.50(10)(b)2. 2nd Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.

416

777.03(2)(a) 1st Accessory after the fact, capital felony.

417

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.

418

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

419

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



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give information.

420

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

421

787.06 (3) (b) 1st Human trafficking using coercion for commercial sexual activity.

422

787.06 (3) (c) 1st Human trafficking using coercion for labor and services of an unauthorized alien.

423

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.

424

790.161 (3) 1st Discharging a destructive device which results in bodily harm or property damage.

425

794.011 (5) 2nd Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.



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426	794.08(3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
427	800.04(4)	2nd	Lewd or lascivious battery.
428	806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
429	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
430	810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
431	810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
432	812.014(2)(a)2.	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
433	812.13(2)(b)	1st	Robbery with a weapon.
434			



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- 435 812.135 (2) (c) 1st Home-invasion robbery, no
firearm, deadly weapon, or
other weapon.
- 436 817.535 (2) (b) 2nd Filing false lien or other
unauthorized document; second
or subsequent offense.
- 437 817.535 (3) (a) 2nd Filing false lien or other
unauthorized document; property
owner is a public officer or
employee.
- 438 817.535 (4) (a) 1. 2nd Filing false lien or other
unauthorized document;
defendant is incarcerated or
under supervision.
- 439 817.535 (5) (a) 2nd Filing false lien or other
unauthorized document; owner of
the property incurs financial
loss as a result of the false
instrument.
- 440 817.568 (6) 2nd Fraudulent use of personal
identification information of
an individual under the age of
18.



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441	825.102 (2)	1st	Aggravated abuse of an elderly person or disabled adult.
442	825.1025 (2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
443	<u>825.103 (3) (a)</u> 825.103 (2) (a)	1st	Exploiting an elderly person or disabled adult and property is valued at <u>\$50,000</u> \$100,000 or more.
444	837.02 (2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
445	837.021 (2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
446	860.121 (2) (c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
447	860.16	1st	Aircraft piracy.
	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).

448

893.13(2)(b) 1st Purchase in excess of 10 grams
of any substance specified in
s. 893.03(1)(a) or (b).

449

893.13(6)(c) 1st Possess in excess of 10 grams
of any substance specified in
s. 893.03(1)(a) or (b).

450

893.135(1)(a)2. 1st Trafficking in cannabis, more
than 2,000 lbs., less than
10,000 lbs.

451

893.135
(1)(b)1.b. 1st Trafficking in cocaine, more
than 200 grams, less than 400
grams.

452

893.135
(1)(c)1.b. 1st Trafficking in illegal drugs,
more than 14 grams, less than
28 grams.

453

893.135
(1)(d)1.b. 1st Trafficking in phencyclidine,
more than 200 grams, less than
400 grams.

454

893.135 1st Trafficking in methaqualone,



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455	(1) (e) 1.b.		more than 5 kilograms, less than 25 kilograms.
	893.135	1st	Trafficking in amphetamine,
	(1) (f) 1.b.		more than 28 grams, less than 200 grams.
456			
	893.135	1st	Trafficking in flunitrazepam,
	(1) (g) 1.b.		14 grams or more, less than 28 grams.
457			
	893.135	1st	Trafficking in gamma-
	(1) (h) 1.b.		hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
458			
	893.135	1st	Trafficking in 1,4-Butanediol,
	(1) (j) 1.b.		5 kilograms or more, less than 10 kilograms.
459			
	893.135	1st	Trafficking in Phenethylamines,
	(1) (k) 2.b.		200 grams or more, less than 400 grams.
460			
	893.1351 (3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
461			



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895.03(1) 1st Use or invest proceeds derived
from pattern of racketeering
activity.

462

895.03(2) 1st Acquire or maintain through
racketeering activity any
interest in or control of any
enterprise or real property.

463

895.03(3) 1st Conduct or participate in any
enterprise through pattern of
racketeering activity.

464

896.101(5)(b) 2nd Money laundering, financial
transactions totaling or
exceeding \$20,000, but less
than \$100,000.

465

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.

466

Section 7. For the purpose of incorporating the amendment
made by this act to section 825.103, Florida Statutes, in a
reference thereto, subsection (1) of section 772.11, Florida
Statutes, is reenacted to read:

467

468

469

470

772.11 Civil remedy for theft or exploitation.—



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471 (1) Any person who proves by clear and convincing evidence
472 that he or she has been injured in any fashion by reason of any
473 violation of ss. 812.012-812.037 or s. 825.103(1) has a cause of
474 action for threefold the actual damages sustained and, in any
475 such action, is entitled to minimum damages in the amount of
476 \$200, and reasonable attorney's fees and court costs in the
477 trial and appellate courts. Before filing an action for damages
478 under this section, the person claiming injury must make a
479 written demand for \$200 or the treble damage amount of the
480 person liable for damages under this section. If the person to
481 whom a written demand is made complies with such demand within
482 30 days after receipt of the demand, that person shall be given
483 a written release from further civil liability for the specific
484 act of theft or exploitation by the person making the written
485 demand. Any person who has a cause of action under this section
486 may recover the damages allowed under this section from the
487 parents or legal guardian of any unemancipated minor who lives
488 with his or her parents or legal guardian and who is liable for
489 damages under this section. Punitive damages may not be awarded
490 under this section. The defendant is entitled to recover
491 reasonable attorney's fees and court costs in the trial and
492 appellate courts upon a finding that the claimant raised a claim
493 that was without substantial fact or legal support. In awarding
494 attorney's fees and costs under this section, the court may not
495 consider the ability of the opposing party to pay such fees and
496 costs. This section does not limit any right to recover
497 attorney's fees or costs provided under any other law.
498 Section 8. This act shall take effect October 1, 2014.
499



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

501 And the title is amended as follows:

502 Delete everything before the enacting clause

503 and insert:

504 A bill to be entitled

505 An act relating to offenses against vulnerable
506 persons; amending s. 90.803, F.S.; revising when an
507 out-of-court statement by an elderly person or
508 disabled adult is admissible in certain proceedings;
509 amending s. 817.568, F.S.; expanding applicability of
510 prohibition on the fraudulent use of personal
511 identification information of specified victims
512 without consent to include persons 60 years of age or
513 older; amending s. 825.101, F.S.; revising and
514 deleting definitions; amending s. 825.103, F.S.;;
515 deleting a requirement that property of an elderly
516 person or disabled adult be obtained by deception or
517 intimidation in order to constitute exploitation of
518 such a person; specifying additional circumstances
519 that constitute a breach of a fiduciary duty and
520 specifying when an unauthorized appropriation occurs;
521 creating a presumption that certain inter vivos
522 transfers are a result of exploitation; providing
523 exceptions; providing for jury instructions concerning
524 the presumption; revising the valuation of funds,
525 assets, or property involved for various degrees of
526 offenses of exploitation of an elderly person or
527 disabled adult; providing for return of property
528 seized from a defendant to the victim before trial in



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529 certain circumstances; amending ss. 775.0844 and
530 921.0022, F.S.; conforming provisions to changes made
531 by the act; reenacting s. 772.11(1), F.S., relating to
532 a civil remedy for theft or exploitation, to
533 incorporate the amendments made by the act to s.
534 825.103, F.S., in a reference thereto; providing an
535 effective date.

By Senator Richter

23-00874-14

2014588__

1 A bill to be entitled
 2 An act relating to offenses against vulnerable
 3 persons; amending s. 90.803, F.S.; revising when an
 4 out-of-court statement by an elderly person or
 5 disabled adult is admissible in certain proceedings;
 6 amending s. 825.101, F.S.; revising and deleting
 7 definitions; amending s. 825.103, F.S.; deleting a
 8 requirement that property of an elderly person or
 9 disabled adult be obtained by deception or
 10 intimidation in order to constitute exploitation of
 11 such a person; specifying additional circumstances
 12 that constitute a breach of a fiduciary duty;
 13 specifying when an unlawful appropriation occurs;
 14 creating a presumption that certain inter vivos
 15 transfers are a result of exploitation; providing
 16 exceptions; providing for jury instructions concerning
 17 the presumption; revising the valuation of funds,
 18 assets, or property involved for various degrees of
 19 offenses of exploitation of an elderly person or
 20 disabled adult; providing for return of property
 21 seized from a defendant to the victim before trial in
 22 certain circumstances; amending ss. 775.0844 and
 23 921.0022, F.S.; conforming provisions to changes made
 24 by the act; reenacting s. 772.11(1), F.S., relating to
 25 a civil remedy for theft or exploitation, to
 26 incorporate the amendments made by the act to s.
 27 825.103, F.S., in a reference thereto; providing an
 28 effective date.
 29

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

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30 Be It Enacted by the Legislature of the State of Florida:
 31
 32 Section 1. Paragraph (a) of subsection (24) of section
 33 90.803, Florida Statutes, is amended to read:
 34 90.803 Hearsay exceptions; availability of declarant
 35 immaterial.—The provision of s. 90.802 to the contrary
 36 notwithstanding, the following are not inadmissible as evidence,
 37 even though the declarant is available as a witness:
 38 (24) HEARSAY EXCEPTION; STATEMENT OF ELDERLY PERSON OR
 39 DISABLED ADULT.—
 40 (a) Unless the source of information or the method or
 41 circumstances by which the statement is reported indicates a
 42 lack of trustworthiness, an out-of-court statement made by an
 43 elderly person or disabled adult, as defined in s. 825.101,
 44 describing any act of abuse or neglect, any act of exploitation,
 45 the offense of battery or aggravated battery or assault or
 46 aggravated assault or sexual battery, or any other violent act
 47 on the declarant elderly person or disabled adult, not otherwise
 48 admissible, is admissible in evidence in any civil or criminal
 49 proceeding if:
 50 1. The court finds in a hearing conducted outside the
 51 presence of the jury that the time, content, and circumstances
 52 of the statement provide sufficient safeguards of reliability.
 53 In making its determination, the court may consider the mental
 54 and physical age and maturity of the elderly person or disabled
 55 adult, the nature and duration of the abuse or offense, the
 56 relationship of the victim to the offender, the reliability of
 57 the assertion, the reliability of the elderly person or disabled
 58 adult, and any other factor deemed appropriate; and

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59 2. The elderly person or disabled adult ~~either:~~
60 a. ~~Testifies, or~~
61 b. is unavailable as a witness, provided that there is
62 corroborative evidence of the abuse or offense. Unavailability
63 shall include a finding by the court that the elderly person's
64 or disabled adult's participation in the trial or proceeding
65 would result in a substantial likelihood of severe emotional,
66 mental, or physical harm, in addition to findings pursuant to s.
67 90.804(1).

68 Section 2. Subsections (2), (3), and (8) of section
69 825.101, Florida Statutes, are amended to read:

70 825.101 Definitions.—As used in this chapter:

71 (2) "Caregiver" means a person who has been entrusted with
72 or has assumed responsibility for the care or the property of an
73 elderly person or disabled adult. "Caregiver" includes, but is
74 not limited to, relatives, court-appointed or voluntary
75 guardians, adult household members, neighbors, health care
76 providers, and employees and volunteers of facilities as defined
77 in subsection (6) ~~(7)~~.

78 ~~(3) "Deception" means:~~

79 ~~(a) Misrepresenting or concealing a material fact relating~~
80 ~~to:~~

81 ~~1. Services rendered, disposition of property, or use of~~
82 ~~property, when such services or property are intended to benefit~~
83 ~~an elderly person or disabled adult;~~

84 ~~2. Terms of a contract or agreement entered into with an~~
85 ~~elderly person or disabled adult; or~~

86 ~~3. An existing or preexisting condition of any property~~
87 ~~involved in a contract or agreement entered into with an elderly~~

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88 ~~person or disabled adult; or~~
89 ~~(b) Using any misrepresentation, false pretense, or false~~
90 ~~promise in order to induce, encourage, or solicit an elderly~~
91 ~~person or disabled adult to enter into a contract or agreement.~~
92 ~~(8) "Intimidation" means the communication by word or act~~
93 ~~to an elderly person or disabled adult that the elderly person~~
94 ~~or disabled adult will be deprived of food, nutrition, clothing,~~
95 ~~shelter, supervision, medicine, medical services, money, or~~
96 ~~financial support or will suffer physical violence.~~

97 Section 3. Section 825.103, Florida Statutes, is amended to
98 read:

99 825.103 Exploitation of an elderly person or disabled
100 adult; penalties.—

101 (1) "Exploitation of an elderly person or disabled adult"
102 means:

103 (a) ~~Knowingly, by deception or intimidation,~~ obtaining or
104 using, or endeavoring to obtain or use, an elderly person's or
105 disabled adult's funds, assets, or property with the intent to
106 temporarily or permanently deprive the elderly person or
107 disabled adult of the use, benefit, or possession of the funds,
108 assets, or property, or to benefit someone other than the
109 elderly person or disabled adult, by a person who:

110 1. Stands in a position of trust and confidence with the
111 elderly person or disabled adult; or

112 2. Has a business relationship with the elderly person or
113 disabled adult;

114 (b) Obtaining or using, endeavoring to obtain or use, or
115 conspiring with another to obtain or use an elderly person's or
116 disabled adult's funds, assets, or property with the intent to

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117 temporarily or permanently deprive the elderly person or
 118 disabled adult of the use, benefit, or possession of the funds,
 119 assets, or property, or to benefit someone other than the
 120 elderly person or disabled adult, by a person who knows or
 121 reasonably should know that the elderly person or disabled adult
 122 lacks the capacity to consent; or

123 (c) Breach of a fiduciary duty to an elderly person or
 124 disabled adult by the person's guardian or agent under a power
 125 of attorney which results in an unauthorized appropriation,
 126 sale, or transfer of property. An unlawful appropriation under
 127 this paragraph occurs when the elderly person or disabled adult
 128 does not receive reciprocal financial value in goods or
 129 services, or the following persons violate any of these duties:

130 1. For agents appointed under chapter 709:

131 a. Committing fraud in obtaining their appointments;

132 b. Abusing their powers;

133 c. Wasting, embezzling, or intentionally mismanaging the
 134 assets of the ward or beneficiary of the trust; or

135 d. Acting contrary to the principal's sole benefit or best
 136 interest.

137 2. For guardians and trustees appointed under chapter 736
 138 or chapter 744:

139 a. Committing fraud in obtaining their appointments;

140 b. Abusing their powers; or

141 c. Wasting, embezzling, or intentionally mismanaging the
 142 assets of the ward or beneficiary of the trust.

143 (d) Misappropriating, misusing, or unauthorized
 144 transferring of moneys belonging to an elderly person or
 145 disabled adult from a personal or joint account in which the

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146 elderly person or disabled adult placed the funds, owned the
 147 funds, and was the sole contributor or payee of the funds before
 148 the misappropriation, misuse, or unauthorized transfer.

149 (e) Intentionally or negligently failing to effectively use
 150 an elderly person's or disabled adult's income and assets for
 151 the necessities required for that person's support and
 152 maintenance, by a caregiver or a person who stands in a position
 153 of trust and confidence with the elderly person or disabled
 154 adult.

155 (2) An inter vivos transfer of money or property valued in
 156 excess of \$10,000 at the time of the transfer, whether in a
 157 single transaction or multiple transactions, by a person age 65
 158 or older to a nonrelative whom the transferor knew for fewer
 159 than 2 years before the first transfer and for which the
 160 transferor did not receive reciprocal value in goods or services
 161 creates a permissive presumption that the transfer was the
 162 result of exploitation.

163 (a) This subsection applies regardless of whether the
 164 transfer or transfers are denoted by the parties as a gift or
 165 loan, except that it does not apply to a valid loan evidenced in
 166 writing that includes definite repayment dates. However, if
 167 repayment of any such loan is in default, in whole or in part,
 168 for more than 65 days, the presumption of this subsection
 169 applies.

170 (b) This subsection does not apply to:

171 1. Persons who are in the business of making loans.

172 2. Bona fide charitable donations to nonprofit
 173 organizations that qualify for tax-exempt status under the
 174 Internal Revenue Code.

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175 (c) In a criminal case to which this subsection applies, if
 176 the trial is by jury, jurors shall be instructed that they may,
 177 but are not required to, draw an inference of exploitation upon
 178 proof beyond a reasonable doubt of the facts listed in this
 179 subsection. They shall also be instructed that in no event may
 180 they find a defendant guilty unless they are persuaded that each
 181 element of the offense has been proved beyond a reasonable
 182 doubt. The presumption of this subsection does not impose a
 183 burden of proof on the defendant.

184 (3)(2)(a) If the funds, assets, or property involved in the
 185 exploitation of the elderly person or disabled adult is valued
 186 at \$50,000 ~~\$100,000~~ or more, the offender commits a felony of
 187 the first degree, punishable as provided in s. 775.082, s.
 188 775.083, or s. 775.084.

189 (b) If the funds, assets, or property involved in the
 190 exploitation of the elderly person or disabled adult is valued
 191 at \$10,000 ~~\$20,000~~ or more, but less than \$50,000 ~~\$100,000~~, the
 192 offender commits a felony of the second degree, punishable as
 193 provided in s. 775.082, s. 775.083, or s. 775.084.

194 (c) If the funds, assets, or property involved in the
 195 exploitation of an elderly person or disabled adult is valued at
 196 less than \$10,000 ~~\$20,000~~, the offender commits a felony of the
 197 third degree, punishable as provided in s. 775.082, s. 775.083,
 198 or s. 775.084.

199 (4) If a person is charged with financial exploitation of
 200 an elderly person or disabled adult that involves the taking of
 201 or loss of property valued at more than \$5,000 and property
 202 belonging to a victim is seized from the defendant pursuant to a
 203 search warrant, the court shall hold an evidentiary hearing and

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204 determine, by a preponderance of the evidence, whether the
 205 defendant unlawfully obtained the victim's property. If the
 206 court finds that the property was unlawfully obtained, the court
 207 may order it returned to the victim for restitution purposes
 208 before trial on the charge. This determination is inadmissible
 209 in evidence at trial on the charge and does not give rise to any
 210 inference that the defendant has committed an offense under this
 211 section.

212 Section 4. Subsection (5) of section 775.0844, Florida
 213 Statutes, is amended to read:

214 775.0844 White Collar Crime Victim Protection Act.—

215 (5) Any person who commits an aggravated white collar crime
 216 as defined in this section and in so doing either:

217 (a) Victimizes 10 or more elderly persons, as defined in s.
 218 825.101~~(5)~~;

219 (b) Victimizes 20 or more persons, as defined in s. 1.01;
 220 or

221 (c) Victimizes the State of Florida, any state agency, any
 222 of the state's political subdivisions, or any agency of the
 223 state's political subdivisions,

224 and thereby obtains or attempts to obtain \$50,000 or more,
 225 commits a felony of the first degree, punishable as provided in
 226 s. 775.082, s. 775.083, or s. 775.084.

227 Section 5. Paragraphs (f), (g), and (h) of subsection (3)
 228 of section 921.0022, Florida Statutes, are amended to read:

229 921.0022 Criminal Punishment Code; offense severity ranking
 230 chart.—

231 (3) OFFENSE SEVERITY RANKING CHART
 232

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233	(f) LEVEL 6		
234	Florida Statute	Felony Degree	Description
235	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
236	499.0051(3)	2nd	Knowing forgery of pedigree papers.
237	499.0051(4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
238	499.0051(5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
239	775.0875(1)	3rd	Taking firearm from law enforcement officer.
240	784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
241	784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
242	784.041	3rd	Felony battery; domestic

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			battery by strangulation.
243	784.048(3)	3rd	Aggravated stalking; credible threat.
244	784.048(5)	3rd	Aggravated stalking of person under 16.
245	784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
246	784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
247	784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
248	784.081(2)	2nd	Aggravated assault on specified official or employee.
249	784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
250	784.083(2)	2nd	Aggravated assault on code inspector.
251	787.02(2)	3rd	False imprisonment; restraining

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with purpose other than those
in s. 787.01.

252 790.115(2)(d) 2nd Discharging firearm or weapon
on school property.

253 790.161(2) 2nd Make, possess, or throw
destructive device with intent
to do bodily harm or damage
property.

254 790.164(1) 2nd False report of deadly
explosive, weapon of mass
destruction, or act of arson or
violence to state property.

255 790.19 2nd Shooting or throwing deadly
missiles into dwellings,
vessels, or vehicles.

256 794.011(8)(a) 3rd Solicitation of minor to
participate in sexual activity
by custodial adult.

257 794.05(1) 2nd Unlawful sexual activity with
specified minor.

258 800.04(5)(d) 3rd Lewd or lascivious molestation;
victim 12 years of age or older

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but less than 16 years;
offender less than 18 years.

259 800.04(6)(b) 2nd Lewd or lascivious conduct;
offender 18 years of age or
older.

260 806.031(2) 2nd Arson resulting in great bodily
harm to firefighter or any
other person.

261 810.02(3)(c) 2nd Burglary of occupied structure;
unarmed; no assault or battery.

262 810.145(8)(b) 2nd Video voyeurism; certain minor
victims; 2nd or subsequent
offense.

263 812.014(2)(b)1. 2nd Property stolen \$20,000 or
more, but less than \$100,000,
grand theft in 2nd degree.

264 812.014(6) 2nd Theft; property stolen \$3,000
or more; coordination of
others.

265 812.015(9)(a) 2nd Retail theft; property stolen
\$300 or more; second or
subsequent conviction.

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266	812.015(9)(b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
267	812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
268	817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
269	825.102(1)	3rd	Abuse of an elderly person or disabled adult.
270	825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
271	825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
272	825.103(2)(c) <u>825.103(3)(c)</u>	3rd	Exploiting an elderly person or disabled adult and property is valued at less than <u>\$10,000</u> \$20,000.
273	827.03(2)(c)	3rd	Abuse of a child.
274			

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275	827.03(2)(d)	3rd	Neglect of a child.
	827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
276	836.05	2nd	Threats; extortion.
277	836.10	2nd	Written threats to kill or do bodily injury.
278	843.12	3rd	Aids or assists person to escape.
279	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
280	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
281	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
282	914.23	2nd	Retaliation against a witness, victim, or informant, with

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				bodily injury.
283	944.35(3)(a)2.	3rd		Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
284	944.40	2nd		Escapes.
285	944.46	3rd		Harboring, concealing, aiding escaped prisoners.
286	944.47(1)(a)5.	2nd		Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
287	951.22(1)	3rd		Intoxicating drug, firearm, or weapon introduced into county facility.
288				
289	(g) LEVEL 7			
290				
	Florida Statute	Felony Degree		Description
291	316.027(1)(b)	1st		Accident involving death, failure to stop; leaving scene.

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292	316.193(3)(c)2.	3rd		DUI resulting in serious bodily injury.
293	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.
294	327.35(3)(c)2.	3rd		Vessel BUI resulting in serious bodily injury.
295	402.319(2)	2nd		Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
296	409.920	3rd		Medicaid provider fraud; \$10,000 or less.
	(2)(b)1.a.			
297	409.920	2nd		Medicaid provider fraud; more than \$10,000, but less than \$50,000.
	(2)(b)1.b.			
298				

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299	456.065(2)	3rd	Practicing a health care profession without a license.	
	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.	
300	458.327(1)	3rd	Practicing medicine without a license.	
301	459.013(1)	3rd	Practicing osteopathic medicine without a license.	
302	460.411(1)	3rd	Practicing chiropractic medicine without a license.	
303	461.012(1)	3rd	Practicing podiatric medicine without a license.	
304	462.17	3rd	Practicing naturopathy without a license.	
305	463.015(1)	3rd	Practicing optometry without a license.	
306	464.016(1)	3rd	Practicing nursing without a license.	
307				

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	465.015(2)	3rd	Practicing pharmacy without a license.	
308	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.	
309	467.201	3rd	Practicing midwifery without a license.	
310	468.366	3rd	Delivering respiratory care services without a license.	
311	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.	
312	483.901(9)	3rd	Practicing medical physics without a license.	
313	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.	
314	484.053	3rd	Dispensing hearing aids without a license.	
315	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded	

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316 \$50,000 and there were five or more victims.

317 560.123(8)(b)1. 3rd Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.

318 560.125(5)(a) 3rd Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.

319 655.50(10)(b)1. 3rd Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.

320 775.21(10)(a) 3rd Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.

321 775.21(10)(b) 3rd Sexual predator working where children regularly congregate.

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

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322 false information about a sexual predator; harbor or conceal a sexual predator.

782.051(3) 2nd Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.

323 782.07(1) 2nd Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).

324 782.071 2nd Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).

325 782.072 2nd Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).

326 784.045(1)(a)1. 2nd Aggravated battery; intentionally causing great bodily harm or disfigurement.

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327

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

328

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

329

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

330

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

331

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

332

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

333

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

334

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

335

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

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336

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

337

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

338

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.

339

790.07(4) 1st Specified weapons violation
subsequent to previous
conviction of s. 790.07(1) or
(2).

340

790.16(1) 1st Discharge of a machine gun
under specified circumstances.

341

790.165(2) 2nd Manufacture, sell, possess, or
deliver hoax bomb.

342

790.165(3) 2nd Possessing, displaying, or
threatening to use any hoax
bomb while committing or
attempting to commit a felony.

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343	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
344	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
345	790.23	1st, PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
346	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.
347	796.03	2nd	Procuring any person under 16 years for prostitution.
348	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.

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349	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
350	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
351	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
352	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
353	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
354	810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
355	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

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356 grand theft.

357 812.014 (2) (b) 2. 2nd Property stolen, cargo valued
at less than \$50,000, grand
theft in 2nd degree.

358 812.014 (2) (b) 3. 2nd Property stolen, emergency
medical equipment; 2nd degree
grand theft.

359 812.014 (2) (b) 4. 2nd Property stolen, law
enforcement equipment from
authorized emergency vehicle.

360 812.0145 (2) (a) 1st Theft from person 65 years of
age or older; \$50,000 or more.

361 812.019 (2) 1st Stolen property; initiates,
organizes, plans, etc., the
theft of property and traffics
in stolen property.

362 812.131 (2) (a) 2nd Robbery by sudden snatching.

363 812.133 (2) (b) 1st Carjacking; no firearm, deadly
weapon, or other weapon.

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

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364 817.234 (8) (a) 2nd Solicitation of motor vehicle
accident victims with intent to
defraud.

365 817.234 (9) 2nd Organizing, planning, or
participating in an intentional
motor vehicle collision.

366 817.234 (11) (c) 1st Insurance fraud; property value
\$100,000 or more.

367 817.2341 1st Making false entries of
(2) (b) & (3) (b) material fact or false
statements regarding property
values relating to the solvency
of an insuring entity which are
a significant cause of the
insolvency of that entity.

368 817.535 (2) (a) 3rd Filing false lien or other
unauthorized document.

369 825.102 (3) (b) 2nd Neglecting an elderly person or
disabled adult causing great
bodily harm, disability, or
disfigurement.

370 825.103 (3) (b) 2nd Exploiting an elderly person or

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371 ~~825.103(2)(b)~~ disabled adult and property is
valued at \$10,000 ~~\$20,000~~ or
more, but less than \$50,000
~~\$100,000~~.

372 827.03(2)(b) 2nd Neglect of a child causing
great bodily harm, disability,
or disfigurement.

373 827.04(3) 3rd Impregnation of a child under
16 years of age by person 21
years of age or older.

374 837.05(2) 3rd Giving false information about
alleged capital felony to a law
enforcement officer.

375 838.015 2nd Bribery.

376 838.016 2nd Unlawful compensation or reward
for official behavior.

377 838.021(3)(a) 2nd Unlawful harm to a public
servant.

378 838.22 2nd Bid tampering.

843.0855(2) 3rd Impersonation of a public
officer or employee.

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379 843.0855(3) 3rd Unlawful simulation of legal
process.

380 843.0855(4) 3rd Intimidation of a public
officer or employee.

381 847.0135(3) 3rd Solicitation of a child, via a
computer service, to commit an
unlawful sex act.

382 847.0135(4) 2nd Traveling to meet a minor to
commit an unlawful sex act.

383 872.06 2nd Abuse of a dead human body.

384 874.05(2)(b) 1st Encouraging or recruiting
person under 13 to join a
criminal gang; second or
subsequent offense.

385 874.10 1st,PBL Knowingly initiates, organizes,
plans, finances, directs,
manages, or supervises criminal
gang-related activity.

386 893.13(1)(c)1. 1st Sell, manufacture, or deliver
cocaine (or other drug
prohibited under s.

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893.03(1)(a), (1)(b), (1)(d),
(2)(a), (2)(b), or (2)(c)4.)
within 1,000 feet of a child
care facility, school, or
state, county, or municipal
park or publicly owned
recreational facility or
community center.

387

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.

388

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).

389

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

390

893.135 (1)(b)1.a. 1st Trafficking in cocaine, more
than 28 grams, less than 200

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grams.

391

893.135 (1)(c)1.a. 1st Trafficking in illegal drugs,
more than 4 grams, less than 14
grams.

392

893.135(1)(d)1. 1st Trafficking in phencyclidine,
more than 28 grams, less than
200 grams.

393

893.135(1)(e)1. 1st Trafficking in methaqualone,
more than 200 grams, less than
5 kilograms.

394

893.135(1)(f)1. 1st Trafficking in amphetamine,
more than 14 grams, less than
28 grams.

395

893.135 (1)(g)1.a. 1st Trafficking in flunitrazepam, 4
grams or more, less than 14
grams.

396

893.135 (1)(h)1.a. 1st Trafficking in gamma-
hydroxybutyric acid (GHB), 1
kilogram or more, less than 5
kilograms.

397

893.135 (1)(j)1.a. 1st Trafficking in 1,4-Butanediol,
1 kilogram or more, less than 5

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398 kilograms.

399 893.135 1st Trafficking in Phenethylamines,
(1) (k) 2.a. 10 grams or more, less than 200
grams.

400 893.1351(2) 2nd Possession of place for
trafficking in or manufacturing
of controlled substance.

401 896.101(5) (a) 3rd Money laundering, financial
transactions exceeding \$300 but
less than \$20,000.

402 896.104(4) (a) 1. 3rd Structuring transactions to
evade reporting or registration
requirements, financial
transactions exceeding \$300 but
less than \$20,000.

403 943.0435(4) (c) 2nd Sexual offender vacating
permanent residence; failure to
comply with reporting
requirements.

943.0435(8) 2nd Sexual offender; remains in
state after indicating intent
to leave; failure to comply
with reporting requirements.

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404 943.0435(9) (a) 3rd Sexual offender; failure to
comply with reporting
requirements.

405 943.0435(13) 3rd Failure to report or providing
false information about a
sexual offender; harbor or
conceal a sexual offender.

406 943.0435(14) 3rd Sexual offender; failure to
report and reregister; failure
to respond to address
verification.

407 944.607(9) 3rd Sexual offender; failure to
comply with reporting
requirements.

408 944.607(10) (a) 3rd Sexual offender; failure to
submit to the taking of a
digitized photograph.

409 944.607(12) 3rd Failure to report or providing
false information about a
sexual offender; harbor or
conceal a sexual offender.

410 944.607(13) 3rd Sexual offender; failure to

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report and reregister; failure
to respond to address
verification.

411 985.4815(10) 3rd Sexual offender; failure to
submit to the taking of a
digitized photograph.

412 985.4815(12) 3rd Failure to report or providing
false information about a
sexual offender; harbor or
conceal a sexual offender.

413 985.4815(13) 3rd Sexual offender; failure to
report and reregister; failure
to respond to address
verification.

414 (h) LEVEL 8

415

416 Florida Felony Description
Statute Degree

417 316.193 2nd DUI manslaughter.
(3) (c) 3.a.

418 316.1935(4) (b) 1st Aggravated fleeing or attempted
eluding with serious bodily
injury or death.

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419 327.35(3) (c) 3. 2nd Vessel BUI manslaughter.

420 499.0051(7) 1st Knowing trafficking in
contraband prescription drugs.

421 499.0051(8) 1st Knowing forgery of prescription
labels or prescription drug
labels.

422 560.123(8) (b) 2. 2nd Failure to report currency or
payment instruments totaling or
exceeding \$20,000, but less
than \$100,000 by money
transmitter.

423 560.125(5) (b) 2nd Money transmitter business by
unauthorized person, currency
or payment instruments totaling
or exceeding \$20,000, but less
than \$100,000.

424 655.50(10) (b) 2. 2nd Failure to report financial
transactions totaling or
exceeding \$20,000, but less
than \$100,000 by financial
institutions.

425 777.03(2) (a) 1st Accessory after the fact,

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				capital felony.
426	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.
427	782.051(2)	1st		Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
428	782.071(1)(b)	1st		Committing vehicular homicide and failing to render aid or give information.
429	782.072(2)	1st		Committing vessel homicide and failing to render aid or give information.
430	787.06(3)(b)	1st		Human trafficking using coercion for commercial sexual activity.
431				

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	787.06(3)(c)	1st		Human trafficking using coercion for labor and services of an unauthorized alien.
432	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.
433	790.161(3)	1st		Discharging a destructive device which results in bodily harm or property damage.
434	794.011(5)	2nd		Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
435	794.08(3)	2nd		Female genital mutilation, removal of a victim younger than 18 years of age from this state.
436	800.04(4)	2nd		Lewd or lascivious battery.
437	806.01(1)	1st		Maliciously damage dwelling or structure by fire or explosive,

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believing person in structure.

438

810.02(2)(a) 1st,PBL Burglary with assault or
battery.

439

810.02(2)(b) 1st,PBL Burglary; armed with explosives
or dangerous weapon.

440

810.02(2)(c) 1st Burglary of a dwelling or
structure causing structural
damage or \$1,000 or more
property damage.

441

812.014(2)(a)2. 1st Property stolen; cargo valued
at \$50,000 or more, grand theft
in 1st degree.

442

812.13(2)(b) 1st Robbery with a weapon.

443

812.135(2)(c) 1st Home-invasion robbery, no
firearm, deadly weapon, or
other weapon.

444

817.535(2)(b) 2nd Filing false lien or other
unauthorized document; second
or subsequent offense.

445

817.535(3)(a) 2nd Filing false lien or other
unauthorized document; property

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owner is a public officer or
employee.

446

817.535(4)(a)1. 2nd Filing false lien or other
unauthorized document;
defendant is incarcerated or
under supervision.

447

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.

448

817.568(6) 2nd Fraudulent use of personal
identification information of
an individual under the age of
18.

449

825.102(2) 1st Aggravated abuse of an elderly
person or disabled adult.

450

825.1025(2) 2nd Lewd or lascivious battery upon
an elderly person or disabled
adult.

451

825.103(3)(a) 1st Exploiting an elderly person or
~~825.103(2)(a)~~ disabled adult and property is
valued at \$50,000 ~~\$100,000~~ or

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more.

452

837.02(2) 2nd Perjury in official proceedings relating to prosecution of a capital felony.

453

837.021(2) 2nd Making contradictory statements in official proceedings relating to prosecution of a capital felony.

454

860.121(2)(c) 1st Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.

455

860.16 1st Aircraft piracy.

456

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).

457

893.13(2)(b) 1st Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).

458

893.13(6)(c) 1st Possess in excess of 10 grams of any substance specified in

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s. 893.03(1)(a) or (b).

459

893.135(1)(a)2. 1st Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.

460

893.135 (1)(b)1.b. 1st Trafficking in cocaine, more than 200 grams, less than 400 grams.

461

893.135 (1)(c)1.b. 1st Trafficking in illegal drugs, more than 14 grams, less than 28 grams.

462

893.135 (1)(d)1.b. 1st Trafficking in phencyclidine, more than 200 grams, less than 400 grams.

463

893.135 (1)(e)1.b. 1st Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.

464

893.135 (1)(f)1.b. 1st Trafficking in amphetamine, more than 28 grams, less than 200 grams.

465

893.135 (1)(g)1.b. 1st Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.

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466 893.135 1st Trafficking in gamma-
 (1) (h) 1.b. hydroxybutyric acid (GHB), 5
 kilograms or more, less than 10
 kilograms.

467 893.135 1st Trafficking in 1,4-Butanediol,
 (1) (j) 1.b. 5 kilograms or more, less than
 10 kilograms.

468 893.135 1st Trafficking in Phenethylamines,
 (1) (k) 2.b. 200 grams or more, less than
 400 grams.

469 893.1351(3) 1st Possession of a place used to
 manufacture controlled
 substance when minor is present
 or resides there.

470 895.03(1) 1st Use or invest proceeds derived
 from pattern of racketeering
 activity.

471 895.03(2) 1st Acquire or maintain through
 racketeering activity any
 interest in or control of any
 enterprise or real property.

472 895.03(3) 1st Conduct or participate in any

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473 enterprise through pattern of
 racketeering activity.

896.101(5) (b) 2nd Money laundering, financial
 transactions totaling or
 exceeding \$20,000, but less
 than \$100,000.

474 896.104(4) (a) 2. 2nd Structuring transactions to
 evade reporting or registration
 requirements, financial
 transactions totaling or
 exceeding \$20,000 but less than
 \$100,000.

475

476 Section 6. For the purpose of incorporating the amendment
 477 made by this act to section 825.103, Florida Statutes, in a
 478 reference thereto, subsection (1) of section 772.11, Florida
 479 Statutes, is reenacted to read:
 480 772.11 Civil remedy for theft or exploitation.—
 481 (1) Any person who proves by clear and convincing evidence
 482 that he or she has been injured in any fashion by reason of any
 483 violation of ss. 812.012-812.037 or s. 825.103(1) has a cause of
 484 action for threefold the actual damages sustained and, in any
 485 such action, is entitled to minimum damages in the amount of
 486 \$200, and reasonable attorney's fees and court costs in the
 487 trial and appellate courts. Before filing an action for damages
 488 under this section, the person claiming injury must make a
 489 written demand for \$200 or the treble damage amount of the

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2014588

490 person liable for damages under this section. If the person to
491 whom a written demand is made complies with such demand within
492 30 days after receipt of the demand, that person shall be given
493 a written release from further civil liability for the specific
494 act of theft or exploitation by the person making the written
495 demand. Any person who has a cause of action under this section
496 may recover the damages allowed under this section from the
497 parents or legal guardian of any unemancipated minor who lives
498 with his or her parents or legal guardian and who is liable for
499 damages under this section. Punitive damages may not be awarded
500 under this section. The defendant is entitled to recover
501 reasonable attorney's fees and court costs in the trial and
502 appellate courts upon a finding that the claimant raised a claim
503 that was without substantial fact or legal support. In awarding
504 attorney's fees and costs under this section, the court may not
505 consider the ability of the opposing party to pay such fees and
506 costs. This section does not limit any right to recover
507 attorney's fees or costs provided under any other law.

508 Section 7. This act shall take effect October 1, 2014.



The Florida Senate

Committee Agenda Request

To: Senator Eleanor Sobel, Chair
Committee on Children, Families, and Elder Affairs

Subject: Committee Agenda Request

Date: February 5, 2014

I respectfully request that **Senate Bill #588**, relating to Offenses Against Vulnerable Persons, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Garrett Richter".

Senator Garrett Richter
Florida Senate, District 23

RECEIVED

FEB 05 2014

Senate Committee
Children and Families



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Gaming, *Chair*
Appropriations
Appropriations Subcommittee on
Education
Appropriations Subcommittee on Health
and Human Services
Banking and Insurance
Commerce and Tourism
Judiciary
Rules
Transportation

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR GARRETT RICHTER

President Pro Tempore
23rd District

February 17, 2014

The Honorable Eleanor Sobel, Chair
Committee on Children, Families, and Elder Affairs
520 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Sobel:

Senate Bill 588, relating to offense against vulnerable persons, is scheduled to be heard in the Committee on Children, Families, and Elder Affairs this Tuesday, February 18. Due to conflicts in my committee schedule, I will be sending my Legislative Assistant, Michael Nachev as a representative to present the bill for your committee's consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Garrett Richter".

Garrett Richter

cc: Claude Hendon, Staff Director
Lynn Wells, Administrative Assistant

RECEIVED

FEB 17 2014

Senate Committee
Children and Families

REPLY TO:

□ 3299 E. Tamiami Trail, Suite 203, Naples, Florida 34112-4961 (239) 417-6205
□ 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023
□ 25 Homestead Road N. Unit 42 B, Lehigh Acres, FL 33916 (239) 338-2777

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-18-14 Meeting Date

Topic Offenses against Vulnerable Persons
Name Lt. Dennis Strange
Job Title Lieutenant

Bill Number 588
Amendment Barcode

Address 2500 West Colonial Drive
Deltona FL 32109

Phone 407 521-2480
E-mail Dennis.Strange@dcfl.net

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

Representing Florida Sheriffs Association

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/18/14 Meeting Date

Topic Offenses against Vulnerable Persons
Name Laura Cantwell
Job Title Associate State Director

Bill Number SB 588
Amendment Barcode

Address 200 W College A St 304
Tallahassee FL 32301

Phone 850-570-2110
E-mail lcantwell@aacrp.org

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

Representing AARP

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/18/14

Meeting Date

Topic VULNERABLE PERSON

Bill Number SB 588
(if applicable)

Name TOM RANDLE

Amendment Barcode _____
(if applicable)

Job Title Vice President

Address 1812 RISSIN

Phone 671-3700

Street
Tallahassee FL 32308
City State Zip

E-mail TRandle@leadingageflorida

Speaking: For Against Information

Representing LEADING AGE FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-18-14

Meeting Date

Topic CRIMES AGAINST THE ELDERLY

Bill Number 588
(if applicable)

Name MONICA HOFHEINZ

Amendment Barcode _____
(if applicable)

Job Title ASST. STATE ATTORNEY BROWARD COUNTY

Address FORT LAUDERDALE, FL

Phone _____

Street
Fort Lauderdale, FL
City State Zip

E-mail _____

Speaking: For Against Information

Representing STATE ATTORNEY MIKE SATZ AND FLORIDA PROSECUTORS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: CS/SB 744

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Detert

SUBJECT: Motor Vehicle Insurance and Driver Education for Children in Care

DATE: February 18, 2014 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sanford	Hendon	CF	Fav/CS
2.			TR	
3.			BI	
4.			AP	

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 744 directs the Department of Children and Families (DCF or the department) to establish a statewide pilot program to pay specified costs of driver education, licensure and costs incidental to licensure, and motor vehicle insurance for a foster child who meets certain qualifications. The bill sets limits of the amount to be paid and requires payment to be made in the order of eligibility until funds are exhausted.

The bill further requires the department to contract with a qualified not-for-profit entity to operate and develop procedures for the program and requires an annual report to the Governor and the Legislature.

The bill removes the disability of nonage of minors for foster children for the purpose of obtaining motor vehicle insurance upon issuance of a court order. It also adds consideration of this action to the activities that occur at the special judicial review held when a child becomes 17 years of age.

The bill provides for preferential enrollment in driver education for specified children in the care of the department.

The bill provides for an appropriation of \$800,000 to fund the pilot program.

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

II. Present Situation:

Foster Children

Young people in the foster care system often face barriers to participating in everyday life experiences common to others their age. These life experiences are important because they are a part of how all children are prepared for the responsibilities they will assume as adults. The Florida State Youth Advisory Board has long identified the barriers to driving an automobile that are experienced by the children in Florida's foster care system as a concern. The DCF staff concur that foster care children who are not able to learn or gain experience driving miss an important part of learning how to be independent, including being able to work.

Both statute and administrative code support the efforts of teens in foster care to engage in age-appropriate activities.¹ Departmental rules specifically require community-based lead agency service providers to support foster care teens that have demonstrated the appropriate level of maturity in their efforts to learn to drive, to obtain a learner's permit or driver's license, and to assist in obtaining automobile insurance for those children that are allowed to drive.²

At the end of January 2014, DCF reported that there were 385 15-year-olds, 458 16-year-olds, and 517 17-year-olds in foster care.³ The department has contracted with Cby25, a private not-for-profit corporation, to survey youth in foster care every six months and to publish reports.⁴ According to the most recent of these reports, published in the spring of 2013:

- 5 percent of 15-year-old respondents (11 children of 243 surveyed) had learner's permits;
- 8 percent of 16-year-olds (25 children of 300 surveyed) had learner's permits;
- 13 percent of 17-year-olds (52 children of 387 surveyed) had learner's permits; and
- 9 percent of the total number of children surveyed (88 of 930 surveyed) had learner's permits.

Children surveyed reported as following regarding drivers' licenses:

- 1 percent of 16-year-olds (4 children of 300 surveyed) had driver's licenses;
- 4 percent of 17-year-olds (16 children of 387 surveyed) had driver's licenses; and
- 3 percent of the total number of children surveyed (20 of 687 surveyed) had driver's licenses.⁵

¹ See s. 409.145(3), F.S.

² Rule 65C-30.007, F.A.C.

³ Email from Jane McElroy, DCF, (Feb. 12, 2014) (on file with the Senate Committee on Children, Families and Elder Affairs).

⁴ *My Services, Answers from Youth in Foster Care*, available on the DCF website at

<http://www.dcf.state.fl.us/programs/indliving/docs/MyServicesSpring2013SurveyReport.pdf> (last visited Feb. 13, 2014).

⁵ *Id.*, at 63.

Children in foster care are usually placed with a foster parent; however, they may also be placed in a group home or other residential facility⁶ or, upon turning 16, in an independent living setting which is subsidized by the department.⁷

Currently, foster parents (who are also referred to as licensed foster homes) receive payment from the state of a monthly board rate for caring for a foster child. The basic board rate for a child aged 13-21 is \$515.⁸

Driver's Licenses for Teens

A child who is 15 years of age is authorized to obtain a learner's driver's license (learner's permit) provided he or she meets the school attendance requirements of s. 322.091, F.S., and the application and testing requirements of s. 322.1615, F.S. Section 322.09, F.S., requires that when a child applies for a learner's permit, the application must be signed by a parent, guardian, or when there is no parent or guardian, some other responsible adult. The learner's permit is considered a restricted form of the regular driver's license, or Class E driver's license. This same section provides that any negligence or willful misconduct of the child operating a motor vehicle will be imputed to the adult who signed the application. That adult is jointly and severally liable with the child for any damages caused by the negligent or willful misconduct.

Special Driver's License Provisions for Foster Children and Foster Parents

Among the primary obstacles to these children being able to drive are the potential liability of the foster parents when the children drive vehicles owned by the foster parent and the attendant cost of insurance to protect foster parents from this liability.

In 2001, s. 322.09, F.S., was amended to provide that foster parents or authorized representatives of a residential group home who sign for a foster child's license do not become liable for any damages or misconduct of the child.⁹ While this provision relieves the foster parent of liability resulting directly from the signature on the driver's license application, it does not address any vicarious liability that the foster parent may have as a result of the foster parent's ownership of the vehicle which the child drives, *see Hertz Corp. vs. Jackson*, 617 So.2d 105 (Fla. 1993). This liability arises whenever an insured individual allows another to operate his or her motor vehicle and is independent of the provisions of s. 322.09, F.S. Thus, the foster parent who owns the motor vehicle continues to be subject to vicarious liability for the actions of the child while operating the foster parent's vehicle, in the same way the foster parent would be vicariously liable for the actions of any other person operating that vehicle. This vicarious liability is one of the risks for which insurance coverage is purchased.

Also in 2001, s. 627.746, F.S., was created and prohibited a motor vehicle insurance company from charging an additional premium on a motor vehicle owned by a foster parent for coverage of a child operating the vehicle while the child is holding a learner's permit.¹⁰ This prohibition is only applicable until the child obtains a regular driver's license.

⁶ Section 39.01(20), F.S.

⁷ Section 409.1451(3)(c), F.S.

⁸ Section 409.145(4), F.S.

⁹ Chapter 2001-83, Laws of Fla.

¹⁰ *Id.*

Costs Associated with Obtaining a Driver's License

Driver's education courses are offered free of charge through the public school system but enrollment may be limited. Some school districts offer a summer driver's education course, charging fees from \$50 to \$250.¹¹ Commercial courses are offered in some jurisdictions at prices ranging from \$300-\$5,000.¹²

The cost of obtaining a class E (regular) driver's license is \$48.¹³ The learner's permit is considered a restricted form of a class E license, requiring the payment of the \$48 fee, but no additional fee is required to upgrade from a learner's license to a class E license. In order to obtain a learner's license, the person applying must, among other requirements, have completed a traffic law and substance education course¹⁴ and have successfully completed a written examination.¹⁵¹⁶

The cost of obtaining insurance coverage for a teen driver varies widely, depending on the company underwriting the coverage, the geographic location of the family, the type and amount of coverage, the academic record of the child, and other factors. As a generic estimate, the Office of the Guardian ad Litem has used the figure of \$2,000 annually per child.¹⁷

Emancipation of Minors, Generally

All states have laws dealing with the "emancipation" of minors, which specify when and under what conditions children become independent of their parents for legal purposes. Approximately half of the states regulate emancipation by statutes specifically designed for that purpose. These statutes may specify the conditions required or the procedures for seeking emancipation. Statutes vary considerably from state to state, but under common law, most states allow for the possibility of court-reviewed emancipation. No fixed age of emancipation exists, yet a minor is presumed to become emancipated upon reaching the age of majority. In most states, the age of majority is 18.¹⁸

Emancipation is the removal of "disability of nonage." Legally, in most instances, children lack the capacity that adults are assumed to have to perform certain activities, such as entering into binding contracts, making certain purchases, and being held responsible in the same way as adults for criminal offenses. This lack of capacity is termed the "disability of nonage."

Emancipation is the act by which a person gains all the rights and responsibilities of an adult. An emancipated minor has the legal capacity to act as an adult, be in control of his or her affairs, and be free of the legal control and custody of his or her parents. Emancipated minors lose the right

¹¹ Florida Guardian ad Litem, *A Voice Heard: Keys to Independence*, available at http://guardianadlitem.org/news_main.asp (last visited Feb. 13, 2014).

¹² *Id.*

¹³ Section 322.21, F.S.

¹⁴ A representative cost for meeting this requirement is \$29.95, according to the Guardian ad Litem Program, *Voices*, *ibid.*

¹⁵ The cost for taking the examination is \$14.95, *Id.*

¹⁶ Section 322.1615, F.S.

¹⁷ E mail from Alan Abramowitz, Statewide Director, Guardian ad Litem Program, February 13, 2014 (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁸ A substantial portion of this paragraph was taken from: Cornell University of Law, Legal Information Institute, *Emancipation of Minors*, available at http://www.law.cornell.edu/wex/emancipation_of_minors (last visited Jan. 21, 2014).

to have their parents provide for them and the protection of the Department of Children and Family Services.¹⁹

A circuit court has jurisdiction to remove the disabilities of nonage of a minor who is age 16 or older residing in Florida upon a petition filed by the minor's natural or legal guardian or, if there is none, by a guardian ad litem. Subsequent to July 1, 2012, the petition may also be filed by the minor him or herself if the minor is a certified homeless and unaccompanied minor over the age of 16. The petition must contain the following information:²⁰

- The name, address, residence, and date of birth of the minor;
- The name, address, and current location of each of the minor's parents, if known;
- The name, date of birth, custody, and location of any children born to the minor;
- A statement of the minor's character, habits, education, income, and mental capacity for business, and an explanation of how the needs of the minor with respect to food, shelter, clothing, medical care, and other necessities will be met;
- Whether the minor is a party to or the subject of a pending judicial proceeding in this state or any other jurisdiction, or the subject of a judicial order of any description issued in connection with such pending judicial proceeding; and
- A statement of the reason why the court should remove the disabilities of nonage.

In addition, the law provides that:

- If the petition is filed by the natural or legal guardian, the court must appoint an attorney ad litem for the minor child, and the minor child shall be brought before the court to determine if the interest of the minor will be fully protected by the removal of disabilities of nonage;
- If the petition is filed by the guardian ad litem or next friend²¹, service of process must be perfected on the natural parents;
- If both parents are not jointly petitioning the court for the removal of the disabilities of nonage of the minor, service of process must be made upon the nonpetitioning parent;²²
- The court shall consider the petition and receive such evidence as it deems necessary to rule on the petition;
- If the court determines that removal of the disabilities of nonage is in the minor's best interest, it must enter an order to that effect. An order removing the disabilities of nonage has the effect of giving the minor the status of an adult for purposes of all criminal and civil laws of the state, and authorizes the minor thereafter to exercise all of the rights and responsibilities of persons who are 18 years of age or older; and

¹⁹ A substantial portion of this paragraph was taken from: Volusia County Law Library, *Emancipation in Florida Research Guide*, available at [http://www.vclawlib.org/new/research-feb-09/EMANCIPATION20IN20FLORIDA\[1\].pdf](http://www.vclawlib.org/new/research-feb-09/EMANCIPATION20IN20FLORIDA[1].pdf) (last visited Jan. 21, 2014).

²⁰ Section 743.015, F.S.

²¹ A "next friend" is a person acting for the benefit of (an) infant, or other person not *sui juris* (person unable to look after his or her own interests or manage his or her own lawsuit) without being regularly appointed (as a) guardian, *Black's Law Dictionary*, 6th Edition, 1979.

²² Constructive service of process may be used, provided the petitioning parent makes an actual, diligent search to discover the location of, and provide notice to, the nonpetitioning parent.

- The judgment must be recorded in the county in which the minor resides, and a certified copy must be received as evidence of the removal of disabilities of nonage for all matters in all courts.²³

Special Provision Relating to Emancipation for Foster Children

Section 39.701(3), F.S., requires that the dependency court hold a judicial review within 90 days following the child's 17th birthday. At this hearing, the court is required to enter an order, separate from the judicial review order, that the disability of nonage for the child has been removed pursuant to s. 743.045, F.S.²⁴

Section 743.045, F.S. provides for the removal of the disability of nonage for foster children over the age of 17 for the purpose of executing contracts for a residential lease.

Additionally, s. 743.046, F.S., which is not referenced in s. 39.701(3), F.S., removes the disability of nonage for foster children over the age of 17 for the purpose of securing utility services at residential property.

Similarly, s. 743.044, F.S., which is also not referenced in s. 39.701(3), removes the disability of nonage for foster children over the age of 16 for the purpose of executing agreements for depository financial services. All three of these special provisions (ss. 743.044, 743.045, and 743.046, F.S.) require the entry of a court order to be effective.

III. Effect of Proposed Changes:

Section 1 amends s. 39.701(3), F.S. to add the removal of the disability of non-age for the purposes of obtaining motor vehicle insurance to the matters to be considered at the special judicial review scheduled at the time a child becomes 17 years of age.

Section 2 creates s. 409.1454, F.S., directing the department to establish a 3-year pilot program to pay the costs of driver education, licensure, and other costs incidental to licensure and motor vehicle insurance for children in licensed out of home care who have successfully completed a driver education program, to the extent that funding is available.

It limits the amount of the payments to the increase in cost attributable to the addition of the child to the policy. The bill directs that payments be made to eligible recipients in the order of eligibility until available funds are exhausted. It directs the department to contract with a not-for-profit entity whose mission is to support youth aging out of foster care to develop procedures for operating and administering the pilot program and requires the department to submit an annual report to the Governor and the Legislature in each year for the duration of the pilot project.

Section 3 creates s. 743.047, F.S., authorizing the court to remove the disability of nonage for minors for the purpose of obtaining motor vehicle insurance, providing that the child has reached 16 years of age, has been adjudicated dependent, is residing in an out-of-home placement, and has completed a driver education program. In order to execute the documents necessary for the

²³ Section 743.015, F.S.

²⁴ Section 39.701(1), F.S.

insurance, the child must present a court order removing the disability of nonage for this purpose.

Section 4 amends s. 1003.48, F.S., to require secondary schools offering driver's education courses to grant preferential enrollment to students in the custody of the department if the student maintains appropriate progress as required by the school.

Section 5 appropriates \$800,000 from the General Revenue Fund to the department for the purpose of implementing this act during FY 2014-2015.

Section 6 provides for an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may require some additional case work from community based care agency providers who assist children in obtaining motor vehicle insurance.

C. Government Sector Impact:

The cost of the bill is limited to the appropriation of \$800,000 for FY 2014-2015.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 1003.48 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: s. 409.1451 and s. 743.047.

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

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

CS by Children, Families, and Elder Affairs on February 18, 2014:

- Amends s. 39.701(3), F.S., to add the emancipation of minors for the purpose of securing motor vehicle insurance to the matters to be considered at the special judicial review held for foster children reaching 17 years of age.
- Amends s. 409.1454, F.S., to clarify that the bill addresses only children in licensed out of home care.

B. Amendments:

None.



520092

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/18/2014	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Detert) recommended the following:

Senate Amendment (with title amendment)

Delete lines 28 - 43

and insert:

Section 1. Paragraph (a) of subsection (3) of section 39.701, Florida Statutes, is amended to read:

39.701 Judicial review.—

(3) REVIEW HEARINGS FOR CHILDREN 17 YEARS OF AGE.—

(a) In addition to the review and report required under paragraphs (1) (a) and (2) (a), respectively, the court shall hold



520092

11 a judicial review hearing within 90 days after a child's 17th
12 birthday. The court shall also issue an order, separate from the
13 order on judicial review, that the disability of nonage of the
14 child has been removed pursuant to ss. 743.045 and 743.047 for
15 any of these disabilities that the court finds is in the child's
16 best interest to remove. The court ~~and~~ shall continue to hold
17 timely judicial review hearings. If necessary, the court may
18 review the status of the child more frequently during the year
19 before the child's 18th birthday. At each review hearing held
20 under this subsection, in addition to any information or report
21 provided to the court by the foster parent, legal custodian, or
22 guardian ad litem, the child shall be given the opportunity to
23 address the court with any information relevant to the child's
24 best interest, particularly in relation to independent living
25 transition services. The department shall include in the social
26 study report for judicial review written verification that the
27 child has:

28 1. A current Medicaid card and all necessary information
29 concerning the Medicaid program sufficient to prepare the child
30 to apply for coverage upon reaching the age of 18, if such
31 application is appropriate.

32 2. A certified copy of the child's birth certificate and,
33 if the child does not have a valid driver license, a Florida
34 identification card issued under s. 322.051.

35 3. A social security card and information relating to
36 social security insurance benefits if the child is eligible for
37 those benefits. If the child has received such benefits and they
38 are being held in trust for the child, a full accounting of
39 these funds must be provided and the child must be informed as



520092

40 to how to access those funds.

41 4. All relevant information related to the Road-to-
42 Independence Program, including, but not limited to, eligibility
43 requirements, information on participation, and assistance in
44 gaining admission to the program. If the child is eligible for
45 the Road-to-Independence Program, he or she must be advised that
46 he or she may continue to reside with the licensed family home
47 or group care provider with whom the child was residing at the
48 time the child attained his or her 18th birthday, in another
49 licensed family home, or with a group care provider arranged by
50 the department.

51 5. An open bank account or the identification necessary to
52 open a bank account and to acquire essential banking and
53 budgeting skills.

54 6. Information on public assistance and how to apply for
55 public assistance.

56 7. A clear understanding of where he or she will be living
57 on his or her 18th birthday, how living expenses will be paid,
58 and the educational program or school in which he or she will be
59 enrolled.

60 8. Information related to the ability of the child to
61 remain in care until he or she reaches 21 years of age under s.
62 39.013.

63 9. A letter providing the dates that the child is under the
64 jurisdiction of the court.

65 10. A letter stating that the child is in compliance with
66 financial aid documentation requirements.

67 11. The child's educational records.

68 12. The child's entire health and mental health records.



520092

69 13. The process for accessing his or her case file.

70 14. A statement encouraging the child to attend all
71 judicial review hearings occurring after the child's 17th
72 birthday.

73 Section 2. Section 409.1454, Florida Statutes, is created
74 to read:

75 409.1454 Motor vehicle insurance for children in care.-

76 (1) The Legislature finds that the costs of driver
77 education, licensure and costs incidental to licensure, and
78 motor vehicle insurance for a child in licensed out of home care
79 after such child obtains a driver license creates an additional
80 barrier to engaging in normal age-appropriate activities and
81 gaining independence and may limit opportunities for obtaining
82 employment and completing educational goals. The Legislature
83 also finds that the completion of an approved driver education
84 course is necessary to develop safe driving skills.

85 (2) To the extent that funding is available, the department
86 shall establish a 3-year pilot program to pay the cost of driver
87 education, licensure and other costs incidental to licensure,
88 and motor vehicle insurance for children in licensed out of home
89 care who have

90
91 ===== T I T L E A M E N D M E N T =====

92 And the title is amended as follows:

93 Delete lines 3 - 8

94 and insert:

95 education for children in care; amending s.

96 39.701(1)(a), F.S.; authorizing the court to consider

97 the best interest of a child in removing the



520092

98 disability of nonage for certain minors and adding a
99 reference; creating s. 409.1454, F.S.; providing
100 legislative findings; directing the Department of
101 Children and Families to establish a statewide pilot
102 program to pay specified costs of driver education,
103 licensure and costs incidental to licensure, and motor
104 vehicle insurance for a child in licensed out of home

By Senator Detert

28-01035-14

2014744__

A bill to be entitled

An act relating to motor vehicle insurance and driver education for children in care; creating s. 409.1454, F.S.; providing legislative findings; directing the Department of Children and Families to establish a statewide pilot program to pay specified costs of driver education, licensure and costs incidental to licensure, and motor vehicle insurance for a child in care who meets certain qualifications; providing limits of the amount to be paid; requiring payments to be made in the order of eligibility until funds are exhausted; requiring the department to contract with a qualified not-for-profit entity to operate and develop procedures for the pilot program; requiring the department to submit an annual report with recommendations to the Governor and the Legislature; creating s. 743.047, F.S.; removing the disability of nonage of minors for purposes of obtaining motor vehicle insurance; requiring an order by the court for the disability of nonage to be removed; amending s. 1003.48, F.S.; providing for preferential enrollment in driver education for specified children in care; providing an appropriation; providing an effective date.

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

Section 1. Section 409.1454, Florida Statutes, is created to read:

Page 1 of 5

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

28-01035-14

2014744__

~~409.1454 Motor vehicle insurance for children in care.-~~

(1) The Legislature finds that the costs of driver education, licensure and costs incidental to licensure, and motor vehicle insurance for a child in care after such child obtains a driver license creates an additional barrier to engaging in normal age-appropriate activities and gaining independence and may limit opportunities for obtaining employment and completing educational goals. The Legislature also finds that the completion of an approved driver education course is necessary to develop safe driving skills.

(2) To the extent that funding is available, the department shall establish a 3-year pilot program to pay the cost of driver education, licensure and other costs incidental to licensure, and motor vehicle insurance for children in care who have successfully completed a driver education program.

(3) If a caregiver, or an individual or not-for-profit entity approved by the caregiver, adds a child to his or her existing insurance policy, the amount paid to the caregiver or approved purchaser may not exceed the increase in cost attributable to the addition of the child to the policy.

(4) Payment shall be made to eligible recipients in the order of eligibility until available funds are exhausted.

(5) The department shall contract with a not-for-profit entity whose mission is to support youth aging out of foster care to develop procedures for operating and administering the pilot program, including, but not limited to:

(a) Determining eligibility, including responsibilities for the child and caregivers.

(b) Developing application and payment forms.

Page 2 of 5

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

28-01035-14

2014744__

59 (c) Notifying eligible children, caregivers, group homes,
60 and residential programs of the pilot program.

61 (d) Providing technical assistance to lead agencies,
62 providers, group homes, and residential programs to support
63 removing obstacles that prevent children in foster care from
64 driving.

65 (6) By July 1, 2015, and annually thereafter for the
66 duration of the pilot program, the department shall submit a
67 report to the Governor, the President of the Senate, and the
68 Speaker of the House of Representatives evaluating the success
69 of and outcomes achieved by the pilot program. The report shall
70 include a recommendation as to whether the pilot program should
71 be continued, terminated, or expanded.

72 Section 2. Section 743.047, Florida Statutes, is created to
73 read:

74 743.047 Removal of disabilities of minors; executing
75 agreements for motor vehicle insurance.—For the purpose of
76 ensuring that a child in foster care will be able to secure
77 motor vehicle insurance, the disability of nonage of minors
78 shall be removed provided that the child has reached 16 years of
79 age, has been adjudicated dependent, is residing in an out-of-
80 home placement as defined in s. 39.01, and has completed a
81 driver education program. Upon issuance of an order by a court
82 of competent jurisdiction, such child is authorized to make and
83 execute all documents, contracts, or agreements necessary for
84 obtaining motor vehicle insurance as if the child is otherwise
85 competent to make and execute contracts. Execution of any such
86 contract or agreement for motor vehicle insurance has the same
87 effect as if it were the act of a person who is not a minor. A

Page 3 of 5

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

28-01035-14

2014744__

88 child seeking to enter into such contract or agreement or
89 execute other necessary instrument incidental to obtaining motor
90 vehicle insurance must present an order from a court of
91 competent jurisdiction removing the disabilities of nonage of
92 the minor pursuant to this section.

93 Section 3. Section 1003.48, Florida Statutes, is amended to
94 read:

95 1003.48 Instruction in operation of motor vehicles.—

96 (1) A course of study and instruction in the safe and
97 lawful operation of a motor vehicle shall be made available by
98 each district school board to students in the secondary schools
99 in the state. The secondary school shall provide preferential
100 enrollment to a student who is in the custody of the Department
101 of Children and Families if the student maintains appropriate
102 progress as required by the school. As used in this section, the
103 term "motor vehicle" has ~~shall have~~ the same meaning as in s.
104 320.01(1) (a) and includes ~~shall include~~ motorcycles and mopeds.
105 Instruction in motorcycle or moped operation may be limited to
106 classroom instruction. The course ~~may shall~~ not be made a part
107 of, or a substitute for, any of the minimum requirements for
108 graduation.

109 (2) In order to make such a course available to any
110 secondary school student, the district school board may use any
111 one of the following procedures or any combination thereof:

112 (a) ~~Use~~ Utilize instructional personnel employed by the
113 district school board.

114 (b) Contract with a commercial driving school licensed
115 under ~~the provisions of~~ chapter 488.

116 (c) Contract with an instructor certified under ~~the~~

Page 4 of 5

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

28-01035-14

2014744__

117 ~~provisions of~~ chapter 488.

118 (3) ~~(a)~~ District school boards shall earn funds on full-time
119 equivalent students at the appropriate basic program cost
120 factor, regardless of the method by which such courses are
121 offered.

122 ~~(4) (b)~~ For the purpose of financing the Driver Education
123 Program in the secondary schools, there shall be levied an
124 additional 50 cents per year to the driver ~~driver's~~ license fee
125 required by s. 322.21. The additional fee shall be promptly
126 remitted to the Department of Highway Safety and Motor Vehicles,
127 which shall transmit the fee to the Chief Financial Officer to
128 be deposited in the General Revenue Fund.

129 ~~(5) (4)~~ The district school board shall prescribe standards
130 for the course required by this section and for instructional
131 personnel directly employed by the district school board. A ~~Any~~
132 certified instructor or licensed commercial driving school is
133 ~~shall be deemed~~ sufficiently qualified and is ~~shall~~ not be
134 required to meet any standards in lieu of or in addition to
135 those prescribed under chapter 488.

136 Section 4. The sum of \$800,000 is appropriated from the
137 General Revenue Fund to the Department of Children and Families
138 for the purpose of implementing this act during the 2014-2015
139 fiscal year.

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



The Florida Senate

Committee Agenda Request

To: Senator Eleanor Sobel, Chair
Committee on Children, Families, and Elder Affairs

Subject: Committee Agenda Request

Date: February 5, 2014

I respectfully request that **Senate Bill #744**, relating to Motor Vehicle Insurance and Driver Education for Children in Care, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Nancy Detert".

Senator Nancy C. Detert
Florida Senate, District 28

RECEIVED

FEB 05 2014

Senate Committee
Children and Families

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/18/14

Meeting Date

Topic Drivers Education & License

Bill Number 744
(if applicable)

Name Shelley Katz

Amendment Barcode _____
(if applicable)

Job Title ~~CEO~~ Chief Operating Officer

Address 1485 Semoran Blvd.

Phone (321) 397-3800

Winter Park FL 32792
Street City State Zip

E-mail shelley.katz@chsfl.org

Speaking: For Against Information

Representing Children's Home Society of FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/18/14

Meeting Date

Topic Keys to Independence

Bill Number SB 744
(if applicable)

Name Victoria S. JACKSON

Amendment Barcode _____
(if applicable)

Job Title FL YOUTH SHINE Board Vice-Chair

Address 1801 N. University Drive

Phone (850) 727 2758

Coral Springs FL 33071
Street City State Zip

E-mail membership@floridayouthshine.org

Speaking: For Against Information

Representing FL Youth SHINE and Former and Current Foster Youth

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date

Topic Keys to Independence Act Bill Number 744
Name ALAN ABRAMOWITZ Amendment Barcode _____
Job Title EXECUTIVE Director, GUARDIAN AD LITEM Program
Address 400 Cultural Street Phone 850-241-3232
City Tallahassee State FL Zip 32301 E-mail ALAN.ABRAMOWITZ@GAL.FL
Speaking: For Against Information
Representing GUARDIAN AD LITEM PROGRAM

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-18-14
Meeting Date

Topic Keys to Independence Bill Number 744
Name CHRISTINA SPUDAS Amendment Barcode _____
Job Title Exec. Dir.
Address 1801 N. University Drive Phone 954-796-0860
City Coral Springs State FL Zip 33071 E-mail CHRISTINA.SPUDAS@FLORIDACHILDRENFIRST.ORG
Speaking: For Against Information
Representing FLORIDA'S CHILDREN FIRST / FLORIDA YOU'D SHINE

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/18/14
Meeting Date

Topic Keys to Independence Bill Number Senat Bill 744
(if applicable)

Name T'Sebai Dames Amendment Barcode _____
(if applicable)

Job Title Florida Youth Shine Tallahassee Member

Address 161 N University drive Phone 850-405-0808
Street

Coral Springs FL 33071
City State Zip

E-mail tsebai.dames94@gmail.com

Speaking: For Against Information

Representing Florida Youth Shine and former and current foster youth

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

6: Results-Oriented Accountability Systems

Background

- Overall, community based care has produced significant improvements in child safety and permanence:
 - Fewer foster home placement and more in-home services.
 - Shorter time to permanency for foster children.
 - Increased adoption rates.
- Despite such achievements, the current methods, and procedures for monitoring performance of CBCs and other partners in child safety and welfare do not provide a focused framework for achieving better outcomes or enhancing public understanding of system performance.
- As required by law, the department established performance metrics, collected data, and incorporated specific metrics in CBC contracts. The department publishes a monthly scorecard for CBC lead agencies.
- This scorecard reports performance on 11 specific metrics, uses a color-coded display to indicate CBC performance relative to a specific standard, and ranks CBCs relative to each other's performance based on an aggregation of weighted ranks on individual indicators.
- The scorecard was revised in June by eliminating all but four of 12 previous indicators and introducing seven new indicators; the basic format of the scorecard was retained. Additional revisions are under development.
- Comparison of several months' reports reveals significant month-to-month variations in individual CBC scores on specific indicators and considerable volatility in CBC rankings. Such movement may indicate either the time period is too short or the sample size too small for meaningful measurement. It is unlikely that CBC performance is as unstable as these results suggest.
- Other contract monitoring procedures of the department lead to the requirement of a "corrective action plan;" the majority of CBCs have been required to develop and implement such plans based on some type of performance failure.
- Financial accountability is based on DCF monitoring of expenditures and required local audits.
- Since implementation of community based care, several CBC lead agencies have experienced performance failures that resulted in closure and required transition to a new provider organization. In at least two cases, these closures have left behind debt of \$2.5 million and \$3.5 million which was subsequently covered by legislative appropriation or by the successive lead agency.

Achieving excellence in child protection and welfare services requires an accountability system that is based on accurate measurement of meaningful outcomes and transparent to many different stakeholders.

Draft Recommendation:

- 1) Require DCF to develop a child welfare outcome based accountability system and to provide an annual report on system performance to the Legislature and the Governor (*see section 14 of the draft bill language*).
- 2) Clarify financial parameters and controls for CBC lead agencies, including provisions for adequate reserves or a performance bond in the event of closure (*see sections 6, 8, and 10 of the draft bill language*).

7: Active and Effective Community Partnership

Background

- Community based care evolved from a series of initiatives intended to actively engage communities in child protection and child welfare services.
- Local engagement consists of involving community leaders in CBC governance and other oversight and public input processes through community alliances.
- While not required, the original CBC model anticipated that local partnerships might lead to additional funding and other supports. Despite this expectation, 99% of CBC funding is derived from the state.
- The statutes do not specify any geopolitical regions as the base for community involvement, but allow the department to contract with as many as one or more CBCs per county. Aggregation of communities into multi-county service areas has depended on the lead agency and has fluctuated over time. Currently, 19 CBC regions exist based on 19 lead agency contracts.
- Selected organizations are responsible for maintaining a governing board with a membership consisting of at least 51% of members who come from Florida and 51% of these members must come from the community. Generally, CBC agencies recruit local leaders to participate in their governing boards.
- Community alliances are defined in Chapter 20 as a means to provide input and oversight of the Department of Children and Families from a diverse group of stakeholders. Alliances are not limited to specific regions and could proliferate to one or more per county. Statutory duties of the alliance include planning, needs assessment, setting outcome goals, resource development, and education and advocacy.
- Alliances do not have staff nor do they receive any funding. The level of activity and involvement of community alliances varies around the state.

Maintaining an active and effective partnership with local communities for the provision of child protection and child welfare services requires a continuing connection with a stable focal point for community participation and leadership.

Draft Recommendations

Revise community alliances to create a locally-based, stable group of community leaders involved in the child welfare system.

- 1) Establish the minimum number of service areas as the 20 judicial circuits. CBC service areas could be smaller than a circuit. Consistent service areas would increase local involvement in child welfare (*see section 5 of the draft bill language*).
- 2) Revise the duties of the community alliances to improve local involvement and oversight of the child welfare system (*see section 15 of the draft bill language*).
- 3) Revise board composition requirements and provide an appointment process (*see section 15 of the draft bill language*).

- 4) Increase board duties and responsibilities for child welfare including:
- a. Participation in monitoring and evaluation of the system of child welfare;
 - b. Participation in the department's competitive procurement of lead agencies;
 - c. Initiation of activities that improve communication and coordination with other human service organizations;
 - d. Development of recommendations for improvement policies and practices; and
 - e. Promotion of greater community investment in community based care.
- (see section 15 of the draft bill language)*

Goal 8: Modernize Community Based Care Statutes

Background

- The majority of the CBC statute (s. 409.1671, F.S.) is dedicated to the lengthy phase-in of privatized community based care begun in 1999.
- The statutes are vague in some areas because the state had to prepare to have either DCF or CBCs provide child welfare services. This was necessary at the time due to the transition from DCF to CBCs, but creates ambiguity now.
- In addition, there is little mention of CBC subcontractors, as those may not have been contemplated when CBCs were developed.
- There is very little direction in statute for the qualifications of CBC lead agencies or criteria for selection in the competitive procurement and there is no specific timeframe for successive procurements.
- The statutes do not outline procedures for transition in the event that the lead agency responsibilities are shifted from one organization to another.

Florida's statutes are out-of-date and do not provide a clear delineation of roles and responsibilities for the many partners in community based care. Revising and updating the statutes will allow the Legislature to set goals, priorities, and a viable policy framework for community based care.

Draft Recommendations

- 1) Update CBC statutes to remove outdated portions and reorganize material (*see sections 5-15 of the draft bill language*).
- 2) Clarify legislative intent and definitions (*see section 5 of the draft bill language*).
- 3) Specify duties and responsibilities of DCF, the CBC lead agencies, and other partner organizations (*see sections 13 and 7 of the draft bill language*).
- 4) Establish qualifications of organizations selected as CBC lead agencies and specify criteria and preferences for use in the competitive procurement (*see section 6 of the draft bill language*).

Goal 9: Effective Judicial Oversight of Child Welfare

Background

- Community based care is a complex system involving multiple partners with varying responsibilities for investigating allegations of abuse or neglect, providing family services, fostering children who are removed from unsafe environments, and ensuring children achieve permanency in a loving family environment.
- Dependency proceedings in which a court decides whether or not to remove a child from his/her family are critical points in the child protection process—ones that involve numerous individuals, agencies and agents of the state.
- Judges are asked to make life-altering decisions on behalf of the children but may not know or be able to interact with all of the parties involved in the case in order to obtain the information they need or get the results they feel are necessary.
- The complexity of the system of care and limited participation in the legal proceedings may confound judges' abilities to ensure all accountable parties are acting appropriately or that needed services are provided.
- While a judge can hold an individual in contempt and assess the agency a fine, that tool is unwieldy for some situations and is rarely used due to its severity.

Family court judges have a unique perspective but limited tools for affecting the behavior and practices of parties involved in child protection. Input from judges should inform and the ongoing assessments of the department and its community partners.

Draft Recommendations

- 1) Require a face sheet for every dependency case that identifies each entity and individual with a specific responsibility in the case.
- 2) Permit judges to involve any individual named on the face sheet in the legal proceedings related to that case.
- 3) Create a mechanism for judges to record and report their observations about the performance and responsiveness of individuals and organizations named in each case.
- 4) Increase training for dependency judges.

(draft bill language to be developed.)

CBC Statute Reorganization

Current Statutes

20.19 (4) – Community alliances

409.1671 – Foster care and related services; outsourcing.

409.16713 – Allocation of funds for community-based care lead agencies.

409.16715 – Therapy treatments designed to mitigate out-of-home placement for dependent children.

409.16745 – Community partnership matching grant program.

409.1675 – Lead community-based providers; receivership.

Proposed Organization

(Ch. 409 New Part V with sections 986-999)

1. 409.986 – Legislative Intent and Definitions (409.1671)
2. 409.987 – Lead Agency Procurement (409.1671)
3. 409.988 – Lead Agency Duties and General Provisions (includes 409.16715 therapy)
4. 409.989 – not used
5. 409.990 – Lead Agency General Funding Provisions (409.1671, 409.16745)
6. 409.991 – Lead Agency Allocation of Funds (409.16713)
7. 409.992 – Lead Agency Expenditures (409.1671)
8. 409.993 – Lead Agency and Subcontractor Liability (409.1671)
9. 409.994 – Lead Agency Receivership (409.1675)
10. 409.995 – not used
11. 409.996 – Department of Children and Families Duties (409.1671)
12. 409.997 – Child Welfare Results Oriented Accountability System (409.1671)
13. 409.998 – Community Based Care Alliances (20.19(4))
14. 409.999 – not used

1 A bill to be entitled
2 An act relating to ; providing an effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Section 39.001, Florida Statutes, is amended to
7 read:

8 39.001 Purposes and intent; personnel standards and
9 screening.—

10 (1) PURPOSES OF CHAPTER.—The purposes of this chapter are:

11 (k) To make every possible effort, when two or more
12 children who are in the care or under the supervision of the
13 department are siblings, to place the siblings in the same home;
14 and in the event of permanent placement of the siblings, to
15 place them in the same adoptive home or, if the siblings are
16 separated while under the care or supervision of the department,
17 or in a permanent placement, to keep them in contact with each
18 other.

19 Section 2. Subsections (69), (70), and (71) of section
20 39.01, Florida Statutes, are amended to read:

21 39.01 Definitions.—When used in this chapter, unless the
22 context otherwise requires:

23 (69) "Shelter hearing" means a hearing in which the court
24 determines whether probable cause exists to keep a child in
25 shelter status pending further investigation of the case.

26 (70) "Sibling" means a child who shares a birth parent or
27 legal parent with one or more other children or children who
28 have lived together in a family and identify themselves as
29 siblings.

30 (71)~~(70)~~ "Social service agency" means the department, a
31 licensed child-caring agency, or a licensed child-placing
32 agency.

33 Section 3. Subsections (8) and (9) of section 39.402,
34 Florida Statutes, are amended to read:

35 39.402 Placement in a shelter.—

36 (8) (a) A child may not be held in a shelter longer than 24
37 hours unless an order so directing is entered by the court after
38 a shelter hearing. In the interval until the shelter hearing is
39 held, the decision to place the child in a shelter or release
40 the child from a shelter lies with the protective investigator.

41 (b) The parents or legal custodians of the child shall be
42 given such notice as best ensures their actual knowledge of the
43 time and place of the shelter hearing. The failure to provide
44 notice to a party or participant does not invalidate an order
45 placing a child in a shelter if the court finds that the
46 petitioner has made a good faith effort to provide such notice.
47 The court shall require the parents or legal custodians present
48 at the hearing to provide to the court on the record the names,
49 addresses, and relationships of all parents, prospective
50 parents, and next of kin of the child, so far as are known.

51 (c) At the shelter hearing, the court shall:

52 1. Appoint a guardian ad litem to represent the best
53 interest of the child, unless the court finds that such
54 representation is unnecessary;

55 2. Inform the parents or legal custodians of their right to
56 counsel to represent them at the shelter hearing and at each
57 subsequent hearing or proceeding, and the right of the parents
58 to appointed counsel, pursuant to the procedures set forth in s.

59 39.013; and

60 3. Give the parents or legal custodians an opportunity to
61 be heard and to present evidence.

62 (d) At the shelter hearing, in order to continue the child
63 in shelter care:

64 1. The department must establish probable cause that
65 reasonable grounds for removal exist and that the provision of
66 appropriate and available services will not eliminate the need
67 for placement; or

68 2. The court must determine that additional time is
69 necessary, which may not exceed 72 hours, in which to obtain and
70 review documents pertaining to the family in order to
71 appropriately determine the risk to the child during which time
72 the child shall remain in the department's custody, if so
73 ordered by the court.

74 (e) At the shelter hearing, the department shall provide
75 the court copies of any available law enforcement, medical, or
76 other professional reports, and shall also provide copies of
77 abuse hotline reports pursuant to state and federal
78 confidentiality requirements.

79 (f) At the shelter hearing, the department shall inform the
80 court of:

81 1. Any identified current or previous case plans negotiated
82 in any district with the parents or caregivers under this
83 chapter and problems associated with compliance;

84 2. Any adjudication of the parents or caregivers of
85 delinquency;

86 3. Any past or current injunction for protection from
87 domestic violence; and

88 4. All of the child's places of residence during the prior
89 12 months.

90 (g) At the shelter hearing, each party shall provide to the
91 court a permanent mailing address. The court shall advise each
92 party that this address will be used by the court and the
93 petitioner for notice purposes unless and until the party
94 notifies the court and the petitioner in writing of a new
95 mailing address.

96 (h) The order for placement of a child in shelter care must
97 identify the parties present at the hearing and must contain
98 written findings:

99 1. That placement in shelter care is necessary based on the
100 criteria in subsections (1) and (2).

101 2. That placement in shelter care is in the best interest
102 of the child.

103 3. That continuation of the child in the home is contrary
104 to the welfare of the child because the home situation presents
105 a substantial and immediate danger to the child's physical,
106 mental, or emotional health or safety which cannot be mitigated
107 by the provision of preventive services.

108 4. That based upon the allegations of the petition for
109 placement in shelter care, there is probable cause to believe
110 that the child is dependent or that the court needs additional
111 time, which may not exceed 72 hours, in which to obtain and
112 review documents pertaining to the family in order to
113 appropriately determine the risk to the child.

114 5. That the department has made reasonable efforts to
115 prevent or eliminate the need for removal of the child from the
116 home. A finding of reasonable effort by the department to

117 prevent or eliminate the need for removal may be made and the
118 department is deemed to have made reasonable efforts to prevent
119 or eliminate the need for removal if:

120 a. The first contact of the department with the family
121 occurs during an emergency;

122 b. The appraisal of the home situation by the department
123 indicates that the home situation presents a substantial and
124 immediate danger to the child's physical, mental, or emotional
125 health or safety which cannot be mitigated by the provision of
126 preventive services;

127 c. The child cannot safely remain at home, either because
128 there are no preventive services that can ensure the health and
129 safety of the child or because, even with appropriate and
130 available services being provided, the health and safety of the
131 child cannot be ensured; or

132 d. The parent or legal custodian is alleged to have
133 committed any of the acts listed as grounds for expedited
134 termination of parental rights in s. 39.806(1)(f)-(i).

135 6. That the department has made reasonable efforts to keep
136 siblings together when they are removed and placed out of the
137 home unless such a placement is not in the best interests of
138 each child. The department shall report to the court efforts
139 made by the department to place siblings together, unless the
140 court finds that such placement is not in the best interests of
141 a child or his or her sibling.

142 ~~7.6.~~ That the court notified the parents, relatives that
143 are providing out-of-home care for the child, or legal
144 custodians of the time, date, and location of the next
145 dependency hearing and of the importance of the active

146 participation of the parents, relatives that are providing out-
147 of-home care for the child, or legal custodians in all
148 proceedings and hearings.

149 ~~8.7.~~ That the court notified the parents or legal
150 custodians of their right to counsel to represent them at the
151 shelter hearing and at each subsequent hearing or proceeding,
152 and the right of the parents to appointed counsel, pursuant to
153 the procedures set forth in s. 39.013.

154 ~~9.8.~~ That the court notified relatives who are providing
155 out-of-home care for a child as a result of the shelter petition
156 being granted that they have the right to attend all subsequent
157 hearings, to submit reports to the court, and to speak to the
158 court regarding the child, if they so desire.

159 (9) (a) At any shelter hearing, the department shall provide
160 to the court a recommendation for scheduled contact between the
161 child and parents, if appropriate. The court shall determine
162 visitation rights absent a clear and convincing showing that
163 visitation is not in the best interest of the child. Any order
164 for visitation or other contact must conform to the provisions
165 of s. 39.0139. If visitation is ordered but will not commence
166 within 72 hours of the shelter hearing, the department shall
167 provide justification to the court.

168 (b) If siblings removed from the home cannot be placed
169 together, the department shall provide to the court a
170 recommendation for frequent visitation or other ongoing
171 interaction between the siblings unless this interaction would
172 be contrary to a sibling's safety or well-being. If visitation
173 among siblings is ordered but will not commence within 72 hours
174 of the shelter hearing, the department shall provide

175 justification to the court for the delay.

176 Section 4. Paragraph (c) of subsection (2) and paragraph
177 (a) of subsection (3) of section 39.701, Florida Statutes, is
178 amended to read:

179 39.701 Judicial review.—

180 (2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF
181 AGE.—

182 (c) *Review determinations.*—The court and any citizen review
183 panel shall take into consideration the information contained in
184 the social services study and investigation and all medical,
185 psychological, and educational records that support the terms of
186 the case plan; testimony by the social services agency, the
187 parent, the foster parent or legal custodian, the guardian ad
188 litem or surrogate parent for educational decisionmaking if one
189 has been appointed for the child, and any other person deemed
190 appropriate; and any relevant and material evidence submitted to
191 the court, including written and oral reports to the extent of
192 their probative value. These reports and evidence may be
193 received by the court in its effort to determine the action to
194 be taken with regard to the child and may be relied upon to the
195 extent of their probative value, even though not competent in an
196 adjudicatory hearing. In its deliberations, the court and any
197 citizen review panel shall seek to determine:

198 1. If the parent was advised of the right to receive
199 assistance from any person or social service agency in the
200 preparation of the case plan.

201 2. If the parent has been advised of the right to have
202 counsel present at the judicial review or citizen review
203 hearings. If not so advised, the court or citizen review panel

204 shall advise the parent of such right.

205 3. If a guardian ad litem needs to be appointed for the
206 child in a case in which a guardian ad litem has not previously
207 been appointed or if there is a need to continue a guardian ad
208 litem in a case in which a guardian ad litem has been appointed.

209 4. Who holds the rights to make educational decisions for the
210 child. If appropriate, the court may refer the child to the
211 district school superintendent for appointment of a surrogate
212 parent or may itself appoint a surrogate parent under the
213 Individuals with Disabilities Education Act and s. 39.0016.

214 5. The compliance or lack of compliance of all parties with
215 applicable items of the case plan, including the parents'
216 compliance with child support orders.

217 6. The compliance or lack of compliance with a visitation
218 contract between the parent and the social service agency for
219 contact with the child, including the frequency, duration, and
220 results of the parent-child visitation and the reason for any
221 noncompliance.

222 7. The frequency, kind, and duration of sibling contacts
223 among siblings who have been separated during placement, as well
224 as any efforts undertaken to reunite separated siblings when
225 doing so is in the best interest of the child.

226 ~~8.7.~~ The compliance or lack of compliance of the parent in
227 meeting specified financial obligations pertaining to the care
228 of the child, including the reason for failure to comply if such
229 is the case.

230 ~~9.8.~~ Whether the child is receiving safe and proper care
231 according to s. 39.6012, including, but not limited to, the
232 appropriateness of the child's current placement, including

233 whether the child is in a setting that is as family-like and as
234 close to the parent's home as possible, consistent with the
235 child's best interests and special needs, and including
236 maintaining stability in the child's educational placement, as
237 documented by assurances from the community-based care provider
238 that:

239 a. The placement of the child takes into account the
240 appropriateness of the current educational setting and the
241 proximity to the school in which the child is enrolled at the
242 time of placement.

243 b. The community-based care agency has coordinated with
244 appropriate local educational agencies to ensure that the child
245 remains in the school in which the child is enrolled at the time
246 of placement.

247 ~~10.9.~~ A projected date likely for the child's return home
248 or other permanent placement.

249 ~~11.10.~~ When appropriate, the basis for the unwillingness or
250 inability of the parent to become a party to a case plan. The
251 court and the citizen review panel shall determine if the
252 efforts of the social service agency to secure party
253 participation in a case plan were sufficient.

254 ~~12.11.~~ For a child who has reached 13 years of age but is
255 not yet 18 years of age, the adequacy of the child's preparation
256 for adulthood and independent living.

257 ~~13.12.~~ If amendments to the case plan are required.
258 Amendments to the case plan must be made under s. 39.6013.

259 (3) REVIEW HEARINGS FOR CHILDREN 17 YEARS OF AGE.—

260 (a) In addition to the review and report required under
261 paragraphs (1) (a) and (2) (a), respectively, the court shall hold

262 a judicial review hearing within 90 days after a child's 17th
263 birthday. The court shall also issue an order, separate from the
264 order on judicial review, that the disability of nonage of the
265 child has been removed pursuant to ss. 743.044, 743.045, and
266 743.046 and for any of these disabilities that the court finds
267 is in the child's best interest to remove. The court ~~and~~ shall
268 continue to hold timely judicial review hearings. If necessary,
269 the court may review the status of the child more frequently
270 during the year before the child's 18th birthday. At each review
271 hearing held under this subsection, in addition to any
272 information or report provided to the court by the foster
273 parent, legal custodian, or guardian ad litem, the child shall
274 be given the opportunity to address the court with any
275 information relevant to the child's best interest, particularly
276 in relation to independent living transition services. The
277 department shall include in the social study report for judicial
278 review written verification that the child has:

279 1. A current Medicaid card and all necessary information
280 concerning the Medicaid program sufficient to prepare the child
281 to apply for coverage upon reaching the age of 18, if such
282 application is appropriate.

283 2. A certified copy of the child's birth certificate and,
284 if the child does not have a valid driver license, a Florida
285 identification card issued under s. 322.051.

286 3. A social security card and information relating to
287 social security insurance benefits if the child is eligible for
288 those benefits. If the child has received such benefits and they
289 are being held in trust for the child, a full accounting of
290 these funds must be provided and the child must be informed as

291 to how to access those funds.

292 4. All relevant information related to the Road-to-
293 Independence Program, including, but not limited to, eligibility
294 requirements, information on participation, and assistance in
295 gaining admission to the program. If the child is eligible for
296 the Road-to-Independence Program, he or she must be advised that
297 he or she may continue to reside with the licensed family home
298 or group care provider with whom the child was residing at the
299 time the child attained his or her 18th birthday, in another
300 licensed family home, or with a group care provider arranged by
301 the department.

302 5. An open bank account or the identification necessary to
303 open a bank account and to acquire essential banking and
304 budgeting skills.

305 6. Information on public assistance and how to apply for
306 public assistance.

307 7. A clear understanding of where he or she will be living
308 on his or her 18th birthday, how living expenses will be paid,
309 and the educational program or school in which he or she will be
310 enrolled.

311 8. Information related to the ability of the child to
312 remain in care until he or she reaches 21 years of age under s.
313 39.013.

314 9. A letter providing the dates that the child is under the
315 jurisdiction of the court.

316 10. A letter stating that the child is in compliance with
317 financial aid documentation requirements.

318 11. The child's educational records.

319 12. The child's entire health and mental health records.

320 13. The process for accessing his or her case file.

321 14. A statement encouraging the child to attend all
322 judicial review hearings occurring after the child's 17th
323 birthday.

324 Section 5. Subsection (2) of section 39.802, Florida
325 Statutes, is amended to read:

326 39.802 Petition for termination of parental rights; filing;
327 elements.-

328 (2) The form of the petition is governed by the Florida
329 Rules of Juvenile Procedure. The petition must be in writing and
330 signed by the petitioner under oath stating the petitioner's
331 good faith in filing the petition. ~~or, if the department is the~~
332 ~~petitioner, by an employee of the department, under oath stating~~
333 ~~the petitioner's good faith in filing the petition.~~

334 Section 5. Section 409.986, Florida Statutes, is created to
335 read:

336 409.986 Legislative findings, intent and definitions.-

337 (1) Legislative findings and intent.-

338 (a) It is the intent of the legislature that the Department
339 of Children and Families provide services to dependent children
340 through contracting with community based lead agencies. It is
341 further the Legislature's intent that communities and other
342 stakeholders in the well-being of children participate in
343 assuring safety, permanence, and well-being for all of Florida's
344 children.

345 (b) The Legislature finds that, when private entities
346 assume responsibility for the care for dependent children,
347 adequate oversight of the programmatic, administrative, and
348 fiscal operation of those entities is essential. Ultimately, the

349 appropriate care of dependent children is the responsibility of
350 the state and out-sourcing the provision of the care does not
351 relieve the state of its burden to ensure that appropriate care
352 is provided.

353 (2) Definitions; ss. 409.986-409.998.—As used in ss.
354 409.986 through 409.998, except as otherwise specially provided,
355 the term:

356 (a) "Child" or "children" means "child" as defined in
357 s.39.01.

358 (b) "Dependent child" means a child who has been determined
359 by the Department to be in need of care due to allegations of
360 abuse, neglect, or abandonment.

361 (c) "Care" means services of any kind designed to
362 facilitate a child remaining safely in his or her own home,
363 returning safely to his or her own home if removed, or obtaining
364 an alternative permanent home if he or she cannot remain home or
365 be returned home.

366 (d) "Community based care lead agency" or "lead agency"
367 means a single agency with which the department has a contract
368 for the provision of care for dependent children in a community
369 as that is no larger than a judicial circuit. The secretary of
370 the department may authorize more than one eligible lead agency
371 within a single county when to do so will result in more
372 effective delivery of services to dependent children.

373 (e) "Community based care alliance" means the group of the
374 stakeholders, community leaders, client representatives and
375 fundors of human services established to provide a focal point
376 for community participation and governance of community-based
377 services.

378 (f) "Outsource" means to contract with competent,
379 community-based care lead agencies.

380 (g) "Related services" includes, but is not limited to,
381 family preservation, independent living, emergency shelter,
382 residential group care, foster care, therapeutic foster care,
383 intensive residential treatment, foster care supervision, case
384 management, postplacement supervision, permanent foster care,
385 and family reunification.

386 Section 6. Section 409.987, Florida Statutes, is created to
387 read:

388 409.987 Lead agency procurement.-

389 (1) Community based care lead agencies must be procured by
390 the department through a competitive process as required by
391 chapter 287 for a community that is defined as being no larger
392 than a judicial circuit.

393 (2) The department shall produce a schedule for the
394 procurement of community based care lead agencies and provide
395 the schedule to the community based care alliances established
396 under s. 409.998.

397 (3) In order to compete for a contract to serve as a lead
398 agency, an entity must:

399 (a) Be organized as a Florida corporation or a governmental
400 entity.

401 (b) Be governed by a Board of Directors. The membership of
402 the Board of Directors shall be described in the bylaws or
403 Articles of Incorporation of each lead agency. At least 51
404 percent of the membership of the board of directors must be
405 comprised of persons residing in this state. Of the state
406 residents, at least 51 percent must also reside within the

407 service area of the lead agency.

408 (c) Demonstrate financial responsibility through an
409 organized plan for regular fiscal audits and the posting of a
410 performance bond.

411 (4) The procurement of lead agencies must be done in
412 consultation with the local community alliances.

413 (5) In communities where economic or demographic
414 constraints make it impossible or not feasible to competitively
415 contract with a lead agency, the department shall develop an
416 alternative plan in collaboration with the local community
417 alliance, which may include establishing innovative geographical
418 configurations or consortia of agencies. The plan must detail
419 how the community will continue to implement community based
420 care through competitively procuring either the specific
421 components of care for dependent children and related services
422 or comprehensive services for defined eligible populations of
423 children and families from qualified licensed agencies as part
424 of its efforts to develop the local capacity for a community
425 based system of coordinated care. The plan must ensure local
426 control over the management and administration of the service
427 provision in accordance with the intent of this section and may
428 include recognized best business practices, including some form
429 of public or private partnerships.

430 Section 7. Section 409.988, Florida Statutes, is created to
431 read:

432 409.988 Lead agencies duties and general provisions.

433 (1) DUTIES.—

434 (a) Lead agencies must serve all children referred as a
435 result of a report of abuse, neglect, or abandonment to the

436 department's hotline regardless of the level of funding
437 allocated to the lead agency by the state, provided all related
438 funding is transferred. Lead agencies must provide all care for
439 dependent children in the designated geographic area in
440 cooperation with child protective investigations conducted by
441 either the department or a sheriff's office.

442 (b) Lead agencies must provide accurate and timely
443 information necessary for oversight by the department pursuant
444 to the child welfare results oriented accountability system
445 required by s. 409.997.

446 (c) Lead agencies must be transparent and accountable for
447 their use of federal and state dollars. They must follow the
448 financial guidelines developed by the department and provide for
449 a regular independent auditing of their financial activities.
450 Such financial information must be provided to the community
451 based care alliance established in s. 409.998.

452 (d) Lead agencies prepare all documents necessary for court
453 hearings for dependent children except for those related to the
454 investigation of the referral from the hotline, and to provide
455 testimony as required for dependency court proceedings.

456 (e) Lead agencies must ensure that all individuals
457 providing care for dependent children receive appropriate
458 training and meet the minimum employment standards established
459 by the department.

460 (f) Lead agencies must maintain eligibility to receive all
461 available federal child welfare funds.

462 (g) Lead agencies must maintain written agreements with
463 Healthy Families Florida lead entities in their service area
464 pursuant to s. 409.153 to promote cooperative planning for the

465 provision of prevention and intervention services.

466 (h) Lead agencies must comply with federal and state
467 statutory requirements and agency rules in the provision of
468 contractual services.

469 (i) Lead agencies may subcontract for the provision of
470 services required by the contract with the lead agency and the
471 department, but the subcontracts must specify how the provider
472 will contribute to the lead agency meeting the performance
473 standards established pursuant to the child welfare results
474 oriented accountability system required by s. 409.997.

475 (2) Licensure and lead agencies.-

476 (a) Lead agencies must be licensed as a child-caring or
477 child-placing agency by the department under this chapter.

478 (b) Each foster home, therapeutic foster home, emergency
479 shelter, or other placement facility operated by the lead agency
480 must be licensed by the department under chapter 402 or this
481 chapter.

482 (c) Substitute care providers who are licensed under s.
483 409.175 and have contracted with a lead agency shall also be
484 authorized to provide registered or licensed family day care
485 under s. 402.313, if consistent with federal law and if the home
486 has met the requirements of s. 402.313.

487 (d) A foster home licensed under s. 409.175 may be dually
488 licensed as a child care home under chapter 402 and may receive
489 a foster care maintenance payment and, to the extent permitted
490 under federal law, school readiness funding for the same child.

491 (e) The department, in order to eliminate or reduce the
492 number of duplicate inspections by various program offices,
493 shall coordinate inspections required pursuant to licensure of

494 agencies under this subsection.

495 (f) The department may adopt rules necessary to administer
496 this paragraph.

497 (3) Lead agencies must serve dependent children through
498 services that evidenced based. The agency may also provide
499 innovative services such as family-centered, cognitive-
500 behavioral interventions designed to mitigate out-of-home
501 placements.

502 (4) Lead agency acting as child's guardian.-

503 (a) When a lead agency or other provider has accepted case
504 management responsibilities for a child who is sheltered or
505 found to be dependent and who is assigned to the care of the
506 lead agency or other provider, the agency or provider may act as
507 the child's guardian for the purpose of registering the child in
508 school if a parent or guardian of the child is unavailable and
509 his or her whereabouts cannot reasonably be ascertained.

510 (b) The lead agency or other provider may also seek
511 emergency medical attention for such a child, but only if a
512 parent or guardian of the child is unavailable, his or her
513 whereabouts cannot reasonably be ascertained, and a court order
514 for such emergency medical services cannot be obtained because
515 of the severity of the emergency or because it is after normal
516 working hours.

517 (c) A lead agency or other provider may not consent to
518 sterilization, abortion, or termination of life support.

519 (d) If a child's parents' rights have been terminated, the
520 lead agency shall act as guardian of the child in all
521 circumstances.

522 Section 8. Section 409.990, Florida Statutes, is created to

523 read:

524 409.990 Lead agency general funding provisions.-

525 A contract established between the department and a lead agency
526 must be funded by a grant of general revenue, other applicable
527 state funds, or applicable federal funding sources.

528 (1) The method of payment for a fixed-price contract with a
529 lead agency shall provide for a 2-month advance payment at the
530 beginning of each fiscal year and equal monthly payments
531 thereafter.

532 (2) Notwithstanding the provisions of s. 215.425, all
533 documented federal funds earned for the current fiscal year by
534 the department and lead agencies which exceed the amount
535 appropriated by the Legislature shall be distributed to all
536 entities that contributed to the excess earnings based on a
537 schedule and methodology developed by the department and
538 approved by the Executive Office of the Governor.

539 (a) Distribution shall be pro rata based on total earnings
540 and shall be made only to those entities that contributed to
541 excess earnings.

542 (b) Excess earnings of lead agencies shall be used only in
543 the service district in which they were earned.

544 (c) Additional state funds appropriated by the Legislature
545 for lead agencies or made available pursuant to the budgetary
546 amendment process described in s. 216.177 shall be transferred
547 to the lead agencies.

548 (d) The department shall amend a lead agency's contract to
549 permit expenditure of the funds.

550 (3) Notwithstanding other provisions in this section, the
551 amount of the annual contract for a lead agency may be increased

552 by excess federal funds earned in accordance with s.
553 216.181(11).

554 (4) Each contract with a lead agency shall provide for the
555 payment by the department to the lead agency of a reasonable
556 administrative cost in addition to funding for the provision of
557 services.

558 (5) A lead agency may carry forward documented unexpended
559 state funds from one fiscal year to the next; however, the
560 cumulative amount carried forward may not exceed 8 percent of
561 the total contract. Any unexpended state funds in excess of that
562 percentage must be returned to the department.

563 (a) The funds carried forward may not be used in any way
564 that would create increased recurring future obligations, and
565 such funds may not be used for any type of program or service
566 that is not currently authorized by the existing contract with
567 the department.

568 (b) Expenditures of funds carried forward must be
569 separately reported to the department.

570 (c) Any unexpended funds that remain at the end of the
571 contract period shall be returned to the department.

572 (d) Funds carried forward may be retained through any
573 contract renewals and any new procurements as long as the same
574 lead agency is retained by the department.

575 (6) Each contract with a lead agency shall provide for the
576 payment by the department to the provider of a reasonable
577 administrative cost in addition to funding for the provision of
578 services.

579 (7) Community partnership matching grant program.—It is the
580 intent of the Legislature to improve services and local

581 participation in community-based care initiatives by fostering
582 community support and providing enhanced prevention and in-home
583 services, thereby reducing the risk otherwise faced by lead
584 agencies. There is established a community partnership matching
585 grant program to be operated by the Department of Children and
586 Family Services for the purpose of encouraging local
587 participation in community-based care for child welfare. Any
588 children's services council or other local government entity
589 that makes a financial commitment to a community-based care lead
590 agency is eligible for a grant upon proof that the children's
591 services council or local government entity has provided the
592 selected lead agency at least \$250,000 from any local resources
593 otherwise available to it. The total amount of local
594 contribution may be matched on a two-for-one basis up to a
595 maximum amount of \$2 million per council or local government
596 entity. Awarded matching grant funds may be used for any
597 prevention or in-home services provided by the children's
598 services council or other local government entity that meets
599 temporary-assistance-for-needy-families' eligibility
600 requirements and can be reasonably expected to reduce the number
601 of children entering the child welfare system. Funding available
602 for the matching grant program is subject to legislative
603 appropriation of nonrecurring funds provided for the purpose.

604 Section 9. Section 409.991, Florida Statutes, is created to
605 read:

606 409.991 Lead agency allocation of funds.—

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

608 (a) "Core services funding" means all funds allocated to
609 community-based care lead agencies operating under contract with

610 the department pursuant to s. 409.1671, with the following
611 exceptions:

- 612 1. Funds appropriated for independent living;
- 613 2. Funds appropriated for maintenance adoption subsidies;
- 614 3. Funds allocated by the department for protective
615 investigations training;
- 616 4. Nonrecurring funds;
- 617 5. Designated mental health wrap-around services funds; and
- 618 6. Funds for special projects for a designated community-
619 based care lead agency.

620 (b) "Equity allocation model" means an allocation model
621 that uses the following factors:

- 622 1. Proportion of children in poverty;
- 623 2. Proportion of child abuse hotline workload;
- 624 3. Proportion of children in care; and
- 625 4. Proportion of contribution in the reduction of out-of-
626 home care.

627 (c) "Proportion of children in poverty" means the average
628 of the proportion of children in the geographic area served by
629 the community-based care lead agency based on the following
630 subcomponents:

- 631 1. Children up to 18 years of age who are below the poverty
632 level as determined by the latest available Small Area Income
633 and Poverty Estimates (SAIPE) from the United States Census
634 Bureau;
- 635 2. Children eligible for free or reduced-price meals as
636 determined by the latest available survey published by the
637 Department of Education; and
- 638 3. The number of children in families receiving benefits

639 from the federal Supplemental Nutrition Assistance Program
640 (SNAP) in the most recent month as determined by the department.

641 (d) "Proportion of child abuse hotline workload" means the
642 weighted average of the following subcomponents:

643 1. The average number of initial and additional child abuse
644 reports received during the month for the most recent 12 months
645 based on child protective investigations trend reports as
646 determined by the department. This subcomponent shall be
647 weighted as 20 percent of the factor.

648 2. The average count of children in investigations in the
649 most recent 12 months based on child protective investigations
650 trend reports as determined by the department. This subcomponent
651 shall be weighted as 40 percent of the factor.

652 3. The average count of children in investigations with a
653 most serious finding of verified abuse in the most recent 12
654 months based on child protective investigations trend reports as
655 determined by the department. This subcomponent shall be
656 weighted as 40 percent of the factor.

657 (e) "Proportion of children in care" means the proportion
658 of the sum of the number of children in care receiving in-home
659 services and the number of children in out-of-home care at the
660 end of the most recent month as reported in the child welfare
661 services trend reports as determined by the department.

662 (f) "Proportion of contribution in the reduction of out-of-
663 home care" means the proportion of the number of children in
664 out-of-home care on December 31, 2006, minus the number of
665 children in out-of-home care as of the end of the most recent
666 month as reported in the child welfare services trend reports as
667 determined by the department.

668 (2) The equity allocation of core services funds shall be
669 calculated based on the following weights:

670 (a) Proportion of children in poverty shall be weighted as
671 30 percent of the total;

672 (b) Proportion of child abuse hotline workload shall be
673 weighted as 30 percent of the total;

674 (c) Proportion of children in care shall be weighted as 30
675 percent of the total; and

676 (d) Proportion of contribution to the reduction in out-of-
677 home care shall be weighted as 10 percent of the total.

678 (3) Beginning in the 2013-2014 state fiscal year, 90
679 percent of the recurring core services funding for each
680 community-based care lead agency shall be based on the prior
681 year recurring base of core services funds and 10 percent shall
682 be based on the equity allocation model.

683 (4) Unless otherwise specified in the General
684 Appropriations Act, any new core services funds shall be
685 allocated based on the equity allocation model. Such allocations
686 must be proportional to the proportion of funding based on the
687 equity model and allocated only to the community-based care lead
688 agency contracts if the current funding proportion is less than
689 the proportion of funding based on the equity model.

690 Section 10. Section 409.992, Florida Statutes, is created
691 to read:

692 409.992 Lead Agency Expenditures.-

693 (1) The procurement of commodities or contractual services
694 by lead agencies shall be governed by the financial guidelines
695 developed by the department in consultation with the Auditor
696 General that follow good business practices.

697 (2) Notwithstanding any other provision of law, a
698 community-based care lead agency may make expenditures for staff
699 cellular telephone allowances, contracts requiring deferred
700 payments and maintenance agreements, security deposits for
701 office leases, related agency professional membership dues other
702 than personal professional membership dues, promotional
703 materials, and grant writing services. Expenditures for food and
704 refreshments, other than those provided to clients in the care
705 of the agency or to foster parents, adoptive parents, and
706 caseworkers during training sessions, are not allowable.

707 (3) The lead community-based providers and their
708 subcontractors shall be exempt from state travel policies as set
709 forth in s. 112.061(3) (a) for their travel expenses incurred in
710 order to comply with the requirements of this section.

711 Section 11. Section 409.993 is created to read:

712 409.993 Lead Agencies and Subcontractors: Liability

713 (1) GENERAL PROVISIONS

714 (a) The Legislature finds that the state has traditionally
715 provided foster care services to children who have been the
716 responsibility of the state. As such, foster children have not
717 had the right to recover for injuries beyond the limitations
718 specified in s. 768.28. The Legislature has determined that
719 foster care and related services need to be outsourced pursuant
720 to this section and that the provision of such services is of
721 paramount importance to the state. The purpose for such
722 outsourcing is to increase the level of safety, security, and
723 stability of children who are or become the responsibility of
724 the state. One of the components necessary to secure a safe and
725 stable environment for such children is that private providers

726 maintain liability insurance. As such, insurance needs to be
727 available and remain available to nongovernmental foster care
728 and related services providers without the resources of such
729 providers being significantly reduced by the cost of maintaining
730 such insurance.

731 (b) The Legislature further finds that, by requiring the
732 following minimum levels of insurance, children in outsourced
733 foster care and related services will gain increased protection
734 and rights of recovery in the event of injury than provided for
735 in s. 768.28.

736 (2) LEAD AGENCIES

737 (a) Other than an entity to which s. 768.28 applies, any
738 eligible lead community-based provider, or its employees or
739 officers, except as otherwise provided in paragraph (b), must,
740 as a part of its contract, obtain a minimum of \$1 million per
741 claim/\$3 million per incident in general liability insurance
742 coverage. The eligible lead community-based provider must also
743 require that staff who transport client children and families in
744 their personal automobiles in order to carry out their job
745 responsibilities obtain minimum bodily injury liability
746 insurance in the amount of \$100,000 per claim, \$300,000 per
747 incident, on their personal automobiles. In lieu of personal
748 motor vehicle insurance, the lead community-based provider's
749 casualty, liability, or motor vehicle insurance carrier may
750 provide nonowned automobile liability coverage. This insurance
751 provides liability insurance for automobiles that the provider
752 uses in connection with the provider's business but does not
753 own, lease, rent, or borrow. This coverage includes automobiles
754 owned by the employees of the provider or a member of the

755 employee's household but only while the automobiles are used in
756 connection with the provider's business. The nonowned automobile
757 coverage for the provider applies as excess coverage over any
758 other collectible insurance. The personal automobile policy for
759 the employee of the provider shall be primary insurance, and the
760 nonowned automobile coverage of the provider acts as excess
761 insurance to the primary insurance. The provider shall provide a
762 minimum limit of \$1 million in nonowned automobile coverage. In
763 any tort action brought against such an eligible lead community-
764 based provider or employee, net economic damages shall be
765 limited to \$1 million per liability claim and \$100,000 per
766 automobile claim, including, but not limited to, past and future
767 medical expenses, wage loss, and loss of earning capacity,
768 offset by any collateral source payment paid or payable. In any
769 tort action brought against such an eligible lead community-
770 based provider, noneconomic damages shall be limited to \$200,000
771 per claim. A claims bill may be brought on behalf of a claimant
772 pursuant to s. 768.28 for any amount exceeding the limits
773 specified in this paragraph. Any offset of collateral source
774 payments made as of the date of the settlement or judgment shall
775 be in accordance with s. 768.76. The lead community-based
776 provider shall not be liable in tort for the acts or omissions
777 of its subcontractors or the officers, agents, or employees of
778 its subcontractors.

779 (b) The liability of an eligible lead community-based
780 provider described in this section shall be exclusive and in
781 place of all other liability of such provider. The same
782 immunities from liability enjoyed by such providers shall extend
783 as well to each employee of the provider when such employee is

784 acting in furtherance of the provider's business, including the
785 transportation of clients served, as described in this
786 subsection, in privately owned vehicles. Such immunities shall
787 not be applicable to a provider or an employee who acts in a
788 culpably negligent manner or with willful and wanton disregard
789 or unprovoked physical aggression when such acts result in
790 injury or death or such acts proximately cause such injury or
791 death; nor shall such immunities be applicable to employees of
792 the same provider when each is operating in the furtherance of
793 the provider's business, but they are assigned primarily to
794 unrelated works within private or public employment. The same
795 immunity provisions enjoyed by a provider shall also apply to
796 any sole proprietor, partner, corporate officer or director,
797 supervisor, or other person who in the course and scope of his
798 or her duties acts in a managerial or policymaking capacity and
799 the conduct that caused the alleged injury arose within the
800 course and scope of those managerial or policymaking duties.
801 Culpable negligence is defined as reckless indifference or
802 grossly careless disregard of human life.

803 (3) SUBCONTRACTORS

804 (a) Any subcontractor of an eligible lead community-based
805 provider which is a direct provider of foster care and related
806 services to children and families, and its employees or
807 officers, except as otherwise provided in paragraph (b), must,
808 as a part of its contract, obtain a minimum of \$1 million per
809 claim/\$3 million per incident in general liability insurance
810 coverage. The subcontractor of an eligible lead community-based
811 provider must also require that staff who transport client
812 children and families in their personal automobiles in order to

813 carry out their job responsibilities obtain minimum bodily
814 injury liability insurance in the amount of \$100,000 per claim,
815 \$300,000 per incident, on their personal automobiles. In lieu of
816 personal motor vehicle insurance, the subcontractor's casualty,
817 liability, or motor vehicle insurance carrier may provide
818 nonowned automobile liability coverage. This insurance provides
819 liability insurance for automobiles that the subcontractor uses
820 in connection with the subcontractor's business but does not
821 own, lease, rent, or borrow. This coverage includes automobiles
822 owned by the employees of the subcontractor or a member of the
823 employee's household but only while the automobiles are used in
824 connection with the subcontractor's business. The nonowned
825 automobile coverage for the subcontractor applies as excess
826 coverage over any other collectible insurance. The personal
827 automobile policy for the employee of the subcontractor shall be
828 primary insurance, and the nonowned automobile coverage of the
829 subcontractor acts as excess insurance to the primary insurance.
830 The subcontractor shall provide a minimum limit of \$1 million in
831 nonowned automobile coverage. In any tort action brought against
832 such subcontractor or employee, net economic damages shall be
833 limited to \$1 million per liability claim and \$100,000 per
834 automobile claim, including, but not limited to, past and future
835 medical expenses, wage loss, and loss of earning capacity,
836 offset by any collateral source payment paid or payable. In any
837 tort action brought against such subcontractor, noneconomic
838 damages shall be limited to \$200,000 per claim. A claims bill
839 may be brought on behalf of a claimant pursuant to s. 768.28 for
840 any amount exceeding the limits specified in this paragraph. Any
841 offset of collateral source payments made as of the date of the

842 settlement or judgment shall be in accordance with s. 768.76.

843 (b) The liability of a subcontractor of an eligible lead
844 community-based provider that is a direct provider of foster
845 care and related services as described in this section shall be
846 exclusive and in place of all other liability of such provider.
847 The same immunities from liability enjoyed by such subcontractor
848 provider shall extend as well to each employee of the
849 subcontractor when such employee is acting in furtherance of the
850 subcontractor's business, including the transportation of
851 clients served, as described in this subsection, in privately
852 owned vehicles. Such immunities shall not be applicable to a
853 subcontractor or an employee who acts in a culpably negligent
854 manner or with willful and wanton disregard or unprovoked
855 physical aggression when such acts result in injury or death or
856 such acts proximately cause such injury or death; nor shall such
857 immunities be applicable to employees of the same subcontractor
858 when each is operating in the furtherance of the subcontractor's
859 business, but they are assigned primarily to unrelated works
860 within private or public employment. The same immunity
861 provisions enjoyed by a subcontractor shall also apply to any
862 sole proprietor, partner, corporate officer or director,
863 supervisor, or other person who in the course and scope of his
864 or her duties acts in a managerial or policymaking capacity and
865 the conduct that caused the alleged injury arose within the
866 course and scope of those managerial or policymaking duties.
867 Culpable negligence is defined as reckless indifference or
868 grossly careless disregard of human life.

869 (4) The Legislature is cognizant of the increasing costs of
870 goods and services each year and recognizes that fixing a set

871 amount of compensation actually has the effect of a reduction in
872 compensation each year. Accordingly, the conditional limitations
873 on damages in this section shall be increased at the rate of 5
874 percent each year, prorated from the effective date of this
875 paragraph to the date at which damages subject to such
876 limitations are awarded by final judgment or settlement.

877 Section 12. Section 409.994, Florida Statutes, is created
878 to read:

879 409.994 Lead agency receivership.—

880 (1) The Department of Children and Family Services may
881 petition a court of competent jurisdiction for the appointment
882 of a receiver for a lead community-based provider established
883 pursuant to s. 409.1671 when any of the following conditions
884 exist:

885 (a) The lead community-based provider is operating without
886 a license as a child-placing agency.

887 (b) The lead community-based provider has given less than
888 120 days' notice of its intent to cease operations, and
889 arrangements have not been made for another lead community-based
890 provider or for the department to continue the uninterrupted
891 provision of services.

892 (c) The department determines that conditions exist in the
893 lead community-based provider which present an imminent danger
894 to the health, safety, or welfare of the dependent children
895 under that provider's care or supervision. Whenever possible,
896 the department shall make a reasonable effort to facilitate the
897 continued operation of the program.

898 (d) The lead community-based provider cannot meet its
899 current financial obligations to its employees, contractors, or

900 foster parents. Issuance of bad checks or the existence of
901 delinquent obligations for payment of salaries, utilities, or
902 invoices for essential services or commodities shall constitute
903 prima facie evidence that the lead community-based provider
904 lacks the financial ability to meet its financial obligations.

905 (2) (a) The petition for receivership shall take precedence
906 over other court business unless the court determines that some
907 other pending proceeding, having statutory precedence, has
908 priority.

909 (b) A hearing shall be conducted within 5 days after the
910 filing of the petition, at which time interested parties shall
911 have the opportunity to present evidence as to whether a
912 receiver should be appointed. The department shall give
913 reasonable notice of the hearing on the petition to the lead
914 community-based provider.

915 (c) The court shall grant the petition upon finding that
916 one or more of the conditions in subsection (1) exists and the
917 continued existence of the condition or conditions jeopardizes
918 the health, safety, or welfare of dependent children. A receiver
919 may be appointed ex parte when the court determines that one or
920 more of the conditions in subsection (1) exists. After such
921 finding, the court may appoint any person, including an employee
922 of the department who is qualified by education, training, or
923 experience to carry out the duties of the receiver pursuant to
924 this section, except that the court shall not appoint any member
925 of the governing board or any officer of the lead community-
926 based provider. The receiver may be selected from a list of
927 persons qualified to act as receivers which is developed by the
928 department and presented to the court with each petition of

929 receivership.

930 (d) A receiver may be appointed for up to 90 days, and the
931 department may petition the court for additional 30-day
932 extensions. Sixty days after appointment of a receiver and every
933 30 days thereafter until the receivership is terminated, the
934 department shall submit to the court an assessment of the lead
935 community-based provider's ability to ensure the health, safety,
936 and welfare of the dependent children under its supervision.

937 (3) The receiver shall take such steps as are reasonably
938 necessary to ensure the continued health, safety, and welfare of
939 the dependent children under the supervision of the lead
940 community-based provider and shall exercise those powers and
941 perform those duties set out by the court, including, but not
942 limited to:

943 (a) Taking such action as is reasonably necessary to
944 protect or conserve the assets or property of the lead
945 community-based provider. The receiver may use the assets and
946 property and any proceeds from any transfer thereof only in the
947 performance of the powers and duties set forth in this section
948 and by order of the court.

949 (b) Using the assets of the lead community-based provider
950 in the provision of care and services to dependent children.

951 (c) Entering into contracts and hiring agents and employees
952 to carry out the powers and duties of the receiver under this
953 section.

954 (d) Having full power to direct, manage, hire, and
955 discharge employees of the lead community-based provider. The
956 receiver shall hire and pay new employees at the rate of
957 compensation, including benefits, approved by the court.

958 (e) Honoring all leases, mortgages, and contractual
959 obligations of the lead community-based provider, but only to
960 the extent of payments that become due during the period of the
961 receivership.

962 (4) (a) The receiver shall deposit funds received in a
963 separate account and shall use this account for all
964 disbursements.

965 (b) A payment to the receiver of any sum owing to the lead
966 community-based provider shall discharge any obligation to the
967 provider to the extent of the payment.

968 (5) A receiver may petition the court for temporary relief
969 from obligations entered into by the lead community-based
970 provider if the rent, price, or rate of interest required to be
971 paid under the agreement was substantially in excess of a
972 reasonable rent, price, or rate of interest at the time the
973 contract was entered into, or if any material provision of the
974 agreement was unreasonable when compared to contracts negotiated
975 under similar conditions. Any relief in this form provided by
976 the court shall be limited to the life of the receivership,
977 unless otherwise determined by the court.

978 (6) The court shall set the compensation of the receiver,
979 which shall be considered a necessary expense of a receivership
980 and may grant to the receiver such other authority necessary to
981 ensure the health, safety, and welfare of the children served.

982 (7) A receiver may be held liable in a personal capacity
983 only for the receiver's own gross negligence, intentional acts,
984 or breaches of fiduciary duty. This section shall not be
985 interpreted to be a waiver of sovereign immunity should the
986 department be appointed receiver.

987 (8) If the receiver is not the department, the court may
988 require a receiver to post a bond to ensure the faithful
989 performance of these duties.

990 (9) The court may terminate a receivership when:

991 (a) The court determines that the receivership is no longer
992 necessary because the conditions that gave rise to the
993 receivership no longer exist; or

994 (b) The department has entered into a contract with a new
995 lead community-based provider pursuant to s. 409.1671, and that
996 contractor is ready and able to assume the duties of the
997 previous provider.

998 (10) Within 30 days after the termination, unless this time
999 period is extended by the court, the receiver shall give the
1000 court a complete accounting of all property of which the
1001 receiver has taken possession, of all funds collected and
1002 disbursed, and of the expenses of the receivership.

1003 (11) Nothing in this section shall be construed to relieve
1004 any employee of the lead community-based provider placed in
1005 receivership of any civil or criminal liability incurred, or any
1006 duty imposed by law, by reason of acts or omissions of the
1007 employee prior to the appointment of a receiver; nor shall
1008 anything contained in this section be construed to suspend
1009 during the receivership any obligation of the employee for
1010 payment of taxes or other operating or maintenance expenses of
1011 the lead community-based provider or for the payment of
1012 mortgages or liens. The lead community-based provider shall
1013 retain the right to sell or mortgage any facility under
1014 receivership, subject to the prior approval of the court that
1015 ordered the receivership.

1016 Section 13. Section 409.996, Florida Statutes, is created
1017 to read:

1018 409.996 Department of Children and Families Duties.- The
1019 department shall contract for the delivery, administration, or
1020 management of care for dependent children. In doing so, the
1021 department retains responsibility for the quality of contracted
1022 services and programs and shall ensure that services are
1023 delivered in accordance with applicable federal and state
1024 statutes and regulations.

1025 (1) The department shall enter into contracts with lead
1026 agencies to perform the duties of a lead agency pursuant to s.
1027 409.988. The contracts shall, at a minimum:

1028 (a) Provide for the services needed to accomplish the
1029 duties in s. 409.988 and provide information to the department
1030 necessary to meet the requirements for a quality assurance
1031 program pursuant to paragraph (17) and the child welfare results
1032 oriented accountability pursuant to s. 409.997.

1033 (b) Provide for graduated penalties for failure to comply
1034 with contract terms. These penalties may include financial
1035 penalties, enhanced monitoring and reporting, corrective action
1036 plans, and early termination of contracts or other appropriate
1037 action to ensure contract compliance.

1038 (c) Ensure that the lead agency shall furnish current and
1039 accurate information on its activities in all cases in client
1040 case records in the state's statewide automated child welfare
1041 information system.

1042 (d) Specify the procedures to be used by the parties to
1043 resolve differences in interpreting the contract or to resolve
1044 disputes as to the adequacy of the parties' compliance with

1045 their respective obligations under the contract.

1046 (2) The department must adopt written policies and
1047 procedures for monitoring the contract for delivery of services
1048 by lead agencies. These policies and procedures must, at a
1049 minimum, address the evaluation of fiscal accountability and
1050 program operations, including provider achievement of
1051 performance standards, provider monitoring of subcontractors,
1052 and timely followup of corrective actions for significant
1053 monitoring findings related to providers and subcontractors.
1054 These policies and procedures must also include provisions for
1055 reducing the duplication of the department's program monitoring
1056 activities both internally and with other agencies, to the
1057 extent possible. The department's written procedures must ensure
1058 that the written findings, conclusions, and recommendations from
1059 monitoring the contract for services of lead community-based
1060 providers are communicated to the director of the provider
1061 agency and the community based care alliance as expeditiously as
1062 possible.

1063 (3) The department shall receive federal and state funds as
1064 appropriated for the operation of the child welfare system and
1065 shall transmit these funds to the lead agencies as agreed. The
1066 department retains responsibility for the appropriate spending
1067 of these funds. The department must monitor lead agencies to
1068 assess compliance with the financial guidelines established
1069 pursuant to s. 409.992 and other applicable state and federal
1070 law.

1071 (4) The department shall provide technical assistance and
1072 consultation to lead agencies in the provision of care to
1073 children in the child protection system.

1074 (5) The department retains the responsibility for the
1075 review, approval or denial, and issuances of all foster home
1076 licenses.

1077 (6) The department shall process all applications submitted
1078 by lead agencies for the Interstate Compact for Placement of
1079 Children and the Interstate Compact for Adoption and Medical
1080 Assistance.

1081 (7) The department shall assist lead agencies with access
1082 to and coordination with other service programs within the
1083 department.

1084 (8) The department shall determine Medicaid eligibility for
1085 all referred children and will coordinate services with the
1086 Agency for Health Care Administration.

1087 (9) The department shall develop, in cooperation with the
1088 lead agencies, a standardized competency-based curriculum for
1089 certification training and for administering the certification
1090 testing program for child protection staff.

1091 (10) The department shall be responsible for maintaining
1092 the statewide adoptions website and for providing information
1093 and training to the lead agencies relating to this website.

1094 (11) The department shall provide training and assistance
1095 to lead agencies regarding the responsibility of lead agencies
1096 relating to children receiving Supplemental Security Income,
1097 Social Security, Railroad Retirement, or Veterans benefits.

1098 (12) With the assistance of the lead agency, the department
1099 shall develop and implement statewide and local interagency
1100 agreements needed to coordinate services for children and
1101 parents involved in the child welfare system who are also
1102 involved with the Agency for Persons with Disabilities, the

1103 Department of Juvenile Justice, the Department of Education, the
1104 Department of Health, and other governmental organizations that
1105 share responsibilities for children or parents in the child
1106 welfare system.

1107 (13) With the assistance of the lead agency, the department
1108 shall develop and implement a working agreement between lead
1109 agency and the Substance Abuse and Mental Health Managing Entity
1110 to integrate services and supports for children and parents
1111 serviced in the child welfare system.

1112 (14) The department shall work with the Agency for Health
1113 Care Administration to provide each child the services of the
1114 Medicaid Early and Periodic Screening, Diagnosis, and Treatment
1115 (EDSDT) entitlement including the 72-hour screening, the
1116 Periodic Child Health Check Ups, and prescribed follow up for
1117 ordered services, including medical, dental, and vision care.

1118 (15) The department shall assist the lead agencies in
1119 developing an array of services in compliance with the Title IV-
1120 E Waiver and shall monitor the provision of those services.

1121 (16) The department shall directly or through contract
1122 provide attorneys to prepare and present cases in dependency
1123 court and shall ensure that the court is provided with adequate
1124 information for informed decision-making in dependency cases.

1125 (17) The department, in consultation with lead agencies,
1126 shall establish a quality assurance program for outsourced
1127 services to dependent children. The quality assurance program
1128 shall be based on standards established by federal and state law
1129 and national accrediting organizations.

1130 (a) Each program operated under contract with a lead agency
1131 must be evaluated at least annually by the department. These

1132 evaluations shall cover the programmatic, operational, and
1133 fiscal operations of the lead agency and be consistent with the
1134 child welfare results oriented accountability system pursuant to
1135 s. 409.997.

1136 (b) The department shall, to the extent possible, use
1137 independent financial audits provided by the lead agency to
1138 eliminate or reduce the ongoing contract and administrative
1139 reviews conducted by the department. Should the department
1140 determine that such independent financial audits are inadequate,
1141 then other audits, as necessary, may be conducted by the
1142 department. Nothing herein shall abrogate the requirements of s.
1143 215.97.

1144 (c) The department may suggest additional items to be
1145 included in such independent financial audits to meet the
1146 department's needs.

1147 (d) Monitoring. - The department may outsource
1148 programmatic, administrative, or fiscal monitoring oversight of
1149 lead agencies.

1150 (e) Lead agencies must assure that all subcontractors are
1151 subject to the same quality assurance activities as the lead
1152 agencies.

1153 Section 14. Section 409.997 is created to read:

1154 Section 409.997 Child welfare results oriented
1155 accountability.-

1156 (1) Responsibility for achieving the following outcome
1157 goals is shared by the department and its contract providers
1158 including lead agencies, community case based care providers,
1159 and other community partners participating in Florida's child
1160 protection and child welfare system:

1161 (a) Children are first and foremost protected from abuse
1162 and neglect;

1163 (b) Children are safely maintained in their homes when
1164 possible and appropriate;

1165 (c) Services are provided to protect children and prevent
1166 removal;

1167 (d) Children have permanency and stability in their living
1168 arrangements;

1169 (e) Family relationships and connections are preserved for
1170 children;

1171 (f) Families have enhanced capacity to provide for their
1172 children's needs;

1173 (g) Children receive appropriate services to meet their
1174 educational needs; and,

1175 (h) Children receive adequate services to meet their
1176 physical and mental health needs.

1177 (2) In order to assess the achievement of these goals, the
1178 department shall maintain a comprehensive results oriented
1179 accountability system that monitors the use of resources, the
1180 quality and amount of services provided, and the child and
1181 family outcomes through data analysis, research review,
1182 evaluation, and quality improvement. Specially, the
1183 accountability system must:

1184 (a) Identify valid and reliable outcome measures for each
1185 of the goals specified in this section. The outcome data set
1186 shall consist of a limited number of understandable measures
1187 using available data to quantify outcomes as children move
1188 through the system of care. Measures may aggregate multiple
1189 variables that affect the overall achievement of the outcome

1190 goal. Valid and reliable measures are based on adequate sample
1191 sizes, gathered over suitable time periods, reflecting authentic
1192 rather than spurious results, and not susceptible to
1193 manipulation.

1194 (b) Implement a monitoring system to track the identified
1195 outcome measures on a statewide, regional, and provider-specific
1196 basis. The monitoring system shall identify trends and chart
1197 progress toward achievement of the goals specified in this
1198 section. The requirements of the monitoring system may be
1199 incorporated into the department's quality assurance system
1200 required under s. 409.996 (17).

1201 (c) Develop and maintain an analytical system that builds
1202 on the outcomes monitoring system to assess the statistical
1203 validity of observed associations between child welfare
1204 interventions and the measured outcomes. The analysis shall use
1205 quantitative methods to adjust for variations in demographic or
1206 other conditions. The analysis shall include longitudinal
1207 studies to evaluate longer term outcomes such as continued
1208 safety, family permanence, and transition to self-sufficiency.
1209 The analysis may also include qualitative research methods to
1210 provide insight into statistical patterns.

1211 (d) Develop and maintain a program of research review to
1212 identify interventions that are supported by evidence as
1213 causally linked to improved outcomes.

1214 (e) The accountability system shall support an ongoing
1215 process of evaluation to determine the efficacy and
1216 effectiveness of various interventions. Efficacy evaluation is
1217 intended to determine the validity of a causal relationship
1218 between an intervention and an outcome. Effectiveness evaluation

1219 is intended to determine the extent to which the results can be
1220 generalized.

1221 (f) Develop and maintain an inclusive, interactive and
1222 evidence supported program of quality improvement that promotes
1223 individual skill building as well as organizational learning.

1224 (g) Develop and implement a method for making the results
1225 of the accountability system transparent for all parties
1226 involved in the child welfare system as well as policymakers and
1227 the public. The presentation shall provide a comprehensible,
1228 visual report card for the state and each community based care
1229 region, indicating current status relative to each goal and
1230 trends in that status over time.

1231 (3) The department shall establish a technical advisory
1232 panel consisting of representatives from the Florida Institute
1233 for Child Safety established pursuant to s. 1004.615, lead
1234 agencies, community based care providers, other contract
1235 providers, community based care alliances, and family
1236 representatives. The President of the Senate and the Speaker of
1237 the House of Representatives shall each appoint a member to
1238 serve as a legislative liaison to the panel. The technical
1239 advisory panel shall advise the on how to meet the requirements
1240 of this section.

1241 (4) The accountability system shall not rank or compare
1242 performance among community based care regions unless adequate
1243 and specific adjustments are adopted that account for the
1244 diversity in regions' demographics, resources, and other
1245 relevant characteristics.

1246 (5) The results of the accountability system shall provide
1247 the basis for performance incentives if funds for such payments

1248 are made available through the General Appropriations Act.

1249 (6) At least quarterly, the department shall make the
1250 results of the accountability system available to the public
1251 through publication on its website. The website shall allow for
1252 custom searches of the performance data.

1253 (7) The department shall annually report by October 1 the
1254 statewide and community based care service area results of the
1255 child protection and child welfare system as measured by the
1256 accountability system to the Governor, the President of the
1257 Senate, and the Speaker of the House of Representatives.

1258 Section 15. Section 409.998, Florida Statutes, is created
1259 to read:

1260 409.998 Community Based Care Alliances.—

1261 (1) The department shall, in consultation with local
1262 communities, establish an alliance in each community based care
1263 service area to provide a focal point for community
1264 participation and governance of child protection and child
1265 welfare services.

1266 (2) The primary duty of the alliance is to oversee child
1267 welfare services and the local system of community based care.
1268 To perform this duty, the community alliance shall, with the
1269 assistance of the department, perform the following activities:

1270 (a) Conduct a needs assessment and establishment of
1271 community priorities for child protection and child welfare
1272 services.

1273 (b) Advise the department on the programmatic or financial
1274 performance of the lead agency.

1275 (c) Recommend a competitive procurement for the lead agency
1276 when programmatic or financial performance is poor.

1277 (d) Recommend a contract extension for the lead agency when
1278 programmatic or financial performance is superior.

1279 (e) Make recommendations on the development of the
1280 procurement document. The alliance may suggest specific
1281 requirements relating to local needs and services.

1282 (f) Make recommendations to the department on selection of
1283 a community based care lead agency.

1284 (g) Review the programmatic and financial performance of a
1285 lead agency at least quarterly.

1286 (h) In partnership with the Florida Institute for Child
1287 Safety established in s. 1004.615, develop recommendations to
1288 the department and the community based care lead agency to
1289 improve child protection and child welfare policies and
1290 practices.

1291 (i) Promote greater community involvement in community
1292 based care through participation in community based care lead
1293 agency services and activities, solicitation of local financial
1294 and in-kind resources, and recruitment and retention of
1295 community volunteers, and public awareness efforts.

1296 (3) The membership of the community alliance shall be
1297 composed of the following:

1298 (a) A representative from county government chosen by
1299 mutual agreement by the county boards of commission in the
1300 service area.

1301 (b) A representative from the school district chosen by
1302 mutual agreement by the county school boards in the service
1303 area.

1304 (c) A representative from the county sheriff's office
1305 chosen by mutual agreement by the county sheriffs in the service

1306 area.

1307 (d) A representative from the circuit court chosen by the
1308 chief judge of the judicial circuit.

1309 (e) Three other members chosen by the Secretary of the
1310 department based on their expertise in child protection and
1311 child welfare.

1312 (4) A member of the alliance may not receive payment for
1313 contractual services from the department or a community-based
1314 care lead agency.

1315 (5) Members of the community alliances shall serve without
1316 compensation, but are entitled to receive reimbursement for per
1317 diem and travel expenses, as provided in s. 112.061. Payment may
1318 also be authorized for preapproved child care expenses or lost
1319 wages for members who are consumers of the department's services
1320 and for preapproved child care expenses for other members who
1321 demonstrate hardship.

1322 (6) Members of a community alliance are subject to the
1323 provisions of part III of chapter 112, the Code of Ethics for
1324 Public Officers and Employees.

1325 (7) Actions taken by a community alliance must be
1326 consistent with department policy and state and federal laws,
1327 rules, and regulations.

1328 (8) Alliance members shall annually submit a disclosure
1329 statement of services interests to the department's inspector
1330 general. Any member who has an interest in a matter under
1331 consideration by the alliance must abstain from voting on that
1332 matter.

1333 (9) All alliance meetings are open to the public pursuant
1334 to s. 286.011 and the public records provision of s. 119.07(1).

1335 Section 16. Subsection (4) of section 20.19, Florida
1336 Statutes, is repealed.

1337 Section 17. Section 409.1671, Florida Statutes, is
1338 repealed.

1339 Section 18. Section 409.16713, Florida Statutes, is
1340 repealed.

1341 Section 19. Section 409.16715, Florida Statutes, is
1342 repealed.

1343 Section 20. Section 409.16745, Florida Statutes, is
1344 repealed.

1345 Section 21. Section 409.1675, Florida Statutes, is
1346 repealed.

1347 Section 22. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/18/14
Meeting Date

Topic CHILD WELFARE WORKSHOP Bill Number _____
(if applicable)
Name JOHN COOPER Amendment Barcode _____
(if applicable)
Job Title CEO
Address 1524 ACROPOLIS CIR Phone 407 968 6866
Street
City OCLOEE State FL Zip 34761
E-mail JOHN.COOPER@KIDSCENTRALINC.COM
Speaking: For Against Information
Representing KIDS CENTRAL

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

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.
This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/18/14
Meeting Date

Topic Child Welfare Workshop Bill Number _____
(if applicable)
Name Teri Saunders Amendment Barcode _____
(if applicable)
Job Title CEO
Address 1502 S. Lake Rockelle Dr Phone 863-899-0765
Street
City Winter Haven, FL State _____ Zip 33881
E-mail JPTeri1@aol.com
Speaking: For Against Information
Representing Community Based Care - CEO Heartland for Children

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

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.
This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/18/14

Meeting Date

Topic CHILD WELFARE WORKSHOP

Bill Number _____ (if applicable)

Name STEPHEN D. SPIVEY

Amendment Barcode _____ (if applicable)

Job Title BOARD MEMBER -

Address 230 NE 25th AVE

Phone 352-895-9152

Street
OCALA FL 34470
City State Zip

E-mail STEPHEN@SPIVEYMEDIATIONSERVICES.COM

Speaking: For Against Information

Representing KID'S CENTRAL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/18/14

Meeting Date

Topic Child Welfare

Bill Number _____ (if applicable)

Name Dr. Elizabeth Wynter

Amendment Barcode _____ (if applicable)

Job Title Director of Community Relations

Address 313 N. State Rd 7

Phone 954-557-2282

Street
Plantation, FL 33317
City State Zip

E-mail ewynter@childnet.us

Speaking: For Against Information

Representing ChildNet

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

February 18, 2014
Meeting Date

Topic Child Welfare Legislation Workshop

Bill Number _____
(if applicable)

Name MARK D. JONES

Amendment Barcode _____
(if applicable)

Job Title Chief Executive Officer

386-547-8924 - Cell

Address 135 Executive Circle
Street

Phone 386-288-4900 - Office

Daytona Beach FL 32114
City State Zip

E-mail MARK.JONES@cbclwfi.org

Speaking: For Against Information

Representing Community Partnership for Children

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/18/14
Meeting Date

Topic CHILD WELFARE WORKSHOP

Bill Number _____
(if applicable)

Name SHAWN SALAMIDA

Amendment Barcode _____
(if applicable)

Job Title CEO

Address 8 NW 79th DR.
Street

Phone 352-359-0157

GAINESVILLE FL 32607
City State Zip

E-mail ~~salamida1@kothr~~
shawn.salamida@pfsf.org

Speaking: For Against Information

Representing PARTNERSHIP FOR STRONG FAMILIES

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

02/18/2014
Meeting Date

Topic Child Welfare Legislation Discussion Bill Number _____ (if applicable)
Name Laurie Cunningham Amendment Barcode _____ (if applicable)
Job Title Director, USF/FMHI Training Consortium
Address 13301 Bruce B Downs Blvd Phone 813. 789. 1170
Tampa, FL 33612 E-mail lcunningham@usf.edu
City State Zip

Speaking: For Against Information

Representing University of South Florida Training Consortium

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/18/14
Meeting Date

Topic CHILD WELFARE LEGISLATION Bill Number _____ (if applicable)
Name STEPHEN PENNYPACKER Amendment Barcode _____ (if applicable)
Job Title ASSISTANT SECRETARY FOR PROGRAMS, OCF
Address 1317 WINDWOOD BOULEVARD Phone 813 284 0600
TALLAHASSEE FL 32399 E-mail stephen.pennypacker@dcf.fl.gov
City State Zip

Speaking: For Against Information

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic New legislation on child welfare program

Bill Number N/A (if applicable)

Name ALAN ABRAMOWITZ

Amendment Barcode N/A (if applicable)

Job Title Executive Director

Address 400 Callahan Ave

Phone 850 241-3232

Tallahassee, FL 32309
City State Zip

E-mail Alan.Abramowitz@y1.fl.gov

Speaking: For Against Information

Representing N/A

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

CourtSmart Tag Report

Room: LL 37

Case:

Type:

Caption: Senate Children, Families, and Elder Affairs

Judge:

Started: 2/18/2014 10:06:59 AM

Ends: 2/18/2014 11:56:15 AM

Length: 01:49:17

10:07:01 AM Meeting Called to Order
10:07:22 AM Roll Call
10:07:45 AM Sen. Sobel's opening remarks
10:07:55 AM (Tab 1) Senate Memorial 576 - Supportive Housing for the Elderly Program
10:08:12 AM Kimberly Diaz, Sen. Abruzzo's aide, explains memorial
10:08:49 AM Sen. Sobel thanks speaker and asks for questions
10:08:56 AM Sen. Braynon asks question about why it was defunded
10:09:21 AM Sen. Detert asks question about revenue stream
10:09:30 AM Ms. Diaz responds
10:09:43 AM Sen. Braynon makes comment
10:10:25 AM Sen. Sobel asks for further questions
10:10:38 AM Testimony by Barbara DeVane, FL Alliance for Retired Americans
10:12:38 AM Laura Cantwell, AARP, waives in support
10:12:48 AM Tom Randle, Leading Age Florida, waives in support
10:13:00 AM Sen. Detert makes comment
10:13:54 AM Mary Lou Wielossyski, waives in support
10:14:08 AM Sen. Dean asks question
10:14:30 AM Sen. Sobel makes comment
10:14:41 AM Lisa Murray, Department of Elder Affairs
10:14:45 AM Sen. Dean makes follow-up comment
10:14:55 AM Sen. Sobel makes comment requesting clarification
10:15:18 AM Sen. Clemens makes comment
10:15:41 AM Roll Call on Senate Memorial 576
10:16:09 AM SM 576 passes
10:16:13 AM (Tab 2) SB 588 - Offenses Against Vulnerable Persons
10:16:28 AM Mike Nacheff, Sen. Richter's aide, explains bill
10:16:39 AM Barcode 786638 AM
10:17:16 AM Sen. Sobel asks for questions
10:17:56 AM Show AM adopted
10:18:06 AM Lt. Dennis Strange, Florida Sheriff's Association, waives in support
10:18:20 AM Laura Cantwell, AARP, waives in support
10:18:28 AM Tom Randle, Leading Age FL, waives in support
10:18:34 AM Monica Hofheinz, State Attorney Mike Satz and Florida Prosecutors, waives in support
10:18:56 AM Mr. Nacheff waives close
10:19:02 AM Rep. Kathleen Passidomo waives in support
10:19:12 AM Sen. Hays moves bill as committee substitute
10:19:20 AM Roll Call on SB 588
10:19:34 AM SB 588 passes
10:19:38 AM (Tab 3) SB 744 - Motor Vehicle Insurance and Driver Education for Children in Care
10:19:50 AM Sen. Detert explains bill
10:21:32 AM Barcode 520092 AM
10:21:59 AM Sen. Sobel asks for questions about AM
10:22:23 AM Show AM adopted
10:22:30 AM Sen. Clemens asks question about foster parents and insurance
10:22:54 AM Sen. Detert responds
10:23:27 AM Sen. Clemens asks follow-up question
10:23:34 AM Sen. Detert responds
10:23:38 AM Sen. Sobel asks for other questions
10:23:45 AM Sen. Hays asks question
10:24:11 AM Sen. Detert responds
10:25:29 AM Sen. Hays asks follow-up question about premiums
10:25:40 AM Sen. Detert responds

10:26:01 AM Sen. Hays asks question
10:26:32 AM Sen. Detert responds
10:27:24 AM Sen. Hays responds
10:27:30 AM Sen. Sobel asks for other questions
10:28:37 AM Testimony by Victoria Jackson, FL Youth SHINE
10:31:57 AM Alan Abramowitz, Guardian ad Litem Executive Director, waives in support
10:32:05 AM Christina Spudeus, Florida Children's First, waives in support
10:32:18 AM Testimony by T'Sehai Dames, FL Youth SHINE
10:33:58 AM Sen. Sobel asks for further questions
10:34:05 AM Sen. Detert closes on bill
10:35:22 AM Shelley Katz, Chief Operating Officer, Children's Home Society, waviess in support
10:35:41 AM Sen. Detert moves bill as committee substitute
10:35:47 AM Roll Call on SB 744
10:36:02 AM SB 744 passes
10:36:10 AM Sen. Sobel makes comment
10:36:15 AM (Tab 4) Continued Workshop on Child Welfare Legislation
10:36:51 AM Sen. Sobel delivers opening comments
10:40:14 AM Sen. Hays makes comment on #6 Accountability System
10:40:40 AM Sen. Sobel responds
10:41:05 AM Sen. Grimsley asks question about line 462
10:41:27 AM Sen. Sobel responds
10:43:14 AM Sen. Sobel explains #7 Active Community Partnership
10:50:12 AM Sen. Braynon asks question about judicial circuits
10:50:51 AM Sen. Sobel responds
10:51:16 AM Sen. Hays asks question
10:52:00 AM Testimony by Stephen Pennypacker, Assistant Secretary for Programs, DCF, with regard to circuits
10:52:51 AM Sen. Sobel asks question
10:52:58 AM Mr. Pennypacker responds
10:53:09 AM Sen. Sobel responds
10:54:00 AM Alan Arawowitz, GAL Executive Director, remarks about the judicial circuits
10:54:16 AM Sen. Sobel asks question
10:54:20 AM Mr. Abramowitz responds
10:54:31 AM Sen. Sobel makes comment
10:55:50 AM Sen. Braynon asks question
10:56:49 AM Sen. Sobel responds
10:57:03 AM Sen. Braynon asks follow-up question
10:57:38 AM Claude Hendon, Staff Director, responds
10:58:05 AM Sen. Sobel asks question about flexibility
10:58:30 AM Sen. Grimsley makes comment about competition
10:59:03 AM Sen. Sobel makes follow-up comment
10:59:27 AM Sen. Detert makes comment
10:59:42 AM Sen. Sobel makes comment
10:59:58 AM Sen. Braynon comments
11:00:49 AM Sen. Sobel responds and asks for other concerns
11:01:02 AM Sen. Dean asks question
11:01:41 AM Sen. Sobel responds
11:01:54 AM Claude Hendon, Staff Director, remarks
11:02:12 AM Sen. Sobel's remarks
11:02:42 AM Sen. Dean makes comment
11:02:58 AM Sen. Sobel thanks Sen. Dean
11:03:48 AM Sen. Hays makes suggestion/request
11:05:04 AM Sen. Sobel responds
11:06:15 AM Testimony by John Cooper, CEO, Kids Central
11:10:07 AM Sen. Dean asks question
11:10:39 AM Mr. Cooper responds
11:11:36 AM Sen. Dean makes comment
11:12:32 AM Mr. Cooper responds
11:12:37 AM Sen. Sobel responds with regard to balance
11:13:20 AM Mr. Cooper responds
11:13:33 AM Sen. Hays asks question
11:14:50 AM Testimony by Teri Saunders, CEO, Heartland for Children
11:19:13 AM Sen. Dean asks question about legal services

11:19:23 AM Ms. Saunders responds
11:20:08 AM Sen. Sobel asks question about accountability
11:20:39 AM Ms. Saunders responds
11:21:24 AM Sen. Sobel asks follow-up question
11:21:33 AM Ms. Saunders responds
11:22:17 AM Testimony by Stephen Spivey, Board Member, Kid's Central
11:31:00 AM Sen. Dean asks question
11:31:21 AM Mr. Spivey responds with regard to self insurance
11:32:25 AM Sen. Dean asks follow-up question
11:34:06 AM Mr. Spivey responds
11:34:39 AM Sen. Hays asks question
11:35:59 AM Mr. Spivey responds
11:36:38 AM Sen. Sobel's comments
11:38:31 AM Testimony by Mark Jones, CEO, Community Partnership for Children
11:43:07 AM Testimony by Elizabeth Wynter, ChildNet, Director of Community Relations
11:46:01 AM Testimony by Shawn Salamida, CEO, Partnership for Strong Families
11:47:56 AM Testimony by Laurie Cunningham, Director, University of South Florida, Training Consortium
11:51:36 AM Stephen Pennypacker, Assistant Secretary for Programs, DCF, continued remarks
11:55:10 AM Sen. Sobel asks for questions
11:55:21 AM Sen. Sobel makes closing remarks
11:56:08 AM Move to Adjourn