

SB 400 by **Dean**; (Similar to CS/H 0611) False Reports to Law Enforcement Officers

373500 A S RCS CJ, Dean Delete L.14 - 23: 03/11 08:49 PM

SB 420 by **Sachs (CO-INTRODUCERS) Joyner, Soto**; (Similar to CS/H 0159) Sentencing for Controlled Substance Violations

SB 540 by **Dean**; (Compare to H 0829) Mandatory Supervision of Specified Offenders by the Department of Corrections

838018 A S RCS CJ, Dean Delete L.20 - 26: 03/11 08:49 PM
616632 A S RCS CJ, Dean Delete L.451 - 502: 03/11 08:49 PM
703002 AA S RCS CJ, Gibson Delete L.8: 03/11 08:49 PM
712686 AA S WD CJ, Gibson Delete L.8: 03/11 08:49 PM
399584 A S RCS CJ, Dean Delete L.573: 03/11 08:49 PM
493376 A S RCS CJ, Dean Delete L.1004 - 1005: 03/11 08:49 PM
459410 A S RCS CJ, Dean Delete L.1318: 03/11 08:49 PM

SB 672 by **Evers**; (Similar to CS/H 4019) Youth Custody Officers

954052 D S RCS CJ, Evers Delete everything after 03/11 08:49 PM

SB 676 by **Evers**; (Similar to H 0617) Juvenile Justice Circuit Advisory Boards

740958 D S RCS CJ, Evers Delete everything after 03/05 11:31 AM

SB 678 by **Evers**; (Compare to CS/H 0353) Malicious Battery and Infliction of Cruel or Inhuman Treatment on a Juvenile Offender

159924 D S RCS CJ, Evers Delete everything after 03/11 08:49 PM

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

SB 846 by **Brandes (CO-INTRODUCERS) Negron, Soto**; (Identical to H 0797) Search and Seizure of a Portable Electronic Device

743804 A S RCS CJ, Smith Delete L.60 - 224: 03/05 11:31 AM
809350 AA S RCS CJ, Smith Delete L.18: 03/05 11:31 AM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Evers, Chair
Senator Smith, Vice Chair

MEETING DATE: Monday, March 4, 2013
TIME: 3:30 —5:30 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Evers, Chair; Senator Smith, Vice Chair; Senators Altman, Bradley, Dean, Gibson, and Simmons

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointments to the offices indicated.			
Parole Commission			
1	Cohen, Bernard R., Sr. (Tallahassee)	06/30/2014	Recommend Confirm Yeas 7 Nays 0
Parole Commission			
2	Coonrod, Melinda N. ()	06/30/2018	Recommend Confirm Yeas 7 Nays 0
Criminal Conflict and Civil Regional Counsel - First District Court of Appeal			
3	Lewis, Jeffrey E. ()	07/01/2015	Recommend Confirm Yeas 7 Nays 0
Criminal Conflict and Civil Regional Counsel - Second District Court of Appeal			
4	Neymotin, Ita M. Esquire ()	07/01/2015	Recommend Confirm Yeas 7 Nays 0
Criminal Conflict and Civil Regional Counsel - Third District Court of Appeal			
5	Zenobi, Eugene F. Esquire ()	07/01/2015	Recommend Confirm Yeas 7 Nays 0
Criminal Conflict and Civil Regional Counsel - Fifth District Court of Appeal			
6	Deen, Jeffrey D. Esquire ()	07/01/2015	Recommend Confirm Yeas 7 Nays 0
TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 400 Dean (Identical H 611)	False Reports to Law Enforcement Officers; Increasing criminal penalties for a second or subsequent conviction of providing false information to a law enforcement officer concerning the alleged commission of a crime, etc. CJ 03/04/2013 Not Considered JU ACJ AP	Not Considered

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, March 4, 2013, 3:30 —5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 420 Sachs (Similar H 159)	Sentencing for Controlled Substance Violations; Providing for an exception to mandatory minimum sentencing requirements for certain violators of specified controlled substance provisions; specifying criteria to qualify for an exception; providing criteria that may be considered by a court in departing for the mandatory minimum term of imprisonment; requiring a court to make certain statements if it departs from the mandatory minimum term of imprisonment, etc. CJ 03/04/2013 Favorable JU ACJ AP	Favorable Yeas 6 Nays 1
9	SB 540 Dean (Compare H 829)	Mandatory Supervision of Specified Offenders by the Department of Corrections; Requiring that persons convicted on or after a specified date of crimes in specified categories be released only under mandatory supervision; renaming the conditional release program as the "mandatory supervision program", etc. CJ 03/04/2013 Not Considered JU ACJ AP	Not Considered
10	SB 672 Evers (Similar CS/H 4019)	Youth Custody Officers; Repealing provisions relating to the creation, duties, and qualifications of the youth custody officer position within the Department of Juvenile Justice, etc. CJ 03/04/2013 Not Considered JU ACJ AP	Not Considered
11	SB 676 Evers (Similar H 617)	Juvenile Justice Circuit Advisory Boards; Revising the juvenile justice circuit advisory boards; providing that the purpose of each juvenile justice circuit advisory board is to render advice and direction to the Department of Juvenile Justice when developing and implementing juvenile justice programs; requiring each advisory board to develop a comprehensive plan for the circuit by a specified date to facilitate interagency cooperation and to prepare recommendations for public and private grants; requiring each member of the board to comply with the Code of Ethics for Public Officers and Employees, etc. CJ 03/04/2013 Fav/CS JU ACJ AP	Fav/CS Yeas 6 Nays 1

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, March 4, 2013, 3:30 —5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	SB 678 Evers (Compare CS/H 353, CS/H 4019)	Malicious Battery and Infliction of Cruel or Inhuman Treatment on a Juvenile Offender; Providing that it is unlawful for an employee of the Department of Juvenile Justice to commit a battery or to inflict cruel or inhuman treatment on a juvenile offender; providing criminal penalties; providing that battery or the infliction of cruel or inhuman treatment on a juvenile offender constitutes sufficient cause to dismiss the employee from employment with the department and to prohibit such employee from being employed again in any capacity with the juvenile justice system, etc. CJ 03/04/2013 Not Considered JU	Not Considered
13	SB 742 Evers (Similar H 685)	Parole Interview Dates for Certain Inmates; Extending from 2 years to 7 years the period between parole interview dates for inmates convicted of committing certain specified crimes, etc. CJ 03/04/2013 Not Considered JU ACJ AP	Not Considered
14	SB 846 Brandes (Identical H 797)	Search and Seizure of a Portable Electronic Device; Providing that information contained in a portable electronic device is not subject to a search by a law enforcement officer incident to an arrest except pursuant to a warrant issued by a duly authorized judicial officer using procedures established by law; providing that a search warrant may not be issued for the location of an electronic device for a period of time longer than is necessary to achieve the objective of the search warrant authorization; providing exceptions to the requirement to obtain a search warrant for location information, etc. CJ 03/04/2013 Fav/CS JU AP	Fav/CS Yeas 5 Nays 2

Other Related Meeting Documents

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Bernard R. Cohen Sr.
Parole Commission

NOTICE OF HEARING

TO: Mr. Bernard R. Cohen Sr.

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Monday, March 04, 2013, in the Mallory Horne Committee Room, 37 Senate Office Building, commencing at 3:30 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 25th day of February, 2013

Committee on Criminal Justice



Senator Greg Evers
As Chair and by authority of the committee

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

1705

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Ken Detzner, Secretary of State,
do hereby certify that

Bernard R. Cohen, Sr.

is duly appointed a member of the
Parole Commission

for a term beginning on the
Twentieth day of March, A.D., 2012,
until the Thirtieth day of June, A.D., 2014
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Twenty-First day of September, A.D., 2012*

Ken Detzner

Secretary of State



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

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



RICK SCOTT
GOVERNOR

RECEIVED
DEPARTMENT OF STATE

2012 MAR 29 PM 4:19

DIVISION OF ELECTIONS
TALLAHASSEE, FL

March 26, 2012

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following reappointment under the provisions of Section 947.02, Florida Statutes:

Mr. Bernard R. Cohen Sr.

as a member of the Parole Commission, subject to confirmation by the Senate. This appointment is effective March 20, 2012 for a term ending June 30, 2014.

Sincerely,

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

Rick Scott
Governor

RS/jrd

HAND DELIVERED

28938

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

RECEIVED
2012 SEP 21 11:29
DEPARTMENT OF STATE
DIVISION OF ELECTIONS
September 20, 2012
Date Completed

1. Name: Mr. COHEN BERNARD REGINALD
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 4070 Esplanade Way Tallahassee
Street Office # City
Florida 32399-2450 850/488-0476
Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: _____
Street City County
Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business Residence Fax # _____ (optional)

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From	To
None			

5. Date of Birth: 01/20/1953 Place of Birth: Gainesville, Florida

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain

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

If you are a naturalized citizen, date of naturalization: n/a

10. Since what year have you been a continuous resident of Florida? 1953

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

A. County of Registration: Leon

B. Current Party Affiliation: Democrat

12. Education

A. High School: Gainesville High School, Gainesville Florida

Graduated: 1970

Year

(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
University of Florida, Gainesville, Florida	1970-1974	Bachelor of Arts
Rollins College, Winter Park, Florida	1976-1978	Master of Science

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: 1980 - 1990

B. Branch or Component: United States Army

C. Date & type of discharge: Honorable Discharge, June 30, 1990

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
Florida Parole Commission	Government	Commissioner	01/2012 - Present
Citizens Property Insurance 2312 Killearn Center Blvd. Building A Tallahassee, Florida 32309	Insurance	Vice President	02/2007 - 04/2011
Florida Department of Corrections	Government	Various Leadership Positions	1974 - 2007

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
Various Leadership Positions (Please see attached resume)	Florida Department of Corrections	1974 - 2007

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

Accomplished leader with over 37 years of broad based management and leadership experience
Skilled at developing and implementing corrections programs, negotiating contracts and managing relationships
A total of 33 years of service with the Florida Department of Corrections

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

Bachelor of Arts Degree in Psychology
Master of Science Degree in Criminal Justice
Graduate of the Florida Criminal Justice Executive Institute Senior Leadership Program
National Corrections Academy Courses in Corrections Management

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

Received many awards in recognition of service with the Florida Department of Corrections

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

Florida Council on Crime and Delinquency: State President, Chapter President, Executive Board Member
American Correctional Association

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

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

(1) How frequently were meetings scheduled: n/a

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>
<u>n/a</u>	_____	_____
_____	_____	_____
_____	_____	_____

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No If "Yes", list:

A. Title of Office: _____

B. Term of Appointment: _____

C. Confirmation results: _____

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

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title & Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

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

<u>Agency Lobbied</u>	<u>Principal Represented</u>
None	

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Juanita D. Lester			
Skitch Holland			
Eric Miller			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
Kappa Alpha Psi Fraternity Inc.	2322-24 North Broad Street, Philadelphia, Penn.	19132-4590	1972 - Present

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

CERTIFICATION

RECEIVED
DEPARTMENT OF STATE
2012 SEP 21 AM 11:29
DEPARTMENT OF STATE
DIVISION OF ELECTIONS

STATE OF FLORIDA, COUNTY OF Leon

Before me, the undersigned Notary Public of Florida, personally appeared Bernard R. Cohen Sr., who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Bernard R. Cohen Sr.
Signature of Applicant-Affiant

Sworn to and subscribed before me this 21 day of Sept., 2012.

Cindy J. Waymon
Signature of Notary Public, State of Florida



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

My commission expires: 7/9/2016

Personally Known OR Produced Identification

Type of Identification Produced _____

(seal)

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

- Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

BERNARD REGINALD COHEN

EXPERIENCED CORRECTIONS EXECUTIVE

Accomplished leader with over 37 years of broad based management and leadership experience. Skilled at developing and implementing corrections programs, negotiating contracts and managing relationships in order to improve morale, service and efficiency. Proven ability to work effectively with people at all levels, build cohesive, productive teams and implement positive organizational change. Called upon throughout career to establish and/or reengineer faltering programs, bureaus and departments in one of Florida's largest state agencies.

- Insurance organization administration
- Organizational and staff development
- Human resources management
- Facility acquisition and management
- Procurement and contract negotiation
- Corrections administration
- Inmate program development
- Legislative policy development
- Staff certification
- Corrections Accreditation

SIGNIFICANT PROFESSIONAL ACCOMPLISHMENTS

- Reengineered corporation's Administration Division, establishing much needed functions for human resources, purchasing and contracting, facilities management, general services and corporate training and development.
- Oversaw development of organization-wide compensation plan for over 1000 employees including restructuring position and function classifications and identifying duties and responsibilities associated with each position.
- Developed comprehensive strategic plan for the acquisition and management of all corporate facilities that total over 300,000 square feet and nine buildings dispersed in three separate locations around the state.
- Oversaw the research and development of a comprehensive 100 hour interactive instructional program designed to prepare inmates to successfully transition back into the community.
- Negotiated and managed contracts for faith-based transitional housing, substance abuse treatment and community-based programs for inmates released from prison and offenders under community supervision.
- Negotiated and managed multimillion dollar grant and contracts for a national inmate educational services program that was licensed to other correctional systems throughout the United States.
- Established and managed three corrections academies including negotiating facility contracts, building out facilities, directing installation of audio-visual and computer based systems, purchasing furniture and equipment and hiring and managing staff.
- Developed human resource policies and procedures for all correctional training and inmate programs and education staff including job descriptions, band levels, compensation and education and training requirements.
- Developed and implemented computer-based training program and distance learning network organization-wide for over 27,000 staff and 90,000 inmates.
- Negotiated and managed numerous services and commodities contracts with public and private entities for employee staff development and inmate programs.

PROFESSIONAL EXPERIENCE

VICE PRESIDENT OF CORPORATE ADMINISTRATION, Citizens Property Insurance Corporation

February 2007 to April 2011

Citizens was created in 2002 as the merger of the state's two insurers of last resort, the Florida Windstorm Underwriting Association (FWUA) and the Florida Residential Property and Casualty Joint Underwriting Association (FRPCJUA). Citizens is a \$4 billion dollar company that currently serves more than 1.2 million policyholders in Florida with over 1000 employees and locations in Tallahassee, Jacksonville and Tampa.

Provided executive level leadership, vision and oversight for the corporation's critical administrative functions including human resources (recruitment, compensation, payroll and benefits administration), corporate training and staff development, purchasing, contract services, building operations, space and lease management, safety and security, records management and corporate investigations.

DIRECTOR OF CORPORATE TRAINING, Citizens Property Insurance Corporation

January 2007 to February 2007

Directed the design, development and deployment of all employee technical, business operations, systems and professional development training corporate-wide. Coordinated the development and deployment of a corporate-wide Learning Management System (LMS) to deliver online training courses and create training completion documentation for all staff.

CHIEF, BUREAU OF STAFF DEVELOPMENT, Florida Department of Corrections

2006-2007

The Florida Department of Corrections is the largest agency in state government and one of the third largest state prison system in the country. The Department has more than 27,000 employees and 137 facilities statewide with an operating budget of \$2.3 billion and approximately 94,000 inmates incarcerated and 153,000 offenders on some type of community supervision.

Managed and supervised all training services for more than 27,000 Department employees. This includes program planning, budgeting, policy development, legislative affairs, course design and delivery, supervision of Florida Corrections Academy operations, and coordination of all field training events.

CHIEF, BUREAU OF PROGRAM SERVICES, Florida Department of Corrections

2004-2006

Supported the Assistant Secretary for Institutions in directing, planning, organizing, and supervising four bureaus that administered statewide programs relating to inmate transition and community re-entry, academic, vocational and special education, library and law library services, chaplaincy services, program development, and contract management.

CHIEF, BUREAU OF STAFF DEVELOPMENT, Florida Department of Corrections

2003-2004

Managed and supervised all training services for more than 26,000 Department employees. This includes program planning, budgeting, policy development, legislative affairs, course design and delivery, supervision of Florida Corrections Academy operations, and coordination of all field training events.

DEPUTY DIRECTOR OF PROGRAMS, Florida Department of Corrections

1999-2003

Supported the Director of Programs in directing, planning, organizing, and supervising bureaus that administer statewide programs relating to substance abuse treatment, community-based programs, academic and special education, library and law library services, workforce development and distance education, program development, chaplaincy services, and contract management.

DEPUTY ASSISTANT SECRETARY FOR EDUCATION AND JOB TRAINING, Florida Department of Corrections

1997-1999

Supported the Assistant Secretary of Education and Job Training in directing, planning, organizing, and supervising bureaus that administer statewide programs relating to academic and special education, library and law library services, applied technology and distance education, substance abuse treatment, and chaplaincy services.

ASSISTANT TO THE SECRETARY, Florida Department of Corrections

1994-1997

Provided assistance to the Secretary in the formation and implementation of department policy, including full authority by the Secretary to act for him at his direction at all levels of department operations. This includes representing the Secretary on statutory, advisory and other boards and commissions, and dealing with matters relating to other state and county agencies, members of the Legislature and the public. Also responsible for statewide accreditation activities and coordination of quality management initiatives.

CHIEF, BUREAU OF STAFF DEVELOPMENT, Florida Department of Corrections

1980-1994

Managed and supervised all training services for more than 22,000 Department employees. This includes program planning, budgeting, policy development, legislative affairs, course design and delivery, supervision of Florida Corrections Academy operations and coordination of all field training events

DEPUTY CIRCUIT ADMINISTRATOR, Florida Department of Corrections

1979-1980

Supervised and managed correctional probation services covering three (3) large North Florida counties (Duval, Nassau, Clay).

INMATE CLASSIFICATION SUPERVISOR, Florida Department of Corrections

1977-1979

Supervised and managed inmate classification services, and inmate records services. Additional responsibilities included Chairman of Inmate Disciplinary Team, Inmate Grievance Administrator and Chairman of Inmate Treatment Team.

INMATE CLASSIFICATION SPECIALIST, Florida Department of Corrections

1974-1977

Supervised and managed an offender caseload consisting of 150 close custody maximum security inmates.

EDUCATION

Florida Criminal Justice Executive Institute
Senior Leadership Program
January 1993

Master of Science, Rollins College
Major: Criminal Justice
February 1978

Bachelor of Arts, University of Florida
Major: Psychology
August 1974

PROFESSIONAL MEMBERSHIPS

Florida Council on Crime and Delinquency
- Chapter President, 1985
- Executive Board Member, 1985 to present
- State President-Elect, 1996-97
- State President, 1997-98
Society of Government Meeting Planners – Member

MILITARY

Captain, USAR
Honorably Discharged (June 30, 1990)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Confirmation Bill Number _____
(if applicable)

Name Bernard R. Cohen Amendment Barcode _____
(if applicable)

Job Title Commissioner

Address 4070 Esplanade Way Phone 488-0476
Street

Tallahassee FL 32311 E-mail _____
City State Zip

Speaking: For Against Information

Representing Florida Parole Commission

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

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

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

S-001 (10/20/11)

The Florida Senate
**COMMITTEE RECOMMENDATION ON
EXECUTIVE APPOINTMENT**

COMMITTEE: Criminal Justice
MEETING DATE: Monday, March 04, 2013
TIME: 3:30 —5:30 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

TO: The Honorable Don Gaetz, President

FROM: Criminal Justice

The committee was referred the following executive appointment subject to confirmation by the Senate:

Office: Parole Commission

Appointee: Cohen Sr., Bernard R.

Term: 3/20/2012-6/30/2014

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor and Cabinet

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: Bernard Cohen

ANSWER: I do

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Criminal Justice

DATE: March 4, 2013

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Melinda N. Coonrod
Parole Commission

NOTICE OF HEARING

TO: Mrs. Melinda N. Coonrod

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Monday, March 04, 2013, in the Mallory Horne Committee Room, 37 Senate Office Building, commencing at 3:30 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 25th day of February, 2013

Committee on Criminal Justice



Senator Greg Evers
As Chair and by authority of the committee

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

1705

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Ken Detzner, Secretary of State,
do hereby certify that

Melinda N. Coonrod

is duly appointed a member of the
Parole Commission

for a term beginning on the
First day of July, A.D., 2012,
until the Thirtieth day of June, A.D., 2018
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Second day of October, A.D., 2012.*

Ken Detzner

Secretary of State



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

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



RICK SCOTT
GOVERNOR

RECEIVED
DEPARTMENT OF STATE

2012 AUG -8 AM 10: 02

DIVISION OF ELECTIONS
TALLAHASSEE, FL

July 30, 2012

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised the Cabinet and I have made the following appointment under the provisions of Section 947.02, Florida Statutes:

Ms. Melinda N. Coonrod

}

as a member of the Parole Commission, succeeding Monica A. David, subject to confirmation by the Senate. This appointment is effective July 1, 2012, for a term ending June 30, 2018.

Sincerely,

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

Rick Scott
Governor

RS/kb

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

September 21, 2012

Date Completed

1. Name: Mrs. Coonrod Melinda Nisi
 Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: _____
 Street Office # City

Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: _____
 Street City County

Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business Residence Fax # _____
 (optional)

4. A. List all your places of residence for the last five (5) years.

<u>Address</u>	<u>City & State</u>	<u>From</u>	<u>To</u>
----------------	-------------------------	-------------	-----------

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

<u>Address</u>	<u>City & State</u>	<u>From</u>
----------------	-------------------------	-------------

Not applicable

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 DIVISION OF ELECTIONS
 TALLAHASSEE, FL
 2012 SEP 25 AM 9:58

5. Date of Birth: _____ Place of Birth: _____

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: _____

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain

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

If you are a naturalized citizen, date of naturalization: Not applicable

10. Since what year have you been a continuous resident of Florida? 1964

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

A. County of Registration: Leon

B. Current Party Affiliation: Republican

12. Education

A. High School: Charlotte High, Punta Gorda, FL

Year Graduated: 1982

(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
----------------------------	-----------------------	--------------------------------------

<u>Florida State University, Tallahassee, FL</u>	<u>08/1982 to 05/1987</u>	<u>B.S. in Real Estate, May 1987</u>
--	---------------------------	--------------------------------------

<u>Nova University, Ft. Lauderdale, FL</u>	<u>06/1988 to 06/1991</u>	<u>J.D. June 1991</u>
--	---------------------------	-----------------------

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: Not applicable

B. Branch or Component: Not applicable

C. Date & type of discharge: Not applicable

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes ? No If Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
<u>3/9/84</u>	<u>Charlotte County, Florida</u>	<u>speeding ticket</u>	<u>convicted/3 pts/fine (I cannot recall the amount of the fine, but I believe it was under \$150)</u>
<u>1/4/87</u>	<u>Alabama</u>	<u>speeding ticket</u>	<u>convicted/1.5 pts/fine (I cannot recall the amount of the fine, but I believe it was under \$150)</u>

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
<u>Florida Parole Commission 4070 Esplanade Way Tallahassee, FL 32399-2450</u>	<u>Government</u>	<u>Commissioner</u>	<u>07/06/2012 - Present</u>
<u>Florida Department of Agriculture & Consumer Services Post Office Box 3168 Tallahassee, FL 32315</u>	<u>Government</u>	<u>Senior Attorney/Hearing Officer</u>	<u>10/2008 - 07/5/2012</u>
<u>BarBri 2810 Sharer Road, Suite 28 Tallahassee, FL 32312</u>	<u>Education</u>	<u>Essay Grader</u>	<u>06/2007 - 06/2012</u>
<u>Florida State University College of Criminology and Criminal Justice 634 West Call Street Tallahassee, FL 32301</u>	<u>Education</u>	<u>Adjunct Instructor</u>	<u>01/2009 - 04/2009 08/2006 - 04/2007</u>

Office of the State Attorney
Second Judicial Circuit
Leon County Courthouse
301 South Monroe Street, Suite 475
Tallahassee, FL 32399

Government

Assistant State Attorney

01/2007 - 07/2007
09/1992 - 02/1998

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
Commissioner	Florida Parole Commission	07/06/2012 to Present
Senior Attorney/Hearing Officer	Florida Department of Agriculture and Consumer Services	10/2008 to 07/5/2012
Assistant State Attorney	Office of the State Attorney, 2 nd Circuit	01/2007 - 07/2007 09/1992 - 02/1998
Adjunct Instructor	Florida State University, College of Criminology and Criminal Justice	01/2009 - 04/2009 08/2006 - 04/2007
Legislative Analyst	Florida Senate, Committee on Finance, Taxation & Claims	01/1992 - 03/1992

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

I have been a member of the Florida Bar since 1991, and have extensive litigation experience in the area of criminal law. I am familiar with Florida and Federal Statutes, Florida and United Constitutional law, and the Florida Administrative Code. I have drafted and filed numerous charging documents, legal pleadings, legal memorandums and reports.

In my six years as an Assistant State Attorney, I handled a diverse set of criminal charges ranging from misdemeanor traffic offenses to first degree felonies and crimes punishable by life in prison. During my career with the State Attorney's Office, I became well versed in the Florida criminal justice system. I prosecuted perpetrators of crimes, advocated sentencing of those found guilty, and worked closely with victims and various law enforcement agencies. I was responsible for determining the appropriate resolution of criminal cases, including whether to charge an individual, reduce or dismiss charges, and whether a probationary or prison sentence was appropriate. I was responsible for making sentencing recommendations on new charges as well as on violation of probation and community control cases. For those defendants placed on probation or community control, it was my duty to evaluate and recommend to the court the conditions that would ensure the safety of the public such as electronic monitoring devices, counseling, drug or alcohol testing or inpatient treatment facilities. In cases involving violation of probation or community control, I was responsible for determining whether a violation occurred, and whether the defendant's probation or community control should be revoked, modified or terminated.

As a hearing officer with the Division of Licensing, I conducted informal hearings pursuant to Section 120.57(2), Florida Statutes, and made determinations on various licensing issues. My responsibilities included considering evidence submitted by an applicant to determine whether the applicant's qualifications and background, including criminal history, would disqualify him or her from licensure. In cases where the Department was seeking to revoke, suspend or impose an administrative fine, I was responsible for reviewing evidence of the license holder's misconduct, and any mitigating evidence to determine whether administrative action was warranted.

All citizens of Florida are protected by a just and efficient parole system. Public safety is paramount. However, parole of certain inmates is not only appropriate under our constitution, but also essential to ensure the proper functioning of our correctional system.

In determining whether parole should be granted, it is necessary to consider the nature of the crime, the evidence in the case, the inmate's criminal record, and the recommendation of the victims. Victims have a right under Florida law to be heard at every stage of a criminal proceeding. The requests and concerns of victims as to whether parole should be granted are important.

My goal is to make Florida a better place for all its citizens. The parole system, properly administered, is essential to public safety, the fiscal health of Florida, and the well being of victims. I have prosecuted perpetrators of crimes, advocated sentencing of those found guilty, and weighed the public's interests when considering conditions of probation or community control. As a member of the parole commission, I will put those experiences to good use for the benefit of our state.

- B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

B.S. degree from Florida State University

J.D. from Nova University

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No
 If "Yes", list:

- A. Title of Office: _____
 B. Term of Appointment: _____
 C. Confirmation results: _____

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

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No
 If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title & Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
Florida Bar License #899313	10/04/1991	The Florida Bar	None
Real Estate Salespersons License #SL486652	12/15/1986	Department of Business and Professional Regulation	None

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
State Attorney's Office	Assistant State Attorney	employee
Dept. of Agriculture & Consumer Services	Senior Attorney	employee
Florida State University	Adjunct Instructor	employee
Florida Parole Commission	Commissioner	employee
Florida Senate, Committee on Finance, Taxation & Claims	Analyst	employee

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>
McConaughay, Duffy, Coonrod, Pope & Weaver	husband	Partner in the law firm	legal representation (See attached for list of agencies)

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

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

<u>Agency Lobbied</u>	<u>Principal Represented</u>
Not applicable	

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

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

Member of the Florida Bar

Member of the United States District Court for the Middle District of Florida

Member of the American Correctional Association

Honorary Member of the Florida Sheriff's Association

Member of the Florida Council on Crime and Delinquency

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government?
Yes No If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

Office Title Date of Election or Appointment Term of Office Level of Government

None other than my current appointment as commissioner for the Florida Parole Commission.

Date of Appointment: June 26, 2012

Term of Office: 6 years

Level of Government: state

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

(1) How frequently were meetings scheduled: Hearings are held on Wednesdays, and staff meetings are held semiannually.

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

Meetings Attended

Meetings Missed

Reason for Absence

I have attended all meetings and hearings.

0

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

Date

Nature of Violation

Disposition

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Julie Nicholson			
Paige Levy			
Elizabeth Blaschka			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
The Florida Bar	651 E. Jefferson Street, Tallahassee, FL 32399-2300	Member	10/4/1991 to present
Florida Council on Crime and Delinquency	P. O. Box 218, Dade City, Florida 33526-0218	Member	04/2012 to present
Florida Sheriff's Association	P. O. Box 12519, Tallahassee, Florida 32317-2519	Honorary Member	04/2012 to present
American Correctional Association	206 North Washington Street, Suite 200 Alexandria, VA 22314	Member	07/2012 to present
Tallahassee Republican's Women's Club Federated	www.trwcf.org	2 nd VP & Member	2007 & 2011 to present
Florida Federation of Republican Women	P.O. Box 2300 Jacksonville, FL 32217	Member	2007 & 2011 to present

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

McConnaughay, Duffy, Coonrod, Pope & Weaver, P.A.

Agency for Persons with Disabilities
Agency for Persons with Disabilities dba Tacachale
Agency for Workforce Innovation
Agency for Workforce Innovation dba Executive Directions Support SVCS Workforce Development
Agency of Health Care Administration
Agriculture & Consumer Service
Alachua County Public Schools
Alachua County School Board
Alachua County Sheriff's Office
Apalachee Correctional Institute
ARC Jackson County
ARC of Alachua County
ARC of Escambia County
ARC of Washington-Holmes Counties, Inc.
Area Housing Commission
Arthur Dozier School for Boys/Division of Juvenile Justice
Baker County Board of County Commissioners
Bay County
Bay County Commission
Bay County School Board
Bay County Sheriff's Department
Bay County Sheriff's Office
Big Bend Hospice
Big Bend Rebar, Inc
Boys & Girls Club of Big Ben
Boys & Girls Club of Emerald Coast
Boys & Girls Club of Marion County
Boys & Girls Clubs Broward County
Bradford County Board of County Commissioners
Bridges of America, Inc
Calhoun Correctional Institution and City of Blountstown
Calhoun County
Calhoun County Board of County Commissioners
Cenacle Convert of Palm Beach
Charlotte County
Charlotte County Sheriff's Office
Charlotte County Utilities
Christian Prison Ministries Inc
Citrus County
Citrus County School Board
Citrus County Sheriff's Office
City of Apalachicola
City of Blountstown
City of Callaway
City of Carrabelle
City of Crescent City
City of Crestview
City of Daytona Beach
City of DeFuniak Springs
City of Fernandina Beach
City of Fort Walton Beach
City of Gainesville

McConnaughay, Duffy, Coonrod, Pope & Weaver, P.A.

City of Gainesville Police Department
City of Graceville
City of Green Cove Springs
City of Hawthorne
City of High Springs
City of Hollywood
City of Jacksonville
City of Jasper
City of MacClenny
City of Madison
City of Marianna
City of Newberry
City of Niceville
City of Ocala
City of Ocala Fire Department
City of Ocala Police Department
City of Orlando
City of Orlando Firefighters
City of Palatka
City of Palm Bay
City of Palm Coast
City of Panama City
City of Panama City Beach
City of Pensacola
City of Pensacola Firefighters
City of Pompano Beach
City of Port St Joe
City of Quincy
City of Saint Marks
City of Sanibel & Sprint
City of St Augustine
City of St Augustine Beach
City of St. Marks
City of Starke
City of Trenton
City of Vernon
Clifford Chester Sims State Veteran's Nursing Home
Columbia County Board of County Commissioners
Columbia County Housing Authority
Community First Credit Union of Florida
Council On Aging of Volusia County
Cross City Correctional Institution
Dade County Juvenile Center
Defuniak Springs Housing Authority
Department of Agriculture
Department of Children & Families
Department of Children & Families dba Central Region 34
Department of Children & Families dba NFETC
Department of Children & Families Southeast Region
Department of Corrections
Department of Corrections Avon Park
Department of Corrections Baker Correctional Institute

McConnaughay, Duffy, Coonrod, Pope & Weaver, P.A.

Department of Corrections Bay City Work Camp
Department of Corrections Bay Northwest Florida Reception Center
Department of Corrections Bay Work Camp
Department of Corrections Central Office
Department of Corrections Circuit 7 Probation & Parole
Department of Corrections Columbia Correctional Institute
Department of Corrections Cross City Correctional Institute
Department of Corrections Daytona Beach Community Corrections
Department of Corrections dba Adult Female Lowell
Department of Corrections dba Community Corrections
Department of Corrections dba Cross City Correctional Institute
Department of Corrections dba Lowell Corrections Institute
Department of Corrections dba Okaloosa Correctional Institute
Department of Corrections dba Region II WRC & Road Prison
Department of Corrections dba Specialty Institutions Santa Rosa
Department of Corrections dba Specialty Institutions Tomoka
Department of Corrections dba WRC's & Road Prisons Region III
Department of Corrections Florida State Prisons
Department of Corrections Franklin Correctional Institute
Department of Corrections Gulf Correctional Institute
Department of Corrections Lancaster Correctional Institute
Department of Corrections Marion Correctional Institute
Department of Corrections North Florida Reception Center
Department of Corrections Putnam Correctional Institute
Department of Corrections Sumter Correctional Institute
Department of Corrections Taylor Correctional Institute
Department of Corrections Tomoka Correctional Institute
Department of Corrections Union Correctional Institute
Department of Education
Department of Environmental Protection
Department of Financial Services
Department of Health & Rehabilitative
Department of Health Dixie County
Department of Highway Safety & Motor Vehicles
Department of HRS
Department of Juvenile Justice
Department of Juvenile Justice dba Jackson Juvenile Offender
Department of Juvenile Justice Okaloosa Regional Juvenile Detention Office
Department of Labor & Employment Security
Department of Labor & Wages
Department of Legal Affairs
Department of Management Services
Department of Motor Vehicles
Department of Natural Resources
Department of Offender Rehabilitation
Department of Revenue
Department of Transportation
Department of Transportation and City of Largo
Department of Veterans Affairs
Department of Business & Professional Regulation
Division of Forestry
Division of Risk Management

McConnaughay, Duffy, Coonrod, Pope & Weaver, P.A.

DOT
Dozier School for Boys
Duval County Courthouse
Emergency Medical Services Alliance
Environmental Protection dba Division of Waste Management
Escambia County Area Transit
Escambia County Board of County Commissioners
Escambia County Sheriff's Department
Escambia County Sheriff's Office
Escambia Regional Detention Center
Families First of Northeast Florida, Inc
Firefighters of Pensacola
Flagler College
Flagler County Board of County Commissioners
Flagler County Council
Flagler County Sheriff's Department
Flagler County Sheriff's Office
Florida Developmental Disabilities Council
Florida Division of Recreation and Parks
Florida Highway Patrol
Florida International University
Florida National Guard
Florida School for the Deaf & Blind
Florida Sheriffs Youth Ranches
Florida State Employees Fed Credit Union
Florida State Hospital
Florida State University
Franklin County Animal Shelter
Franklin County Board of County Commissioners
Ft Walton Beach Housing Authority
G. Pierce Wood Memorial Hospital
Gadsden County
Gadsden County Board of County Commissioners
Gadsden County Employees
Gadsden County School Board
Gadsden County Sheriff's Department
Gainesville Correctional Institute
Hamilton County
Hamilton County Board of County Commissioners
Hernando County Sheriff's Office
Hernando County Sheriff's Office and Hernando County School Board
Highway Safety & Motor Vehicles dba Florida Highway Patrol
Highway Safety 7 Motor Vehicles
Highway Safety & Motor Vehicles
Holmes County Department of Corrections
Holmes County Hospital
Hospice of Citrus County
Housing Authority of City of Live Oak
HRS
Humane Society of Lake County
Indian River Correctional Institution
Jackson County Board of County Commissioners

McConnaughay, Duffy, Coonrod, Pope & Weaver, P.A.

Jackson County Sheriff's Office
Jacksonville Urban League, Inc
Jefferson Correctional Institute
Jefferson County Board of County Commissioners
Jefferson County Solid Waste & Recycling
Keeton Corrections, Inc.
Lafayette County
Lafayette County School Board
Lake County School Board
Lake County Schools
Lake County Sheriff's Office
Land Mark Nursing
Lee County Board of Education
Lee County Electric Cooperative
Lee County Sheriff's Office
Leon County Clerk of Court
Leon County School Board
Levy County Board of County Commissioners
Levy County Sheriff's Office
Liberty County Board of County Commissioners
Madison Correction Institution
Madison County Board of County Commissioners
Madison County Health Systems, Inc. dba Madison County Memorial Hospital
Madison County Sheriff's Office
Manatee County
Manatee County Board of County Commissioners
Manatee County School Board
Manatee School Bus Service Corp
Marianna Health & Rehabilitation Center
Marion Correctional Institute
Marion County
Marion County Library
Marion County Property Appraiser
Marion County Public Schools
Marion County Senior Services
Marion County Sheriff's Department
Marion County Sheriff's Office
Miami Dade County and South Dade Plaza Shopping Center
Nassau County Board of County Commissioners
Nassau County Fire Department
Nature Coast Emergency Medical Foundation
New River Library Cooperative
North Florida Child Development
North Okaloosa Fire District
Northeast Florida Regional Planning Council
Okaloosa County Habitat for Humanity Store
Okaloosa County Sheriff's Office
Okaloosa County Transit & Alternative Living, Inc
Okaloosa Island Fire District
Okeechobee County School Board
Orange County
Orange County Board of County Commissioners

McConnaughay, Duffy, Coonrod, Pope & Weaver, P.A.

Orange County Government
Osceola County School Board
Pace Volunteer Fire Department, Inc
Palm Beach County School District
Pinellas Ambulance
Public Defender, 14th Circuit
Public Defender's Office
Putnam County Board of County Commissioners
Putnam County Health Department
Putnam County Sheriff's Department
Quigley House, Inc
Santa Rosa County
Santa Rosa County School Board
Santa Rosa County Sheriff's Office
Sarasota County Public Hospital
Sarasota Police Department
School Board of Escambia County
School District of Manatee County
Second Judicial Circuit
Secretary Department of Health
Senior Citizens Council of Madison County
Shands
Sheriff of Brevard County
Sheriff's Worker's Compensation Self Insurance Fund and Flagler County Sheriff's Office
South Walton Fire District
St Augustine Police Department
St Johns County
St Johns County Board of County Commissioners
St Johns County School Board
St Johns County Schools
St Johns County Sheriff's Department
St Johns County Sheriff's Office
State Attorney 14th Judicial Circuit and St Joe Fire Department
State Attorney 4th Circuit
State Attorney's Office
State Court Systems dba Seventeenth Judicial Circuit
State of Florida
State of Florida Division of Driver's Licenses
State of Florida Division of Risk Management
Sunland Center Marianna
Suwannee County Board of County Commissioners
Suwannee County School Board
Suwannee County Schools
Suwannee Valley Transit Authority
Tallahassee Memorial Hospital
Taylor County Board of Commissioners
Taylor County Board of County Commissioners
Taylor County School Board
Taylor County School District
Taylor County Schools
Taylor County Sheriff's Office
Town of Greenville

McConnaughay, Duffy, Coonrod, Pope & Weaver, P.A.

Town of Hastings

Town of Havana

Town of Orange Park

Town of Sneads

Town of Welaka

Union County Department of Corrections

University Club Management Company, Inc. and Seminole Boosters, Inc.

University of Florida

University of Florida Board of Trustees

University of Florida Small Animal Hospital

University of West Florida

Veterans Affairs dba Veterans Nursing Home of Florida

Vocational Rehabilitation

Wakulla County

Wakulla County Board of County Commissioners

Wakulla County Sheriff's Office

CERTIFICATION

RECEIVED
DEPARTMENT OF STATE
2012 SEP 25 AM 9:59
DIVISION OF ELECTIONS
TALLAHASSEE, FL

STATE OF FLORIDA, COUNTY OF LEON

Before me, the undersigned Notary Public of Florida, personally appeared

Melinda N. Coonrod

who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Melinda N. Coonrod

Signature of Applicant-Affiant

Sworn to and subscribed before me this 21 day of Sept., 2012

Cindy J. Waymon
Signature of Notary Public-State of Florida



CINDY J. WAYMON
MY COMMISSION # EE 204133
EXPIRES: July 9, 2016
Bonded Thru Budget Notary Services

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

My commission expires: 7/9/2016

Personally Known OR Produced Identification

Type of Identification Produced _____

(seal)

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

- Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) Section 119.071(4)(d)2.d., Florida Statutes

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/4/13
Meeting Date

Topic Confirmation Bill Number _____
(if applicable)

Name Melinda Coonrod Amendment Barcode _____
(if applicable)

Job Title Commissioner, Florida Parole Commission

Address 4070 Esplanade Way Phone 487-1978
Street

Tallahassee FL 32399-2450 E-mail melindacoonrod-fpc.state.fl.us
City State Zip

Speaking: For Against Information

Representing Florida Parole Commission

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

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

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

The Florida Senate
**COMMITTEE RECOMMENDATION ON
EXECUTIVE APPOINTMENT**

COMMITTEE: Criminal Justice
MEETING DATE: Monday, March 04, 2013
TIME: 3:30 —5:30 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

TO: The Honorable Don Gaetz, President

FROM: Criminal Justice

The committee was referred the following executive appointment subject to confirmation by the Senate:

Office: Parole Commission

Appointee: Coonrod, Melinda N.

Term: 7/1/2012-6/30/2018

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor and Cabinet

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: Melinda Coonrod

ANSWER: *I do*

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Criminal Justice

DATE: March 4, 2013

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of

Jeffrey E. Lewis

Criminal Conflict and Civil Regional Counsel - First District Court of Appeal

NOTICE OF HEARING

TO: Mr. Jeffrey E. Lewis

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Monday, March 04, 2013, in the Mallory Horne Committee Room, 37 Senate Office Building, commencing at 3:30 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 25th day of February, 2013

Committee on Criminal Justice



Senator Greg Evers
As Chair and by authority of the committee

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

526

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Ken Detzner, Secretary of State,
do hereby certify that

Jeffrey E. Lewis

is duly appointed a member of the
**Office of Criminal Conflict and Civil
Regional Counsel,
First District Court of Appeal**

for a term beginning on the
Twenty-Third day of April, A.D., 2012,
until the First day of July, A.D., 2015
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.



*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Twenty-First day of May, A.D., 2012.*

Ken Detzner



RECEIVED
RICK SCOTT
GOVERNOR APR 23 PM 2:38

DIVISION OF ELECTIONS
SECRETARY OF STATE

April 23, 2012

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following reappointment under the provisions of Section 27.511, Florida Statutes:

Mr. Jeffrey E. Lewis

as a member of the Office of Criminal Conflict and Civil Regional Counsel, subject to confirmation by the Senate. This appointment is effective April 23, 2012 for a term ending July 1, 2015.

Sincerely,

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

Rick Scott
Governor

RS/jrd

100334 ✓

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

May 10, 2012
Date Completed

1. Name: Mr. Lewis Jeffrey Edward
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: _____
Street Office # City
Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: _____
Street City County
N/A
Post Office Box State Zip Code Area Code/Phone Number
Specify the preferred mailing address: Business Residence Fax # _____
(optional)

4. A. List all your places of residence for the last five (5) years.

Address City & State From

RECEIVED
DEPARTMENT OF STATE
JAN 14 AM 11:06
DIVISION OF ELECTIONS
TALLAHASSEE, FL

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address City & State From To

5. Date of Birth: _____ Place of Birth: _____

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: FL

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain
N/A

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

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1981

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

A. County of Registration: Escambia B. Current Party Affiliation: Republican

12. Education

A. High School: Pens Sch of Liberal Arts Year Graduated: 1973
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
<u>Univ. of Ala.</u>	<u>1973 to 1978</u>	<u>B.S.I.E.</u>
<u>Univ. of Ala. School of Law</u>	<u>1981 to 1983</u>	<u>Juris Doctor</u>
_____	_____	_____
_____	_____	_____

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: N/A
B. Branch or Component: N/A
C. Date & type of discharge: N/A

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
<u>N/A</u>			
_____	_____	_____	_____
_____	_____	_____	_____

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
<u>Reg Confl Counsel; POB 1019 Tall.32302</u>	<u>State Agency</u>	<u>Agency Director</u>	<u>08/2007 to Present</u>
<u>Pub Defender, 1st Cir; POB 12666; Pens 32591</u>	<u>State Agency</u>	<u>Asst Public Defender</u>	<u>09/1998 to 08/2007</u>
_____	_____	_____	_____

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
<u>Regional Conflict Counsel, 1st DCA</u>	<u>OCCRCI</u>	<u>08/2007 to Present</u>
<u>Asst. Public Defender</u>	<u>Office of Public Def, 1st Jud'l Circuit</u>	<u>09/1998 to 08/2007</u>
<u>Asst. State Attorney</u>	<u>Office of the State Atty, 1st Jud'l Circuit</u>	<u>12/1986 to 09/1992</u>

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

I was first appointed to start this agency at its inception in August of 2007. I created the office from the ground up hiring over 100 attorneys and support staff. In addition to locating a case management system which saves more than \$100,000 annually, the Office of Criminal Conflict and Civil Regional Counsel, 1st DCA Region has saved approximately \$2.5M on an annual basis over private court appointed counsel. During the re-appointment process, I received the written support of all six (6) elected Public Defenders in the First District Court of Appeals Region along with the support of numerous judges and elected officials familiar with the work my team has produced. I have the unique knowledge of the office and region it serves as the first and only director.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

I graduated with a law degree from the University of Alabama and have an undergraduate degree in industrial engineering.
(See response to question 12 above)

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

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

Member Florida Bar (May 1984)

Member, Trial Bar U.S. District Court, Northern District of Florida

Member 11th Circuit Court of Appeals

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

N/A

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
<u>Regional Confl Counsel</u>	<u>August 21, 2007</u>	<u>4 years</u>	<u>Agency Director</u>

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

(1) How frequently were meetings scheduled: N/A

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
<u>N/A</u>		

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>
<u>N/A</u>		

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: N/A C. Reason for suspension: _____
B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No
If "Yes", list:

A. Title of Office: Regional Conflict Counsel, 1st DCA Region (office for which I am currently nominated for re-appointment)
B. Term of Appointment: July 1, 2007 to July 1, 2011; re-appointed August 2, 2011 to term August 2, 2012 to June 30, 2015
C. Confirmation results: Confirmed on 1st appt.; Nomination was not acted upon during 2012 session; re-apptd April 23, 2012

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

N/A

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No
If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title & Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
<u>Florida Bar No. 394262</u>	<u>May 24, 1984</u>	<u>Florida Bar</u>	<u>None</u>

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
<u>N/A</u>		

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>
N/A			

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

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

<u>Agency Lobbied</u>	<u>Principal Represented</u>
Legislature	Regional Conflict Counsel Office

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Hon. Terry Terrell,			
Robert G. Holmes,			
Alan Bookman, Esq			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
Rotary Club of Pensacola	POB 528; Pensacola FL 32591	N/A	May 2007 to Present
Escambia Santa Rosa Bar Association	216 S Tarragona; Pens	32502 N/A	May 2008 to Present
American Inns of Court Pensacola Chapter		N/A	Sep 2005 to May 2009
Florida Association of Criminal Defense Lawyers			Since 1995

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

CERTIFICATION

STATE OF FLORIDA, COUNTY OF ESCAMBIA

Before me, the undersigned Notary Public of Florida, personally appeared JEFFREY E. LEWIS,

who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Jeffrey E Lewis
Signature of Applicant-Affiant

Sworn to and subscribed before me this 10 day of May, 2012.

Anna Lee
Signature of Notary Public-State of Florida



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

My commission expires: January 7, 2016

Personally Known OR Produced Identification

Type of Identification Produced _____

(seal)

RECEIVED
DEPARTMENT OF STATE
2012 MAY 14 AM 11:06
DIVISION OF ELECTIONS
TALLAHASSEE, FL

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

- Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) § 119.071 (4)(j) F.S.

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

The Florida Senate
**COMMITTEE RECOMMENDATION ON
EXECUTIVE APPOINTMENT**

COMMITTEE: Criminal Justice
MEETING DATE: Monday, March 04, 2013
TIME: 3:30 —5:30 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

TO: The Honorable Don Gaetz, President

FROM: Criminal Justice

The committee was referred the following executive appointment subject to confirmation by the Senate:

Office: Criminal Conflict and Civil Regional Counsel - First District Court of Appeal

Appointee: Lewis, Jeffrey E.

Term: 4/23/2012-7/1/2015

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: Jeffrey Lewis

ANSWER: I do

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Criminal Justice

DATE: March 4, 2013

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Ita M. Neymotin Esquire
Criminal Conflict and Civil Regional Counsel - Second District Court of Appeal

NOTICE OF HEARING

TO: Ms. Ita M. Neymotin Esquire

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Monday, March 04, 2013, in the Mallory Horne Committee Room, 37 Senate Office Building, commencing at 3:30 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 25th day of February, 2013

Committee on Criminal Justice



Senator Greg Evers
As Chair and by authority of the committee

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

527

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Ken Detzner, Secretary of State,
do hereby certify that

Ita M. Neymotin

is duly appointed a member of the
**Office of Criminal Conflict and Civil
Regional Counsel,
Second District Court of Appeal**

for a term beginning on the
Twenty-Third day of April, A.D., 2012,
until the First day of July, A.D., 2015
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Tenth day of May, A.D., 2012.*

Ken Detzner

Secretary of State



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

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



RICK SCOTT
GOVERNOR

RECEIVED

12 APR 23 PM 2:38

DIVISION OF ELECTIONS
SECRETARY OF STATE

April 23, 2012

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following reappointment under the provisions of Section 27.511, Florida Statutes:

Ms. Ita M. Neymotin

as a member of the Office of Criminal Conflict and Civil Regional Counsel, subject to confirmation by the Senate. This appointment is effective April 23, 2012 for a term ending July 1, 2015.

Sincerely,

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

Rick Scott
Governor

RS/jrd

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the the Florida Senate in considering action on your confirmation. The questionnaire MUST BE COMPLETED IN FULL. Answer "none" or "not applicable" where appropriate.

Please type or print in blue or black ink.

5-4-2012

Date Completed

Ms. Neymotin, Ita Mera

1. Name: _____
MR/MRS/MSC LAST FIRST MIDDLE/MAIDEN

2. Business Address: _____
STREET OFFICE # CITY

POST OFFICE BOX AREA CODE/PHONE NUMBER

3. Residence Address: _____
STREET CITY COUNTY

POST OFFICE BOX STATE ZIP CODE AREA CODE/PHONE NUMBER

Specify the preferred mailing address: Business Residence Fax # _____
(optional)

4. A. List all your places of residence for the last five (5) years.

ADDRESS CITY & STATE FROM TO

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

TO

5. Date of Birth: _____ Place of Birth: _____

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: _____

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain _____

RECEIVED
DEPARTMENT OF STATE
2012 MAY 10 AM 9:28
DIVISION OF ELECTIONS
TALLAHASSEE, FL

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

If you are a naturalized citizen, date of naturalization: 02/1985

10. Since what year have you been a continuous resident of Florida? 2002

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

A. County of Registration: Lee B. Current Party Affiliation: Republican

12. Education

A. High School: Bexley High School, Columbus, Ohio Year Graduated: 1991

NAME AND LOCATION:

B. List all postsecondary educational institutions attended:

NAME & LOCATION	DATES ATTENDED	CERTIFICATES/DEGREES RECEIVED
<u>Columbus State Community College</u>	<u>1992-1993</u>	<u>Credits Transferred to Ohio State Univ.</u>
<u>The Ohio State University</u>	<u>1991-1995</u>	<u>BA in English</u>
<u>Capital Univ. Law School</u>	<u>1997-2000</u>	<u>Juris Doctorate</u>
<u>Capital Univ. Law School</u>	<u>2000-2002</u>	<u>LLM in Business Law</u>

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

DATE	PLACE	NATURE	DISPOSITION
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

EMPLOYER'S NAME & ADDRESS	TYPE OF BUSINESS	OCCUPATION/JOB TITLE	PERIOD OF EMPLOYMENT
<u>Kremenchuker law Group, PA</u>	<u>Law Firm</u>	<u>Managing Attorney</u>	<u>09/2010-12/2011</u>
<u>Ave Maria School of Law</u>	<u>Law School</u>	<u>Assistant Professor</u>	<u>08/2011-12/2011</u>
<u>Office of Criminal Counsel and Civil Regional Counsel</u>	<u>State Agency</u>	<u>Circuit Chief/Attorney</u>	<u>12/2007-09/2010</u>
<u>Office of the Public Defender</u>	<u>State Agency</u>	<u>Trial Attorney</u>	<u>10/2004-12/2007</u>

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

POSITION	EMPLOYING AGENCY	PERIOD OF EMPLOYMENT
<u>Office of Criminal Counsel and Civil Regional Counsel</u>	<u>State of Florida</u>	<u>Circuit Chief/Attorney 12/2007-09/2010</u>
<u>Office of the Public Defender</u>	<u>State of Florida</u>	<u>Trial Attorney 10/2004-12/2007</u>
<u>Office of the State Attorney</u>	<u>State of Florida</u>	<u>Trial Attorney 2002 - 2003</u>

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

During my employment at Regional Counsel as a Circuit Chief, I helped to hire, manage, and train all attorneys and other office personnel in five of the fourteen counties where the Office of Criminal Conflict and Civil Regional Counsel for the Second Judicial Circuit operate.

As a Trial Attorney, I worked on the most complex criminal cases including all the murder cases assigned to Regional Counsel in the 20th Judicial Circuit, including death penalty cases. When other attorneys had conflicts, I often covered less complex criminal cases and Dependency cases.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

I have an LLM in Business Law degree and this position requires a strong business background.

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

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

N/A

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

Criminal Conflict and Civil Regional Counsel - Second District

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<small>OFFICE TITLE</small>	<small>DATE OF ELECTION OR APPOINTMENT</small>	<small>TERM OF OFFICE</small>	<small>LEVEL OF GOVERNMENT</small>
<u>Criminal Conflict and Civil Regional Counsel - Second District,</u>	<u>12/19/2011 until</u>	<u>07/01/2015</u>	

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

(1) How frequently were meetings scheduled: N/A

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reason(s) for your absence(s).

MEETINGS ATTENDED	MEETINGS MISSED	REASON FOR ABSENCE
N/A		

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

DATE	NATURE OF VIOLATION	DISPOSITION

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____
B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No If "Yes", list:

A. Title of Office: Criminal Conflict and Civil Regional Counsel - Second District
B. Term of Appointment: 12/19/2011 until 07/01/2015
C. Confirmation results: Not yet considered

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

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

LICENSE/CERTIFICATE TITLE & NUMBER	ORIGINAL ISSUE DATE	ISSUING AUTHORITY	DISCIPLINARY ACTION/DATE
Florida Bar License	12/18/2002	Supreme Court of FL	None
US District Court	11/01/10	Middle District of Florida	None

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

NAME OF BUSINESS	YOUR RELATIONSHIP TO BUSINESS	BUSINESS RELATIONSHIP TO AGENCY
Kremenchuker Law Group	Managing Partner	a partner was a part time employee of OCCRC
Kremenchuker Law Group	Managing Partner	a partner is a court appointed attorney

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

NAME OF BUSINESS	FAMILY MEMBERS		BUSINESS RELATIONSHIP TO AGENCY
	RELATIONSHIP TO YOU	RELATIONSHIP TO BUSINESS	
Kremenchuker Law Group	Husband	a partner	was a part time employee of OCCRC
Kremenchuker Law Group	Husband	a partner	is a court appointed attorney

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

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

AGENCY LOBBIED	PRINCIPAL REPRESENTED

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

NAME	MAILING ADDRESS	ZIP CODE	AREA CODE/PHONE NUMBER
Dave Bantz			
Isabella Topilyer			
Yuriy Kukin			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

NAME	MAILING ADDRESS	OFFICE/ROLE HELD & TERM	DATE(S) OF MEMBERSHIP

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

Yes. I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) Florida Statute 119.071(4)

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

CERTIFICATION

STATE OF FLORIDA, COUNTY OF LEE

Before me, the undersigned Notary Public of Florida, personally appeared Ira M. Neymatin, who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Ira M. Neymatin

Signature of Applicant-Affiant

Sworn to and subscribed before me
this 04 day of May, 2012

[Signature]

Signature of Notary Public-State of Florida



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

My commission expires: 10-09-2013

Personally Known OR Produced Identification

Type of Identification Produced _____

RECEIVED
DEPARTMENT OF STATE
2012 MAY 10 AM 9:28
DIVISION OF ELECTIONS
TALLAHASSEE, FL

The Florida Senate
**COMMITTEE RECOMMENDATION ON
EXECUTIVE APPOINTMENT**

COMMITTEE: Criminal Justice
MEETING DATE: Monday, March 04, 2013
TIME: 3:30 —5:30 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

TO: The Honorable Don Gaetz, President

FROM: Criminal Justice

The committee was referred the following executive appointment subject to confirmation by the Senate:

Office: Criminal Conflict and Civil Regional Counsel - Second District Court of Appeal

Appointee: Neymotin Esquire, Ita M.

Term: 4/23/2012-7/1/2015

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: Ita Neymotin

ANSWER: I do

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Criminal Justice

DATE: March 4, 2013

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Eugene F. Zenobi Esquire
Criminal Conflict and Civil Regional Counsel - Third District Court of Appeal

NOTICE OF HEARING

TO: Mr. Eugene F. Zenobi Esquire

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Monday, March 04, 2013, in the Mallory Horne Committee Room, 37 Senate Office Building, commencing at 3:30 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 25th day of February, 2013

Committee on Criminal Justice



Senator Greg Evers
As Chair and by authority of the committee

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

528

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Ken Detzner, Secretary of State,
do hereby certify that

Eugene F. Zenobi

is duly appointed a member of the
**Office of Criminal Conflict and Civil
Regional Counsel,
Third District Court of Appeal**

for a term beginning on the
Twenty-Third day of April, A.D., 2012,
until the First day of July, A.D., 2015
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.



*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Fifth day of October, A.D., 2012.*

Ken Detzner

Secretary of State



RICK SCOTT
GOVERNOR

RECEIVED
12 APR 23 PM 2:39

DIVISION OF ELECTIONS
SECRETARY OF STATE

April 23, 2012

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following reappointment under the provisions of Section 27.511, Florida Statutes:

Mr. Eugene F. Zenobi

as a member of the Office of Criminal Conflict and Civil Regional Counsel, subject to confirmation by the Senate. This appointment is effective April 23, 2012 for a term ending July 1, 2015.

Sincerely,

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

Rick Scott
Governor

RS/jrd

101836

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

OCTOBER 2, 2012

Date Completed

1. Name: RENOLD EUGENE FRANCIS
 Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 401 NW. 2ND Avenue, Suite 5-310, Miami
Street Office # City
FL. 33128 305-679-6550
Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: _____
Street City County
Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business Residence Fax # _____ (optional)

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From

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12 OCT - 4 AM '12
DIVISION OF LEGISLATIVE SERVICES

5. Date of Birth: June 2, 1945 Place of Birth: Wilmington, Del

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: FLORIDA

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain

n/a

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

N/A

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1976

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

A. County of Registration: Miami-Dade B. Current Party Affiliation: Independent

12. Education

A. High School: West Pittston, Penna. High School Year Graduated: 1963
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
<u>University of Scranton Scranton, Penna</u>	<u>1963-1967</u>	<u>B.S.</u>
<u>University of Miami Miami, Florida</u>	<u>1967-1970</u>	<u>J.D</u>

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: _____
B. Branch or Component: N/A
C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
<u>N/A</u>			

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
<u>Self-employed Eugene F. Zenshi Law Offices</u>	<u>Law Office</u>	<u>OWNER</u>	<u>1980-2011</u>

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
<u>Attorney</u>	<u>Office of Pub Defenders Miami-Dade County, FLA</u>	<u>1976-1980</u>

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

- Legal Services Attorney - Centre Penna. Legal Services 1970-1976
Chief of Litigation and Appeals 1973-1976
- Office of the Public Defender for Miami-Dade County 1976 - 1980
Chief of Trial Division / Homicide Cases 1978-1980
- Sole practitioner - Law Office - Criminal Defense Law - 1980-2011
- Adjunct professor - Florida International University / Criminal Law

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

AV RATING - MARTINDALE - HUBBELL

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

Best Lawyers in South Florida - 2012 Edition (Sept, 2012)

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

- Florida Association of Criminal Defense Lawyers (Bal of Directors)
- Cuban American Bar Association (CABA)
- Kiwanis Club / Miami, FL

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

N/A

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

Office Title	Date of Election or Appointment	Term of Office	Level of Government
--------------	---------------------------------	----------------	---------------------

N/A

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

(1) How frequently were meetings scheduled: n/a

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
	<u>n/a</u>	

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No If "Yes", list:

A. Title of Office: n/a

B. Term of Appointment: _____

C. Confirmation results: _____

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

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title & Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
<u>0130269</u>	<u>1970</u>	<u>FLORIDA BAR</u>	<u>N/A</u>

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
	<u>n/a</u>	

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>
N/A			

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

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

<u>Agency Lobbied</u>	<u>Principal Represented</u>
N/A	

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
JUSTICE R. FRED LEWIS,			
CHIEF JUDGE JOEL BROWN,			
ADMINISTRATIVE CHIEF JUDGE (CRIMINAL COURT) BERTILLA SOTU,			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
FLA. ASSN. OF CRIMINAL DEFENSE LAWYERS	150 W. Flagler St. SUITE 1500 MIAMI, FL 33130	Board of Directors	2000 - Present

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

N/A

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

CERTIFICATION

STATE OF FLORIDA

COUNTY OF MIAMI DADE

Before me, the undersigned Notary Public of Florida, personally appeared

EUGENE F. ZENOSKI,

who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

[Handwritten Signature]

Signature of Applicant-Affiant

Sworn to and subscribed before me this 2 day of October, 2012.

[Handwritten Signature]
Signature of Notary Public-State of Florida



JORGE I. SANCHEZ
MY COMMISSION # DD 894466
EXPIRES: June 9, 2013
Bonded Thru Budget Notary Services

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

My commission expires: _____

Personally Known OR Produced Identification

Type of Identification Produced _____

(seal)

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law. *n/a*

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

The Florida Senate
**COMMITTEE RECOMMENDATION ON
EXECUTIVE APPOINTMENT**

COMMITTEE: Criminal Justice
MEETING DATE: Monday, March 04, 2013
TIME: 3:30 —5:30 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

TO: The Honorable Don Gaetz, President

FROM: Criminal Justice

The committee was referred the following executive appointment subject to confirmation by the Senate:

Office: Criminal Conflict and Civil Regional Counsel - Third District Court of Appeal

Appointee: Zenobi Esquire, Eugene F.

Term: 4/23/2012-7/1/2015

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: Eugene Zenobi

ANSWER: I do

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Criminal Justice

DATE: March 4, 2013

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Jeffrey D. Deen Esquire
Criminal Conflict and Civil Regional Counsel - Fifth District Court of Appeal

NOTICE OF HEARING

TO: Mr. Jeffrey D. Deen Esquire

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Monday, March 04, 2013, in the Mallory Horne Committee Room, 37 Senate Office Building, commencing at 3:30 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 25th day of February, 2013

Committee on Criminal Justice



Senator Greg Evers
As Chair and by authority of the committee

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

530

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Ken Detzner, Secretary of State,
do hereby certify that

Jeffrey D. Deen

is duly appointed a member of the
**Office of Criminal Conflict and Civil
Regional Counsel,
Fifth District Court of Appeal**

for a term beginning on the
Twenty-Third day of April, A.D., 2012,
until the First day of July, A.D., 2015
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Twenty-First day of May, A.D., 2012.*

Ken Detzner

Secretary of State

DSDE 99 (3/03)



RICK SCOTT
GOVERNOR

RECEIVED

12 APR 23 PM 2:37

DIVISION OF ELECTIONS
SECRETARY OF STATE

April 23, 2012

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following reappointment under the provisions of Section 27.511, Florida Statutes:

Mr. Jeffrey D. Deen

as a member of the Office of Criminal Conflict and Civil Regional Counsel, subject to confirmation by the Senate. This appointment is effective April 23, 2012 for a term ending July 1, 2015.

Sincerely,

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

Rick Scott
Governor

RS/jrd

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

12 MAY 16 AM 10: 30

05/09/2012

**DIVISION OF ELECTIONS
SECRETARY OF STATE**

Date Completed

1. Name: Mr. Deen Jeffrey D.
 Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: Street Office # City

Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: Street City County

Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business Residence Fax #
 (optional)

4. A. List all your places of residence for the last five (5) years.

<u>Address</u>	<u>City & State</u>	<u>From</u>	<u>To</u>
<u></u>	<u></u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>	<u></u>

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

<u>Address</u>	<u>City & State</u>	<u>From</u>	<u>To</u>
<u></u>	<u></u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>	<u></u>

5. Date of Birth: Place of Birth: Bristol, Tennessee

6. Social Security Number:

7. Driver License Number: Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain

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

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1956 _____

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

A. County of Registration: Seminole B. Current Party Affiliation: Republican

12. Education

A. High School: Bay County H.S. Year Graduated: 1973
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
<u>University of Florida</u>	<u>1973-1978</u>	<u>BA/Education</u>
<u>Cumberland School of Law</u>	<u>1981-1984</u>	<u>JD</u>

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
<u>Office of Criminal Conflict & Civil Regional Counsel, 5th District</u>		<u>Regional Counsel</u>	<u>2007-2011</u>
<u>Deen & Laurence, P.A.</u>	<u>Law Office</u>	<u>Attorney</u>	<u>1990-2007</u>
<u>(Fisher, Laurence, Deen & Fromang)</u>			

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
<u>Assistant State Attorney</u>	<u>18th Judicial Circuit</u>	<u>1984-1990</u>
<u>Office of Criminal Conflict & Civil Regional Counsel, 5th District</u>		<u>2007-2011</u>

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

SEE ATTACHED

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

Supreme Court Dependency Court Improvement Panel

Florida Bar Juvenile Court Rules Committee

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

1989 Guardian Ad Litem Award; 1991 Participation Award from Seminole County Legal Aid

March, 2002 Orange County Bar Legal Society Certificate of Appreciation

October, 2002 Civic Award for Service, City of Lake Mary; December, 2002 Legal Aid Award Seminole County

2005, 2007 & 2008, Florida Supreme Court Commendation for Pro Bono Service letter

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

SEE ATTACHED

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government?

Yes No If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
Regional Counsel	July 1, 2007	4 years	State
City of Lake Mary Recreation Board	1992-2002	2 years	Local

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

(1) How frequently were meetings scheduled: City of Lake Mary - Monthly

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____
B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No
If "Yes", list:

A. Title of Office: Regional Counsel - Office of Criminal Conflict & Civil Regional Counsel, 5th District
B. Term of Appointment: July 1, 2007 - July 1, 2011
C. Confirmation results: Confirmed

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

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No
If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate</u>	<u>Original</u>		
<u>Title & Number</u>	<u>Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
<u>Florida Bar 457574</u>	<u>January, 1985</u>	<u>State of Florida</u>	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

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

<u>Agency Lobbied</u>	<u>Principal Represented</u>
Required to register because of position as Regional Counsel	

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Honorable Belvin Perry,			
Honorable Alan Dickey,			
Ray Valdes,			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
SEE ATTACHED			

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

CERTIFICATION

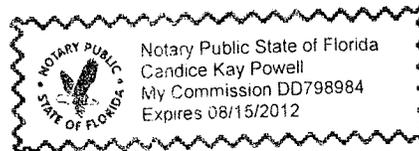
STATE OF FLORIDA, COUNTY OF Seminole

Before me, the undersigned Notary Public of Florida, personally appeared Jeffrey D. Deen, who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

[Signature]
Signature of Applicant-Affiant

Sworn to and subscribed before me this 14th day of May, 2012.

Candice Kay Powell
Signature of Notary Public-State of Florida



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

My commission expires: 8/15/12

Personally Known OR Produced Identification

Type of Identification Produced _____

(seal)

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) Former State Atty

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

**Attachment A
(#17A)**

As the first Regional Counsel of the district, I believe I have become uniquely qualified to continue in this position. There is literally nothing that I have not had my hand in when it comes to matters of this office. So, of course, I hope in this regard you find I am uniquely qualified

Further, I have a broad "pre-legal" background as well as a varied and sophisticated legal background that preceded this appointment.

I have held a number of jobs in my short life. I have a variety of experiences. I have worked in the medical profession as an orderly. I have sold chemicals and even taught, briefly, elementary school as a substitute teacher. I also come from a great family of which I am very proud. My family owned restaurants and I worked in them all my life. I've driven a truck, sold insurance, coached football, been a janitor and sold auto club memberships door to door.

In my first application for this position, nearly four years ago, I had expressed my feeling that this was a "unique opportunity". It has been just that and more. We faced lawsuits, logistical challenges, institutional problems and time and budget issues that we still deal with daily. As of today however, the Office of Criminal Conflict & Civil Regional Counsel (CCCRC) is serving every criminal and dependency courtroom in its thirteen county district. These courtrooms are staffed with over seventy excellent full and part-time attorneys and they are supported by eight offices located throughout the district.

My past experiences, which include starting the sex crimes division for the State Attorney's office in Seminole County and starting a law firm, running both and practicing law during those endeavors have been invaluable in this position.

We have maximized the use of technology in our agency to both save us money and to make our attorneys more "independently mobile" where required. Because we are "regional" and not necessarily local, we have staff that support attorneys from offices in different circuits. By the end of the next year it is my hope and goal to have many of our attorneys working virtually paperless.

I have helped with and written funding legislation that over time will add funding sources to our trust funds and therefore provide a funding source outside the legislative process for our agency. Sections 57.082 and 39.0134 contain specific statutory language that I either wrote myself with the legislative staff or worked with my colleagues to write. I also helped oversee these provisions through the legislative process. Since these pieces of legislation passed, I have personally met with twelve of my district's thirteen clerks of court to implement the procedures to begin collecting these funds that will help support this office in the future.

I continue to enjoy a wonderful working relationship with the four elected Public Defenders in my district. All of them made their staffs and office operations available to us when we started. All of them took the time to mentor me to some extent in a variety of areas. I continue to work with each of them regularly as the need arises. I believe my relationship with these officials has opened the door statewide for all of our offices to begin to communicate and work together after a rough beginning in some other areas of the state.

The Judges in my district have my cell phone number. One of my initial goals was to make sure every judge we work with was comfortable with how we would get their work done on a daily basis. Virtually, all of our cases are assigned from a courtroom and sent to our Orlando office. We enter them into our case tracking software, check for conflicts and send them out to our attorneys. I believe all of our Judges have worked to make sure we were up to speed quickly and to get us established, particularly the Chief Judges in each of my circuits. Because of their support we have been allowed to establish ourselves in an easy and gradual manner. They have all counseled and supported me and our efforts at various times and have been instrumental in allowing our office to establish credibility the right way in their circuits.

Because of these briefly described relationships and many, many others, I believe my particular potential contributions will continue to grow and expand our new, young office.

Also, at this juncture I believe that I provide continuity. This will be most important in the continuing effort. Over the last four years, the fifth district has saved millions of dollars for the state by providing excellent legal representation within the framework of the budget we have. But there is still much to be done as we manage our increasing case loads and work to secure our legislatively granted funding sources.

Although my administrative duties are significant, my main focus is still on the practice of law. Our main mission is to represent our clients effectively. When I hire an attorney I insist that they be ready to practice law at a high level. We do not use the fact we work for the state as an excuse to be mediocre. This is not a place to retire or "slack off".

I spend a significant amount of time with our attorneys reviewing cases, helping with research and supplying and providing training. It is our main goal and always has my attention. Because of this we are able to provide an environment where they can thrive. We have been able to provide excellent attorneys that want to do good work for their clients. Even our lawyers with little or no experience come in and can begin to devote themselves to their practice.

So, it has been important to me as the agency director to provide a place for my lawyers and staff that allows them to focus on our main task which is to provide excellent representation and support for our clients. I am pleased to say we have found excellent attorneys dedicated to their work and who are proud of the good work they are doing. We also have an incredible staff that supports them. We have come a very long way in a short period of time. But this is our best accomplishment. Thank you to them for their dedication and hard work.

**ATTACHMENT B
(17D)**

Member, Florida Supreme Court Initiative Dependency Court Improvement Panel, 2009-present.

Central Florida Criminal Defense Attorneys Association, 1991-2005 (periodic), 2009-2010 (board member).

Williams Inn of Court, 1996-2003 (periodic), 2009-2010.

Member Seminole County and Orange County Bar Associations, (1991-2001) (1991 to 2007) respectively (periodic).

Florida Association of Criminal Defense Lawyers, 1991-present (periodic), Life Member 2008 – present.

President, Criminal Law Section, Seminole County Bar, 1994-1999.

National Association of Criminal Defense Lawyers, 1991-1999 (periodic).

The Florida Bar (member, Committee on the Legal Needs of Children, 1988-1991)

Member, Department of Health and Rehabilitation Services, District 7 Task Force, 1989.

Florida Bar Juvenile Court Rules Committee, June, 2011 - Present

ATTACHMENT C
(#28)

1. **Board Of Directors Kid's House Of Seminole, 2003-present.**
2. **State of Florida – Florida High School Athletic Association, Officials Advisory Committee, 2009-present.**
3. **Central Florida Officials Association, 1997-present, Board of Directors, 1998-2001, President, 2007-2012.**
4. **Toastmasters, 1992-1995.**
5. **Pop Warner Football, 1995-1996 and 1998. I have also coached baseball & basketball.**
6. **Soap box derby board of directors, 1989-2000.**
7. **Manderley Homeowners Association, 1998-2000, 2002-present. President, 1998- 2000, 2002-2003.**
8. **City Of Lake Mary Parks & Recreation Board, appointed for two year term, 1999- 2002. Chairman 2000-2002.**
9. **Seminole County School Dividend Program through Seminole County Chamber Of Commerce, success at work program 2000, 2001, 2006 (Taught high school students how to apply and interview for a job).**
10. **Volunteer football coach (varsity) at The Master's Academy, 2002.**
11. **Seminole County Family Focus, Board Of Directors, August 2002-2004. (Monitors court ordered visits in domestic cases through the Salvation Army).**
12. **Job Shadow, Master's Academy High School, March 2002.**

The Florida Senate
**COMMITTEE RECOMMENDATION ON
EXECUTIVE APPOINTMENT**

COMMITTEE: Criminal Justice
MEETING DATE: Monday, March 04, 2013
TIME: 3:30 —5:30 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

TO: The Honorable Don Gaetz, President

FROM: Criminal Justice

The committee was referred the following executive appointment subject to confirmation by the Senate:

Office: Criminal Conflict and Civil Regional Counsel - Fifth District Court of Appeal

Appointee: Deen Esquire, Jeffrey D.

Term: 4/23/2012-7/1/2015

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: Jeffrey Deen

ANSWER:

I do

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Criminal Justice

DATE: March 4, 2013

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 400

INTRODUCER: Criminal Justice Committee and Senator Dean

SUBJECT: False Reports to Law Enforcement Officers

DATE: March 11, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Fav/CS
2.			JU	
3.			ACJ	
4.			AP	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 400 increases the offense degree for knowingly giving false information to a law enforcement officer from a first degree misdemeanor to a third degree felony if one of two circumstances applies. In the first circumstance, the information the person gave to the law enforcement officer was communicated orally and the officer's account of that information is corroborated by an audio recording or audio recording in a video of that information; a written or recorded statement made by the person who gave that information; or another person who was present when the person gave that information to the officer and heard that information. In the second circumstance, the information the person gave to the law enforcement officer was communicated in writing.

This bill substantially amends section 837.05, Florida Statutes.

II. Present Situation:

Recent Legislation Regarding False Information Reporting

The Senate Select Committee on Protecting Florida's Children was created on August 10, 2011, in the wake of the Casey Anthony verdict.¹ The committee was charged with examining the various policy options to further advance the protection of children and determine whether changes to current law were needed.

The committee identified the relevant laws on child abuse and providing false information in missing children investigations. The committee examined ch. 827, F.S., relating to the abuse of children, s. 406.12, F.S., relating to the duty to report a death, and s. 837.055, F.S., relating to knowingly giving false information to a law enforcement officer during a missing person investigation. Particular attention was given to ss. 827.03² and 837.055, F.S.,³ and their relationship to the circumstances in the Anthony case.

After reviewing these laws and receiving testimony from child abuse officials, law enforcement officials, prosecutors, and defense attorneys, the committee recommended amending s. 837.055, F.S., to make it a third degree felony to knowingly and willfully give false information to a law enforcement officer who is conducting a missing person investigation involving a child 16 years of age or younger with the intent to mislead the officer or impede the investigation and the child who is the subject of the investigation suffers great bodily harm, permanent disability, permanent disfigurement, or death.⁴

The Legislature passed CS/HB 37,⁵ which enacted into law the changes to s. 837.055, F.S., recommended by the committee.

False Information Reporting Under Section 837.05, F.S.

Although the Legislature amended s. 837.055, F.S., the statute under which Casey Anthony was convicted of providing false information to a law enforcement officer, Anthony was initially charged (by information) by the State Attorney with providing false information to a law enforcement officer in violation of s. 837.05, F.S.⁶ This statute provides that it is a first degree

¹ A grand jury indicted Casey Anthony based on their determination of her alleged involvement in the death of her 2 year-old daughter, Caylee. Anthony was charged with first degree murder, aggravated child abuse, aggravated manslaughter of a child, and providing false information to a law enforcement. She pled not guilty. On July 5, 2011, a jury found Anthony not guilty of all of the charges except the four counts of providing false information to a law enforcement officer in violation of s. 893.055, F.S. Anthony received a sentence of one year in jail and a \$1,000 fine for each count. *See* Senate Analysis of SB 858, dated January 20, 2012 (available at <http://www.flsenate.gov/>). The Florida Fifth District Court of Appeal recently set aside two of Anthony's four convictions for providing false information because the court found those convictions violated double jeopardy principles. *See Anthony v. State*, 2013 WL 275533 (Fla. 5th DCA January 25, 2013).

² Section 827.03, F.S., punishes various acts of child abuse and neglect.

³ Section 837.055(1), F.S., which was not altered by the 2012 legislative changes to s. 837.055, F.S. (described in the text of this analysis), provides that it was a first degree misdemeanor to knowingly and willfully give false information to a law enforcement officer who is conducting a missing person investigation or a felony criminal investigation with the intent to mislead the officer or impede the investigation.

⁴ Senate Analysis of SB 858, dated January 20, 2012, *supra*.

⁵ Chapter 2012-53, L.O.F.

⁶ Court documents on file with the Senate Committee on Criminal Justice.

misdemeanor to knowingly give false information to a law enforcement officer concerning the alleged commission of a crime.

Staff did not find any Florida appellate case relevant to application of s. 837.05, F.S., in the context of providing false information to a law enforcement officer who is conducting a missing person investigation. However, the Florida Third District Court of Appeal, in reviewing a case involving a defendant convicted for giving false statements to police at a police station during a homicide investigation, stated, in dicta, that if the defendant “is guilty of an offense involving false statements, it must be an offense provided for in Section 837.012⁷ or 837.05, Florida Statutes (1977).”⁸

III. Effect of Proposed Changes:

The bill amends s. 837.05, F.S., to increase the offense degree for knowingly giving false information to a law enforcement officer from a first degree misdemeanor⁹ to a third degree felony¹⁰ if one of two circumstances applies. In the first circumstance, the information the person gave to the law enforcement officer was communicated orally and the officer’s account of that information is corroborated by an audio recording or audio recording in a video of that information; a written or recorded statement made by the person who gave that information; or another person who was present when the person gave that information to the officer and heard that information. In the second circumstance, the information the person gave to the law enforcement officer was communicated in writing.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not impact municipalities and counties under the requirements of Article VII, Section 18, of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The bill does not raise public records or open meetings issues under the requirements of Article I, Section 24(a) and (b), of the Florida Constitution.

⁷ Section 837.012(1), F.S., provides that it is a first degree misdemeanor for a person to make a false statement, which he or she does not believe to be true, under oath, not in an official proceeding, in regard to any material matter. Section 837.05, F.S., does not contain any ‘oath’ requirement.

⁸ *Schramm v. State*, 374 So.2d 1043, 1045 (Fla. 3rd DCA 1979) (footnotes omitted). The appellate court reversed Schramm’s conviction for a violation of s. 837.02, F.S. (perjury in an official proceeding).

⁹ A first degree misdemeanor is punishable by up to a year in jail, a fine of up to \$1,000, or both. Sections 775.082 and 775.083, F.S.

¹⁰ A third degree felony is punishable by up to 5 years in state prison, a fine of up to \$5,000, or both. Sections 775.082 and 775.083, F.S. However, if total sentence points scored under the Criminal Punishment Code are 22 points or fewer, the court must impose a nonstate prison sanction, unless the court makes written findings that this sanction could present a danger to the public. Section 775.082(10), F.S. The third degree felony created by the bill is not ranked in the offense severity ranking chart of the Criminal Punishment Code (s. 921.0022, F.S) and is, therefore, ranked based on its degree as a Level 1 offense (s. 921.0023, F.S.).

C. Trust Funds Restrictions:

The bill does not impact trust fund restrictions under the requirements of Article III, Section 19(f), of the Florida Constitution.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation estimated that the original bill would have an insignificant prison bed impact due to low volume and the creation of an unranked third degree felony. Although, CS/SB 400 differs substantially from the original bill it also creates an unranked third degree felony and is more narrowly drawn than the original bill in regard to how this offense may be committed.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**

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

CS by Criminal Justice on March 11, 2013:

Increases the offense degree for knowingly giving false information to a law enforcement officer from a first degree misdemeanor to a third degree felony if one of two circumstances applies. In the first circumstance, the information the person gave to the law enforcement officer was communicated orally and the officer's account of that information is corroborated by an audio recording or audio recording in a video of that information; a written or recorded statement made by the person who gave that information; or another person who was present when the person gave that information to the officer and heard that information. In the second circumstance, the information the person gave to the law enforcement officer was communicated in writing.

B. Amendments:

None.

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



373500

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 14 - 23
and insert:

(1) (a) Except as provided in paragraph (b) or subsection (2), a person who ~~whoever~~ knowingly gives false information to a ~~any~~ law enforcement officer concerning the alleged commission of any crime, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person who commits a violation of paragraph (a) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the person has



373500

13 previously been convicted of a violation of paragraph (a) and
14 subparagraph 1. or 2. applies:

15 1. The information the person gave to the law enforcement
16 officer was communicated orally and the officer's account of
17 that information is corroborated by:

18 (a) An audio recording or audio recording in a video of
19 that information;

20 (b) A written or recorded statement made by the person who
21 gave that information; or

22 (c) Another person who was present when the person gave
23 that information to the officer and heard that information.

24 2. The information the person gave to the law enforcement
25 officer was communicated in writing.

26
27

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

29 And the title is amended as follows:

30 Delete lines 3 - 7

31 and insert:

32 officers; amending s. 837.05, F.S.; providing that it
33 is a third degree felony to knowingly give false
34 information to a law enforcement officer concerning
35 the alleged commission of a crime if the defendant has
36 previously been convicted of this offense and the
37 information, if communicated orally, is corroborated
38 in a specified manner, or was communicated in writing;
39 providing an effective date.

By Senator Dean

5-00634-13

2013400__

1 A bill to be entitled
2 An act relating to false reports to law enforcement
3 officers; amending s. 837.05, F.S.; increasing
4 criminal penalties for a second or subsequent
5 conviction of providing false information to a law
6 enforcement officer concerning the alleged commission
7 of a crime; providing an effective date.

8

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

10

11 Section 1. Section 837.05, Florida Statutes, is amended to
12 read:

13 837.05 False reports to law enforcement authorities.—

14 (1) Except as provided in subsection (2), a person who
15 ~~whoever~~ knowingly gives false information to a ~~any~~ law
16 enforcement officer concerning the alleged commission of any
17 crime, commits:

18 (a) For a first offense resulting in conviction, a
19 misdemeanor of the first degree, punishable as provided in s.
20 775.082 or s. 775.083.

21 (b) For a second or subsequent offense resulting in
22 conviction, a felony of the third degree, punishable as provided
23 in s. 775.082, s. 775.083, or s. 775.084.

24 (2) A person who ~~whoever~~ knowingly gives false information
25 to a law enforcement officer concerning the alleged commission
26 of a capital felony, commits a felony of the third degree,
27 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

28 Section 2. This act shall take effect October 1, 2013.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic False Report to LE Bill Number 400
(if applicable)

Name Sheriff Wayne Ivey Amendment Barcode _____
(if applicable)

Job Title Sheriff, Brevard Co.

Address _____ Phone _____
Street

City _____ State _____ Zip _____ E-mail _____

Speaking: For Against Information

Representing Florida Sheriffs Assoc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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)

3/4/13

Meeting Date

Topic FALSE REPORT TO LAW ENFORCEMENT OFFICER

Bill Number SB-400
(if applicable)

Name AMY MERCER

Amendment Barcode _____
(if applicable)

Job Title EXECUTIVE DIRECTOR

Address 924 N. GARDEN ST.

Phone 850-219-3631

Street

TALLAHASSEE

FLA

32303

City

State

Zip

E-mail AMERCER@FPCA.COM

Speaking: For Against Information

Representing FLORIAN POLICE CHIEFS ASSN

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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 Criminal Justice

BILL: SB 420

INTRODUCER: Senators Sachs, Joyner, and Soto

SUBJECT: Sentencing for Controlled Substance Violations

DATE: February 25, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Favorable
2.			JU	
3.			ACJ	
4.			AP	
5.				
6.				

I. Summary:

SB 420 provides that, upon a motion from the state attorney, defendant, or defendant’s counsel, the sentencing court may depart from the mandatory minimum term of imprisonment the defendant would otherwise receive for trafficking in an illegal drug under s. 893.135(1)(c), F.S., if the trafficking violation involved possession of a prescription drug; the violation did not involve use, etc., of physical force or a firearm, deadly weapon, or dangerous instrument; the violation did not involve serious bodily injury to, or disfigurement or death of, another person; the defendant does not have a previous felony conviction; and the defendant has not previously requested such departure.

This bill substantially amends section 893.135 of the Florida Statutes.

II. Present Situation:

Drug Trafficking/Opioids

Section 893.135, F.S., punishes drug trafficking. Section 893.135(1)(c), F.S., punishes trafficking in opium, opium derivatives, opiates, various opioids,¹ and any other substances covered under this paragraph. There are four categories of violations under this paragraph:

¹ According to MedicineNet.com, an ‘opioid’ is: “1. A synthetic narcotic that resembles the naturally occurring opiates. 2. Any substance that binds to or otherwise affects the opiate receptors on the surface of the cell.” (This information is available at: <http://www.medterms.com/script/main/art.asp?articlekey=13744>.) Other definitions of the term are broader. For example, WebMD LLC defines ‘opioids’ “by their ability to bind to and influence opiate receptors on cell membranes” and states that they can be divided into 3 classes. The first class is “[n]aturally occurring opiates: The classic natural opiates are opium and morphine. Opium is extracted from the plant *Papaver somniferum* (the opium poppy), and morphine is the

- “Trafficking in illegal drugs” (first degree felony).
- “Trafficking in illegal drugs” (first degree felony punishable by life imprisonment).
- “Trafficking in illegal drugs” (capital felony).
- “Capital importation of illegal drugs” (capital felony).

“Trafficking in illegal drugs” (first degree felony)

Section 893.135(1)(c)1., F.S., provides that any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession² of, 4 grams or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., F.S., or 4 grams or more of any mixture containing any such substance, but less than 30 kilograms of such substance or mixture, commits a first degree felony.³

If a person violates s. 893.135(1)(c)1., F.S., and the quantity involved:

- Is 4 grams⁴ or more, but less than 14 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and ordered to pay a fine of \$50,000.⁵
- Is 14 grams or more, but less than 28 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and ordered to pay a fine of \$100,000.⁶
- Is 28 grams or more, but less than 30 kilograms, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and pay a fine of \$500,000.⁷

primary active component of opium. Endogenous neural polypeptides such ... [as] endorphins and enkephalins are also natural opioids.” The second class is “[s]emi-synthetic opioids: Semisynthesis is a type of chemical synthesis that uses compounds isolated from natural sources (e.g., plants) as starting materials. Semi-synthetic opioids include heroin, oxycodone, oxymorphone, and hydrocodone.” The third class is “[s]ynthetic opioids: Synthetic opioids are made using total synthesis, in which large molecules are synthesized from a stepwise combination of small and cheap (petrochemical) building blocks. Synthetic opioids include buprenorphine, methadone, fentanyl, alfentanil, levorphanol, meperidine, codeine, and propoxyphene (withdrawn from US market).” This reference further states that “[t]he terms *opiate* and *narcotic* are generally used interchangeably with the term *opioid*.” (This information is available at: <http://emedicine.medscape.com/article/287790-overview>.) For purposes of this analysis, staff generally applies the broader definition of ‘opioid.’

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

³ A first degree felony is generally punishable by up to 30 years in state prison. Section 775.082, F.S. Repeat offender sanctions may be available under ss. 775.082 and 775.084, F.S. Section 921.0024(1)(b), F.S., provides that if the primary offense is drug trafficking, the subtotal sentence points are multiplied, at the discretion of the court, for a Level 7 or Level 8 offense, by 1.5.

⁴ For the purpose of comparison, the approximate weight of a U.S. currency note, regardless of denomination, is one gram. (This information is available at: <http://www.moneyfactory.gov/faqlibrary.html>.)

⁵ Section 893.135(1)(c)1.a., F.S. This offense is ranked in Level 7 of the Criminal Punishment Code offense severity ranking chart. Section 921.0022(3)(g), F.S.

⁶ Section 893.135(1)(c)1.b., F.S. This offense is ranked in Level 8 of the Criminal Punishment Code offense severity ranking chart. Section 921.0022(3)(h), F.S.

⁷ Section 893.135(1)(c)1.c., F.S. This offense is ranked in Level 9 of the Criminal Punishment Code offense severity ranking chart. Section 921.0022(3)(i), F.S.

“Trafficking in illegal drugs” (first degree felony punishable by life imprisonment)

Section 893.135(1)(c)2., F.S., provides that any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 30 kilograms or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., F.S., or 30 kilograms or more of any mixture containing any such substance, commits a first degree felony punishable by life imprisonment⁸ and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149, F.S.

“Trafficking in illegal drugs” (capital felony)

Section 893.135(1)(c)2., F.S., also provides that a person who violates this subparagraph commits a capital felony⁹ and shall also pay a fine of \$500,000 if the court determines that, in addition to committing this violation, either of the following applies:

- The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result.¹⁰
- The person’s conduct in committing that act led to a natural, though not inevitable, lethal result.¹¹

“Capital importation of illegal drugs” (capital felony)

Section 893.135(1)(c)3., F.S., provides that any person who knowingly brings into this state 60 kilograms or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., F.S., or 60 kilograms or more of any mixture containing any such substance, and who knows that the probable result of such importation would be the death of any person, commits a capital felony and shall also pay a fine of \$500,000.

Prescription Medications and Drug Trafficking

There are numerous prescription medications that are within the ambit of s. 893.135(1)(c), F.S., including medications that contain morphine, oxycodone, hydrocodone, hydromorphone, methadone, and fentanyl. A person who unlawfully possesses, purchases, sells, etc., these prescription medications in a trafficking weight may be subject to prosecution for drug trafficking under s. 893.135(1)(c), F.S.

Trafficking weight involving pills or tablets is determined by the total weight of each pill or tablet multiplied by the number of pills or tablets possessed, etc. The total weight of a pill or tablet includes the weight of the controlled substance in the pill or tablet (e.g., hydrocodone) and the weight of noncontrolled substances or matter in the pill or tablet, such as coating, binders,

⁸ As previously indicated, in general, a first degree felony is punishable by up to 30 years in state prison under s. 775.082, F.S. However, this section also provides that a first degree felony may be punished by a term of years not exceeding life imprisonment when specifically provided by statute.

⁹ A capital felony is punishable by life imprisonment or death. Section 775.082, F.S. See s. 921.142, F.S. (further proceedings to determine sentence for capital trafficking felonies).

¹⁰ Section 893.135(1)(c)2.a., F.S.

¹¹ Section 893.135(1)(c)2.b., F.S.

and nonprescription drugs (e.g., acetaminophen).¹² A relatively small number of pills or tablets may meet the 4 gram threshold for trafficking. In a 2012 report, the Office of Program Policy Analysis and Government Accountability (OPPAGA) cited the example of a pill that had a weight of 0.65 grams with 10 mg. of hydrocodone: "... [I]t takes 7 pills of 10 milligram hydrocodone, which are large pills with 325 to 750 milligrams of acetaminophen, to reach the threshold of 4 grams for a minimum mandatory prison sentence of three years."¹³ Based upon this medication, the OPPAGA found that 22 pills would meet the 14 gram threshold (15-year mandatory minimum term) and 44 pills would meet the 28 gram threshold (25-year mandatory minimum term).¹⁴

Due to the different compositions of prescription opioids, noncontrolled substances may add significantly to the total weight of the pill or tablet as, for example, is the case with medication that contains hydrocodone and acetaminophen. When comparing this medication to a sample medication containing oxycodone (sans acetaminophen), the OPPAGA found: "... [I]t takes approximately 31 pills of 30 milligram oxycodone to reach the threshold of 4 grams since this type of oxycodone is a smaller pill and does not include acetaminophen. Thus, it takes more oxycodone pills than hydrocodone pills to trigger a minimum mandatory sentence, even though oxycodone is more potent and likely to lead to adverse outcomes, such as addiction and overdose."¹⁵ Based upon this oxycodone medication, the OPPAGA found that 108 pills would meet the 14 gram threshold (15-year mandatory minimum term) and 215 pills would meet the 28 gram threshold (25-year mandatory minimum term).¹⁶

OPPAGA Report: Sample Information Regarding Prescription Opioid Offenders

The OPPAGA analyzed arrest reports for a sample of 194 offenders admitted to prison in Fiscal Year 2010-11 for opioid trafficking and determined that "almost all (93%) were convicted of trafficking in prescription painkillers.... [A]rrests most commonly involved oxycodone (73%) or hydrocodone (28%). In comparison, 6% of the offenders were convicted of trafficking in heroin."¹⁷

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

Most offenders in our sample (62%) were arrested for selling prescription painkillers to an undercover law enforcement officer or confidential informant.... In these cases, officers worked undercover to buy drugs from known dealers or monitored confidential informants during meetings they arranged to make purchases. In other cases, offenders were arrested for trafficking after a traffic stop or other law enforcement contact, or after being reported by a pharmacist for possible prescription fraud.¹⁸

¹² See ss. 893.02(16) and 893.135(6), F.S.

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

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ OPPAGA Report, at p. 3.

¹⁸ *Id.*

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

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

Following accepted medical practice, physicians may prescribe 30 or more prescription painkillers for patients with chronic pain¹⁹ or recovering from surgery. For example, a patient recovering from surgery may receive a one-time prescription of 30 to 60 hydrocodone or oxycodone pills, often in forms that also contain acetaminophen. Illegal possession of such an amount could trigger a minimum mandatory sentence.²⁰

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

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

These offenders tended to have substance abuse problems and were at low risk for recidivism. Prison staff assessments determined that 65% of these offenders needed substance abuse treatment and 61% were at low risk for recidivism.²¹

Mandatory Minimum Terms of Imprisonment

The Criminal Punishment Code (Code)²² is Florida's framework or mechanism for determining permissible sentencing ranges for noncapital felonies. Noncapital felonies sentenced under the

¹⁹ Drug trafficking penalties (including mandatory minimum terms) may influence whether a "dose tolerant" chronic pain management patient continues to receive a prescription opioid. "Medical information indicates that chronic pain management patients are rarely addicted to the opioid analgesics prescribed them for pain but over time may develop a tolerance to and physical dependence upon opioid analgesics that may be misperceived as addiction rather than the 'normal consequences of sustained opioid use.' Some practitioners may be reluctant to treat chronic management cases for fear that regulatory and law enforcement agencies may not understand or appreciate this distinction." *A Policy Analysis of Minimum Mandatory Sentencing for Drug Trafficking*, Interim Report 2010-109 (October 2009), at p. 9 (footnotes omitted), Committee on Criminal Justice, The Florida Senate, quoting June L. Dahl, "How to Reduce Fears of Legal/Regulatory Scrutiny in Managing Pain in Cancer Patients," 3 *Journal of Supportive Oncology* 5 (September – October 2005), at p. 386. This report is further cited as "Senate Interim Report 2010-09."

²⁰ OPPAGA Report, at p. 4. In a footnote (n. 7, at p. 4) at the end of the second paragraph of this quote, the OPPAGA noted: "Law enforcement and other stakeholders reported that pain clinics they would consider as being 'pill mills' routinely prescribe much higher amounts of prescription painkillers, such as 180 oxycodone pills per month."

²¹ *Id.* In a footnote (n. 8, at p. 4) at the end of the second paragraph of this quote, the OPPAGA noted: "Prison staff assessed offenders' risk of recidivism using the risk assessment instrument developed by the Department of Corrections. Recidivism is defined as return to prison within three years of release."

²² Sections 921.002 - 921.0027, F.S.

Code receive an offense severity level ranking (Levels 1-10). Points are assigned and accrue based upon the level ranking (sentence points escalate as the level escalates) assigned to the primary offense, additional offenses, and prior offenses. Typically, trafficking offenses are first degree felonies but levels assigned to these trafficking offenses vary depending on the offense. Points may also accrue for other factors like victim injury.

Total sentence points are entered into a mathematical calculation to determine the lowest permissible sentence. The permissible sentencing range is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S., for the primary offense and any additional offenses before the court for sentencing. The court is permitted to impose sentences concurrently or consecutively. “If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory minimum sentence takes precedence. If the lowest permissible sentence exceeds the mandatory sentence, the requirements of the ... Code and any mandatory minimum penalties apply.”²³

The Code includes a list of ‘mitigating’ factors. If a mitigating factor is found by the sentencing court, the court may decrease an offender’s sentence below the lowest permissible sentence (a “downward departure”). A mandatory minimum term is not subject to these mitigating factors.²⁴

Mandatory minimum terms are often longer than a prison sentence scored as the lowest permissible sentence, so the sentencing range is narrowed. Further, with few exceptions, the sentencing court must impose the mandatory minimum term; therefore, mandatory minimum terms limit judicial discretion in sentencing. Staff found only two circumstances in which a sentencing court is authorized by law to impose a sentence below the mandatory minimum term: when the court sentences a defendant as a youthful offender;²⁵ and when the court grants a motion from the state attorney to reduce or suspend a sentence based upon substantial assistance rendered by the defendant.²⁶

While a mandatory minimum term limits judicial discretion in sentencing, it does not limit the prosecutorial discretion to charge or not charge drug trafficking,²⁷ even when the trafficking weight threshold is met. For example, a state attorney could charge a violation of s. 893.13, F.S.,

²³ Rule 3.704(26) (“The Criminal Punishment Code”), Florida Rules of Criminal Procedure. A trafficking mandatory minimum term is a minimum sentencing ‘floor’ for the court and there is no prohibition to gain-time. If the court only sentences the defendant to the mandatory term specified by statute, the Department of Corrections (DOC) establishes an 85% minimum service date on the term and the offender is subject to s. 944.275(4)(b)3., F.S., which does not allow release prior to serving a minimum of 85% of the sentence. If the court imposes a sentence that exceeds the mandatory term specified by statute, the DOC establishes an 85% minimum service date on the sentence. *See Mastay v. McDonough*, 928 So.2d 512 (Fla. 1st DCA 2006) (Section 893.135, F.S., does not preclude earning gain-time during the mandatory term as long as it does not result in the prisoner’s release prior to serving a minimum of 85% of the sentence).

²⁴ *See State v. Vanderhoff*, 14 So.3d 1185 (Fla. 5th DCA 2009).

²⁵ Section 958.04, F.S. *See Christian v. State*, 84 So.3d 437 (Fla. 5th DCA 2012).

²⁶ Section 893.135(4), F.S., authorizes a state attorney to move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of s. 893.135, F.S., and who provides substantial assistance in the identification, arrest, or conviction of any of that person’s accomplices, accessories, coconspirators, or principals or of any other person engaged in trafficking in controlled substances.

²⁷ “Under Florida’s constitution, the decision to charge and prosecute is an executive responsibility, and the state attorney has complete discretion in deciding whether and how to prosecute.” *State v. Bloom*, 497 So.2d 2, 3 (Fla.1986), citing Article II, Section 3, of the Florida Constitution (other citations omitted).

or attempted drug trafficking based upon a lesser drug trafficking weight.²⁸ Further, for first degree felony drug trafficking that involves a defendant with a substance abuse problem, pretrial intervention may be an option.²⁹

Because s. 893.135(1)(c), F.S., punishes both trafficking in certain ‘street’ opioids, like heroin, and trafficking in prescription opioids, it is not possible to precisely determine the number of prescription opioid trafficking arrests, prosecutions, convictions, and prison admissions, or the disposition of cases in which drug trafficking was charged based upon unlawful possession, purchase, sale, etc., of a prescription opioid.³⁰

Typically there are three weight ranges for each first degree felony trafficking provision. Weight thresholds applicable to each range can be significantly greater, and mandatory minimum terms applicable to those ranges can be significantly longer, for trafficking under s. 893.135(1)(c), F.S., than for trafficking under some other trafficking provisions. For example, the following table compares trafficking in illegal drugs with some other trafficking provisions.

Trafficking Provision	First Weight Range	Second Weight Range	Third Weight Range
Trafficking in illegal drugs (includes prescription opioids) (s. 893.135(1)(c)1., F.S.)	3-year mandatory minimum term (4 grams to less than 14 grams)	15-year mandatory minimum term (14 grams to less than 28 grams)	25-year mandatory minimum term (28 grams to less than 30 kilograms)
Trafficking in cocaine (s. 893.135(1)(b)1., F.S.)	3-year mandatory minimum term (28 grams to less than 200 grams)	7-year mandatory minimum term (200 grams to less than 400 grams)	15-year mandatory minimum term (400 grams to less than 150 kilograms)
Trafficking in phencyclidine (s. 893.135(1)(d)1., F.S.)	3-year mandatory minimum term (28 grams to less than 200 grams)	7-year mandatory minimum term (200 grams to less than 400 grams)	15-year mandatory minimum term (400 grams or more)

²⁸ Section 893.13, F.S., does not contain any mandatory minimum terms, except for certain drug offenses committed within 1,000 feet of the real property of a K-12 school or other specified facility, s. 893.13(1)(c)1., F.S., and certain drug offenses involving manufacture of methamphetamine or phencyclidine or possession of specified listed chemicals with the intent to manufacture methamphetamine or phencyclidine, s. 893.13(1)(g), F.S. Attempted trafficking does not call for a mandatory sentence, though conspiracy to traffic does. *See* ss. 777.04 and 893.135(5), F.S., and *Suarez v. State*, 635 So.2d 154 (Fla. 2d DCA 1994).

²⁹ Section 948.08(6)(a), F.S., provides, in part, that a person who is charged with a nonviolent felony and is identified as having a substance abuse problem is eligible for voluntary admission into a pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program established pursuant to s. 397.334, F.S., approved by the chief judge of the circuit, for a period of not less than 1 year in duration, upon motion of either party or the court’s own motion, subject to the requirements and exceptions contained in subsection (6). A “nonviolent felony” includes any felony offense that is not a forcible felony as defined in s. 776.08, F.S. *Id.*

³⁰ “Department of Corrections data shows that prison admissions for trafficking in opioids have more than quadrupled over the past five years, from 262 admissions in Fiscal Year 2006-07 to 1,200 in Fiscal Year 2010-11. ... This data does not distinguish among the types of opioids, and as a result, offenses involving heroin are grouped with those involving prescription painkillers. This is because these two controlled substances are addressed in the same section of the drug trafficking statute, and thus subject to the same weight thresholds and minimum mandatory sentences.” OPPAGA Report, at p. 2 (footnote omitted).

Trafficking Provision	First Weight Range	Second Weight Range	Third Weight Range
Trafficking in methaqualone (s. 893.135(1)(e)1., F.S.)	3-year mandatory minimum term (200 grams to less than 5 kilograms)	7-year mandatory minimum term (5 kilograms to less than 25 kilograms)	15-year mandatory minimum term (25 kilograms or more)
Trafficking in amphetamine or methamphetamine (s. 893.135(1)(f)1., F.S.)	3-year mandatory minimum term (14 grams to less than 28 grams)	7-year mandatory minimum term (28 grams to less than 200 grams)	15-year mandatory minimum term (200 grams or more)

In a 2009 interim report by the Senate Committee on Criminal Justice, staff reported findings of a survey of prosecutors and public defenders regarding drug trafficking mandatory minimum terms:

Typically, prosecutors prefer trafficking mandatories and public defenders and judges do not prefer them. Responses to a survey of prosecutors and defenders prepared as background information for this report generally followed this typical division. However, concerns about mandatories were raised by some prosecutors. Two prosecutors’ offices indicated some concern about the trafficking provision relating to painkillers. One prosecutor’s office indicated that the “threshold amount for some mandatories is comparatively small” and also indicated that “the application of mandatories based on presumptive trafficking because of the amount involved rather than evidence of actual dealing can pose ethical concerns.”³¹

III. Effect of Proposed Changes:

The bill amends s. 893.135, F.S., the drug trafficking statute. It does not repeal or reduce the length of any mandatory minimum term applicable to drug trafficking offenses in that section. The bill provides that, notwithstanding any other provision of law, if a defendant has been convicted of a violation of s. 893.135(1)(c), F.S., which involves possession of a mixture that is a prescription drug as defined in s. 499.003, F.S.,³² the state attorney, defendant, or counsel representing the defendant may move the sentencing court to depart from the mandatory minimum term of imprisonment applicable to that violation.

The sentencing court may grant this motion if the court finds that all of the following criteria are met:³³

³¹ Senate Interim Report 2010-09, at p. 3 (footnote omitted).

³² Section 499.003(43), F.S., defines a “prescription drug” as being a prescription, medicinal, or legend drug, including, but not limited to, finished dosage forms or active pharmaceutical ingredients subject to, defined by, or described by s. 503(b) of the Federal Food, Drug, and Cosmetic Act or s. 465.003(8), F.S., s. 499.007(13), F.S., or s. 499.003(11), (46), or (53), F.S., except that an active pharmaceutical ingredient is a prescription drug only if substantially all finished dosage forms in which it may be lawfully dispensed or administered in this state are also prescription drugs. Staff notes that the bill does not contain any cap on the weight of the prescription drug possessed.

³³ Presumably the level of proof would be the same as required for a departure sentence under the Criminal Punishment Code. Section 921.002(1)(f), F.S., provides, in part: “The level of proof necessary to establish facts that support a departure from the lowest permissible sentence is a preponderance of the evidence.”

- The defendant's violation of s. 893.135(1)(c), F.S., did not involve the use, attempted use, or threatened use of physical force against another person.
- The defendant's violation of s. 893.135(1)(c), F.S., did not result in serious bodily injury to another person or the disfigurement or death of another person.
- In the commission of the offense in violation of s. 893.135(1)(c), F.S., the defendant was not armed with, did not threaten to use or display, and did not represent by word or conduct that he or she possessed a firearm, deadly weapon, or dangerous instrument.
- The defendant has not previously been convicted of a felony.
- The defendant has not previously invoked this sentencing departure provision.

When departing from the mandatory minimum term of imprisonment, the sentencing court may consider any facts that the court considers relevant, including, but not limited to:

- The criteria for eligibility for consideration for departure.
- The sentencing report and any evidence admitted in a previous sentencing proceeding.
- The defendant's record of arrests.
- Any other evidence of allegations of unlawful conduct or the use of violence by the defendant.
- The defendant's family ties, length of residence in the community, employment history, and mental condition.
- The likelihood that an alternative sentence will produce the same deterrent effect, rehabilitate the defendant, and prevent or delay recidivism to an equal or greater extent than the imposition of the mandatory minimum term of imprisonment.
- The likelihood that the defendant will engage again in a criminal course of conduct.

If the sentencing court grants this motion, the court must state in open court at the time of sentencing the specific reasons for imposing the sentence and for not imposing the mandatory minimum term of imprisonment.

The effective date of the bill is July 1, 2013. The bill should only apply to offenses committed on or after July 1, 2013, because Article X, Section 9, of the Florida Constitution, provides that "[r]epeal or amendment of a criminal statute shall not affect prosecution or punishment for any crime previously committed." This constitutional provision operates as a savings clause to preserve laws in effect at the time of a defendant's crime that affect prosecution or punishment of the defendant for that crime. The provision applies to "statutes that effect a substantive change in the law," not to statutes that "are merely procedural or remedial."³⁴ A retroactive penalty enhancement or reduction is a savings clause violation because it affects punishment of crimes previously committed.³⁵

³⁴ *Grice v. State*, 967 So.2d 957, 960 (Fla.1st DCA 2007) (citations omitted), *review denied*, 980 So.2d 489 (Fla. 2008).

³⁵ *See Castle v. State*, 305 So.2d 794 (Fla. 4th DCA 1974), *affirmed*, 330 So.2d 10 (Fla. 1976) (Florida's savings clause prohibited retroactive application of reduced penalty for arson to reduce the sentence of a defendant sentenced under the prior arson statute).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, has determined that the bill has an indeterminate but negative prison bed impact (i.e., the bill will not increase the number of prison beds but the CJIC cannot determine to what extent the bill may reduce prison bed impact).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

By Senator Sachs

34-00771-13

2013420__

A bill to be entitled

An act relating to sentencing for controlled substance violations; amending s. 893.135, F.S.; providing for an exception to mandatory minimum sentencing requirements for certain violators of specified controlled substance provisions; specifying criteria to qualify for an exception; providing criteria that may be considered by a court in departing for the mandatory minimum term of imprisonment; requiring a court to make certain statements if it departs from the mandatory minimum term of imprisonment; providing an effective date.

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

Section 1. Subsection (8) is added to section 893.135, Florida Statutes, to read:

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

(8) (a) Notwithstanding any other provision of law, if a defendant has been convicted of a violation of paragraph (1) (c) which involves possession of a mixture that is a prescription drug as defined in s. 499.003, the state attorney, defendant, or counsel representing the defendant may move the sentencing court to depart from the mandatory minimum term of imprisonment applicable to that violation.

(b) The sentencing court may grant a motion under this subsection if the court finds that the following criteria are met:

Page 1 of 3

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

34-00771-13

2013420__

1. The defendant's violation of paragraph (1) (c) did not involve the use, attempted use, or threatened use of physical force against another person.

2. The defendant's violation of paragraph (1) (c) did not result in serious bodily injury to another person or the disfigurement or death of another person.

3. In the commission of the offense in violation of paragraph (1) (c), the defendant was not armed with, did not threaten to use or display, and did not represent by word or conduct that he or she possessed a firearm, deadly weapon, or dangerous instrument.

4. The defendant has not previously been convicted of a felony.

5. The provisions of this subsection have not been previously invoked.

(c) When departing from the mandatory minimum term of imprisonment, the sentencing court may consider any facts that the court considers relevant, including, but not limited to:

1. The criteria listed in paragraph (b).

2. The sentencing report and any evidence admitted in a previous sentencing proceeding.

3. The defendant's record of arrests.

4. Any other evidence of allegations of unlawful conduct or the use of violence by the defendant.

5. The defendant's family ties, length of residence in the community, employment history, and mental condition.

6. The likelihood that an alternative sentence will produce the same deterrent effect, rehabilitate the defendant, and prevent or delay recidivism to an equal or greater extent than

Page 2 of 3

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

34-00771-13

2013420__

59 imposition of the mandatory minimum term of imprisonment.

60 7. The likelihood that the defendant will engage again in a
61 criminal course of conduct.

62 (d) If the sentencing court grants the motion, the court
63 shall state in open court at the time of sentencing the specific
64 reasons for imposing the sentence and for not imposing the
65 mandatory minimum term of imprisonment.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Mandatory Min Prescription Bill Number 420
(if applicable)

Name Doug WALLER Amendment Barcode _____
(if applicable)

Job Title _____

Address _____ Phone _____
Street

City _____ State _____ Zip _____

Speaking: For Against Information

Representing Brevard Co. Sheriff's Office

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)

3.4.2013
Meeting Date

Topic Prescription Drugs

Bill Number 420
(if applicable)

Name Sarah Carroll

Amendment Barcode _____
(if applicable)

Job Title ASST. Executive Director

Address 2017 Mahan Drive
Street
Tallahassee FL 32308
City State Zip

Phone 877-2165

E-mail Scamell@flsheriffs.org

Speaking: For Against Information

Representing FLORIDA Sheriffs Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

This form is part of the public record for this meeting

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/4/13

Meeting Date

Topic Mandatory Minimum Sentences

Bill Number 420
(if applicable)

Name Nancy Daniels

Amendment Barcode _____
(if applicable)

Job Title Public Defender, 2nd Circuit

Address Leon County Courthouse 3015 Monroe St. #401

Phone 850 606-1010

Tallahassee, FL 32301
Street City State Zip

E-mail nancy.daniels@flpd2.com

Speaking: For Against Information

Representing Florida Public Defender Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-4-13

Meeting Date

Topic Mandatory Minimum Safety Values Bill Number SB 420
(if applicable)

Name Greg Newburn Amendment Barcode _____
(if applicable)

Job Title Florida Project Director

Address PO Box 142933 Phone 352.642.2542

Street

Gainesville FL 32614

City

State

Zip

E-mail gnewburn@fammm.org

Speaking: For Against Information

Representing Families Against Mandatory Minimums

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3 / 4 / 2013

Meeting Date

Topic _____ Bill Number 420
(if applicable)

Name BRIAN PITTS Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street

SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City State Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/4/13

Meeting Date

Topic Sentencing for Controlled Substances Bill Number 420
(if applicable)

Name Sheila Hopkins Amendment Barcode _____
(if applicable)

Job Title Director of Social Concerns / Respect Life

Address 201 W. Park Ave. Phone 570-7061
Street

Tallahassee FL 32301 E-mail Shoptkins@flcathconf.org
City State Zip

Speaking: For Against Information

Representing Fl. Conference of Catholic Bishops

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-4-2013

Meeting Date

Topic Prescription Drug Sentencing

Bill Number 420
(if applicable)

Name Derek Byrd

Amendment Barcode —
(if applicable)

Job Title President

Address 2151 Main Street

Phone (941) 954-3400

Street
Sarasota, FL 33432
City State Zip

E-mail derek@thebyrdlawfirm.com

Speaking: For Against Information

Representing Florida Association of Criminal Defense Lawyers

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 _____ Bill Number SB 420
(if applicable)

Name MARK FONTAINE Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 2868 MATTHEW DRIVE Phone _____
Street

TALLAHASSEE FL 32308 E-mail _____
City State Zip

Speaking: For Against Information

Representing FLORIDA ALCOHOL + DRUG ABUSE ASSOCIATION

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

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

This form is part of the public record for this meeting

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Prescription Drugs Bill Number 420
(if applicable)

Name Sheriff Wayne Ivey Amendment Barcode _____
(if applicable)

Job Title Sheriff, Brevard County

Address Sheriff Benton Phone _____
Street

Slings E-mail _____
City State Zip

Speaking: For Against Information

Representing Florida Sheriffs Assoc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

3/4/13
Meeting Date

Topic Min. Mandatory Sentencing Bill Number SB 726
(if applicable)

Name Buddy Jacobs Amendment Barcode _____
(if applicable)

Job Title General Counsel, Fla. Prosecuting Attys Assoc.

Address 961 687 Gateway Blvd. Fuda Bch, FL Phone 904-261-3593
Street

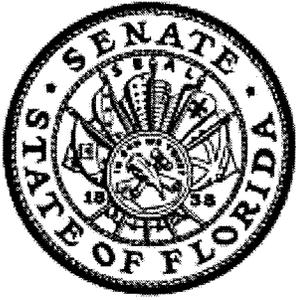
City _____ State _____ Zip _____

Speaking: For Against Information

Representing State Attorneys Assoc.

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

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



THE FLORIDA SENATE

Senator Maria Lorts Sachs
Minority Leader Pro Tempore
District 34

Committees:

Gaming
Vice Chair

Agriculture

Education

Appropriations
Subcommittee on
Education

Appropriations
Subcommittee on
Finance and Tax

Military Affairs, Space,
and Domestic Security

Regulated Industries

STAFF:

Joshua Freeman
Legislative Assistant

Caitlin Lewis
Legislative Assistant

August Mangeney
Legislative Assistant

February 14, 2013

The Office of Senator Evers
308 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Evers:

I am writing to request that Senate Bill 420 (Sentencing for Controlled Substance Violations) be heard during the Criminal Justice Committee Meeting on March 4th. If you have any questions feel free to contact me or my staff. Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Maria Lorts Sachs".

Sen. Maria Sachs,
District 34

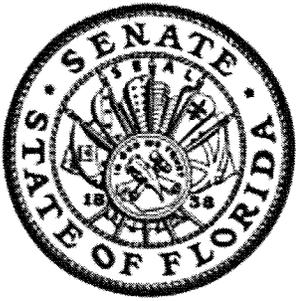
Cc: Amanda Cannon
Sue Arnold
Ann McGraw
Michael Bascom
Molly Caddell
David Murzin

17th Avenue, Suite E, Delray Beach, Florida 33445 (561) 279-1427
Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5091

Senate's Website: www.flsenate.gov

Don Gaetz
President of the Senate

Garrett Richter
President Pro Tempore



THE FLORIDA SENATE

Senator Maria Lorts Sachs
Minority Leader Pro Tempore
District 34

Committees:

Gaming
Vice Chair

Agriculture

Education

Appropriations
Subcommittee on
Education

Appropriations
Subcommittee on
Finance and Tax

Military Affairs, Space,
and Domestic Security

Regulated Industries

STAFF:

Caitlin Lewis
Legislative Assistant

August Mangeney
Legislative Assistant

February 1, 2013

The Office of Senator Evers
308 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Evers:

I am writing to request that Senate Bill 420 (Sentencing for Controlled Substance Violations) be heard during the Criminal Justice Committee Meeting on February 19th. If you have any questions feel free to contact me or my staff. Thank you for your consideration.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Maria Lorts Sachs".

Sen. Maria Sachs,
District 34

Cc: Amanda Cannon
Sue Arnold
Ann McGraw
Michael Bascom
Molly Caddell
David Murzin

17th Avenue, Suite E, Delray Beach, Florida 33445 (561) 279-1427
Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5091

Senate's Website: www.flsenate.gov

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 Criminal Justice

BILL: CS/SB 540
INTRODUCER: Criminal Justice Committee and Senator Dean
SUBJECT: Mandatory Supervision of Specified Offenders by the Department of Corrections
DATE: March 11, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	Fav/CS
2.			JU	
3.			ACJ	
4.			AP	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 540 expands the scope of the conditional release program that requires post-release supervision of certain offenders who are released from prison after serving 85 percent of their sentence. Currently, conditional release supervision is required for an inmate who is serving a sentence for a designated violent offense and who has served at least one prior felony commitment in a state or federal prison. The bill removes the condition that the inmate have served a prior felony commitment.

The bill also renames conditional release supervision as “mandatory supervision.”

This bill substantially amends sections 944.291 and 947.1405 of the Florida Statutes. The bill also amends sections 216.136, 394.926, 394.927, 775.084, 775.16, 775.21, 775.261, 893.11, 943.0435, 943.325, 944.171, 944.28, 944.606, 944.607, 944.608, 944.70, 945.36, 947.071, 947.13, 947.141, 947.16, 947.22, 947.24, 948.09, 948.32, and 957.06 of the Florida Statutes for the purpose of changing the program name.

II. Present Situation:

Most inmates who are serving sentences in Florida prisons are eligible to have the length of their sentence reduced by application of gain time. Gain time is awarded by the Department of Corrections based upon an inmate’s institutional adjustment and participation in positive activities. An inmate’s sentence may be reduced by as much as 15 percent by reason of gain time.¹ In most cases, an inmate who is released early when his or her sentence expires due to application of gain time has completed the sentence and is no longer under the jurisdiction of the court or the department. The exceptions are when the sentencing court has ordered probation or community control following incarceration and when the inmate is required to be placed on conditional release.

Conditional release was created by the Legislature in 1988 to require post-release supervision of certain inmates who are released from incarceration early because of accrued gain time. Conditional releasees are supervised by Correctional Probation Officers of the Department of Corrections. The Parole Commission (commission) establishes the length of supervision, which cannot be any longer than the original sentence that was imposed by the court. The commission also sets the conditions of supervision, which include the mandatory conditions required by s. 947.1405, F.S., and any additional conditions that the commission determines to be appropriate. When appropriate, the commission can require conditional releasees to attend training or treatment such as drug rehabilitation programs.

The commission is responsible for conducting hearings regarding alleged violations of the conditions of supervision. The commission has several options if it finds that a violation occurred, including revoking supervision and returning the offender to prison to serve the remaining portion of his or her sentence. Conditional releasees who are returned to prison forfeit any gain time that was earned prior to their release.

Section 947.1405, F.S., requires conditional release for inmates who have been sentenced as a habitual or violent habitual offender, a violent career criminal, or a sexual predator. It also requires conditional release for inmates convicted of a crime which “is or was contained in category 1, category 2, category 3, or category 4 of Rule 3.701 and Rule 3.988, Florida Rules of Criminal Procedure (1993)” if the inmate had served at least one prior felony commitment in a state or federal correctional institution. The crimes that trigger the conditional release requirement for repeat felons are:

Violent Offenses Requiring Placement on Conditional Release	
Category 1: Murder, Manslaughter	<ul style="list-style-type: none"> • ch. 782, F.S. – Homicide (except s. 782.04(1)(a), F.S. – capital murder) • s. 316.193(3)(c)3., F.S. – DUI Manslaughter (automobile) • s. 327.351(2), F.S. – DUI Manslaughter (vessel) (repealed in 1996)

¹ Section 944.275(4)(b)3., F.S., provides that an offender cannot receive an amount of gain time that would result in serving less than 85 percent of the imposed sentence.

Violent Offenses Requiring Placement on Conditional Release	
Category 2: Sexual Offenses	<ul style="list-style-type: none"> • ch. 794, F.S. – Sexual Battery • ch. 800, F.S. – Lewdness; Indecent Exposure • s. 826.04, F.S. – Incest • s. 491.0112, F.S. – Sexual Misconduct by a Psychotherapist
Category 3: Robbery	<ul style="list-style-type: none"> • s. 812.13, F.S. – Robbery • s. 812.133, F.S. – Carjacking • s. 812.135, F.S. – Home Invasion Robbery
Category 4: Violent Personal Crimes	<ul style="list-style-type: none"> • ch. 784, F.S. – Assault, Battery • s. 836.05, F.S. – Threats, Extortion • s. 836.10, F.S. – Written Threats to Kill or Do Bodily Injury • s. 843.01, F.S. – Resisting Officer with Violence • s. 381.411(4), F.S. – Battery on HRS Employee (repealed effective April 27, 2012)

In fiscal year 2011-2012, 4799 offenders were placed on conditional release. Of this number, 2448 were violent offenders. The average conditional release sentence was approximately 17 months for all conditional releasees and approximately 6 months for those who were violent offenders sentenced under the 85 percent law. The median conditional release sentence for violent offenders was 3.7 months.² As of December 31, 2012, 2254 conditional releasees were being actively supervised by the department.³

III. Effect of Proposed Changes:

The bill amends a number of statutes to change the name “conditional release” to “mandatory supervision.” It also amends ss. 944.291 and 947.1405, F.S., to require mandatory supervision for all offenders who were released early by reason of gain time after serving a sentence for murder, sexual offenses, robbery, or other specified violent personal crimes. This removes the current stipulation that conditional release (now mandatory supervision) only applies to such offenders if they have also previously served at least one felony commitment in a state or federal correctional institution.

The bill applies prospectively to offenders who are imprisoned for offenses committed on or after October 1, 2013, so it would have a gradually increasing effect. The table below indicates

² “Conditional release sentence” is used to indicate the length of time between the actual time served by the offender and 100% of his or her sentence. Data for all conditional releasees is from Department of Corrections 2011-2012 Agency Statistics, Community Supervision Admissions, available at www.dc.state.fl.us/pub/annual/1112/stats/csa_month.html ; Specific data for violent offenders released on conditional release is included in an email dated January 18, 2013 from the Department of Corrections to the Office of Economic & Demographic Research and is on file with the Senate Committee on Criminal Justice.

³ Data concerning community supervision are from the Department of Corrections Monthly Status Report of Florida’s Community Supervision Population, January 2007.

the commission’s estimate of the number of offenders who would be placed on conditional release as a result of the bill:⁴

Florida Parole Commission Projection: Additional Offenders Admitted to Mandatory Supervision Under Provisions of Senate Bill 540		
Fiscal Year	Year After Effective Date	Number of Offenders Admitted
2013-2014	1	3
2014-2015	2	41
2015-2016	3	270
2016-2017	4	555
2017-2018	5	893
2022-2023	10	2542
2027-2028	15	2519
2032-2033	20	3265

The department calculates recidivism rates based upon return of an inmate to prison within three years of release. Using this definition, the overall recidivism rate for inmates released from 2003-2010 without supervision was 25 percent.⁵ All of these returned as the result of a new felony commitment. During that same period, 19.5 percent of inmates released on conditional release returned to prison as a result of a new felony commitment and another 31.1 percent returned to prison for a technical violation of conditional release (including non-criminal violations and commission of a misdemeanor).⁶ While these statistics are informative, these numbers do not lend themselves to definitive conclusions about the effectiveness of the program on different populations.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁴ The estimates are included in an email from commission staff dated December 7, 2012 and forwarded to Senate Criminal Justice Committee staff on December 10, 2012, which is on file with the Senate Criminal Justice Committee.

⁵ “2011 Florida Prison Recidivism Report: Releases from 2003-2010”, Florida Department of Corrections, April 2012, p. 12.

⁶ The data is included in an email from department staff dated January 30, 2013 and forwarded to Senate Criminal Justice Committee staff on February 6, 2013, which is on file with the Senate Criminal Justice Committee.

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

None.

B. Private Sector Impact:

Inmates who are placed on mandatory supervision after release from prison would be required to pay costs of supervision and restitution to victims if they are financially able to do so. Payment of restitution would be beneficial to victims. Payment of cost of supervision would negatively impact the released inmate.

C. Government Sector Impact:

The Criminal Justice Impact Conference has not yet considered the impact of this bill on prison bed space. Based upon current recidivism rates, it is possible that fewer released offenders would return to prison for a new offense, but more would return for a technical violation of conditional release.

The commission indicates that the impact of the bill in the first three years will require it to employ an additional Parole Tech II at \$47,429. The commission also asserts that the bill will result in the commission of fewer crimes, which will reduce costs for the court system, law enforcement, and jails.⁷

The department indicates that the bill will have a fiscal impact for increased costs both for supervising inmates in the community and for housing them in prisons. The department estimates that this will have a cumulative impact of \$1,428,931 over three years. Over five years, the cumulative impact is estimated at \$5,267,311, with \$2,443,635 of that amount in the fifth year. In addition, the department estimates that it will incur one-time expenses of \$171,000 for computer programming changes that would be required by changing “conditional release” to “mandatory supervision” and \$50,000 for programming changes associated with the change in criteria.⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁷ Florida Parole Commission, Proposal Analysis and Economic Impact of House Bill 829 and Senate Bill 540 (February 13, 2013).

⁸ Department of Corrections, 2013 Bill Analysis of Senate Bill 540 (revised).

VIII. Additional Information:

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

CS by Criminal Justice on March 11, 2013:

- Converts findings of fact to statement of legislative intent.
- Creates annual requirement to report the rate of mandatory supervision offenders returning to prison.
- Deletes bill section that inadvertently renamed DJJ conditional release program.
- Reinserts “conditional release” into the habitual felony offender and gain time forfeiture statutes to apply to those offenders who are on conditional release prior to the effective date of the bill.

- B. **Amendments:**

None.



838018

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2013	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 20 - 26
and insert:

Section 1. Legislative intent.- It is the intent of the Legislature to require intensive postrelease supervision of offenders who have been convicted of violent offenses, thereby assisting them in successfully transitioning from prison back to the community and reducing their rate of reoffending. It is also the intent of the Legislature that the renaming of conditional release supervision to mandatory supervision does not create a new program, but it is merely a name change to accurately



838018

13 reflect the nature of this non-discretionary release.

14

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

16 And the title is amended as follows:

17 Delete line 4

18 and insert:

19 legislative intent; amending s. 944.291, F.S.;



616632

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 451 - 502
and insert:

(13) The commission, in conjunction with the Department of Corrections, shall develop a report to track offenders placed on mandatory supervision to determine their rate of return to prison for a new crime. A report providing such information shall be submitted to the Speaker of the House of Representatives and the President of the Senate on or before July 1, 2017, and on or before July 1 every year thereafter.



616632

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

14 And the title is amended as follows:

15 Delete line 10

16 and insert:

17 creating a reporting requirement; amending ss.

18 216.136, 394.926, 394.927



703002

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2013	.	
	.	
	.	
	.	

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

Senate Amendment to Amendment (616632)

Delete line 8
and insert:
prison, indicating whether the offender returned to prison for a
new crime or for a technical violation of probation. A report
providing such information



712686

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/11/2013	.	
	.	
	.	
	.	

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

Senate Amendment to Amendment (616632)

Delete line 8
and insert:
prison. A report providing such information



399584

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2013	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 573
and insert:
mandatory supervision, conditional release, parole or court-



493376

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2013	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 1004 - 1005
and insert:
clemency, mandatory supervision as described in chapter 947,
conditional release as described in chapter 947 prior to July 1,
2013, probation or community control as described in



459410

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2013	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 1318

and insert:

(6) Whenever a mandatory supervision, conditional release,

1
2
3
4
5

By Senator Dean

5-00116-13

2013540__

1 A bill to be entitled
 2 An act relating to mandatory supervision of specified
 3 offenders by the Department of Corrections; providing
 4 legislative findings; amending s. 944.291, F.S.;
 5 requiring that persons convicted on or after a
 6 specified date of crimes in specified categories be
 7 released only under mandatory supervision; amending s.
 8 947.1405, F.S.; renaming the conditional release
 9 program as the "mandatory supervision program";
 10 amending ss. 20.316, 216.136, 394.926, 394.927,
 11 775.084, 775.16, 775.21, 775.261, 893.11, 943.0435,
 12 943.325, 944.171, 944.28, 944.606, 944.607, 944.608,
 13 944.70, 945.36, 947.071, 947.13, 947.141, 947.16,
 14 947.22, 947.24, 948.09, 948.32, and 957.06, F.S.;
 15 revising provisions to conform to changes made by the
 16 act; providing an effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Legislative findings.—The Legislature finds that
 21 an offender convicted of violent offenses and sentenced to
 22 incarceration is at a higher risk of continuing to perpetrate
 23 crimes after his or her release. The Legislature further finds
 24 that intensive postrelease supervision may assist these
 25 offenders in successfully transitioning from the prison system
 26 back into the community, reducing the rate of recidivism.

27 Section 2. Section 944.291, Florida Statutes, is amended to
 28 read:

29 944.291 Prisoner released by reason of gain-time allowances

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30 or attainment of provisional release date.—
 31 (1) Notwithstanding any ~~other provision of law to the~~
 32 ~~contrary~~, a prisoner who has served his or her term or terms,
 33 less allowable gain-time deductions as provided by law, or who
 34 has attained his or her provisional release date shall, upon
 35 release, be placed under further supervision and control of the
 36 department. ~~A~~ Any released prisoner who is not under further
 37 supervision and control of the department or who is not subject
 38 to any statute relating to parole ~~is shall be~~ eligible, on a
 39 voluntary basis, for any assistance available to him or her
 40 through any parole or probation office under the department.

41 (2) ~~A~~ Any prisoner who is convicted of a crime committed on
 42 or after October 1, 1988, which crime is contained in category
 43 1, category 2, category 3, or category 4 of Rule 3.701 and Rule
 44 3.988, Florida Rules of Criminal Procedure, and who has served
 45 at least one prior felony commitment at a state or federal
 46 correctional institution, ~~or~~ is sentenced as a habitual or
 47 violent habitual offender pursuant to s. 775.084, or is
 48 convicted of a crime committed on or after October 1, 2013,
 49 which crime is or was contained in category 1, category 2,
 50 category 3, or category 4 of Rule 3.701 and Rule 3.988, Florida
 51 Rules of Criminal Procedure (1993), may ~~only~~ be released only
 52 under mandatory ~~conditional release~~ supervision as described in
 53 chapter 947. At least ~~Not fewer than~~ 90 days before ~~prior to~~ the
 54 tentative release date or provisional release date, whichever is
 55 earlier, the department shall provide the commission with the
 56 name and inmate identification number for each eligible inmate.

57 Section 3. Section 947.1405, Florida Statutes, is amended
 58 to read:

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59 947.1405 Mandatory supervision ~~Conditional release~~
60 program.-

61 (1) This section and s. 947.141 may be cited as the
62 "Mandatory Supervision ~~Conditional Release~~ Program Act."

63 (2) ~~An~~ Any inmate who:

64 (a) Is convicted of a crime committed on or after October
65 1, 1988, and before January 1, 1994, and any inmate who is
66 convicted of a crime committed on or after January 1, 1994,
67 which crime is or was contained in category 1, category 2,
68 category 3, or category 4 of Rule 3.701 and Rule 3.988, Florida
69 Rules of Criminal Procedure (1993), and who has served at least
70 one prior felony commitment at a state or federal correctional
71 institution;

72 (b) Is sentenced as a habitual or violent habitual offender
73 or a violent career criminal pursuant to s. 775.084; ~~or~~

74 (c) Is found to be a sexual predator under s. 775.21 or
75 former s. 775.23; ~~or~~

76 (d) Is convicted of a crime committed on or after October
77 1, 2013, which crime is or was contained in category 1, category
78 2, category 3, or category 4 of Rule 3.701 and Rule 3.988,
79 Florida Rules of Criminal Procedure (1993),

80 shall, upon reaching the tentative release date or provisional
81 release date, whichever is earlier, as established by the
82 Department of Corrections, be released under supervision subject
83 to specified terms and conditions, including payment of the cost
84 of supervision pursuant to s. 948.09. Such supervision ~~is shall~~
85 ~~be~~ applicable to all sentences within the overall term of
86 sentences if an inmate's overall term of sentences includes one
87

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88 or more sentences that are eligible for mandatory ~~conditional~~
89 ~~release~~ supervision as provided herein. Effective July 1, 1994,
90 and applicable for offenses committed on or after that date, the
91 commission may require, as a condition of mandatory supervision
92 ~~conditional release~~, that the releasee make payment of the debt
93 due and owing to a county or municipal detention facility under
94 s. 951.032 for medical care, treatment, hospitalization, or
95 transportation received by the releasee while in that detention
96 facility. The commission, in determining whether to order such
97 repayment and the amount of such repayment, shall consider the
98 amount of the debt, whether there was any fault of the
99 institution for the medical expenses incurred, the financial
100 resources of the releasee, the present and potential future
101 financial needs and earning ability of the releasee, and
102 dependents, and other appropriate factors. If an ~~any~~ inmate
103 placed on mandatory ~~conditional release~~ supervision is also
104 subject to probation or community control, resulting from a
105 probationary or community control split sentence within the
106 overall term of sentences, the Department of Corrections shall
107 supervise such person according to the conditions imposed by the
108 court and the commission shall defer to such supervision. If the
109 court revokes probation or community control and resentsences the
110 offender to a term of incarceration, such revocation also
111 constitutes a sufficient basis for the revocation of the
112 mandatory ~~conditional release~~ supervision on any nonprobationary
113 or noncommunity control sentence without further hearing by the
114 commission. If any such supervision on any nonprobationary or
115 noncommunity control sentence is revoked, such revocation may
116 result in a forfeiture of all gain-time, and the commission may

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117 revoke the resulting deferred mandatory ~~conditional release~~
 118 supervision or take other action it considers appropriate. If
 119 the term of mandatory ~~conditional release~~ supervision exceeds
 120 that of the probation or community control, ~~then,~~ upon
 121 expiration of the probation or community control, authority for
 122 the supervision reverts ~~shall revert~~ to the commission and the
 123 supervision is ~~shall be~~ subject to the conditions imposed by the
 124 commission. A panel of no fewer than two commissioners shall
 125 establish the terms and conditions of any such release. If the
 126 offense was a controlled substance violation, the conditions
 127 shall include a requirement that the offender submit to random
 128 substance abuse testing intermittently throughout the term of
 129 mandatory ~~conditional release~~ supervision, upon the direction of
 130 the correctional probation officer as defined in s. 943.10(3).
 131 The commission shall also determine whether the terms and
 132 conditions of the ~~such~~ release have been violated and whether
 133 the ~~such~~ violation warrants revocation of the mandatory
 134 supervision ~~conditional release~~.

135 (3) As part of the mandatory supervision ~~conditional~~
 136 ~~release~~ process, the commission, through review and
 137 consideration of information provided by the department, shall
 138 determine:

- 139 (a) The amount of reparation or restitution.
- 140 (b) The consequences of the offense as reported by the
 141 aggrieved party.
- 142 (c) The aggrieved party's fear of the inmate or concerns
 143 about the release of the inmate.
- 144 (4) The commission shall provide to the aggrieved party
 145 information regarding the manner in which notice of any

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146 developments concerning the status of the inmate during the term
 147 of mandatory supervision ~~conditional release~~ may be requested.

148 (5) Within 180 days before ~~prior to~~ the tentative release
 149 date or provisional release date, whichever is earlier, a
 150 representative of the department shall review the inmate's
 151 program participation, disciplinary record, psychological and
 152 medical records, criminal records, and any other information
 153 pertinent to the impending release. The department shall gather
 154 and compile information necessary for the commission to make the
 155 determinations set forth in subsection (3). A department
 156 representative shall conduct a personal interview with the
 157 inmate for the purpose of determining the details of the
 158 inmate's release plan, including the inmate's planned residence
 159 and employment. The department representative shall forward the
 160 inmate's release plan to the commission and recommend to the
 161 commission the terms and conditions of the mandatory supervision
 162 ~~conditional release~~.

163 (6) The commission shall review the recommendations of the
 164 department, and such other information as it deems relevant, and
 165 may conduct a review of the inmate's record for the purpose of
 166 establishing the terms and conditions of the mandatory
 167 supervision ~~conditional release~~. The commission may impose any
 168 special conditions it considers warranted from its review of the
 169 release plan and recommendation. If the commission determines
 170 that the inmate is eligible for release under this section, the
 171 commission shall enter an order establishing the length of
 172 supervision and the conditions attendant thereto. However, an
 173 inmate who has been convicted of a violation of chapter 794 or
 174 found by the court to be a sexual predator is subject to the

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175 maximum level of supervision provided, with the mandatory
 176 conditions as required in subsection (7), and that supervision
 177 shall continue through the end of the releasee's original court-
 178 imposed sentence. The length of supervision must not exceed the
 179 maximum penalty imposed by the court.

180 (7) (a) ~~An Any~~ inmate who is convicted of a crime committed
 181 on or after October 1, 1995, or who has been previously
 182 convicted of a crime committed on or after October 1, 1995, in
 183 violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5),
 184 or s. 847.0145, and is subject to mandatory conditional release
 185 supervision, shall have, in addition to any other conditions
 186 imposed, the following special conditions imposed by the
 187 commission:

188 1. A mandatory curfew from 10 p.m. to 6 a.m. The commission
 189 may designate another 8-hour period if the offender's employment
 190 precludes the above specified time, and such alternative is
 191 recommended by the Department of Corrections. If the commission
 192 determines that imposing a curfew would endanger the victim, the
 193 commission may consider alternative sanctions.

194 2. If the victim was under the age of 18, a prohibition on
 195 living within 1,000 feet of a school, child care facility, park,
 196 playground, designated public school bus stop, or other place
 197 where children regularly congregate. A releasee who is subject
 198 to this subparagraph may not relocate to a residence that is
 199 within 1,000 feet of a public school bus stop. Beginning October
 200 1, 2004, the commission or the department may not approve a
 201 residence that is located within 1,000 feet of a school, child
 202 care facility, park, playground, designated school bus stop, or
 203 other place where children regularly congregate for any releasee

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204 who is subject to this subparagraph. On October 1, 2004, the
 205 department shall notify each affected school district of the
 206 location of the residence of a releasee 30 days ~~before~~ prior to
 207 release and thereafter, if the releasee relocates to a new
 208 residence, shall notify any affected school district of the
 209 residence of the releasee within 30 days after relocation. If,
 210 on October 1, 2004, any public school bus stop is located within
 211 1,000 feet of the existing residence of such releasee, the
 212 district school board shall relocate that school bus stop.
 213 Beginning October 1, 2004, a district school board may not
 214 establish or relocate a public school bus stop within 1,000 feet
 215 of the residence of a releasee who is subject to this
 216 subparagraph. The failure of the district school board to comply
 217 with this subparagraph is not grounds for a finding of ~~shall not~~
 218 ~~result in~~ a violation of mandatory conditional release
 219 supervision. A releasee who is subject to this subparagraph may
 220 not be forced to relocate and does not violate his or her
 221 mandatory conditional release supervision if he or she is living
 222 in a residence that meets the requirements of this subparagraph
 223 and a school, child care facility, park, playground, designated
 224 public school bus stop, or other place where children regularly
 225 congregate is subsequently established within 1,000 feet of his
 226 or her residence.

227 3. Active participation in and successful completion of a
 228 sex offender treatment program with qualified practitioners
 229 specifically trained to treat sex offenders, at the releasee's
 230 own expense. If a qualified practitioner is not available within
 231 a 50-mile radius of the releasee's residence, the offender shall
 232 participate in other appropriate therapy.

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233 4. A prohibition on any contact with the victim, directly
234 or indirectly, including through a third person, unless approved
235 by the victim, a qualified practitioner in the sexual offender
236 treatment program, and the sentencing court.

237 5. If the victim was under the age of 18, a prohibition
238 against contact with children under the age of 18 without review
239 and approval by the commission. The commission may approve
240 supervised contact with a child under the age of 18 if the
241 approval is based upon a recommendation for contact issued by a
242 qualified practitioner who is basing the recommendation on a
243 risk assessment. Further, the sex offender must be currently
244 enrolled in or have successfully completed a sex offender
245 therapy program. The commission may not grant supervised contact
246 with a child if the contact is not recommended by a qualified
247 practitioner and may deny supervised contact with a child at any
248 time. When considering whether to approve supervised contact
249 with a child, the commission must review and consider the
250 following:

251 a. A risk assessment completed by a qualified practitioner.
252 The qualified practitioner must prepare a written report that
253 must include the findings of the assessment and address each of
254 the following components:

- 255 (I) The sex offender's current legal status;
- 256 (II) The sex offender's history of adult charges with
257 apparent sexual motivation;
- 258 (III) The sex offender's history of adult charges without
259 apparent sexual motivation;
- 260 (IV) The sex offender's history of juvenile charges,
261 whenever available;

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262 (V) The sex offender's offender treatment history,
263 including a consultation from the sex offender's treating, or
264 most recent treating, therapist;

265 (VI) The sex offender's current mental status;

266 (VII) The sex offender's mental health and substance abuse
267 history as provided by the Department of Corrections;

268 (VIII) The sex offender's personal, social, educational,
269 and work history;

270 (IX) The results of current psychological testing of the
271 sex offender if determined necessary by the qualified
272 practitioner;

273 (X) A description of the proposed contact, including the
274 location, frequency, duration, and supervisory arrangement;

275 (XI) The child's preference and relative comfort level with
276 the proposed contact, when age-appropriate;

277 (XII) The parent's or legal guardian's preference regarding
278 the proposed contact; and

279 (XIII) The qualified practitioner's opinion, along with the
280 basis for that opinion, as to whether the proposed contact would
281 likely pose significant risk of emotional or physical harm to
282 the child.

283
284 The written report of the assessment must be given to the
285 commission.

286 b. A recommendation made as a part of the risk-assessment
287 report as to whether supervised contact with the child should be
288 approved.†

289 c. A written consent signed by the child's parent or legal
290 guardian, if the parent or legal guardian is not the sex

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 291 offender, agreeing to the sex offender having supervised contact
 292 with the child after receiving full disclosure of the sex
 293 offender's present legal status, past criminal history, and the
 294 results of the risk assessment. The commission may not approve
 295 contact with the child if the parent or legal guardian refuses
 296 to give written consent for supervised contact.~~†~~

297 d. A safety plan prepared by the qualified practitioner,
 298 who provides treatment to the offender, in collaboration with
 299 the sex offender, the child's parent or legal guardian, and the
 300 child, when age appropriate, which details the acceptable
 301 conditions of contact between the sex offender and the child.
 302 The safety plan must be reviewed and approved by the Department
 303 of Corrections before being submitted to the commission.~~†~~ and

304 e. Evidence that the child's parent or legal guardian, if
 305 the parent or legal guardian is not the sex offender,
 306 understands the need for and agrees to the safety plan and has
 307 agreed to provide, or to designate another adult to provide,
 308 constant supervision any time the child is in contact with the
 309 offender.

310
 311 The commission may not appoint a person to conduct a risk
 312 assessment and may not accept a risk assessment from a person
 313 who has not demonstrated to the commission that he or she has
 314 met the requirements of a qualified practitioner as defined in
 315 this section.

316 6. If the victim was under age 18, a prohibition on working
 317 for pay or as a volunteer at any school, child care facility,
 318 park, playground, or other place where children regularly
 319 congregate, as prescribed by the commission.

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 320 7. Unless otherwise indicated in the treatment plan
 321 provided by a qualified practitioner in the sexual offender
 322 treatment program, a prohibition on viewing, owning, or
 323 possessing any obscene, pornographic, or sexually stimulating
 324 visual or auditory material, including telephone, electronic
 325 media, computer programs, or computer services that are relevant
 326 to the offender's deviant behavior pattern.

327 8. Effective for a releasee whose crime is committed on or
 328 after July 1, 2005, a prohibition on accessing the Internet or
 329 other computer services until a qualified practitioner in the
 330 offender's sex offender treatment program, after a risk
 331 assessment is completed, approves and implements a safety plan
 332 for the offender's accessing or using the Internet or other
 333 computer services.

334 9. A requirement that the releasee ~~must~~ submit two
 335 specimens of blood to the Department of Law Enforcement to be
 336 registered with the DNA database.

337 10. A requirement that the releasee make restitution to the
 338 victim, as determined by the sentencing court or the commission,
 339 for all necessary medical and related professional services
 340 relating to physical, psychiatric, and psychological care.

341 11. Submission to a warrantless search by the community
 342 control or probation officer of the probationer's or community
 343 controllee's person, residence, or vehicle.

344 (b) For a releasee whose crime was committed on or after
 345 October 1, 1997, in violation of chapter 794, s. 800.04, s.
 346 827.071, s. 847.0135(5), or s. 847.0145, and who is subject to
 347 mandatory conditional release supervision, in addition to any
 348 other provision of this subsection, the commission shall impose

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349 the following additional conditions of mandatory conditional
350 ~~release~~ supervision:

351 1. As part of a treatment program, participation in a
352 minimum of one annual polygraph examination to obtain
353 information necessary for risk management and treatment and to
354 reduce the sex offender's denial mechanisms. The polygraph
355 examination must be conducted by a polygrapher who is a member
356 of a national or state polygraph association and who is
357 certified as a postconviction sex offender polygrapher, where
358 available, and at the expense of the releasee. The results of
359 the examination shall be provided to the releasee's probation
360 officer and qualified practitioner and may not be used as
361 evidence in a hearing to prove that a violation of supervision
362 has occurred.

363 2. Maintenance of a driving log and a prohibition against
364 driving a motor vehicle alone without the prior approval of the
365 supervising officer.

366 3. A prohibition against obtaining or using a post office
367 box without the prior approval of the supervising officer.

368 4. If there was sexual contact, a submission to, at the
369 releasee's expense, an HIV test with the results to be released
370 to the victim or the victim's parent or guardian.

371 5. Electronic monitoring of any form when ordered by the
372 commission. Any person who has been placed under supervision and
373 is electronically monitored by the department must pay the
374 department for the cost of the electronic monitoring service at
375 a rate that may not exceed the full cost of the monitoring
376 service. Funds collected under this subparagraph shall be
377 deposited into the General Revenue Fund. The department may

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378 exempt a person from the payment of all or any part of the
379 electronic monitoring service cost if the department finds that
380 any of the factors listed in s. 948.09(3) exist.

381 (8) It is the finding of the Legislature that the
382 population of offenders released from state prison into the
383 community who meet the mandatory supervision conditional release
384 criteria poses the greatest threat to the public safety of the
385 groups of offenders under community supervision. Therefore, the
386 Department of Corrections shall ~~is to~~ provide intensive
387 supervision by experienced correctional probation officers to
388 mandatory supervision conditional release offenders. Subject to
389 specific appropriation by the Legislature, caseloads may be
390 restricted to a maximum of 40 mandatory supervision conditional
391 ~~release~~ offenders per officer to provide for enhanced public
392 safety and to effectively monitor conditions of electronic
393 monitoring or curfews, if so ordered by the commission.

394 (9) The commission shall adopt rules pursuant to ss.
395 120.536(1) and 120.54 necessary to administer ~~implement the~~
396 ~~provisions of the~~ Mandatory Supervision Conditional Release
397 Program Act.

398 (10) Effective for a releasee whose crime was committed on
399 or after September 1, 2005, in violation of chapter 794, s.
400 800.04(4), (5), or (6), s. 827.071, or s. 847.0145, and the
401 unlawful activity involved a victim who was 15 years of age or
402 younger and the offender is 18 years of age or older or for a
403 releasee who is designated as a sexual predator pursuant to s.
404 775.21, in addition to any other provision of this section, the
405 commission must order electronic monitoring for the duration of
406 the releasee's supervision.

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407 (11) Effective for a releasee whose crime was committed on
 408 or after October 1, 2008, and who has been found to have
 409 committed the crime for the purpose of benefiting, promoting, or
 410 furthering the interests of a criminal gang, the commission
 411 shall, in addition to any other conditions imposed, impose a
 412 condition prohibiting the releasee from knowingly associating
 413 with other criminal gang members or associates, except as
 414 authorized by law enforcement officials, prosecutorial
 415 authorities, or the court, for the purpose of aiding in the
 416 investigation of criminal activity.

417 (12) In addition to all other conditions imposed, for a
 418 releasee who is subject to mandatory supervision ~~conditional~~
 419 ~~release~~ for a crime that was committed on or after May 26, 2010,
 420 and who has been convicted at any time of committing, or
 421 attempting, soliciting, or conspiring to commit, any of the
 422 criminal offenses listed in s. 943.0435(1)(a)1.a.(I), or a
 423 similar offense in another jurisdiction against a victim who was
 424 under 18 years of age at the time of the offense, if the
 425 releasee has not received a pardon for any felony or similar law
 426 of another jurisdiction necessary for the operation of this
 427 subsection, if a conviction of a felony or similar law of
 428 another jurisdiction necessary for the operation of this
 429 subsection has not been set aside in any postconviction
 430 proceeding, or if the releasee has not been removed from the
 431 requirement to register as a sexual offender or sexual predator
 432 pursuant to s. 943.04354, the commission must impose the
 433 following conditions:

434 (a) A prohibition on visiting schools, child care
 435 facilities, parks, and playgrounds without prior approval from

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436 the releasee's supervising officer. The commission may also
 437 designate additional prohibited locations to protect a victim.
 438 The prohibition ordered under this paragraph does not prohibit
 439 the releasee from visiting a school, child care facility, park,
 440 or playground for the sole purpose of attending a religious
 441 service as defined in s. 775.0861 or picking up or dropping off
 442 the releasee's child or grandchild at a child care facility or
 443 school.

444 (b) A prohibition on distributing candy or other items to
 445 children on Halloween; wearing a Santa Claus costume, or other
 446 costume to appeal to children, on or preceding Christmas;
 447 wearing an Easter Bunny costume, or other costume to appeal to
 448 children, on or preceding Easter; entertaining at children's
 449 parties; or wearing a clown costume without prior approval from
 450 the commission.

451 Section 4. Paragraph (c) of subsection (1) of section
 452 20.316, Florida Statutes, is amended to read:

453 20.316 Department of Juvenile Justice.—There is created a
 454 Department of Juvenile Justice.

455 (1) SECRETARY OF JUVENILE JUSTICE.—

456 (c) The Secretary of Juvenile Justice shall:

457 1. Ensure that juvenile justice continuum programs and
 458 services are implemented according to legislative intent; state
 459 and federal laws, rules, and regulations; statewide program
 460 standards; and performance objectives by reviewing and
 461 monitoring regional and circuit program operations and providing
 462 technical assistance to those programs.

463 2. Identify the need for and recommend the funding and
 464 implementation of an appropriate mix of programs and services

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- 465 within the juvenile justice continuum, including prevention,
 466 diversion, nonresidential and residential commitment programs,
 467 training schools, and mandatory supervision ~~conditional release~~
 468 programs and services, with an overlay of educational,
 469 vocational, alcohol, drug abuse, and mental health services
 470 where appropriate.
- 471 3. Provide for program research, development, and planning.
- 472 4. Develop staffing and workload standards and coordinate
 473 staff development and training.
- 474 5. Develop budget and resource allocation methodologies and
 475 strategies.
- 476 6. Establish program policies and rules and ensure that
 477 those policies and rules encourage cooperation, collaboration,
 478 and information sharing with community partners in the juvenile
 479 justice system to the extent authorized by law.
- 480 7. Develop funding sources external to state government.
- 481 8. Obtain, approve, monitor, and coordinate research and
 482 program development grants.
- 483 9. Enter into contracts.
- 484 10. Monitor all state-funded programs, grants,
 485 appropriations, or activities that are designed to prevent
 486 juvenile crime, delinquency, gang membership, or status offense
 487 behaviors and all state-funded programs, grants, appropriations,
 488 or activities that are designed to prevent a child from becoming
 489 a "child in need of services," as defined in chapter 984, in
 490 order to effect the goals and policies of the State
 491 Comprehensive Plan regarding children and regarding governmental
 492 efficiency, and in order to determine:
- 493 a. The number of youth served by such state-funded

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- 494 programs, grants, appropriations, or activities;
- 495 b. The number of youth who complete such state-funded
 496 programs, grants, appropriations, or activities;
- 497 c. The number and percentage of youth who are referred for
 498 delinquency while participating in such state-funded programs,
 499 grants, appropriations, or activities; and
- 500 d. The number and percentage of youth who are referred for
 501 delinquency within 6 months after completing such state-funded
 502 programs, grants, appropriations, or activities.
- 503 Section 5. Paragraph (c) of subsection (5) of section
 504 216.136, Florida Statutes, is amended to read:
- 505 216.136 Consensus estimating conferences; duties and
 506 principals.—
- 507 (5) CRIMINAL JUSTICE ESTIMATING CONFERENCE.—The Criminal
 508 Justice Estimating Conference shall:
- 509 (c) Develop official information relating to the number of
 510 sexual offenders and sexual predators who are required by law to
 511 be placed on community control, probation, or mandatory
 512 supervision ~~conditional release~~ who are subject to electronic
 513 monitoring.
- 514 Section 6. Subsection (2) of section 394.926, Florida
 515 Statutes, is amended to read:
- 516 394.926 Notice to victims of release of persons committed
 517 as sexually violent predators; notice to Department of
 518 Corrections and Parole Commission.—
- 519 (2) If a sexually violent predator who has an active or
 520 pending term of probation, community control, parole, mandatory
 521 supervision ~~conditional release~~, or other court-ordered or
 522 postprison release supervision is released from custody, the

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523 department must immediately notify the Department of
 524 Corrections' Office of Community Corrections in Tallahassee. The
 525 Parole Commission must also be immediately notified of any
 526 releases of a sexually violent predator who has an active or
 527 pending term of parole, mandatory supervision conditional
 528 ~~release~~, or other postprison release supervision that is
 529 administered by the Parole Commission.

530 Section 7. Subsection (2) of section 394.927, Florida
 531 Statutes, is amended to read:

532 394.927 Escape while in lawful custody; notice to victim;
 533 notice to the Department of Corrections and Parole Commission.-

534 (2) If a person who is held in custody pursuant to a
 535 finding of probable cause or commitment as a sexually violent
 536 predator escapes while in custody, the department shall
 537 immediately notify the victim in accordance with s. 394.926. The
 538 state attorney that filed the petition for civil commitment of
 539 the escapee must also be immediately notified by the department.
 540 If the escapee has an active or pending term of probation,
 541 community control, parole, mandatory supervision conditional
 542 ~~release~~, or other court-ordered or postprison release
 543 supervision, the department shall also immediately notify the
 544 Department of Corrections' Office of Community Corrections in
 545 Tallahassee. The Parole Commission shall also be immediately
 546 notified of an escape if the escapee has an active or pending
 547 term of parole, mandatory supervision conditional release, or
 548 other postprison release supervision that is administered by the
 549 Parole Commission.

550 Section 8. Paragraphs (a), (b), and (d) of subsection (1)
 551 of section 775.084, Florida Statutes, are amended to read:

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552 775.084 Violent career criminals; habitual felony offenders
 553 and habitual violent felony offenders; three-time violent felony
 554 offenders; definitions; procedure; enhanced penalties or
 555 mandatory minimum prison terms.-

556 (1) As used in this act:

557 (a) "Habitual felony offender" means a defendant for whom
 558 the court may impose an extended term of imprisonment, as
 559 provided in paragraph (4)(a), if it finds that:

560 1. The defendant has previously been convicted of any
 561 combination of two or more felonies in this state or other
 562 qualified offenses.

563 2. The felony for which the defendant is to be sentenced
 564 was committed:

565 a. While the defendant was serving a prison sentence or
 566 other sentence, or court-ordered or lawfully imposed supervision
 567 that is imposed as a result of a prior conviction for a felony
 568 or other qualified offense; or

569 b. Within 5 years of the date of the conviction of the
 570 defendant's last prior felony or other qualified offense, or
 571 within 5 years of the defendant's release from a prison
 572 sentence, probation, community control, control release,
 573 mandatory supervision conditional release, parole or court-
 574 ordered or lawfully imposed supervision or other sentence that
 575 is imposed as a result of a prior conviction for a felony or
 576 other qualified offense, whichever is later.

577 3. The felony for which the defendant is to be sentenced,
 578 and one of the two prior felony convictions, is not a violation
 579 of s. 893.13 relating to the purchase or the possession of a
 580 controlled substance.

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581 4. The defendant has not received a pardon for any felony
582 or other qualified offense that is necessary for the operation
583 of this paragraph.

584 5. A conviction of a felony or other qualified offense
585 necessary to the operation of this paragraph has not been set
586 aside in any postconviction proceeding.

587 (b) "Habitual violent felony offender" means a defendant
588 for whom the court may impose an extended term of imprisonment,
589 as provided in paragraph (4) (b), if it finds that:

590 1. The defendant has previously been convicted of a felony
591 or an attempt or conspiracy to commit a felony and one or more
592 of such convictions was for:

- 593 a. Arson;
- 594 b. Sexual battery;
- 595 c. Robbery;
- 596 d. Kidnapping;
- 597 e. Aggravated child abuse;
- 598 f. Aggravated abuse of an elderly person or disabled adult;
- 599 g. Aggravated assault with a deadly weapon;
- 600 h. Murder;
- 601 i. Manslaughter;
- 602 j. Aggravated manslaughter of an elderly person or disabled
603 adult;
- 604 k. Aggravated manslaughter of a child;
- 605 l. Unlawful throwing, placing, or discharging of a
606 destructive device or bomb;
- 607 m. Armed burglary;
- 608 n. Aggravated battery; or
- 609 o. Aggravated stalking.

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610 2. The felony for which the defendant is to be sentenced
611 was committed:

612 a. While the defendant was serving a prison sentence or
613 other sentence, or court-ordered or lawfully imposed supervision
614 that is imposed as a result of a prior conviction for an
615 enumerated felony; or

616 b. Within 5 years of the date of the conviction of the last
617 prior enumerated felony, or within 5 years of the defendant's
618 release from a prison sentence, probation, community control,
619 control release, mandatory supervision ~~conditional release~~,
620 parole, or court-ordered or lawfully imposed supervision or
621 other sentence that is imposed as a result of a prior conviction
622 for an enumerated felony, whichever is later.

623 3. The defendant has not received a pardon on the ground of
624 innocence for any crime that is necessary for the operation of
625 this paragraph.

626 4. A conviction of a crime necessary to the operation of
627 this paragraph has not been set aside in any postconviction
628 proceeding.

629 (d) "Violent career criminal" means a defendant for whom
630 the court must impose imprisonment pursuant to paragraph (4) (d),
631 if it finds that:

632 1. The defendant has previously been convicted as an adult
633 three or more times for an offense in this state or other
634 qualified offense that is:

- 635 a. Any forcible felony, as described in s. 776.08;
- 636 b. Aggravated stalking, as described in s. 784.048(3) and
637 (4);
- 638 c. Aggravated child abuse, as described in s. 827.03(2) (a);

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639 d. Aggravated abuse of an elderly person or disabled adult,
640 as described in s. 825.102(2);

641 e. Lewd or lascivious battery, lewd or lascivious
642 molestation, lewd or lascivious conduct, or lewd or lascivious
643 exhibition, as described in s. 800.04 or s. 847.0135(5);

644 f. Escape, as described in s. 944.40; or

645 g. A felony violation of chapter 790 involving the use or
646 possession of a firearm.

647 2. The defendant has been incarcerated in a state prison or
648 a federal prison.

649 3. The primary felony offense for which the defendant is to
650 be sentenced is a felony enumerated in subparagraph 1. and was
651 committed on or after October 1, 1995, and:

652 a. While the defendant was serving a prison sentence or
653 other sentence, or court-ordered or lawfully imposed supervision
654 that is imposed as a result of a prior conviction for an
655 enumerated felony; or

656 b. Within 5 years after the conviction of the last prior
657 enumerated felony, or within 5 years after the defendant's
658 release from a prison sentence, probation, community control,
659 control release, mandatory supervision ~~conditional release~~,
660 parole, or court-ordered or lawfully imposed supervision or
661 other sentence that is imposed as a result of a prior conviction
662 for an enumerated felony, whichever is later.

663 4. The defendant has not received a pardon for any felony
664 or other qualified offense that is necessary for the operation
665 of this paragraph.

666 5. A conviction of a felony or other qualified offense
667 necessary to the operation of this paragraph has not been set

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668 aside in any postconviction proceeding.

669 Section 9. Section 775.16, Florida Statutes, is amended to
670 read:

671 775.16 Drug offenses; additional penalties.—In addition to
672 any other penalty provided by law, a person who has been
673 convicted of sale of or trafficking in, or conspiracy to sell or
674 traffic in, a controlled substance under chapter 893, if such
675 offense is a felony, or who has been convicted of an offense
676 under the laws of any state or country which, if committed in
677 this state, would constitute the felony of selling or
678 trafficking in, or conspiracy to sell or traffic in, a
679 controlled substance under chapter 893, is:

680 (1) Disqualified from applying for employment by any agency
681 of the state, unless:

682 (a) The person has completed all sentences of imprisonment
683 or supervisory sanctions imposed by the court, by the Parole
684 Commission, or by law; or

685 (b) The person has complied with the conditions of
686 subparagraphs 1. and 2. which shall be monitored by the
687 Department of Corrections while the person is under any
688 supervisory sanctions. The person under supervision may:

689 1. Seek evaluation and enrollment in, and once enrolled
690 maintain enrollment in until completion, a drug treatment and
691 rehabilitation program ~~that which~~ is approved by the Department
692 of Children and Family Services, unless it is deemed by the
693 program that the person does not have a substance abuse problem.
694 The treatment and rehabilitation program may be specified by:

695 a. The court, in the case of court-ordered supervisory
696 sanctions;

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697 b. The Parole Commission, in the case of parole, control
 698 release, or mandatory supervision ~~conditional release~~; or
 699 c. The Department of Corrections, in the case of
 700 imprisonment or any other supervision required by law.
 701 2. Submit to periodic urine drug testing pursuant to
 702 procedures prescribed by the Department of Corrections. If the
 703 person is indigent, the costs shall be paid by the Department of
 704 Corrections.
 705 (2) Disqualified from applying for a license, permit, or
 706 certificate required by any agency of the state to practice,
 707 pursue, or engage in any occupation, trade, vocation,
 708 profession, or business, unless:
 709 (a) The person has completed all sentences of imprisonment
 710 or supervisory sanctions imposed by the court, by the Parole
 711 Commission, or by law;
 712 (b) The person has complied with the conditions of
 713 subparagraphs 1. and 2. which shall be monitored by the
 714 Department of Corrections while the person is under any
 715 supervisory sanction. If the person fails to comply with
 716 provisions of these subparagraphs by either failing to maintain
 717 treatment or by testing positive for drug use, the department
 718 shall notify the licensing, permitting, or certifying agency,
 719 which may refuse to reissue or reinstate such license, permit,
 720 or certification. The licensee, permittee, or certificateholder
 721 under supervision may:
 722 1. Seek evaluation and enrollment in, and once enrolled
 723 maintain enrollment in until completion, a drug treatment and
 724 rehabilitation program which is approved or regulated by the
 725 Department of Children and Family Services, unless it is deemed

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726 by the program that the person does not have a substance abuse
 727 problem. The treatment and rehabilitation program may be
 728 specified by:
 729 a. The court, in the case of court-ordered supervisory
 730 sanctions;
 731 b. The Parole Commission, in the case of parole, control
 732 release, or mandatory supervision ~~conditional release~~; or
 733 c. The Department of Corrections, in the case of
 734 imprisonment or any other supervision required by law.
 735 2. Submit to periodic urine drug testing pursuant to
 736 procedures prescribed by the Department of Corrections. If the
 737 person is indigent, the costs shall be paid by the Department of
 738 Corrections; or
 739 (c) The person has successfully completed an appropriate
 740 program under the Correctional Education Program.
 741
 742 The provisions of this section do not apply to any of the taxes,
 743 fees, or permits regulated, controlled, or administered by the
 744 Department of Revenue in accordance with the provisions of s.
 745 213.05.
 746 Section 10. Paragraph (e) of subsection (2) of section
 747 775.21, Florida Statutes, is amended to read:
 748 775.21 The Florida Sexual Predators Act.—
 749 (2) DEFINITIONS.—As used in this section, the term:
 750 (e) "Conviction" means a determination of guilt which is
 751 the result of a trial or the entry of a plea of guilty or nolo
 752 contendere, regardless of whether adjudication is withheld. A
 753 conviction for a similar offense includes, but is not limited
 754 to, a conviction by a federal or military tribunal, including

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 755 courts-martial conducted by the Armed Forces of the United
 756 States, and includes a conviction or entry of a plea of guilty
 757 or nolo contendere resulting in a sanction in any state of the
 758 United States or other jurisdiction. A sanction includes, but is
 759 not limited to, a fine, probation, community control, parole,
 760 mandatory supervision ~~conditional release~~, control release, or
 761 incarceration in a state prison, federal prison, private
 762 correctional facility, or local detention facility.

763 Section 11. Paragraph (a) of subsection (3) of section
 764 775.261, Florida Statutes, is amended to read:

765 775.261 The Florida Career Offender Registration Act.—

766 (3) CRITERIA FOR REGISTRATION AS A CAREER OFFENDER.—

767 (a) A career offender released on or after July 1, 2002,
 768 from a sanction imposed in this state must register as required
 769 under subsection (4) and is subject to community and public
 770 notification as provided under subsection (5). For purposes of
 771 this section, a sanction imposed in this state includes, but is
 772 not limited to, a fine, probation, community control, parole,
 773 mandatory supervision ~~conditional release~~, control release, or
 774 incarceration in a state prison, private correctional facility,
 775 or local detention facility, and:

776 1. The career offender has not received a pardon for any
 777 felony or other qualified offense that is necessary for the
 778 operation of this paragraph; or

779 2. A conviction of a felony or other qualified offense
 780 necessary to the operation of this paragraph has not been set
 781 aside in any postconviction proceeding.

782 Section 12. Section 893.11, Florida Statutes, is amended to
 783 read:

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 784 893.11 Suspension, revocation, and reinstatement of
 785 business and professional licenses.—For the purposes of s.
 786 120.60(6), any conviction in any court reported to the
 787 Comprehensive Case Information System of the Florida Association
 788 of Court Clerks and Comptrollers, Inc., for the sale of, or
 789 trafficking in, a controlled substance or for conspiracy to
 790 sell, or traffic in, a controlled substance constitutes an
 791 immediate serious danger to the public health, safety, or
 792 welfare, and is grounds for disciplinary action by the licensing
 793 state agency. A state agency shall initiate an immediate
 794 emergency suspension of an individual professional license
 795 issued by the agency, in compliance with the procedures for
 796 summary suspensions in s. 120.60(6), upon the agency's findings
 797 of the licensee's conviction in any court reported to the
 798 Comprehensive Case Information System of the Florida Association
 799 of Court Clerks and Comptrollers, Inc., for the sale of, or
 800 trafficking in, a controlled substance, or for conspiracy to
 801 sell, or traffic in, a controlled substance. Before renewing any
 802 professional license, a state agency that issues a professional
 803 license must use the Comprehensive Case Information System of
 804 the Florida Association of Court Clerks and Comptrollers, Inc.,
 805 to obtain information relating to any conviction for the sale
 806 of, or trafficking in, a controlled substance or for conspiracy
 807 to sell, or traffic in, a controlled substance. The clerk of
 808 court shall provide electronic access to each state agency at no
 809 cost and also provide certified copies of the judgment upon
 810 request to the agency. Upon a showing by any such convicted
 811 defendant whose professional license has been suspended or
 812 revoked pursuant to this section that his or her civil rights

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813 have been restored or upon a showing that the convicted
814 defendant meets the following criteria, the agency head may
815 reinstate or reactivate such license when:

816 (1) The person has complied with the conditions of
817 paragraphs (a) and (b) which shall be monitored by the
818 Department of Corrections while the person is under any
819 supervisory sanction. If the person fails to comply with
820 provisions of these paragraphs by either failing to maintain
821 treatment or by testing positive for drug use, the department
822 shall notify the licensing agency, which shall revoke the
823 license. The person under supervision may:

824 (a) Seek evaluation and enrollment in, and once enrolled
825 maintain enrollment in until completion, a drug treatment and
826 rehabilitation program that ~~which~~ is approved or regulated by
827 the Department of Children and Family Services. The treatment
828 and rehabilitation program shall be specified by:

829 1. The court, in the case of court-ordered supervisory
830 sanctions;

831 2. The Parole Commission, in the case of parole, control
832 release, or mandatory supervision ~~conditional release~~; or

833 3. The Department of Corrections, in the case of
834 imprisonment or any other supervision required by law.

835 (b) Submit to periodic urine drug testing pursuant to
836 procedures prescribed by the Department of Corrections. If the
837 person is indigent, the costs shall be paid by the Department of
838 Corrections; or

839 (2) The person has successfully completed an appropriate
840 program under the Correctional Education Program.

841 (3) As used in this section, the term "professional

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842 license" includes any license, permit, or certificate that
843 authorizes a person to practice his or her profession. However,
844 the term does not include any of the taxes, fees, or permits
845 regulated, controlled, or administered by the Department of
846 Revenue in accordance with s. 213.05.

847 Section 13. Paragraphs (a) and (b) of subsection (1) of
848 section 943.0435, Florida Statutes, are amended to read:

849 943.0435 Sexual offenders required to register with the
850 department; penalty.—

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

852 (a)1. "Sexual offender" means a person who meets the
853 criteria in sub-subparagraph a., sub-subparagraph b., sub-
854 subparagraph c., or sub-subparagraph d., as follows:

855 a.(I) Has been convicted of committing, or attempting,
856 soliciting, or conspiring to commit, any of the criminal
857 offenses proscribed in the following statutes in this state or
858 similar offenses in another jurisdiction: s. 787.01, s. 787.02,
859 or s. 787.025(2)(c), where the victim is a minor and the
860 defendant is not the victim's parent or guardian; s.
861 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s.
862 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
863 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
864 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
865 or s. 985.701(1); or any similar offense committed in this state
866 which has been redesignated from a former statute number to one
867 of those listed in this sub-sub-subparagraph; and

868 (II) Has been released on or after October 1, 1997, from
869 the sanction imposed for any conviction of an offense described
870 in sub-sub-subparagraph (I). For purposes of sub-sub-

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871 subparagraph (I), a sanction imposed in this state or in any
 872 other jurisdiction includes, but is not limited to, a fine,
 873 probation, community control, parole, mandatory supervision
 874 ~~conditional release~~, control release, or incarceration in a
 875 state prison, federal prison, private correctional facility, or
 876 local detention facility;

877 b. Establishes or maintains a residence in this state and
 878 who has not been designated as a sexual predator by a court of
 879 this state but who has been designated as a sexual predator, as
 880 a sexually violent predator, or by another sexual offender
 881 designation in another state or jurisdiction and was, as a
 882 result of such designation, subjected to registration or
 883 community or public notification, or both, or would be if the
 884 person were a resident of that state or jurisdiction, without
 885 regard to whether the person otherwise meets the criteria for
 886 registration as a sexual offender;

887 c. Establishes or maintains a residence in this state who
 888 is in the custody or control of, or under the supervision of,
 889 any other state or jurisdiction as a result of a conviction for
 890 committing, or attempting, soliciting, or conspiring to commit,
 891 any of the criminal offenses proscribed in the following
 892 statutes or similar offense in another jurisdiction: s. 787.01,
 893 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
 894 the defendant is not the victim's parent or guardian; s.
 895 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s.
 896 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
 897 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
 898 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
 899 or s. 985.701(1); or any similar offense committed in this state

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900 which has been redesignated from a former statute number to one
 901 of those listed in this sub-subparagraph; or

902 d. On or after July 1, 2007, has been adjudicated
 903 delinquent for committing, or attempting, soliciting, or
 904 conspiring to commit, any of the criminal offenses proscribed in
 905 the following statutes in this state or similar offenses in
 906 another jurisdiction when the juvenile was 14 years of age or
 907 older at the time of the offense:

908 (I) Section 794.011, excluding s. 794.011(10);

909 (II) Section 800.04(4)(b) where the victim is under 12
 910 years of age or where the court finds sexual activity by the use
 911 of force or coercion;

912 (III) Section 800.04(5)(c)1. where the court finds
 913 molestation involving unclothed genitals; or

914 (IV) Section 800.04(5)(d) where the court finds the use of
 915 force or coercion and unclothed genitals.

916 2. For all qualifying offenses listed in sub-subparagraph
 917 (1)(a)1.d., the court shall make a written finding of the age of
 918 the offender at the time of the offense.

919

920 For each violation of a qualifying offense listed in this
 921 subsection, the court shall make a written finding of the age of
 922 the victim at the time of the offense. For a violation of s.
 923 800.04(4), the court shall additionally make a written finding
 924 indicating that the offense did or did not involve sexual
 925 activity and indicating that the offense did or did not involve
 926 force or coercion. For a violation of s. 800.04(5), the court
 927 shall additionally make a written finding that the offense did
 928 or did not involve unclothed genitals or genital area and that

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929 the offense did or did not involve the use of force or coercion.

930 (b) "Convicted" means that there has been a determination
 931 of guilt as a result of a trial or the entry of a plea of guilty
 932 or nolo contendere, regardless of whether adjudication is
 933 withheld, and includes an adjudication of delinquency of a
 934 juvenile as specified in this section. Conviction of a similar
 935 offense includes, but is not limited to, a conviction by a
 936 federal or military tribunal, including courts-martial conducted
 937 by the Armed Forces of the United States, and includes a
 938 conviction or entry of a plea of guilty or nolo contendere
 939 resulting in a sanction in any state of the United States or
 940 other jurisdiction. A sanction includes, but is not limited to,
 941 a fine, probation, community control, parole, mandatory
 942 supervision ~~conditional release~~, control release, or
 943 incarceration in a state prison, federal prison, private
 944 correctional facility, or local detention facility.

945 Section 14. Paragraph (a) of subsection (7) of section
 946 943.325, Florida Statutes, is amended to read:
 947 943.325 DNA database.—

948 (7) COLLECTION OF DNA SAMPLES FROM OFFENDERS.—

949 (a) Any qualifying offender, who is:

- 950 1. Arrested in this state;
- 951 2. Incarcerated in this state; or
- 952 3. On probation, community control, parole, mandatory
 953 supervision ~~conditional release~~, control release, or any other
 954 type of court-ordered supervision in this state,

955 shall be required to submit a DNA sample to a department-
 956 designated facility.

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958 Section 15. Paragraph (a) of subsection (2) of section
 959 944.171, Florida Statutes, is amended to read:

960 944.171 Housing of inmates.—

961 (2) Notwithstanding s. 944.17, the department may enter
 962 into contracts with another state, a political subdivision of
 963 another state, or a correctional management services vendor in
 964 another state for the transfer and confinement in that state of
 965 inmates who have been committed to the custody of the
 966 department.

967 (a) Any such contract must include:

- 968 1. A termination date.
- 969 2. Provisions concerning the costs of inmate maintenance,
 970 extraordinary medical and dental expenses, and any participation
 971 in or receipt by inmates of rehabilitative or correctional
 972 services, facilities, programs, or treatment, including those
 973 costs not reasonably included as part of normal maintenance.
- 974 3. Provisions concerning participation in programs of
 975 inmate employment, if any, the disposition or crediting of any
 976 payments received by inmates on account of employment, and the
 977 crediting of proceeds or disposal of any products resulting from
 978 employment.
- 979 4. Provisions for the delivery and retaking of inmates.
- 980 5. A provision for a waiver of extradition by the parties
 981 to the contract.
- 982 6. Retention of jurisdiction of the inmates transferred by
 983 Florida.
- 984 7. Regular reporting procedures concerning Florida inmates
 985 by officials of the state, political subdivision, or
 986 correctional management services vendor with which the

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987 department is contracting.

988 8. Provisions concerning procedures for community
989 supervision, including probation, parole, mandatory supervision
990 ~~conditional release~~, and discharge.

991 9. The same standards of reasonable and humane care as the
992 inmates would receive in an appropriate institution in this
993 state.

994 10. Any other matters that are necessary and appropriate to
995 establish the obligations, responsibilities, and rights of
996 Florida and the state, political subdivision, or correctional
997 management services vendor with which the department is
998 contracting.

999 Section 16. Subsection (1) of section 944.28, Florida
1000 Statutes, is amended to read:

1001 944.28 Forfeiture of gain-time and the right to earn gain-
1002 time in the future.—

1003 (1) If a prisoner is convicted of escape, or if the
1004 clemency, mandatory supervision ~~conditional release~~ as described
1005 in chapter 947, probation or community control as described in
1006 chapter 948, provisional release as described in s. 944.277,
1007 parole, or control release as described in s. 947.146 granted to
1008 the prisoner is revoked, the department may, without notice or
1009 hearing, declare a forfeiture of all gain-time earned according
1010 to the provisions of law by such prisoner prior to such escape
1011 or his or her release under such clemency, mandatory supervision
1012 ~~conditional release~~, probation, community control, provisional
1013 release, control release, or parole.

1014 Section 17. Paragraph (a) of subsection (1) of section
1015 944.606, Florida Statutes, is amended to read:

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1016 944.606 Sexual offenders; notification upon release.—

1017 (1) As used in this section:

1018 (a) "Convicted" means there has been a determination of
1019 guilt as a result of a trial or the entry of a plea of guilty or
1020 nolo contendere, regardless of whether adjudication is withheld.
1021 A conviction for a similar offense includes, but is not limited
1022 to, a conviction by a federal or military tribunal, including
1023 courts-martial conducted by the Armed Forces of the United
1024 States, and includes a conviction or entry of a plea of guilty
1025 or nolo contendere resulting in a sanction in any state of the
1026 United States or other jurisdiction. A sanction includes, but is
1027 not limited to, a fine; probation; community control; parole;
1028 mandatory supervision ~~conditional release~~; control release; or
1029 incarceration in a state prison, federal prison, private
1030 correctional facility, or local detention facility.

1031 Section 18. Paragraph (b) of subsection (1) and subsection
1032 (6) of section 944.607, Florida Statutes, are amended to read:

1033 944.607 Notification to Department of Law Enforcement of
1034 information on sexual offenders.—

1035 (1) As used in this section, the term:

1036 (b) "Conviction" means a determination of guilt which is
1037 the result of a trial or the entry of a plea of guilty or nolo
1038 contendere, regardless of whether adjudication is withheld.
1039 Conviction of a similar offense includes, but is not limited to,
1040 a conviction by a federal or military tribunal, including
1041 courts-martial conducted by the Armed Forces of the United
1042 States, and includes a conviction or entry of a plea of guilty
1043 or nolo contendere resulting in a sanction in any state of the
1044 United States or other jurisdiction. A sanction includes, but is

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1045 not limited to, a fine; probation; community control; parole;
 1046 mandatory supervision conditional release; control release; or
 1047 incarceration in a state prison, federal prison, private
 1048 correctional facility, or local detention facility.

1049 (6) The information provided to the Department of Law
 1050 Enforcement must include:

1051 (a) The information obtained from the sexual offender under
 1052 subsection (4);

1053 (b) The sexual offender's most current address, place of
 1054 permanent, temporary, or transient residence within the state or
 1055 out of state, and address, location or description, and dates of
 1056 any current or known future temporary residence within the state
 1057 or out of state, while the sexual offender is under supervision
 1058 in this state, including the name of the county or municipality
 1059 in which the offender permanently or temporarily resides, or has
 1060 a transient residence, and address, location or description, and
 1061 dates of any current or known future temporary residence within
 1062 the state or out of state, and, if known, the intended place of
 1063 permanent, temporary, or transient residence, and address,
 1064 location or description, and dates of any current or known
 1065 future temporary residence within the state or out of state upon
 1066 satisfaction of all sanctions;

1067 (c) The legal status of the sexual offender and the
 1068 scheduled termination date of that legal status;

1069 (d) The location of, and local telephone number for, any
 1070 Department of Corrections' office that is responsible for
 1071 supervising the sexual offender;

1072 (e) An indication of whether the victim of the offense that
 1073 resulted in the offender's status as a sexual offender was a

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1074 minor;

1075 (f) The offense or offenses at conviction which resulted in
 1076 the determination of the offender's status as a sex offender;
 1077 and

1078 (g) A digitized photograph of the sexual offender which
 1079 must have been taken within 60 days before the offender is
 1080 released from the custody of the department or a private
 1081 correctional facility by expiration of sentence under s. 944.275
 1082 or must have been taken by January 1, 1998, or within 60 days
 1083 after the onset of the department's supervision of any sexual
 1084 offender who is on probation, community control, mandatory
 1085 supervision conditional release, parole, provisional release, or
 1086 control release or who is supervised by the department under the
 1087 Interstate Compact Agreement for Probationers and Parolees. If
 1088 the sexual offender is in the custody of a private correctional
 1089 facility, the facility shall take a digitized photograph of the
 1090 sexual offender within the time period provided in this
 1091 paragraph and shall provide the photograph to the department.

1092
 1093 If any information provided by the department changes during the
 1094 time the sexual offender is under the department's control,
 1095 custody, or supervision, including any change in the offender's
 1096 name by reason of marriage or other legal process, the
 1097 department shall, in a timely manner, update the information and
 1098 provide it to the Department of Law Enforcement in the manner
 1099 prescribed in subsection (2).

1100 Section 19. Subsection (5) of section 944.608, Florida
 1101 Statutes, is amended to read:

1102 944.608 Notification to Department of Law Enforcement of

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1103 information on career offenders.—

1104 (5) The information provided to the Department of Law

1105 Enforcement must include:

1106 (a) The information obtained from the career offender under

1107 subsection (3);

1108 (b) The career offender's most current address and place of

1109 permanent and temporary residence within the state or out of

1110 state while the career offender is under supervision in this

1111 state, including the name of the county or municipality in which

1112 the career offender permanently or temporarily resides and, if

1113 known, the intended place of permanent or temporary residence

1114 upon satisfaction of all sanctions;

1115 (c) The legal status of the career offender and the

1116 scheduled termination date of that legal status;

1117 (d) The location of, and local telephone number for, any

1118 Department of Corrections' office that is responsible for

1119 supervising the career offender; and

1120 (e) A digitized photograph of the career offender, which

1121 must have been taken within 60 days before the career offender

1122 is released from the custody of the department or a private

1123 correctional facility or within 60 days after the onset of the

1124 department's supervision of any career offender who is on

1125 probation, community control, mandatory supervision conditional

1126 ~~release~~, parole, provisional release, or control release. If the

1127 career offender is in the custody or control of, or under the

1128 supervision of, a private correctional facility, the facility

1129 shall take a digitized photograph of the career offender within

1130 the time period provided in this paragraph and shall provide the

1131 photograph to the department.

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1132 Section 20. Section 944.70, Florida Statutes, is amended to

1133 read:

1134 944.70 Conditions for release from incarceration.—

1135 (1) (a) A person who is convicted of a crime committed on or

1136 after October 1, 1983, but before January 1, 1994, may be

1137 released from incarceration only:

1138 1. Upon expiration of the person's sentence;

1139 2. Upon expiration of the person's sentence as reduced by

1140 accumulated gain-time;

1141 3. As directed by an executive order granting clemency;

1142 4. Upon attaining the provisional release date;

1143 5. Upon placement in a mandatory supervision conditional

1144 ~~release~~ program pursuant to s. 947.1405; or

1145 6. Upon the granting of control release pursuant to s.

1146 947.146.

1147 (b) A person who is convicted of a crime committed on or

1148 after January 1, 1994, may be released from incarceration only:

1149 1. Upon expiration of the person's sentence;

1150 2. Upon expiration of the person's sentence as reduced by

1151 accumulated meritorious or incentive gain-time;

1152 3. As directed by an executive order granting clemency;

1153 4. Upon placement in a mandatory supervision conditional

1154 ~~release~~ program pursuant to s. 947.1405 or a conditional medical

1155 release program pursuant to s. 947.149; or

1156 5. Upon the granting of control release, including

1157 emergency control release, pursuant to s. 947.146.

1158 (2) A person who is convicted of a crime committed on or

1159 after December 1, 1990, and who receives a control release date

1160 may not refuse to accept the terms or conditions of control

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1161 release.

1162 Section 21. Section 945.36, Florida Statutes, is amended to

1163 read:

1164 945.36 Exemption from health testing regulations for law

1165 enforcement personnel conducting drug tests on inmates and

1166 releasees.—

1167 (1) Any law enforcement officer, state or county probation

1168 officer, or employee of the Department of Corrections, who is

1169 certified by the Department of Corrections pursuant to

1170 subsection (2), is exempt from part I of chapter 483, for the

1171 limited purpose of administering a urine screen drug test to:

1172 (a) Persons during incarceration;

1173 (b) Persons released as a condition of probation for either

1174 a felony or misdemeanor;

1175 (c) Persons released as a condition of community control;

1176 (d) Persons released as a condition of mandatory

1177 supervision conditional release;

1178 (e) Persons released as a condition of parole;

1179 (f) Persons released as a condition of provisional release;

1180 (g) Persons released as a condition of pretrial release; or

1181 (h) Persons released as a condition of control release.

1182 (2) The Department of Corrections shall develop a procedure

1183 for certification of any law enforcement officer, state or

1184 county probation officer, or employee of the Department of

1185 Corrections to perform a urine screen drug test on the persons

1186 specified in subsection (1).

1187 Section 22. Section 947.071, Florida Statutes, is amended

1188 to read:

1189 947.071 Rulemaking procedures; indexing of orders.—

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1190 (1) It is the intent of the Legislature that all rulemaking

1191 procedures by the commission be conducted pursuant to the

1192 Administrative Procedure Act, chapter 120.

1193 (2) The only final orders of the commission which must

1194 ~~shall~~ be indexed pursuant to chapter 120 are:

1195 (a) Orders granting parole.

1196 (b) Orders revoking parole.

1197 (c) Orders restoring to supervision.

1198 (d) Orders releasing from custody and further supervision.

1199 (e) Early parole termination orders.

1200 (f) Orders granting mandatory supervision conditional

1201 release.

1202 (g) Orders revoking mandatory supervision conditional

1203 release.

1204 Section 23. Paragraph (f) of subsection (1) of section

1205 947.13, Florida Statutes, is amended to read:

1206 947.13 Powers and duties of commission.—

1207 (1) The commission shall have the powers and perform the

1208 duties of:

1209 (f) Establishing the terms and conditions of persons

1210 released on mandatory supervision conditional release under s.

1211 947.1405, and determining subsequent ineligibility for mandatory

1212 supervision conditional release due to a violation of the terms

1213 or conditions of mandatory supervision conditional release and

1214 taking action with respect to such a violation.

1215 Section 24. Section 947.141, Florida Statutes, is amended

1216 to read:

1217 947.141 Violations of mandatory supervision conditional

1218 release, control release, ~~or~~ conditional medical release, or

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1219 addiction-recovery supervision.-

1220 (1) If a member of the commission or a duly authorized
1221 representative of the commission has reasonable grounds to
1222 believe that an offender who is on release supervision under s.
1223 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated
1224 the terms and conditions of the release in a material respect,
1225 such member or representative may cause a warrant to be issued
1226 for the arrest of the releasee; if the offender was found to be
1227 a sexual predator, the warrant must be issued.

1228 (2) Upon the arrest on a felony charge of an offender who
1229 is on release supervision under s. 947.1405, s. 947.146, s.
1230 947.149, or s. 944.4731, the offender must be detained without
1231 bond until the initial appearance of the offender at which a
1232 judicial determination of probable cause is made. If the trial
1233 court judge determines that there was no probable cause for the
1234 arrest, the offender may be released. If the trial court judge
1235 determines that there was probable cause for the arrest, such
1236 determination also constitutes reasonable grounds to believe
1237 that the offender violated the conditions of the release. Within
1238 24 hours after the trial court judge's finding of probable
1239 cause, the detention facility administrator or designee shall
1240 notify the commission and the department of the finding and
1241 transmit to each a facsimile copy of the probable cause
1242 affidavit or the sworn offense report upon which the trial court
1243 judge's probable cause determination is based. The offender must
1244 continue to be detained without bond for a period not exceeding
1245 72 hours excluding weekends and holidays after the date of the
1246 probable cause determination, pending a decision by the
1247 commission whether to issue a warrant charging the offender with

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

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1248 violation of the conditions of release. Upon the issuance of the
1249 commission's warrant, the offender must continue to be held in
1250 custody pending a revocation hearing held in accordance with
1251 this section.

1252 (3) Within 45 days after notice to the Parole Commission of
1253 the arrest of a releasee charged with a violation of the terms
1254 and conditions of mandatory supervision ~~conditional release~~,
1255 control release, conditional medical release, or addiction-
1256 recovery supervision, the releasee must be afforded a hearing
1257 conducted by a commissioner or a duly authorized representative
1258 thereof. If the releasee elects to proceed with a hearing, the
1259 releasee must be informed orally and in writing of the
1260 following:

- 1261 (a) The alleged violation with which the releasee is
1262 charged.
- 1263 (b) The releasee's right to be represented by counsel.
- 1264 (c) The releasee's right to be heard in person.
- 1265 (d) The releasee's right to secure, present, and compel the
1266 attendance of witnesses relevant to the proceeding.
- 1267 (e) The releasee's right to produce documents on the
1268 releasee's own behalf.
- 1269 (f) The releasee's right of access to all evidence used
1270 against the releasee and to confront and cross-examine adverse
1271 witnesses.
- 1272 (g) The releasee's right to waive the hearing.
- 1273 (4) Within a reasonable time following the hearing, the
1274 commissioner or the commissioner's duly authorized
1275 representative who conducted the hearing shall make findings of
1276 fact in regard to the alleged violation. A panel of no fewer

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 1277 than two commissioners shall enter an order determining whether
 1278 the charge of violation of mandatory supervision conditional
 1279 ~~release~~, control release, conditional medical release, or
 1280 addiction-recovery supervision has been sustained based upon the
 1281 findings of fact presented by the hearing commissioner or
 1282 authorized representative. By such order, the panel may revoke
 1283 mandatory supervision conditional release, control release,
 1284 conditional medical release, or addiction-recovery supervision
 1285 and thereby return the releasee to prison to serve the sentence
 1286 imposed, reinstate the original order granting the release, or
 1287 enter such other order as it considers proper. Effective for
 1288 inmates whose offenses were committed on or after July 1, 1995,
 1289 the panel may order the placement of a releasee, upon a finding
 1290 of violation pursuant to this subsection, into a local detention
 1291 facility as a condition of supervision.

1292 (5) Effective for inmates whose offenses were committed on
 1293 or after July 1, 1995, notwithstanding the provisions of ss.
 1294 775.08, former 921.001, 921.002, 921.187, 921.188, 944.02, and
 1295 951.23, or any other law to the contrary, by such order as
 1296 provided in subsection (4), the panel, upon a finding of guilt,
 1297 may, as a condition of continued supervision, place the releasee
 1298 in a local detention facility for a period of incarceration not
 1299 to exceed 22 months. Prior to the expiration of the term of
 1300 incarceration, or upon recommendation of the chief correctional
 1301 officer of that county, the commission shall cause inquiry into
 1302 the inmate's release plan and custody status in the detention
 1303 facility and consider whether to restore the inmate to
 1304 supervision, modify the conditions of supervision, or enter an
 1305 order of revocation, thereby causing the return of the inmate to

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 1306 prison to serve the sentence imposed. ~~The provisions of This~~
 1307 section does ~~de~~ not prohibit the panel from entering such other
 1308 order or conducting any investigation that it deems proper. The
 1309 commission may only place a person in a local detention facility
 1310 pursuant to this section only if there is a contractual
 1311 agreement between the chief correctional officer of that county
 1312 and the Department of Corrections. The agreement must provide
 1313 for a per diem reimbursement for each person placed under this
 1314 section, which is payable by the Department of Corrections for
 1315 the duration of the offender's placement in the facility. This
 1316 section does not limit the commission's ability to place a
 1317 person in a local detention facility for less than 1 year.

1318 (6) Whenever a mandatory supervision conditional release,
 1319 control release, conditional medical release, or addiction-
 1320 recovery supervision is revoked by a panel of no fewer than two
 1321 commissioners and the releasee is ordered to be returned to
 1322 prison, the releasee, by reason of the misconduct, shall be
 1323 deemed to have forfeited all gain-time or commutation of time
 1324 for good conduct, as provided for by law, earned up to the date
 1325 of release. However, if a conditional medical release is revoked
 1326 due to the improved medical or physical condition of the
 1327 releasee, the releasee does ~~shall~~ not forfeit gain-time accrued
 1328 before the date of conditional medical release. This subsection
 1329 does not deprive the prisoner of the right to gain-time or
 1330 commutation of time for good conduct, as provided by law, from
 1331 the date of return to prison.

1332 (7) If a law enforcement officer has probable cause to
 1333 believe that an offender who is on release supervision under s.
 1334 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated

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 1335 the terms and conditions of his or her release by committing a
 1336 felony offense, the officer shall arrest the offender without a
 1337 warrant, and a warrant need not be issued in the case.

1338 Section 25. Paragraphs (a) and (f) of subsection (2) of
 1339 section 947.16, Florida Statutes, are amended to read:

1340 947.16 Eligibility for parole; initial parole interviews;
 1341 powers and duties of commission.—

1342 (2) The following special types of cases shall have their
 1343 initial parole interview as follows:

1344 (a) An initial interview may be postponed for a period not
 1345 to exceed 90 days. Such postponement shall be for good cause,
 1346 which includes ~~shall include~~, but need not be limited to, the
 1347 need for the department to obtain a presentence or postsentence
 1348 investigation report or a probation or parole or mandatory
 1349 supervision ~~conditional release~~ violation report. The reason for
 1350 postponement shall be noted in writing and included in the
 1351 official record. No postponement for good cause shall result in
 1352 an initial interview being conducted later than 90 days after
 1353 the inmate's initially scheduled initial interview.

1354 (f) An initial interview may be held at the discretion of
 1355 the commission after the entry of a commission order to revoke
 1356 parole or mandatory supervision ~~conditional release~~.

1357 Section 26. Subsection (2) of section 947.22, Florida
 1358 Statutes, is amended to read:

1359 947.22 Authority to arrest parole violators with or without
 1360 warrant.—

1361 (2) Any parole and probation officer, when she or he has
 1362 reasonable ground to believe that a parolee, control releasee,
 1363 or mandatory supervision participant ~~conditional releasee~~ has

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 1364 violated the terms and conditions of her or his parole, control
 1365 release, or mandatory supervision ~~conditional release~~ in a
 1366 material respect, has the right to arrest the releasee or
 1367 parolee without warrant and bring her or him forthwith before
 1368 one or more commissioners or a duly authorized representative of
 1369 the Parole Commission or Control Release Authority; and
 1370 proceedings shall thereupon be had as provided herein when a
 1371 warrant has been issued by a member of the commission or
 1372 authority or a duly authorized representative of the commission
 1373 or authority.

1374 Section 27. Section 947.24, Florida Statutes, is amended to
 1375 read:

1376 947.24 Discharge from parole supervision or release
 1377 supervision.—

1378 (1) When a person is placed on parole, control release, or
 1379 mandatory supervision ~~conditional release~~, the commission shall
 1380 determine the period of time the person will be under parole
 1381 supervision or release supervision in the following manner:

1382 (a) If the person is being paroled or released under
 1383 supervision from a single or concurrent sentence, the period of
 1384 time the person will be under parole supervision or release
 1385 supervision may not exceed 2 years unless the commission
 1386 designates a longer period of time, in which case it must advise
 1387 the parolee or releasee in writing of the reasons for the
 1388 extended period. In any event, the period of parole supervision
 1389 or release supervision may not exceed the maximum period for
 1390 which the person has been sentenced.

1391 (b) If the person is being paroled or released under
 1392 supervision from a consecutive sentence or sentences, the period

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1393 of time the person will be under parole supervision or release
1394 supervision will be for the maximum period for which the person
1395 was sentenced.

1396 (2) The commission shall review the progress of each person
1397 who has been placed on parole, control release, or mandatory
1398 supervision ~~conditional release~~ after 2 years of supervision in
1399 the community and biennially thereafter. The department shall
1400 provide to the commission the information necessary to conduct
1401 such a review. Such review must include consideration of whether
1402 to modify the reporting schedule, thereby authorizing the person
1403 under parole supervision or release supervision to submit
1404 reports quarterly, semiannually, or annually. The commission,
1405 after having retained jurisdiction of a person for a sufficient
1406 length of time to evidence satisfactory rehabilitation and
1407 cooperation, may further modify the terms and conditions of the
1408 person's parole, control release, or mandatory supervision
1409 ~~conditional release~~, may discharge the person from parole
1410 supervision or release supervision, may relieve the person from
1411 making further reports, or may permit the person to leave the
1412 state or country, upon finding that such action is in the best
1413 interests of the person and society.

1414 (3) This section does not affect the rights of a parolee to
1415 request modification of the terms and conditions of parole under
1416 s. 947.19.

1417 Section 28. Paragraph (a) of subsection (1) and subsection
1418 (3) of section 948.09, Florida Statutes, are amended to read:

1419 948.09 Payment for cost of supervision and rehabilitation.—

1420 (1)(a)1. Any person ordered by the court, the Department of
1421 Corrections, or the parole commission to be placed on probation,

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1422 drug offender probation, community control, parole, control
1423 release, provisional release supervision, addiction-recovery
1424 supervision, or mandatory supervision ~~conditional release~~
1425 supervision under chapter 944, chapter 945, chapter 947, this
1426 chapter ~~948~~, or chapter 958, or in a pretrial intervention
1427 program, must, as a condition of any placement, pay the
1428 department a total sum of money equal to the total month or
1429 portion of a month of supervision times the court-ordered
1430 amount, but not to exceed the actual per diem cost of the
1431 supervision. The department shall adopt rules by which an
1432 offender who pays in full and in advance of regular termination
1433 of supervision may receive a reduction in the amount due. The
1434 rules shall incorporate provisions by which the offender's
1435 ability to pay is linked to an established written payment plan.
1436 Funds collected from felony offenders may be used to offset
1437 costs of the Department of Corrections associated with community
1438 supervision programs, subject to appropriation by the
1439 Legislature.

1440 2. In addition to any other contribution or surcharge
1441 imposed by this section, each felony offender assessed under
1442 this paragraph shall pay a \$2-per-month surcharge to the
1443 department. The surcharge shall be deemed to be paid only after
1444 the full amount of any monthly payment required by the
1445 established written payment plan has been collected by the
1446 department. These funds shall be used by the department to pay
1447 for correctional probation officers' training and equipment,
1448 including radios, and firearms training, firearms, and attendant
1449 equipment necessary to train and equip officers who choose to
1450 carry a concealed firearm while on duty. ~~Nothing in~~ This

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1451 subparagraph ~~does not shall be construed to~~ limit the
 1452 department's authority to determine who shall be authorized to
 1453 carry a concealed firearm while on duty, or ~~to~~ limit the right
 1454 of a correctional probation officer to carry a personal firearm
 1455 approved by the department.

1456 (3) Any failure to pay contribution as required under this
 1457 section may constitute a ground for the revocation of probation
 1458 by the court, the revocation of parole or mandatory supervision
 1459 ~~conditional release~~ by the Parole Commission, the revocation of
 1460 control release by the Control Release Authority, or removal
 1461 from the pretrial intervention program by the state attorney.
 1462 The Department of Corrections may exempt a person from the
 1463 payment of all or any part of the contribution if it finds any
 1464 of the following factors to exist:

1465 (a) The offender has diligently attempted, but has been
 1466 unable, to obtain employment that ~~which~~ provides him or her
 1467 sufficient income to make such payments.

1468 (b) The offender is a student in a school, college,
 1469 university, or course of career training designed to fit the
 1470 student for gainful employment. Certification of such student
 1471 status shall be supplied to the Secretary of Corrections by the
 1472 educational institution in which the offender is enrolled.

1473 (c) The offender has an employment handicap, as determined
 1474 by a physical, psychological, or psychiatric examination
 1475 acceptable to, or ordered by, the secretary.

1476 (d) The offender's age prevents him or her from obtaining
 1477 employment.

1478 (e) The offender is responsible for the support of
 1479 dependents, and the payment of such contribution constitutes an

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1480 undue hardship on the offender.

1481 (f) The offender has been transferred outside the state
 1482 under an interstate compact adopted pursuant to chapter 949.

1483 (g) There are other extenuating circumstances, as
 1484 determined by the secretary.

1485 Section 29. Section 948.32, Florida Statutes, is amended to
 1486 read:

1487 948.32 Requirements of law enforcement agency upon arrest
 1488 of persons for certain sex offenses.—

1489 (1) When any state or local law enforcement agency
 1490 investigates or arrests a person for committing, or attempting,
 1491 soliciting, or conspiring to commit, a violation of s.
 1492 787.025(2)(c), chapter 794, s. 796.03, s. 800.04, s. 827.071, s.
 1493 847.0133, s. 847.0135, or s. 847.0145, the law enforcement
 1494 agency shall contact the Department of Corrections to verify
 1495 whether the person under investigation or under arrest is on
 1496 probation, community control, parole, mandatory supervision
 1497 ~~conditional release~~, or control release.

1498 (2) If the law enforcement agency finds that the person
 1499 under investigation or under arrest is on probation, community
 1500 control, parole, mandatory supervision ~~conditional release~~, or
 1501 control release, the law enforcement agency shall immediately
 1502 notify the person's probation officer or release supervisor of
 1503 the investigation or the arrest.

1504 Section 30. Subsection (6) of section 957.06, Florida
 1505 Statutes, is amended to read:

1506 957.06 Powers and duties not delegable to contractor.—A
 1507 contract entered into under this chapter does not authorize,
 1508 allow, or imply a delegation of authority to the contractor to:

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1509 (6) Make recommendations to the Parole Commission with
1510 respect to the denial or granting of parole, control release,
1511 mandatory supervision ~~conditional release~~, or conditional
1512 medical release. However, the contractor may submit written
1513 reports to the Parole Commission and must respond to a written
1514 request by the Parole Commission for information.

1515 Section 31. This act shall take effect July 1, 2013.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-4-13

Meeting Date

Topic MENTORING SUPERVISION

Bill Number 540
(if applicable)

Name Kevin Reilly

Amendment Barcode _____
(if applicable)

Job Title LEGISLATIVE AFFAIRS DIRECTOR

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Speaking: For Against Information

Representing FLORIDA PEOPLE COMMISSION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3 14 2013

Meeting Date

Topic _____ Bill Number 540
(if applicable)

Name BRIAN PITTS Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

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SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City State Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

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 Criminal Justice

BILL: CS/SB 672

INTRODUCER: Criminal Justice Committee and Senator Evers

SUBJECT: Juvenile Justice/Youth Custody Officers & Correctional Facility Tours

DATE: March 11, 2013 **REVISED:** _____

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

Please see Section VIII. for Additional Information:

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

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

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 672 repeals s. 985.105, F.S., creating youth custody officers within the Department of Juvenile Justice (DJJ), because these positions no longer exist. Similarly, the bill deletes language in s. 121.0515, F.S., classifying these positions as special risk positions for purposes of the Florida Retirement System.

The bill also repeals s. 945.75, F.S., authorizing tours by juveniles of state and county correctional facilities so that the DJJ can continue receiving federal funds by remaining in compliance with the federal Juvenile Justice and Delinquency Prevention Act.

The bill repeals section 985.105 and section 945.75, Florida Statutes. The bill also substantially amends section 121.0515, Florida Statutes.

II. Present Situation:

Youth Custody Officers

Section 985.105, F.S., created the youth custody officer position within the Department of Juvenile Justice (DJJ). Youth custody officers were responsible for taking a youth into custody if the officer had probable cause to believe that the youth had:

- Violated the conditions of probation, home detention, conditional release, or postcommitment probation; or
- Failed to appear in court after being properly noticed.

These youth custody officers were also responsible for informing local law enforcement agencies when they took anyone into custody under this section.

Youth custody officers were required to meet the minimum qualifications for employment or appointment, become certified under ch. 943, F.S., and comply with the mandates for continued employment as provided by s. 943.135, F.S.¹ Additionally, s. 121.0515, F.S., designated youth custody officers as a “special risk class” for purposes of the Florida Retirement System.²

The DJJ states that the department eliminated these youth custody officer positions on July 1, 2010, as a way to cut its budget.³ The duties of the youth custody officers were either distributed among existing employees or were no longer performed by the DJJ.⁴

Jail and Prison Tours

Section 945.75, F.S., requires the Department of Corrections (DOC) to develop programs under which a judge may order juveniles who have committed delinquent acts to be allowed to tour state correctional facilities under the terms and conditions established by DOC. The statute requires counties to develop similar programs involving county jails. These tour programs are commonly referred to as “scared straight programs.”⁵ Scared straight programs generally involve adult inmates describing the conditions associated with jail or prison incarceration to delinquent at-risk youth in a secure setting.⁶ The goal of these programs is to modify the behavior of the juveniles by shocking, scaring, and thus deterring them from engaging in further delinquent activity.⁷

¹ Section 985.105(2), F.S.

² Section 121.0515, F.S., creates a “special risk class” of state employees for purposes of the Florida Retirement System that earn more retirement credit per year of service. This increased credit is in recognition that they may be unable to “enjoy the full career and retirement benefits enjoyed by other membership classes” as a result of the physically demanding and high risk functions required by their jobs.

³ See the 2013 Agency Proposal, Juvenile Justice Reform, by the Department of Juvenile Justice, which is on file with the Senate Criminal Justice Committee.

⁴ *Id.*

⁵ *Scared Straight Programs*, www.dcjs.virginia.gov/juvenile/compliance (last visited on February 27, 2013); *See also Scared Straight Programs: Jail and Detention Tours*, DJJ, www.djj.state.fl.us/docs/research2/scared_straight_booklet_version (last visited on February 27, 2013).

⁶ *Id.*

⁷ *Id.*

The DJJ reports that because the department complies with the Federal Juvenile Justice and Delinquency Prevention Act of 2002,⁸ it receives between two and eight million dollars in federal funding.⁹ The DJJ states that it will lose two-thirds of its federal funding because the scared straight tours violate several portions of the Juvenile Justice and Delinquency Prevention Act.¹⁰

III. Effect of Proposed Changes:

This bill repeals s. 985.105, F.S., which created youth custody officers within the DJJ. This section of law is no longer needed because these positions have been nonexistent since 2010. Likewise, the bill deletes language in s. 121.0515, F.S., classifying these positions as special risk positions for purposes of state retirement.

The bill also repeals s. 945.75, F.S., authorizing prison and jail tours, so that the DJJ can continue receiving federal funds by remaining in compliance with the federal Juvenile Justice and Delinquency Prevention Act.

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.

⁸ Pub. L. No 93-415 (1974).

⁹See the 2013 Agency Proposal, Juvenile Justice Reform, by the Department of Juvenile Justice, which is on file with the Senate Criminal Justice Committee.

¹⁰ *Id.* The specific portions of the federal act violated are the Deinstitutionalization of Status Offenders, the Sight and Sound Separation, and the Jail Removal Acts.

C. Government Sector Impact:

According to the DJJ, there is no fiscal impact as a result of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Criminal Justice on March 11, 2013:

Adds a provision repealing the statute that authorizes jail and prison tours by juveniles so that the DJJ can remain in compliance with federal law and continue receiving federal prevention funds.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 945.75, Florida Statutes, is repealed.

Section 2. Section 985.105, Florida Statutes, is repealed.

Section 3. Paragraphs (h) through (k) of subsection (3) of section 121.0515, Florida Statutes, are redesignated as paragraphs (g) through (j) of that subsection, respectively, and paragraphs (e) through (i) of subsection (2), present paragraphs (g) and (k) of subsection (3), paragraph (b) of subsection (5),



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13 paragraph (d) of subsection (8), and paragraph (c) of subsection
14 (10) of that section are amended to read:

15 121.0515 Special Risk Class.—

16 (2) MEMBERSHIP.—

17 ~~(e) Effective July 1, 2001, "special risk member" includes~~
18 ~~any member who is employed as a youth custody officer by the~~
19 ~~Department of Juvenile Justice and meets the special criteria~~
20 ~~set forth in paragraph (3) (g).~~

21 (e)~~(f)~~ Effective October 1, 2005, through June 30, 2008,
22 the member must be employed by a law enforcement agency or
23 medical examiner's office in a forensic discipline and meet the
24 special criteria set forth in paragraph (3) (g) ~~(3) (h)~~.

25 (f)~~(g)~~ Effective July 1, 2008, the member must be employed
26 by the Department of Law Enforcement in the crime laboratory or
27 by the Division of State Fire Marshal in the forensic laboratory
28 and meet the special criteria set forth in paragraph (3) (h)
29 ~~(3) (i)~~.

30 (g)~~(h)~~ Effective July 1, 2008, the member must be employed
31 by a local government law enforcement agency or medical
32 examiner's office and meet the special criteria set forth in
33 paragraph (3) (i) ~~(3) (j)~~.

34 (h)~~(i)~~ Effective August 1, 2008, "special risk member"
35 includes any member who meets the special criteria for continued
36 membership set forth in paragraph (3) (j) ~~(3) (k)~~.

37 (3) CRITERIA.—A member, to be designated as a special risk
38 member, must meet the following criteria:

39 ~~(g) Effective July 1, 2001, the member must be employed as~~
40 ~~a youth custody officer and be certified, or required to be~~
41 ~~certified, in compliance with s. 943.1395. In addition, the~~



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42 ~~member's primary duties and responsibilities must be the~~
43 ~~supervised custody, surveillance, control, investigation,~~
44 ~~apprehension, arrest, and counseling of assigned juveniles~~
45 ~~within the community;~~

46 (j) ~~(k)~~ The member must have already qualified for and be
47 actively participating in special risk membership under
48 paragraph (a), paragraph (b), or paragraph (c), must have
49 suffered a qualifying injury as defined in this paragraph, must
50 not be receiving disability retirement benefits as provided in
51 s. 121.091(4), and must satisfy the requirements of this
52 paragraph.

53 1. The ability to qualify for the class of membership
54 defined in paragraph (2) (h) ~~(2) (i)~~ occurs when two licensed
55 medical physicians, one of whom is a primary treating physician
56 of the member, certify the existence of the physical injury and
57 medical condition that constitute a qualifying injury as defined
58 in this paragraph and that the member has reached maximum
59 medical improvement after August 1, 2008. The certifications
60 from the licensed medical physicians must include, at a minimum,
61 that the injury to the special risk member has resulted in a
62 physical loss, or loss of use, of at least two of the following:
63 left arm, right arm, left leg, or right leg; and:

64 a. That this physical loss or loss of use is total and
65 permanent, except in the event that the loss of use is due to a
66 physical injury to the member's brain, in which event the loss
67 of use is permanent with at least 75 percent loss of motor
68 function with respect to each arm or leg affected.

69 b. That this physical loss or loss of use renders the
70 member physically unable to perform the essential job functions



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71 of his or her special risk position.

72 c. That, notwithstanding this physical loss or loss of use,
73 the individual is able to perform the essential job functions
74 required by the member's new position, as provided in
75 subparagraph 3.

76 d. That use of artificial limbs is either not possible or
77 does not alter the member's ability to perform the essential job
78 functions of the member's position.

79 e. That the physical loss or loss of use is a direct result
80 of a physical injury and not a result of any mental,
81 psychological, or emotional injury.

82 2. For the purposes of this paragraph, "qualifying injury"
83 means an injury sustained in the line of duty, as certified by
84 the member's employing agency, by a special risk member that
85 does not result in total and permanent disability as defined in
86 s. 121.091(4)(b). An injury is a qualifying injury if the injury
87 is a physical injury to the member's physical body resulting in
88 a physical loss, or loss of use, of at least two of the
89 following: left arm, right arm, left leg, or right leg.
90 Notwithstanding any other provision of this section, an injury
91 that would otherwise qualify as a qualifying injury is not
92 considered a qualifying injury if and when the member ceases
93 employment with the employer for whom he or she was providing
94 special risk services on the date the injury occurred.

95 3. The new position, as described in sub-subparagraph 1.c.,
96 that is required for qualification as a special risk member
97 under this paragraph is not required to be a position with
98 essential job functions that entitle an individual to special
99 risk membership. Whether a new position as described in sub-



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100 subparagraph 1.c. exists and is available to the special risk
101 member is a decision to be made solely by the employer in
102 accordance with its hiring practices and applicable law.

103 4. This paragraph does not grant or create additional
104 rights for any individual to continued employment or to be hired
105 or rehired by his or her employer that are not already provided
106 within the Florida Statutes, the State Constitution, the
107 Americans with Disabilities Act, if applicable, or any other
108 applicable state or federal law.

109 (5) REMOVAL OF SPECIAL RISK CLASS MEMBERSHIP.—

110 (b) Any member who is a special risk member on July 1,
111 2008, and who became eligible to participate under paragraph
112 (3) (g) ~~(3) (h)~~ but fails to meet the criteria for Special Risk
113 Class membership established by paragraph (3) (h) ~~(3) (i)~~ or
114 paragraph (3) (i) ~~(3) (j)~~ shall have his or her special risk
115 designation removed and thereafter shall be a Regular Class
116 member and earn only Regular Class membership credit. The
117 department may review the special risk designation of members to
118 determine whether or not those members continue to meet the
119 criteria for Special Risk Class membership.

120 (8) SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS.—

121 (d) Notwithstanding any other provision of this subsection,
122 this subsection does not apply to any special risk member who
123 qualifies for continued membership pursuant to paragraph (3) (j)
124 ~~(3) (k)~~.

125 (10) CREDIT FOR UPGRADED SERVICE.—

126 (c) Any member of the Special Risk Class who has earned
127 creditable service through June 30, 2008, in another membership
128 class of the Florida Retirement System in a position with the



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129 Department of Law Enforcement or the Division of State Fire
130 Marshal and became covered by the Special Risk Class as
131 described in paragraph (3) (h) ~~(3) (i)~~, or with a local government
132 law enforcement agency or medical examiner's office and became
133 covered by the Special Risk Class as described in paragraph
134 (3) (i) ~~(3) (j)~~, which service is within the purview of the
135 Special Risk Class, and is employed in such position on or after
136 July 1, 2008, may purchase additional retirement credit to
137 upgrade such service to Special Risk Class service, to the
138 extent of the percentages of the member's average final
139 compensation provided in s. 121.091(1)(a)2. The cost for such
140 credit must be an amount representing the actuarial accrued
141 liability for the difference in accrual value during the
142 affected period of service. The cost shall be calculated using
143 the discount rate and other relevant actuarial assumptions that
144 were used to value the Florida Retirement System Pension Plan
145 liabilities in the most recent actuarial valuation. The division
146 shall ensure that the transfer sum is prepared using a formula
147 and methodology certified by an enrolled actuary. The cost must
148 be paid immediately upon notification by the division. The local
149 government employer may purchase the upgraded service credit on
150 behalf of the member if the member has been employed by that
151 employer for at least 3 years.

152 Section 4. This act shall take effect July 1, 2013.

153
154 ===== T I T L E A M E N D M E N T =====

155 And the title is amended as follows:

156 Delete everything before the enacting clause
157 and insert:



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158 A bill to be entitled
159 An act relating to juvenile justice; repealing s.
160 945.75, F.S.; deleting a requirement that the
161 Department of Corrections and counties develop
162 programs under which a judge may order juveniles who
163 have committed delinquent acts to tour correctional
164 facilities; repealing s. 985.105, F.S., relating to
165 the creation, duties, and qualifications of the youth
166 custody officer position within the Department of
167 Juvenile Justice; amending s. 121.0515, F.S.;
168 conforming provisions to changes made by the act;
169 providing an effective date.

By Senator Evers

2-00886-13

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A bill to be entitled

An act relating to youth custody officers; repealing s. 985.105, F.S., relating to the creation, duties, and qualifications of the youth custody officer position within the Department of Juvenile Justice; amending s. 121.0515, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 985.105, Florida Statutes, is repealed.

Section 2. Present paragraphs (h) through (k) of subsection (3) of section 121.0515, Florida Statutes, are redesignated as paragraphs (g) through (j), respectively, and paragraphs (e) through (i) of subsection (2), present paragraphs (g) and (k) of subsection (3), paragraph (b) of subsection (5), paragraph (d) of subsection (8), and paragraph (c) of subsection (10) of that section are amended, to read:

121.0515 Special Risk Class.—

(2) MEMBERSHIP.—

~~(e) Effective July 1, 2001, "special risk member" includes any member who is employed as a youth custody officer by the Department of Juvenile Justice and meets the special criteria set forth in paragraph (3)(g).~~

(e)(f) Effective October 1, 2005, through June 30, 2008, the member must be employed by a law enforcement agency or medical examiner's office in a forensic discipline and meet the special criteria set forth in paragraph (3)(g) ~~(3)(h)~~.

(f)(g) Effective July 1, 2008, the member must be employed

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

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by the Department of Law Enforcement in the crime laboratory or by the Division of State Fire Marshal in the forensic laboratory and meet the special criteria set forth in paragraph (3)(h) ~~(3)(i)~~.

(g)(h) Effective July 1, 2008, the member must be employed by a local government law enforcement agency or medical examiner's office and meet the special criteria set forth in paragraph (3)(i) ~~(3)(j)~~.

(h)(i) Effective August 1, 2008, "special risk member" includes any member who meets the special criteria for continued membership set forth in paragraph (3)(j) ~~(3)(k)~~.

(3) CRITERIA.—A member, to be designated as a special risk member, must meet the following criteria:

~~(g) Effective July 1, 2001, the member must be employed as a youth custody officer and be certified, or required to be certified, in compliance with s. 943.1395. In addition, the member's primary duties and responsibilities must be the supervised custody, surveillance, control, investigation, apprehension, arrest, and counseling of assigned juveniles within the community.~~

(j)(k) The member must have already qualified for and be actively participating in special risk membership under paragraph (a), paragraph (b), or paragraph (c), must have suffered a qualifying injury as defined in this paragraph, must not be receiving disability retirement benefits as provided in s. 121.091(4), and must satisfy the requirements of this paragraph.

1. The ability to qualify for the class of membership defined in paragraph (2)(h) ~~(2)(i)~~ occurs when two licensed

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59 medical physicians, one of whom is a primary treating physician
 60 of the member, certify the existence of the physical injury and
 61 medical condition that constitute a qualifying injury as defined
 62 in this paragraph and that the member has reached maximum
 63 medical improvement after August 1, 2008. The certifications
 64 from the licensed medical physicians must include, at a minimum,
 65 that the injury to the special risk member has resulted in a
 66 physical loss, or loss of use, of at least two of the following:
 67 left arm, right arm, left leg, or right leg; and:

- 68 a. That this physical loss or loss of use is total and
 69 permanent, except in the event that the loss of use is due to a
 70 physical injury to the member's brain, in which event the loss
 71 of use is permanent with at least 75 percent loss of motor
 72 function with respect to each arm or leg affected.
- 73 b. That this physical loss or loss of use renders the
 74 member physically unable to perform the essential job functions
 75 of his or her special risk position.
- 76 c. That, notwithstanding this physical loss or loss of use,
 77 the individual is able to perform the essential job functions
 78 required by the member's new position, as provided in
 79 subparagraph 3.
- 80 d. That use of artificial limbs is either not possible or
 81 does not alter the member's ability to perform the essential job
 82 functions of the member's position.
- 83 e. That the physical loss or loss of use is a direct result
 84 of a physical injury and not a result of any mental,
 85 psychological, or emotional injury.
- 86 2. For the purposes of this paragraph, "qualifying injury"
 87 means an injury sustained in the line of duty, as certified by

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88 the member's employing agency, by a special risk member that
 89 does not result in total and permanent disability as defined in
 90 s. 121.091(4)(b). An injury is a qualifying injury if the injury
 91 is a physical injury to the member's physical body resulting in
 92 a physical loss, or loss of use, of at least two of the
 93 following: left arm, right arm, left leg, or right leg.
 94 Notwithstanding any other provision of this section, an injury
 95 that would otherwise qualify as a qualifying injury is not
 96 considered a qualifying injury if and when the member ceases
 97 employment with the employer for whom he or she was providing
 98 special risk services on the date the injury occurred.

99 3. The new position, as described in sub-subparagraph 1.c.,
 100 that is required for qualification as a special risk member
 101 under this paragraph is not required to be a position with
 102 essential job functions that entitle an individual to special
 103 risk membership. Whether a new position as described in sub-
 104 subparagraph 1.c. exists and is available to the special risk
 105 member is a decision to be made solely by the employer in
 106 accordance with its hiring practices and applicable law.

107 4. This paragraph does not grant or create additional
 108 rights for any individual to continued employment or to be hired
 109 or rehired by his or her employer that are not already provided
 110 within the Florida Statutes, the State Constitution, the
 111 Americans with Disabilities Act, if applicable, or any other
 112 applicable state or federal law.

113 (5) REMOVAL OF SPECIAL RISK CLASS MEMBERSHIP.—

114 (b) Any member who is a special risk member on July 1,
 115 2008, and who became eligible to participate under paragraph
 116 (3)(g) ~~(3)(h)~~ but fails to meet the criteria for Special Risk

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117 Class membership established by paragraph (3) (h) ~~(3) (i)~~ or
 118 paragraph (3) (i) ~~(3) (j)~~ shall have his or her special risk
 119 designation removed and thereafter shall be a Regular Class
 120 member and earn only Regular Class membership credit. The
 121 department may review the special risk designation of members to
 122 determine whether or not those members continue to meet the
 123 criteria for Special Risk Class membership.

124 (8) SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS.—

125 (d) Notwithstanding any other provision of this subsection,
 126 this subsection does not apply to any special risk member who
 127 qualifies for continued membership pursuant to paragraph (3) (j)
 128 ~~(3) (k)~~.

129 (10) CREDIT FOR UPGRADED SERVICE.—

130 (c) Any member of the Special Risk Class who has earned
 131 creditable service through June 30, 2008, in another membership
 132 class of the Florida Retirement System in a position with the
 133 Department of Law Enforcement or the Division of State Fire
 134 Marshal and became covered by the Special Risk Class as
 135 described in paragraph (3) (h) ~~(3) (i)~~, or with a local government
 136 law enforcement agency or medical examiner's office and became
 137 covered by the Special Risk Class as described in paragraph
 138 (3) (i) ~~(3) (j)~~, which service is within the purview of the
 139 Special Risk Class, and is employed in such position on or after
 140 July 1, 2008, may purchase additional retirement credit to
 141 upgrade such service to Special Risk Class service, to the
 142 extent of the percentages of the member's average final
 143 compensation provided in s. 121.091(1)(a)2. The cost for such
 144 credit must be an amount representing the actuarial accrued
 145 liability for the difference in accrual value during the

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146 affected period of service. The cost shall be calculated using
 147 the discount rate and other relevant actuarial assumptions that
 148 were used to value the Florida Retirement System Pension Plan
 149 liabilities in the most recent actuarial valuation. The division
 150 shall ensure that the transfer sum is prepared using a formula
 151 and methodology certified by an enrolled actuary. The cost must
 152 be paid immediately upon notification by the division. The local
 153 government employer may purchase the upgraded service credit on
 154 behalf of the member if the member has been employed by that
 155 employer for at least 3 years.

156 Section 3. This act shall take effect July 1, 2013.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/4/2013

Meeting Date

Topic _____ Bill Number S672
(if applicable)

Name Cathy Craig-Myers Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 1201 Hays St. Suite 107 Phone 850-671-3442
Street

Tallahassee FL E-mail cathy@fjja.org
City State Zip

Speaking: For Against Information

Representing Florida Juvenile Justice Association

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/4/2013
Meeting Date

Topic _____

Bill Number 672
(if applicable)

Name Ana Maria Sanchez

Amendment Barcode _____
(if applicable)

Job Title Legislative Affairs Director

Address 2737 Conterview Dr
Street

Phone 850/410-1097

1011ahassro FL 32301
City State Zip

E-mail anamsandy@dij.state.fl.us

Speaking: For Against Information

Representing DSS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3 / 4 / 2013

Meeting Date

Topic _____

Bill Number 672

(if applicable)

Name BRIAN PITTS

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

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 Criminal Justice

BILL: CS/SB 676

INTRODUCER: Criminal Justice Committee and Senator Evers

SUBJECT: Juvenile Justice Circuit Advisory Boards

DATE: March 5, 2013 REVISED: _____

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

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 676 amends s. 985.664, F.S., in several ways. It eliminates the statutory authority for the formation of juvenile justice county councils. In lieu of county councils, the bill requires that each juvenile justice circuit board have a “county organization representing each of the counties within the circuit.” The juvenile justice circuit boards will be renamed the juvenile justice circuit “advisory” boards. Finally, the Department of Juvenile Justice (DJJ) will be given authority over the advisory boards by being required to approve certain members of the board and the board’s bylaws, as well as appointing the chairman in consultation with the board.

This bill substantially amends section 985.664 and makes conforming changes to sections 790.22, 938.17, 948.51, 985.48, and 985.676 of the Florida Statutes.

II. Present Situation:

Section 985.664, F.S., authorizes the creation of 20 juvenile justice circuit boards, one in each judicial circuit, as well as 67 juvenile justice county councils, one in each of the 67 counties.¹ The purpose of these boards and councils is to provide advice to the DJJ in developing and implementing juvenile justice programs by working collaboratively with the DJJ to improve programs and recommend necessary policy changes. The county councils are tasked with working with the circuit boards in the development of a comprehensive plan for the circuit. The circuit boards are required to submit an annual report to the DJJ, describing the activities of both the board and the county councils.² Other duties include facilitating interagency cooperation and information sharing as well as applying for and receiving public or private juvenile justice grants.³

The prescribed size of the circuit boards is as follows: no more than 18 members, except if it is necessary to increase the number of members by three to adequately reflect the diversity of the community.⁴ Required membership includes the state attorney, the public defender, and the chief circuit judge.⁵ The other 15 members, who must be appointed by the county councils, may include representatives from the following entities:

- School districts;
- County commissioners;
- Governing bodies of local municipalities;
- Department of Children and Family Services (DCF);
- Local law enforcement agencies, including the sheriff;
- Judicial system;
- Business community;
- Other interested officials, including public or private providers, students, parents, and advocates;
- Faith community;
- Victim-service programs; and
- Department of Corrections (DOC).⁶

Each of the circuit boards and county councils must also develop bylaws to be governed by, including the process for appointments to the board or council, election or appointment of officers, filling vacant positions, duration of member terms, provisions for voting, meeting attendance requirements, and establishment and duties of the executive committee. Each council and board must have an executive committee comprised of not more than ten members.⁷

¹ According to the DJJ, there are currently 20 circuit boards and 44 county councils that are active across the state. See Department of Juvenile Justice, 2013 Legislative Session Bill Analysis for SB 676, on file with the Senate Criminal Justice Committee.

² Section 985.664(1)-(6), F.S.

³ Section 985.664(2)-(5), F.S.

⁴ Section 985.664(7), (8), F.S.

⁵ Section 985.664(7), F.S.

⁶ Section 985.664(10), F.S.

⁷ Section 985.664(11), F.S.

III. Effect of Proposed Changes:

This bill amends s. 985.664, F.S., by eliminating the statutory authority for juvenile justice county councils. In lieu of county councils, the bill requires that each juvenile justice circuit board have a “county organization representing each of the counties within the circuit” (except if it is a single county circuit). These county organizations are required to report directly to the circuit board on the juvenile justice needs of a county.

The juvenile justice circuit boards will be renamed the juvenile justice circuit “advisory” boards. They will be responsible for developing a comprehensive plan for the circuit, with the initial circuit plan being submitted to the DJJ no later than December 31, 2014, and after that, by June 30th every three years. They will continue to meet their other statutory duties including participating in the facilitation of interagency cooperation and information sharing as well as providing recommendations for juvenile justice grants. The required annual report must be submitted to the DJJ by August 1st of each year.

The size of the circuit advisory boards will change from having no more than 18 members to having at least 16 members. All prescribed members become mandatory under the bill. (Currently only the state attorney, public defender, and chief circuit judge are mandatory members.)

The DJJ will be given authority over the circuit advisory boards by being required to approve certain members of the board and the board’s bylaws, as well as appointing the chairman in consultation with the board.

Advisory board members requiring departmental approval will include representatives from the following entities:

- A workforce organization;
- The business community;
- The faith community;
- A mental health or victim-service program;
- A youth under 21 years of age who has juvenile justice experience;
- A parent or family member of a youth involved in the juvenile justice system; and
- Up to five additional members representing community leaders or a youth-serving coalition.

The workforce representative, the youth involved in the system and his or her parent are not currently specified in s. 985.664, F.S. The bill also deletes the DOC representative as a member of a board.

Advisory board members not requiring departmental approval are as follows:

- State attorney;
- Public defender;
- Chief circuit judge;
- Sheriff;

- Police chief;
- County commissioner; and
- School superintendent.

Finally, the bill provides new language prescribing that a member of an advisory board may not serve more than two consecutive 2-year terms, with the exception of the state attorney, public defender, chief circuit judge, sheriff, police chief, county commissioner, and superintendent. In addition, a former member who has not served on the board for two years is eligible to serve another term and half of the board's membership constitutes a quorum under the bill.

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.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Criminal Justice on March 4, 2013:

Makes technical and conforming changes to several other sections of law that are affected by the bill.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 985.664, Florida Statutes, is amended to read:

985.664 Juvenile justice circuit advisory boards ~~and juvenile justice county councils.~~

(1) There is authorized a juvenile justice circuit advisory board to be established in each of the 20 judicial circuits ~~and a juvenile justice county council to be established in each of the 67 counties.~~ Except in single-county circuits, each juvenile



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13 justice circuit advisory board shall have a county organization
14 representing each of the counties in the circuit. The county
15 organization shall report directly to the juvenile justice
16 circuit advisory board on the juvenile justice needs of the
17 county. The purpose of each juvenile justice circuit advisory
18 ~~board and each juvenile justice county council~~ is to provide
19 advice and direction to the department in the development and
20 implementation of juvenile justice programs and to work
21 collaboratively with the department in seeking program
22 improvements and policy changes to address the emerging and
23 changing needs of Florida's youth who are at risk of
24 delinquency.

25 (2) The duties and responsibilities of a juvenile justice
26 circuit advisory board include, but are not limited to:

27 (a) Developing ~~Each juvenile justice county council shall~~
28 ~~develop a juvenile justice prevention and early intervention~~
29 ~~plan for the county and shall collaborate with the circuit board~~
30 ~~and other county councils assigned to that circuit in the~~
31 ~~development of a comprehensive plan for the circuit. The initial~~
32 circuit plan shall be submitted to the department no later than
33 December 31, 2014, and no later than June 30 every 3 years
34 thereafter. The department shall prescribe a format and content
35 requirements for the submission of the comprehensive plan.

36 (b)-(3) Participating in the facilitation of Juvenile
37 ~~justice circuit boards and county councils shall also~~
38 ~~participate in facilitating~~ interagency cooperation and
39 information sharing.

40 (c)-(4) Providing recommendations ~~Juvenile justice circuit~~
41 ~~boards and county councils may apply for and receive public or~~



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42 private grants to be administered by one of the community
43 partners that support one or more components of the
44 comprehensive county or circuit plan.

45 (d)(5) Providing recommendations to Juvenile justice
46 circuit boards and county councils shall advise and assist the
47 department in the evaluation and award of prevention and early
48 intervention grant programs, including the Community Juvenile
49 Justice Partnership Grant program established in s. 985.676 and
50 proceeds from the Invest in Children license plate annual use
51 fees.

52 (e)(6) Providing ~~Each juvenile justice circuit board shall~~
53 ~~provide~~ an annual report to the department describing the
54 board's activities of the circuit board and each of the county
55 ~~councils contained within its circuit.~~ The department shall ~~may~~
56 prescribe a format and content requirements for submission of
57 annual reports. The annual report must be submitted to the
58 department no later than August 1 of each year.

59 (3)(7) Each Membership of the juvenile justice circuit
60 advisory board shall have a minimum of 16 ~~may not exceed 18~~
61 ~~members, except as provided in subsections (8) and (9).~~ The
62 membership of each ~~Members must include the state attorney, the~~
63 ~~public defender, and the chief judge of the circuit, or their~~
64 ~~respective designees. The remaining 15 members of the board must~~
65 ~~be appointed by the county councils within that circuit. The~~
66 ~~board must include at least one representative from each county~~
67 ~~council within the circuit. In appointing members to the circuit~~
68 ~~board, the county councils must reflect:~~

69 (a) The circuit's geography and population distribution.

70 ~~(b) Juvenile justice partners, including, but not limited~~



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71 ~~to, representatives of law enforcement, the school system, and~~
72 ~~the Department of Children and Family Services.~~

73 (b) ~~(e)~~ Diversity in the judicial circuit.

74 ~~(8) At any time after the adoption of initial bylaws~~
75 ~~pursuant to subsection (12), a juvenile justice circuit board~~
76 ~~may revise the bylaws to increase the number of members by not~~
77 ~~more than three in order to adequately reflect the diversity of~~
78 ~~the population and community organizations or agencies in the~~
79 ~~circuit.~~

80 ~~(9) If county councils are not formed within a circuit, the~~
81 ~~circuit board may establish its membership in accordance with~~
82 ~~subsection (10). For juvenile justice circuit boards organized~~
83 ~~pursuant to this subsection, the state attorney, public~~
84 ~~defender, and chief circuit judge, or their respective~~
85 ~~designees, shall be members of the circuit board.~~

86 (4) ~~(10)~~ Each member of the juvenile justice circuit
87 advisory board must be approved by the secretary of the
88 department, except those members listed in paragraphs (a), (b),
89 (c), (e), (f), (g), and (h). Membership of The juvenile justice
90 county councils, or juvenile justice circuit advisory boards
91 established under subsection (1) must ~~(9)~~, may include as
92 members representatives from the following entities:

93 (a) The state attorney or his or her designee
94 ~~Representatives from the school district, which may include~~
95 ~~elected school board officials, the school superintendent,~~
96 ~~school or district administrators, teachers, and counselors.~~

97 (b) The public defender or his or her designee
98 ~~Representatives of the board of county commissioners.~~

99 (c) The chief judge or his or her designee ~~Representatives~~



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100 ~~of the governing bodies of local municipalities within the~~
101 ~~county.~~

102 (d) A representative of the corresponding circuit or
103 regional entity of the Department of Children and Families
104 ~~Family Services.~~

105 (e) ~~Representatives of local law enforcement agencies,~~
106 ~~including~~ The sheriff or the sheriff's designee from each county
107 in the circuit.

108 (f) A police chief or his or her designee from each county
109 in the circuit ~~Representatives of the judicial system.~~

110 (g) A county commissioner or his or her designee from each
111 county in the circuit.

112 (h) The superintendent of each school district in the
113 circuit or his or her designee.

114 (i) A representative from the workforce organization of
115 each county in the circuit.

116 (j) ~~(g)~~ A representative ~~Representatives~~ of the business
117 community.

118 (k) A youth representative who has had an experience with
119 the juvenile justice system and is not older than 21 years of
120 age.

121 (h) ~~Representatives of other interested officials, groups,~~
122 ~~or entities, including, but not limited to, a children's~~
123 ~~services council, public or private providers of juvenile~~
124 ~~justice programs and services, students, parents, and advocates.~~
125 ~~Private providers of juvenile justice programs may not exceed~~
126 ~~one-third of the voting membership.~~

127 (l) ~~(i)~~ A representative ~~representatives~~ of the faith
128 community.



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129 (m) ~~(j)~~ A health services representative who specializes in
130 mental health care, Representatives of victim-service programs,
131 or ~~and~~ victims of crimes.

132 ~~(k) Representatives of the Department of Corrections.~~

133 (n) A parent or family member of a youth who has been
134 involved with the juvenile justice system.

135 (o) Up to five representatives from any of the following
136 who are not otherwise represented in this subsection:

137 1. Community leaders.

138 2. Youth-serving coalitions.

139 (5) The secretary of the department, in consultation with
140 the board, shall appoint the chair of the board, who must meet
141 the board membership requirements in subsection (4). Within 45
142 days after being appointed, the chair shall appoint the
143 remaining members to the board and submit the appointments to
144 the department for approval.

145 (6) A member may not serve more than two consecutive 2-year
146 terms, except those members listed in paragraphs (4) (a), (b),
147 (c), (e), (f), (g), and (h). A former member who has not served
148 on the juvenile justice circuit advisory board for 2 years is
149 eligible to serve on the juvenile justice circuit advisory board
150 again.

151 (7) At least half of the voting members of the juvenile
152 justice circuit advisory board constitutes a quorum.

153 (8) In order for a juvenile justice circuit advisory board
154 measure or position to pass, it must receive more than 50
155 percent of the vote.

156 (9) ~~(11)~~ Each juvenile justice county council, or juvenile
157 justice circuit advisory board established under subsection (9),



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158 must provide for the establishment of an executive committee of
159 not more than 10 members. The duties and authority of the
160 executive committee must be addressed in the bylaws.

161 ~~(10)-(12)~~ Each juvenile justice circuit advisory board ~~and~~
162 ~~county council~~ shall have develop bylaws ~~that provide for~~
163 ~~officers and committees as the board or council deems necessary~~
164 ~~and shall specify the qualifications, method of selection, and~~
165 ~~term for each office created.~~ The department shall prescribe a
166 format and content requirements for the bylaws. All bylaws must
167 be approved by the department. The bylaws shall address at least
168 the following issues: ~~process for appointments to the board or~~
169 ~~council;~~ election or appointment of officers; filling of vacant
170 positions; ~~duration of member terms; provisions for voting;~~
171 meeting attendance requirements; and the establishment and
172 duties of an executive committee, ~~if required under subsection~~
173 ~~(11)~~.

174 ~~(11)-(13)~~ Members of juvenile justice circuit advisory
175 boards ~~and county councils~~ are subject to ~~the provisions of part~~
176 III of chapter 112.

177 Section 2. Paragraph (c) of subsection (4) of section
178 790.22, Florida Statutes, is amended to read:

179 790.22 Use of BB guns, air or gas-operated guns, or
180 electric weapons or devices by minor under 16; limitation;
181 possession of firearms by minor under 18 prohibited; penalties.-

182 (4)

183 (c) The juvenile justice circuit advisory boards ~~or~~
184 ~~juvenile justice county councils~~ or the Department of Juvenile
185 Justice shall establish appropriate community service programs
186 to be available to the alternative sanctions coordinators of the



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187 circuit courts in implementing this subsection. The boards ~~or~~
188 ~~councils~~ or department shall propose the implementation of a
189 community service program in each circuit, and may submit a
190 circuit plan, to be implemented upon approval of the circuit
191 alternative sanctions coordinator.

192 Section 3. Subsection (4) of section 938.17, Florida
193 Statutes, is amended to read:

194 938.17 County delinquency prevention; juvenile assessment
195 centers and school board suspension programs.—

196 (4) A sheriff's office that receives proceeds pursuant to
197 s. 939.185 shall account for all funds annually by August 1 in a
198 written report to the juvenile justice circuit advisory board
199 ~~county council~~ if funds are used for assessment centers, and to
200 the district school board if funds are used for suspension
201 programs.

202 Section 4. Subsection (2) of section 948.51, Florida
203 Statutes, is amended to read:

204 948.51 Community corrections assistance to counties or
205 county consortiums.—

206 (2) ELIGIBILITY OF COUNTIES AND COUNTY CONSORTIUMS.—A
207 county, or a consortium of two or more counties, may contract
208 with the Department of Corrections for community corrections
209 funds as provided in this section. In order to enter into a
210 community corrections partnership contract, a county or county
211 consortium must have a public safety coordinating council
212 established under s. 951.26 and must designate a county officer
213 or agency to be responsible for administering community
214 corrections funds received from the state. The public safety
215 coordinating council shall prepare, develop, and implement a



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216 comprehensive public safety plan for the county, or the
217 geographic area represented by the county consortium, and shall
218 submit an annual report to the Department of Corrections
219 concerning the status of the program. In preparing the
220 comprehensive public safety plan, the public safety coordinating
221 council shall cooperate with the juvenile justice circuit
222 advisory board and the juvenile justice county council,
223 established under s. 985.664~~7~~, in order to include programs and
224 services for juveniles in the plan. To be eligible for community
225 corrections funds under the contract, the initial public safety
226 plan must be approved by the governing board of the county, or
227 the governing board of each county within the consortium, and
228 the Secretary of Corrections based on the requirements of this
229 section. If one or more other counties develop a unified public
230 safety plan, the public safety coordinating council shall submit
231 a single application to the department for funding. Continued
232 contract funding shall be pursuant to subsection (5). The plan
233 for a county or county consortium must cover at least a 5-year
234 period and must include:

235 (a) A description of programs offered for the job placement
236 and treatment of offenders in the community.

237 (b) A specification of community-based intermediate
238 sentencing options to be offered and the types and number of
239 offenders to be included in each program.

240 (c) Specific goals and objectives for reducing the
241 projected percentage of commitments to the state prison system
242 of persons with low total sentencing scores pursuant to the
243 Criminal Punishment Code.

244 (d) Specific evidence of the population status of all



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245 programs which are part of the plan, which evidence establishes
246 that such programs do not include offenders who otherwise would
247 have been on a less intensive form of community supervision.

248 (e) The assessment of population status by the public
249 safety coordinating council of all correctional facilities owned
250 or contracted for by the county or by each county within the
251 consortium.

252 (f) The assessment of bed space that is available for
253 substance abuse intervention and treatment programs and the
254 assessment of offenders in need of treatment who are committed
255 to each correctional facility owned or contracted for by the
256 county or by each county within the consortium.

257 (g) A description of program costs and sources of funds for
258 each community corrections program, including community
259 corrections funds, loans, state assistance, and other financial
260 assistance.

261 Section 5. Subsection (13) of section 985.48, Florida
262 Statutes, is amended to read:

263 985.48 Juvenile sexual offender commitment programs; sexual
264 abuse intervention networks.—

265 (13) Subject to specific appropriation, availability of
266 funds, or receipt of appropriate grant funds, the Office of the
267 Attorney General, the Department of Children and Families ~~Family~~
268 ~~Services~~, or the Department of Juvenile Justice, ~~or local~~
269 ~~juvenile justice councils~~ shall award grants to sexual abuse
270 intervention networks that apply for such grants. The grants may
271 be used for training, treatment, conditional release,
272 evaluation, public awareness, and other specified community
273 needs that are identified by the network. A grant shall be



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274 awarded based on the applicant's level of local funding, level
275 of collaboration, number of juvenile sexual offenders to be
276 served, number of victims to be served, and level of unmet
277 needs.

278 Section 6. Paragraph (a) of subsection (1) and paragraphs
279 (b) and (e) of subsection (2) of section 985.676, Florida
280 Statutes, are amended to read:

281 985.676 Community juvenile justice partnership grants.—

282 (1) GRANTS; CRITERIA.—

283 (a) In order to encourage the development of a ~~county and~~
284 circuit juvenile justice plan ~~plans~~ and the development and
285 implementation of ~~county and~~ circuit interagency agreements
286 under s. 985.664, the community juvenile justice partnership
287 grant program is established and shall be administered by the
288 department.

289 (2) GRANT APPLICATION PROCEDURES.—

290 (b) The department shall consider ~~the following in awarding~~
291 ~~such grants:~~

292 ~~1. The recommendations of the juvenile justice county~~
293 ~~council as to the priority that should be given to proposals~~
294 ~~submitted by entities within a county.~~

295 ~~2. the recommendations of the juvenile justice circuit~~
296 advisory board as to the priority that should be given to
297 proposals submitted by entities within a circuit in awarding
298 such grants.

299 (e) Each entity that is awarded a grant as provided for in
300 this section shall submit an annual evaluation report to the
301 department, the circuit juvenile justice manager, and the
302 juvenile justice circuit advisory board, ~~and the juvenile~~



303 ~~justice county council~~, by a date subsequent to the end of the
304 contract period established by the department, documenting the
305 extent to which the program objectives have been met, the effect
306 of the program on the juvenile arrest rate, and any other
307 information required by the department. The department shall
308 coordinate and incorporate all such annual evaluation reports
309 with s. 985.632. Each entity is also subject to a financial
310 audit and a performance audit.

311 Section 7. This act shall take effect October 1, 2013.

312

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

314 And the title is amended as follows:

315 Delete everything before the enacting clause
316 and insert:

317 A bill to be entitled
318 An act relating to juvenile justice circuit advisory
319 boards and juvenile justice county councils; amending
320 s. 985.664, F.S.; redesignating juvenile justice
321 circuit boards as juvenile justice circuit advisory
322 boards; requiring each board to have a county
323 organization representing each county in the circuit;
324 providing an exception for single-county circuits;
325 deleting provisions providing for juvenile justice
326 county councils; revising provisions relating to
327 duties and responsibilities of boards; requiring
328 submission of circuit plans by specified dates;
329 revising membership of boards; providing for
330 appointment and terms of members; providing for
331 quorums and for passage of measures or positions;



332 revising provisions relating to bylaws; amending ss.
333 790.22, 938.17, 948.51, 985.48, and 985.676, F.S.;
334 conforming provisions to changes made by the act;
335 providing an effective date.

By Senator Evers

2-00752-13

2013676__

1 A bill to be entitled
 2 An act relating to juvenile justice circuit advisory
 3 boards; amending s. 985.664, F.S.; revising the
 4 juvenile justice circuit advisory boards; providing
 5 that a juvenile justice circuit advisory board be
 6 established in each of the 20 judicial circuits;
 7 providing that the purpose of each juvenile justice
 8 circuit advisory board is to render advice and
 9 direction to the Department of Juvenile Justice when
 10 developing and implementing juvenile justice programs;
 11 requiring each advisory board to work collaboratively
 12 with the department in seeking program improvements
 13 for juveniles in this state; requiring each advisory
 14 board to develop a comprehensive plan for the circuit
 15 by a specified date to facilitate interagency
 16 cooperation and to prepare recommendations for public
 17 and private grants; requiring an advisory board to
 18 prepare an annual report; providing for membership on
 19 the board; requiring the secretary of the department
 20 to appoint a chair for the board; requiring the chair
 21 to appoint the remaining members to the advisory board
 22 and to submit the appointments within a specified
 23 period of time to the department for approval;
 24 providing quorum; requiring the advisory board to
 25 establish an executive committee; requiring each
 26 advisory board to develop bylaws; requiring each
 27 member of the board to comply with the Code of Ethics
 28 for Public Officers and Employees; providing an
 29 effective date.

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

2-00752-13

2013676__

30
 31 Be It Enacted by the Legislature of the State of Florida:
 32
 33 Section 1. Section 985.664, Florida Statutes, is amended to
 34 read:
 35 (Substantial rewording of section. See
 36 s. 985.664, F.S., for present text.)
 37 985.664 Juvenile justice circuit advisory boards.-
 38 (1) (a) A juvenile justice circuit advisory board shall be
 39 established in each of the 20 judicial circuits. Except for
 40 those single-county circuits, each circuit advisory board shall
 41 have a county organization representing each county in the
 42 circuit. The county organizations shall report directly to the
 43 circuit advisory boards on the juvenile justice needs of the
 44 county.
 45 (b) The purpose of each juvenile justice circuit advisory
 46 board is to provide advice and direction to the department to
 47 develop and implement juvenile justice programs and to work
 48 collaboratively with the department in seeking program
 49 improvements and policy changes to address the emerging and
 50 changing needs of this state's youth who are at risk of
 51 delinquency.
 52 (2) Each juvenile justice circuit advisory board shall:
 53 (a) Develop a comprehensive plan for the circuit. The
 54 initial circuit plan shall be submitted to the department by
 55 December 31, 2014, and by June 30 every 3 years thereafter. The
 56 department shall prescribe the format and content requirements
 57 for the comprehensive circuit plan.
 58 (b) Participate in facilitating interagency cooperation and

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

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59 information sharing.

60 (c) Provide recommendations for public or private grants to
 61 be administered by one of the community partners that support
 62 one or more components of the comprehensive circuit plan.

63 (d) Prepare an annual report to the department describing
 64 the activities of the board, including the activities of the
 65 counties within the geographic boundaries of the circuit. The
 66 annual report shall be submitted to the department by August 1
 67 of each year. The department shall prescribe the format and
 68 content requirements for the annual report.

69 (3) Each juvenile justice circuit advisory board must have
 70 at least 16 members. In appointing members to the board, the
 71 membership must reflect:

72 (a) The circuit's population distribution and geography.

73 (b) The diversity in the judicial circuit.

74 (4) Each juvenile justice circuit advisory board must
 75 include as a member the following individuals or his or her
 76 designee:

77 (a) The state attorney.

78 (b) The public defender.

79 (c) The chief judge.

80 (d) A representative of the corresponding circuit or
 81 regional entity of the Department of Children and Families.

82 (e) The sheriff from each county in the circuit.

83 (f) A police chief from each county in the circuit.

84 (g) A county commissioner from each county in the circuit.

85 (h) The superintendent of each school district in the
 86 circuit.

87 (i) A representative from the workforce organization of

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88 each county in the circuit.

89 (j) A representative of the business community.

90 (k) A youth representative who has experience with the
 91 juvenile justice system and is younger than 21 years of age.

92 (l) A representative of the faith community.

93 (m) A health services representative who specializes in
 94 mental health or victim-service programs.

95 (n) A parent or family member of a youth who has been
 96 involved with the juvenile justice system.

97 (o) Up to five members of any of the following groups who
 98 are not otherwise represented:

99 1. Community leaders.

100 2. Representatives of a youth-serving coalition.

101
 102 Except for individuals listed in paragraphs (a)-(h), the
 103 appointment of each member to the juvenile justice circuit
 104 advisory board must be approved by the secretary of the
 105 department.

106 (5) The secretary of the department, in consultation with
 107 the juvenile justice circuit advisory board, shall appoint the
 108 chair of the board. Thereafter, the chair shall appoint members
 109 to the board and submit the appointments to the department for
 110 approval within 45 days after each appointment.

111 (6) A member may not serve more than two consecutive 2-year
 112 terms, except those members listed in paragraphs (3) (a)-(h). A
 113 former member who has not served on the juvenile justice circuit
 114 advisory board for 2 years is eligible to serve another term.

115 (7) Half of the membership of the juvenile justice circuit
 116 advisory board constitutes a quorum.

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117 (8) Each juvenile justice circuit advisory board shall
118 establish an executive committee of up to 10 members. The duties
119 and authority of the executive committee must be enacted in the
120 bylaws.

121 (9)(a) Each juvenile justice circuit advisory board shall
122 create bylaws. The department shall prescribe the format and
123 content requirements for the bylaws. All bylaws must be approved
124 by the department.

125 (b) The bylaws must address, at a minimum, the following
126 issues:

- 127 1. Election or appointment of officers.
- 128 2. Filling of vacant positions.
- 129 3. Meeting attendance requirements.
- 130 4. The establishment and duties of an executive committee.

131 (10) Members of a juvenile justice circuit advisory board
132 are subject to the provisions of part III of chapter 112.

133 Section 2. This act shall take effect October 1, 2013.

February 25, 2013

Senator Greg Evers
308 Senate Office Building
402 South Monroe St.
Tallahassee, FL 32399-1100

Senator Evers,

I am writing to express my support for SB 676, Juvenile Justice Circuit Advisory Boards. As an engaged citizen and active participant in the local juvenile justice board and council, I know it is vital that there be clear lines of communication between local communities and the Florida Department of Juvenile Justice as well as enhanced services for youth in our community.

This legislation streamlines the circuit boards and county councils reporting mechanisms. It will consolidate 87 boards and councils into 20 Circuit Advisory Boards that will allow a greater focus on serving boards and enhancing collaboration in counties. This will create a much more clear, efficient, and collaborative environment in order that we may best serve the troubled youth throughout our communities and the state.

This would be accomplished without interrupting the good work the current county councils are doing. Their work will continue, they would merely report to the new Circuit Advisory Boards. This legislation is good for both local communities and the youth served by the department. I thank you for sponsoring this important legislation.

Sincerely,

Dominic P. P.
Liberty County
Circuit II Board Chair

February 25, 2013

Senator Greg Evers
308 Senate Office Building
402 South Monroe St.
Tallahassee, FL 32399-1100

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Sincerely,

A handwritten signature in cursive script, reading "Loui Mendez-Carter". The signature is written in black ink and is positioned below the word "Sincerely,".

February 25, 2013

Senator Greg Evers
308 Senate Office Building
402 South Monroe St.
Tallahassee, FL 32399-1100

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Sincerely,

Jay Johnson
Director, Project Impact, 21st CCLC
Franklin Co., Circuit 2

February 25, 2013

Senator Greg Evers
308 Senate Office Building
402 South Monroe St.
Tallahassee, FL 32399-1100

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This would be accomplished without interrupting the good work the current county councils are doing. Their work will continue, they would merely report to the new Circuit Advisory Boards. This legislation is good for both local communities and the youth served by the department. I thank you for sponsoring this important legislation.

Sincerely,

*Clarice Ponce / Victim Advocate
Franklin Co. Sheriff's Office
Franklin Co / Circuit 2*

February 25, 2013

Senator Greg Evers
308 Senate Office Building
402 South Monroe St.
Tallahassee, FL 32399-1100

Senator Evers,

I am writing to express my support for SB 676, Juvenile Justice Circuit Advisory Boards. As an engaged citizen and active participant in the local juvenile justice board and council, I know it is vital that there be clear lines of communication between local communities and the Florida Department of Juvenile Justice as well as enhanced services for youth in our community.

This legislation streamlines the circuit boards and county councils reporting mechanisms. It will consolidate 87 boards and councils into 20 Circuit Advisory Boards that will allow a greater focus on serving boards and enhancing collaboration in counties. This will create a much more clear, efficient, and collaborative environment in order that we may best serve the troubled youth throughout our communities and the state.

This would be accomplished without interrupting the good work the current county councils are doing. Their work will continue, they would merely report to the new Circuit Advisory Boards. This legislation is good for both local communities and the youth served by the department. I thank you for sponsoring this important legislation.

Sincerely,


Kevin A. Priest
Leon Co. Delegation
Circuit 2

February 25, 2013

Senator Greg Evers
308 Senate Office Building
402 South Monroe St.
Tallahassee, FL 32399-1100

Senator Evers,

I am writing to express my support for SB 676, Juvenile Justice Circuit Advisory Boards. As an engaged citizen and active participant in the local juvenile justice board and council, I know it is vital that there be clear lines of communication between local communities and the Florida Department of Juvenile Justice as well as enhanced services for youth in our community.

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Sincerely,

 Joe Thomas, Board Chair
Deer County
C-2

February 25, 2013

Senator Greg Evers
308 Senate Office Building
402 South Monroe St.
Tallahassee, FL 32399-1100

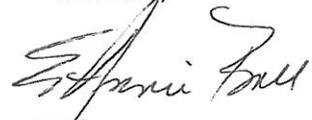
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Sincerely,


Stephanie Ford
Franklin County
Circuit 2

February 25, 2013

Senator Greg Evers
308 Senate Office Building
402 South Monroe St.
Tallahassee, FL 32399-1100

Senator Evers,

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Sincerely,

Halley Cutler

Executive Director

The Oasis Center for Women Girls

February 25, 2013

Senator Greg Evers
308 Senate Office Building
402 South Monroe St.
Tallahassee, FL 32399-1100

Senator Evers,

I am writing to express my support for SB 676, Juvenile Justice Circuit Advisory Boards. As an engaged citizen and active participant in the local juvenile justice board and council, I know it is vital that there be clear lines of communication between local communities and the Florida Department of Juvenile Justice as well as enhanced services for youth in our community.

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Sincerely,

 member 2/27/13

February 25, 2013

Senator Greg Evers
308 Senate Office Building
402 South Monroe St.
Tallahassee, FL 32399-1100

Senator Evers,

I am writing to express my support for SB 676, Juvenile Justice Circuit Advisory Boards. As an engaged citizen and active participant in the local juvenile justice board and council, I know it is vital that there be clear lines of communication between local communities and the Florida Department of Juvenile Justice as well as enhanced services for youth in our community.

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Sincerely,

Connie E. Jenkins-Pye
Leon Juvenile Justice Council
Circuit 2 Juvenile Justice Board

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/4/2013
Meeting Date

Topic _____

Bill Number 676
(if applicable)

Name Cheryl Massaro

Amendment Barcode _____
(if applicable)

Job Title County Council Member

Address _____
Street

City State Zip

Phone _____

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.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3 / 4 / 2013
Meeting Date

Topic _____

Bill Number 676
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/4/13
Meeting Date

Topic 55 Circuit Adv. Boards

Bill Number 676
(if applicable)

Name Amy Mercer

Amendment Barcode _____
(if applicable)

Job Title Ex. Director

Address 924 N. Gadsden St,

Phone 850-219-3631

Street

Tallahassee, FL 32303

E-mail amercer@fpcfl.com

City

State

Zip

Speaking: For Against Information

Representing FL Police Chiefs Assoc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/24/2013
Meeting Date

Topic _____

Bill Number 676
(if applicable)

Name Ana Maria Sanchez

Amendment Barcode _____
(if applicable)

Job Title Legislative Affairs Director

Address 2737 Centerville Drive
Street

Phone 850-410-1097

Tallahassee FL 32399
City State Zip

E-mail anamaria.sanchez@djj.state.fl.us

Speaking: For Against Information

Representing DJJ

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/4/2013

Meeting Date

Topic _____

Bill Number S0676
(if applicable)

Name Cathy Craig-Myers

Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 1201 Hays Street, Suite 107

Phone 850-671-3442

Street

Tallahassee

FL

City

State

Zip

E-mail cathy@fjja.org

Speaking: For Against Information

Representing Florida Juvenile Justice Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 678

INTRODUCER: Criminal Justice Committee and Senator Evers

SUBJECT: Malicious Infliction of Cruel or Inhuman Treatment on a Juvenile Offender

DATE: March 11, 2013 **REVISED:** _____

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

Please see Section VIII. for Additional Information:

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

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

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 678 creates s. 985.702, F.S., establishing a new criminal offense relating to malicious infliction of cruel or inhuman treatment on a juvenile offender by a Department of Juvenile Justice (DJJ) employee.

Under the bill, it becomes a first degree misdemeanor for a DJJ employee, with malicious intent, to inflict on a juvenile offender cruel or inhuman treatment by neglect or otherwise without causing great bodily harm, permanent disability, or permanent disfigurement. If such harm or disfigurement is inflicted on the juvenile offender, the employee commits a third degree felony.

The bill also creates reporting requirements for DJJ employees. Failure to comply with these new reporting requirements becomes a criminal act under the bill, resulting in first degree misdemeanor or third degree felony penalties.

Finally, the bill amends the definition of “juvenile offender” in the newly created statute to include a person of any age committed to the DJJ’s custody. It also provides a definition of “juvenile offender” in the sexual misconduct statute, s. 985.701, F.S.

This bill creates section 985.702 of the Florida Statutes. The bill amends section 985.701 of the Florida Statutes.

II. Present Situation:

Neglect of Youth Committed to the DJJ

Section 985.02, F.S., provides legislative intent for the general protections of children within the juvenile justice system, including protection from abuse, neglect, and exploitation.¹ However, there is no specific statute within ch. 985, F.S., that can be used to prosecute a DJJ employee for criminal neglect of a youth in the department's custody.² As a result, prosecutors have looked to other statutes to prosecute a DJJ employee alleged to have neglected a youth. One such statute is the child abuse statute, but it is not designed to prosecute neglect cases which arise within the unique framework of the juvenile justice environment, nor does it apply to youth in DJJ's custody who are 18 years of age or older.³

Sexual Misconduct by an Employee

Section 985.701, F.S., makes it a second degree felony⁴ for a DJJ employee⁵ to engage in sexual misconduct⁶ with juvenile offenders "detained or supervised by, or committed to the custody, of the department." The statute does not define the term "juvenile offender."

III. Effect of Proposed Changes:

Neglect of Youth Committed to the DJJ

The bill creates s. 985.702, F.S., establishing a new criminal offense relating to malicious infliction of cruel or inhuman treatment on a juvenile offender by a DJJ employee.

The bill makes it a first degree misdemeanor⁷ for a DJJ employee, with malicious intent, to inflict cruel or inhuman treatment by neglect or otherwise on a juvenile offender without causing great bodily harm, permanent disability, or permanent disfigurement. If the infliction does cause

¹ Section 985.02(1)(a), F.S.

² See the Palm Beach County Grand Jury Presentment Regarding the Death of Eric Perez While in the Custody of the Florida Department of Juvenile Justice, on file with the Senate Criminal Justice Committee. The grand jury recommended the creation of a criminal statute prohibiting the neglect of youths in the custody of the DJJ.

³ *Id.* Because Eric Perez had turned 18 a few days before his death in the detention center, he did not meet the definition of a "child" in s. 827.03, F.S., relating to child abuse, and as such, prosecutors were unable to charge the Palm Beach Regional Juvenile Detention facility officers with child neglect.

⁴ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

⁵ Section 985.701(1)(a)1.b., F.S., defines "employee" as paid staff members, volunteers, and interns who work in a department program or a program operated by a provider under a contract.

⁶ Section 985.701(1)(a)1.a., F.S., defines "sexual misconduct" as fondling the genital area, groin, inner thighs, buttocks, or breasts of a person; the oral, anal, or vaginal penetration by or union with the sexual organ of another; or the anal or vaginal penetration of another by any other object. The term does not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of duty by an employee of the department or an employee of a provider under contract with the department.

⁷ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

great bodily harm, permanent disability, or permanent disfigurement to the juvenile offender, the employee commits a third degree felony.⁸

“Neglect of a juvenile offender” is defined under the bill as an employee’s:

- Failure or omission to provide a juvenile offender with the proper level of care, supervision, and services necessary to maintain the juvenile offender’s physical and mental health, including, but not limited to, adequate food, nutrition, clothing, shelter, supervision, medicine, and medical services; or
- Failure to make a reasonable effort to protect a juvenile offender from abuse, neglect, or exploitation by another person.

The bill defines an “employee” as a “paid staff member, volunteer, or intern who works in a department program or a program operated by a provider under contract with the department.”⁹ It also defines a “juvenile offender” as “any person of any age who is detained, or committed to the custody of, the department.”

If the Public Employees Relations Commission determines that a DJJ employee violates the newly created section, such determination constitutes sufficient cause under s. 110.227, F.S.,¹⁰ for dismissal from employment with the DJJ, and prohibits the employee from being employed in any capacity in connection with the juvenile justice system.

The bill requires employees who witness the infliction of cruel or inhuman treatment against a juvenile offender to immediately report the incident to the DJJ’s incident hotline. The witness must also prepare an independent report specifically describing the nature of the incident, the location and time, and the persons involved. This report must be submitted to the witness’s supervisor or program director, who in turn must provide copies of the report to the inspector general and the circuit juvenile justice manager. The inspector general must immediately conduct an appropriate administrative investigation and, if there is probable cause to believe that a violation occurred, notify the state attorney in the circuit in which the incident occurred.

Failure to comply with these new reporting requirements becomes a criminal act under the bill, resulting in the following criminal penalties:

- Any person who knowingly or willfully fails to file a report or prevents another person from doing so commits a first degree misdemeanor;
- Any person who knowingly or willfully submits inaccurate, incomplete, or untruthful information on a report commits a first degree misdemeanor; and
- Any person who coerces or threatens another person with the intent to alter testimony or a written report commits a third degree felony.

⁸ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

⁹ This is the same definition as provided in s. 985.701(1)(a)1.b., F.S., relating to sexual misconduct by an employee.

¹⁰ Section 110.227, F.S., relates to the suspension and dismissal of career service employees.

Sexual Misconduct by an Employee

The bill amends s. 985.701, F.S., relating to sexual misconduct, to define “juvenile offender” as “a person of any age who is detained or supervised by, or committed to the custody of, the department.”

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:

A DJJ employee who is prosecuted for the new first degree misdemeanor or third degree felony offenses under the bill could be subjected to fines up to \$1,000 for the misdemeanor offenses, and up to \$5,000 for the third degree felony offenses.

C. Government Sector Impact:

The bill creates two new third degree felony offenses, malicious infliction of cruel or inhuman treatment causing great bodily harm, and knowingly coercing another person with the intent to alter testimony or a written report. The Criminal Justice Impact Conference met on February 27, 2013 and determined that there will be an insignificant impact on prison beds as a result of this bill.

The bill also creates several new first degree misdemeanor offenses related to malicious battery on a juvenile offender and failure to comply with reporting requirements. To the extent that DJJ employees are prosecuted for any of the new misdemeanor offenses, it could negatively impact local jails.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Criminal Justice on March 11, 2013:**

- Deletes the newly created first degree misdemeanor battery offense and replaces it with malicious infliction of cruel and inhuman treatment by neglect or otherwise on a juvenile offender without causing significant injury.
- Defines “juvenile offender” to include a juvenile of any age in the custody of the DJJ for purposes of the newly created offense.
- Adds a definition of “neglect” to the newly created statute.
- Adds a definition of “juvenile offender” to the sexual misconduct statute, s. 985.701, F.S.
- Removes the provision repealing the statute that authorizes jail and prison tours by juveniles.

B. Amendments:

None.



159924

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 985.702, Florida Statutes, is created to read:

985.702 Malicious infliction of cruel or inhuman treatment prohibited; reporting required; penalties.-

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

(a) "Employee" means a paid staff member, volunteer, or intern who works in a department program or a program operated by a provider under a contract with the department.



159924

13 (b) "Juvenile offender" means any person of any age who is
14 detained, or committed to the custody of, the department.

15 (c) "Neglect of a juvenile offender" means:

16 1. An employee's failure or omission to provide a juvenile
17 offender with the proper level of care, supervision, and
18 services necessary to maintain the juvenile offender's physical
19 and mental health, including, but not limited to, adequate food,
20 nutrition, clothing, shelter, supervision, medicine, and medical
21 services; or

22 2. An employee's failure to make a reasonable effort to
23 protect a juvenile offender from abuse, neglect, or exploitation
24 by another person.

25 (2) (a) Any employee who, with malicious intent, inflicts
26 cruel or inhuman treatment by neglect or otherwise, without
27 causing great bodily harm, permanent disability, or permanent
28 disfigurement to a juvenile offender, commits a misdemeanor of
29 the first degree, punishable as provided in s. 775.082 or s.
30 775.083.

31 (b) Any employee who, with malicious intent, inflicts cruel
32 or inhuman treatment by neglect or otherwise, and in so doing
33 causes great bodily harm, permanent disability, or permanent
34 disfigurement to a juvenile offender, commits a felony of the
35 third degree, punishable as provided in s. 775.082, s. 775.083,
36 or s. 775.084.

37 (c) Notwithstanding prosecution, any violation of paragraph
38 (a) or paragraph (b), as determined by the Public Employees
39 Relations Commission, constitutes sufficient cause under s.
40 110.227 for dismissal from employment with the department, and
41 such person may not again be employed in any capacity in



159924

42 connection with the juvenile justice system.

43 (3) An employee who witnesses the infliction of cruel or
44 inhuman treatment committed against a juvenile offender shall
45 immediately report the incident to the department's incident
46 hotline and prepare, date, and sign an independent report that
47 specifically describes the nature of the incident, the location
48 and time of the incident, and the persons involved. The employee
49 shall deliver the report to the employee's supervisor or program
50 director, who must provide copies to the department's inspector
51 general and the circuit juvenile justice manager. The inspector
52 general shall immediately conduct an appropriate administrative
53 investigation, and, if there is probable cause to believe that a
54 violation of subsection (2) has occurred, the inspector general
55 shall notify the state attorney in the circuit in which the
56 incident occurred.

57 (4) (a) Any person who is required to prepare a report under
58 this section who knowingly or willfully fails to do so, or who
59 knowingly or willfully prevents another person from doing so,
60 commits a misdemeanor of the first degree, punishable as
61 provided in s. 775.082 or s. 775.083.

62 (b) Any person who knowingly or willfully submits
63 inaccurate, incomplete, or untruthful information with respect
64 to a report required under this section commits a misdemeanor of
65 the first degree, punishable as provided in s. 775.082 or s.
66 775.083.

67 (c) Any person who knowingly or willfully coerces or
68 threatens any other person with the intent to alter testimony or
69 a written report regarding an incident of the infliction of
70 cruel or inhuman treatment commits a felony of the third degree,



159924

71 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

72 Section 2. Paragraph (a) of subsection (1) of section
73 985.701, Florida Statutes, is amended to read:

74 985.701 Sexual misconduct prohibited; reporting required;
75 penalties.—

76 (1)(a)1. As used in this subsection, the term:

77 a. "Sexual misconduct" means fondling the genital area,
78 groin, inner thighs, buttocks, or breasts of a person; the oral,
79 anal, or vaginal penetration by or union with the sexual organ
80 of another; or the anal or vaginal penetration of another by any
81 other object. The term does not include an act done for a bona
82 fide medical purpose or an internal search conducted in the
83 lawful performance of duty by an employee of the department or
84 an employee of a provider under contract with the department.

85 b. "Employee" includes paid staff members, volunteers, and
86 interns who work in a department program or a program operated
87 by a provider under a contract.

88 c. "Juvenile offender" means a person of any age who is
89 detained or supervised by, or committed to the custody of, the
90 department.

91 2. An employee who engages in sexual misconduct with a
92 juvenile offender detained or supervised by, or committed to the
93 custody of, the department commits a felony of the second
94 degree, punishable as provided in s. 775.082, s. 775.083, or s.
95 775.084. An employee may be found guilty of violating this
96 subsection without having committed the crime of sexual battery.

97 3. The consent of the juvenile offender to any act of
98 sexual misconduct is not a defense to prosecution under this
99 subsection.



159924

100 4. This subsection does not apply to an employee of the
101 department, or an employee of a provider under contract with the
102 department, who:

103 a. Is legally married to a juvenile offender who is
104 detained or supervised by, or committed to the custody of, the
105 department.

106 b. Has no reason to believe that the person with whom the
107 employee engaged in sexual misconduct is a juvenile offender
108 detained or supervised by, or committed to the custody of, the
109 department.

110 Section 3. This act shall take effect upon becoming a law.

111

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

113 And the title is amended as follows:

114 Delete everything before the enacting clause
115 and insert:

116 A bill to be entitled
117 An act relating to juvenile justice; creating s.
118 985.702, F.S.; providing definitions; providing for
119 the imposition of criminal penalties against specified
120 employees who inflict cruel or inhuman treatment upon
121 juvenile offenders; providing enhanced penalties for
122 such treatment that results in great bodily harm,
123 permanent disability, or permanent disfigurement to a
124 juvenile offender; specifying that such conduct
125 constitutes sufficient cause for an employee's
126 dismissal from employment; prohibiting such employee
127 from future employment with the juvenile justice
128 system; providing incident reporting requirements;



159924

129 prohibiting an employee who witnesses such an incident
130 from knowingly or willfully failing to report;
131 prohibiting false reporting, preventing another from
132 reporting, or coercing another to alter testimony or
133 reports; providing penalties; amending s. 985.701,
134 F.S.; defining the term "juvenile offender" for
135 purposes of prohibiting sexual misconduct with
136 juvenile offenders; providing an effective date.

By Senator Evers

2-00885-13

2013678__

1 A bill to be entitled
 2 An act relating to malicious battery and infliction of
 3 cruel or inhuman treatment on a juvenile offender;
 4 creating s. 985.7015, F.S.; defining terms; providing
 5 that it is unlawful for an employee of the Department
 6 of Juvenile Justice to commit a battery or to inflict
 7 cruel or inhuman treatment on a juvenile offender;
 8 providing criminal penalties; providing that battery
 9 or the infliction of cruel or inhuman treatment on a
 10 juvenile offender constitutes sufficient cause to
 11 dismiss the employee from employment with the
 12 department and to prohibit such employee from being
 13 employed again in any capacity with the juvenile
 14 justice system; requiring each employee to immediately
 15 report such injurious behavior to the department's
 16 incident hotline and to deliver a report to his or her
 17 supervisor; providing criminal penalties for failing
 18 to report an incident to a supervisor, for knowingly
 19 or willfully submitting inaccurate, incomplete, or
 20 untruthful information, or for coercing or threatening
 21 another to alter testimony or the written report;
 22 repealing s. 945.75, F.S., relating to tours of state
 23 correctional facilities for juveniles; providing an
 24 effective date.

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

28 Section 1. Section 985.7015, Florida Statutes, is created
 29 to read:

Page 1 of 3

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

2-00885-13

2013678__

30 985.7015 Malicious battery; infliction of cruel or inhuman
 31 treatment prohibited; reporting required; penalties.-
 32 (1) As used in this section, the term:
 33 (a) "Employee" means a paid staff member, volunteer, or
 34 intern who works in a department program or a program operated
 35 by a provider under a contract with the department.
 36 (b) "Juvenile offender" means a person younger than 18
 37 years of age who is detained or supervised by, or committed to
 38 the custody of, the department.
 39 (2) An employee who, with malicious intent, commits a
 40 battery upon a juvenile offender, commits a misdemeanor of the
 41 first degree, punishable as provided in s. 775.082 or s.
 42 775.083.
 43 (3) An employee who, with malicious intent, commits a
 44 battery or inflicts cruel or inhuman treatment by neglect or
 45 otherwise, and in so doing causes great bodily harm, permanent
 46 disability, or permanent disfigurement to a juvenile offender,
 47 commits a felony of the third degree, punishable as provided in
 48 s. 775.082, s. 775.083, or s. 775.084.
 49 (4) Notwithstanding any other prosecution, a violation of
 50 subsection (2) or subsection (3), as determined by the Public
 51 Employees Relations Commission, constitutes sufficient cause
 52 under s. 110.227 for dismissal from employment with the
 53 department, and such person may not be employed again in any
 54 capacity in connection with the juvenile justice system.
 55 (5) An employee who witnesses malicious battery or the
 56 infliction of cruel or inhuman treatment against a juvenile
 57 offender shall immediately report the incident to the
 58 department's incident hotline and prepare, date, and sign an

Page 2 of 3

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2-00885-13

2013678__

59 independent report that specifically describes the nature of the
60 incident, the location and time of the incident, and the persons
61 involved. The employee shall deliver the report to his or her
62 supervisor or program director, and the supervisor or director
63 shall provide copies of the report to the department's inspector
64 general and the circuit juvenile justice manager. The inspector
65 general shall immediately conduct an appropriate administrative
66 investigation, and if there is probable cause to believe that a
67 violation of subsection (2) or subsection (3) has occurred, the
68 inspector general shall notify the state attorney in the circuit
69 in which the incident occurred.

70 (6) (a) A person who is required to prepare a report under
71 this section and who knowingly or willfully fails to do so, or
72 who knowingly or willfully prevents another person from doing
73 so, commits a misdemeanor of the first degree, punishable as
74 provided in s. 775.082 or s. 775.083.

75 (b) A person who knowingly or willfully submits inaccurate,
76 incomplete, or untruthful information with respect to a report
77 required under this section commits a misdemeanor of the first
78 degree, punishable as provided in s. 775.082 or s. 775.083.

79 (c) A person who knowingly or willfully coerces or
80 threatens any other person with the intent to alter testimony or
81 a written report regarding an incident of malicious battery or
82 the infliction of cruel or inhuman treatment commits a felony of
83 the third degree, punishable as provided in s. 775.082, s.
84 775.083, or s. 775.084.

85 Section 2. Section 945.75, Florida Statutes, is repealed.

86 Section 3. This act shall take effect upon becoming a law.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/4/13
Meeting Date

Topic Malicious Battery/Cruel Inhumane Treatment Bill Number 678
(if applicable)

Name Sheila Hopkins Amendment Barcode _____
(if applicable)

Job Title Director of Social Concerns/Respect Life

Address 201 W. Park Ave. Phone 570-7061
Street

Tallahassee FL 32301 E-mail shopkins@flacath
City State Zip conf.org

Speaking: For Against Information

Representing Fl. Conference of Catholic Bishops

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

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/4/2013

Meeting Date

Topic _____ Bill Number S0678
(if applicable)

Name Cathy Craig-Myers Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 1201 Hays Street, Suite 107 Phone 850-671-3442
Street

Tallahassee Fl 32301
City State Zip

E-mail cathy@fjja.org

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.

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)

3/4/2013
Meeting Date

Topic _____

Bill Number 678
(if applicable)

Name Ara Maria Sanchez

Amendment Barcode _____
(if applicable)

Job Title Legislative Affairs Director

Address 2737 Centerview Dr
Street

Phone 410-1097

Tallahassee FL 32399
City State Zip

E-mail ammaria.sanchez@dij.state.fl.us

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.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3 / 4 / 2013

Meeting Date

Topic _____

Bill Number 678
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG

FLORIDA

33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

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 Criminal Justice

BILL: SB 742

INTRODUCER: Senator Evers

SUBJECT: Parole Interview Dates for Certain Inmates

DATE: February 21, 2013 REVISED: _____

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

I. Summary:

SB 742 permits the Florida Parole Commission to increase the interval between parole interviews to seven years for those inmates whose interviews are currently every two years.

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

II. Present Situation:

Parole is a discretionary prison release mechanism administered by the Florida Parole Commission (“the commission”). The only inmates who are eligible for parole consideration are those who committed capital sexual battery prior to October 1, 1995, capital sexual murder prior to October 1, 1994, or another crime prior to October 1, 1983. Approximately 5,200 Florida inmates are still eligible for parole consideration because parole applied to their offense at the time it was committed.¹

An inmate who is granted parole is allowed to serve the remainder of his or her prison sentence outside of confinement according to terms and conditions established by the commission. Parolees are supervised by Correctional Probation Officers of the Department of Corrections. As of December 31, 2012, 350 offenders were actively supervised on parole from Florida sentences.²

¹ Florida Parole Commission Annual Report 2011-2012, p. 21.

² Community Supervision Population Monthly Status Report, December 2012, Florida Department of Corrections, p. 2.

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

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

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

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

III. Effect of Proposed Changes:

The bill amends ss. 947.16, 947.174, and 947.1745, F.S., to extend the commission's authority to increase the interval between parole consideration re-interviews to include cases in which the offender was convicted of: (1) kidnapping or attempted kidnapping; or (2) a completed or attempted offense of robbery, burglary of a dwelling, burglary of a structure or conveyance, or breaking and entering, when a human being is present and a sexual act is completed or attempted. The interval may be increased from the standard two years to seven years if the commission makes a written finding that it is unlikely to grant parole to the offender.

The groups that would be most affected by this bill are victims and their families, parole-eligible inmates and their families, and the commission itself. For victims, reduction of the frequency of an opportunity for parole can be expected to lessen the stress associated with potential release of the offender. Because victims and families often attend the parole hearings, there is also a

potential financial savings. For offenders, the normally-scheduled interviews would be reduced if their record indicates that granting of parole is not likely. For the commission, there would be some reduction in workload and the opportunity to focus on the cases that are more frequently reviewed.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

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

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Holding parole hearings less frequently would reduce the costs incurred by persons who would attend the hearings. This could include victims and their families and representatives, victims advocacy groups, law enforcement agencies, and the families and representatives of inmates. The amount of reduction cannot be quantified because a

reduction of frequency would depend upon the individual merits of the inmate's case and the cost to attend hearings is variable depending upon individual circumstances.

C. Government Sector Impact:

Authorization to reduce the frequency of parole hearings has the potential to reduce the number of hearings conducted by the commission, which may result in cost savings or reallocation of resources to other cases. If the interview interval for an inmate is changed from two years to seven years, there would be five fewer hearings over a fourteen year period. The total amount of any savings cannot be determined until the commission considers individual cases and makes a decision on whether to apply its new authority to the case. The commission indicates that in Fiscal Year 2015-2016 the bill could result in 44 inmates having their next interview date set within seven years rather than within two years.³ However, the bill can have no fiscal impact before Fiscal Year 2015-2016 because it does not alter interview dates that are already scheduled at the time of the effective date.

There would be additional cost to incarcerate an inmate whose interview schedule is extended from two years to seven years if he or she is paroled at the seven year interview interval and would also have been paroled if the interview had been conducted earlier. The cost of incarcerating such an inmate would be approximately \$15,500 for each extra year of incarceration.⁴ However, it is anticipated that few inmates would fall into this category because the expanded interview interval applies only to those inmates whom the commission finds are unlikely to be granted parole.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

³ Florida Parole Commission Proposal Analysis and Economic Impact of HB 685 and SB 742 (February 18, 2013), on file with the Senate Committee on Criminal Justice.

⁴ The average annual cost per inmate for adult male custody DOC facilities, except private facilities, is approximately \$15,500. Department of Corrections Budget Summary (Fiscal Year 2010-2011), available at <http://www.dc.state.fl.us/pub/annual/1011/budget.html> (last viewed on February 22, 2013).

VIII. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Evers

2-00741-13

2013742__

A bill to be entitled

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

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

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

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

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

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

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

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

≠

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59 3. Convicted of kidnapping or attempted kidnapping;
 60 4. Convicted of robbery, burglary of a dwelling, burglary
 61 of a structure or conveyance, or breaking and entering, or the
 62 attempt of any of these crimes, in which a human being is
 63 present and a sexual act is attempted or completed; or
 64 ~~5.3-~~ Sentenced to a 25-year minimum mandatory sentence
 65 previously provided in s. 775.082,
 66
 67 shall be reinterviewed once within 7 years after the date of
 68 receipt of the vacated release order and once every 7 years
 69 thereafter, if the commission finds that it is not reasonable to
 70 expect that parole would be granted during the following years
 71 and states the bases for the finding in writing. For an any
 72 inmate who is within 7 years of his or her tentative release
 73 date, the commission may establish a reinterview date before
 74 ~~prior to~~ the 7-year schedule.
 75 Section 2. Paragraph (b) of subsection (1) of section
 76 947.174, Florida Statutes, is amended to read:
 77 947.174 Subsequent interviews.-
 78 (1)
 79 (b) For an any inmate convicted of murder, attempted
 80 murder, sexual battery, or attempted sexual battery, kidnapping
 81 or attempted kidnapping; or of robbery, burglary of a dwelling,
 82 burglary of a structure or conveyance, or breaking and entering
 83 or the attempt of any of these crimes, in which a human being is
 84 present and a sexual act is attempted or completed, or for an
 85 ~~any~~ inmate who has been sentenced to a 25-year minimum mandatory
 86 sentence previously provided in s. 775.082, and whose
 87 presumptive parole release date is more than 7 years after the

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2013742

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

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

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2-00741-13 2013742__

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3-4-73

Meeting Date

Topic Public Interview Dates

Bill Number 742
(if applicable)

Name Kevin Reilly

Amendment Barcode _____
(if applicable)

Job Title Legislative Affairs Director

Address 4070 Esplanade Way

Phone 850-728-3548

Street

Tallahassee

FL

32311

City

State

Zip

E-mail Kevin.Reilly@FPC.State.FL.us

Speaking: For Against Information

Representing Florida Public Commission

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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3.4.13

Meeting Date

Topic Presumptive release date

Bill Number 742
(if applicable)

Name Ken Kopczynski

Amendment Barcode _____
(if applicable)

Job Title lobbyist

Address 300 East Brevard

Phone 222-3329

Street

Tallah FL 32301

City

State

Zip

E-mail ken@flpba.org

Speaking: For Against Information

Representing Fla PBA Inc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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 Criminal Justice

BILL: CS/SB 846

INTRODUCER: Criminal Justice Committee and Senator Brandes and others

SUBJECT: Search and Seizure of a Portable Electronic Device

DATE: March 5, 2013 **REVISED:** _____

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

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 846 creates special privacy protections related to personal communications devices. The bill creates a new requirement of a search warrant to search the information or communications contained in a portable electronic device (PED) when the device is going to be searched incident to arrest. It also sets forth specific restrictions on the search and seizure of information related to the “tracking” of the location of a portable electronic device. A statutory remedy is provided in the form of a Motion for suppression of evidence.

This bill creates a new section of the Florida Statutes.

II. Present Situation:

This bill creates new law in the area of search and seizure, an area that generally changes slowly and sporadically through decisional law. The new restrictions on search and seizure in the bill apply, however, to personal communication technology that changes rapidly.

Search and Seizure

The Fourth Amendment to the United States Constitution guarantees the people in this country security in their houses, persons, papers and possessions from unreasonable searches and seizures by government actors.¹

Article I, Section 12 of the Constitution of Florida contains the same guarantees as the Fourth Amendment, however the Florida provision specifically extends the protection to private communications. The Florida constitutional provision also states that it “shall be construed in conformity with the Fourth Amendment to the United States Constitution, as interpreted by the United States Supreme Court. Articles or information obtained in violation of this right shall not be admissible in evidence if such articles or information would be inadmissible under decisions of the United States Supreme Court construing the Fourth Amendment to the United States Constitution.”²

When a law enforcement officer violates a person’s constitutionally-protected right to be free from unreasonable searches or seizures, the common remedy is that the evidence obtained during the search, and evidence that may have been developed as a result of the unlawful search, are inadmissible as proof of the crime with which he or she is charged.

The search of a person who has been arrested, as well as the area within his or her immediate control or reach, is a well-recognized exception to the search warrant requirement derived from balancing the Fourth Amendment with the governmental function of providing for public safety. The exception has evolved through the application of Constitutional limitations, statutory law and case law in matters that have come before the courts. By eliminating this exception to the search warrant requirement, this bill sets forth new thresholds with which the courts should begin their legal analyses of factual situations that involve law enforcement and government agency searches of PED’s in Florida.

¹ The text of the Fourth Amendment provides:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

² Article I, section 12, of the Florida Constitution provides:

Section 12. Searches and seizures.—

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, and against the unreasonable interception of private communications by any means, shall not be violated. No warrant shall be issued except upon probable cause, supported by affidavit, particularly describing the place or places to be searched, the person or persons, thing or things to be seized, the communication to be intercepted, and the nature of evidence to be obtained. This right shall be construed in conformity with the 4th Amendment to the United States Constitution, as interpreted by the United States Supreme Court. Articles or information obtained in violation of this right shall not be admissible in evidence if such articles or information would be inadmissible under decisions of the United States Supreme Court construing the 4th Amendment to the United States Constitution.

Currently the federal and state courts are applying two basic lines of constitutional analysis to questions on warrantless searches of PED's incident to arrest. The U.S. Supreme Court has not yet taken a case on review that might help settle this matter.³

- ***The PED as Container Theory:*** Containers, even closed ones, found on a person or in his immediate control may be searched incident to arrest.⁴
- ***The Search for Evidence of the Crime for Which the Person is Arrested Theory:*** Some courts are seeking a balance in the search of PED's incident to arrest by curtailing the search based upon the likelihood that the device will contain evidence of the crime for which the person is arrested. In other words, if a person is arrested for driving while his or her driver's license is suspended or revoked, there is unlikely to be evidence related to that particular crime in the PED. The analysis may lead to an entirely different conclusion when the arrest is for drug trafficking due to the PED being basically a "tool of the trade."⁵

The Florida Supreme Court currently has jurisdiction to address the warrantless search of a PED incident to arrest and a real-time cell phone tracking case. In *Smallwood v. State*, 61 So.3d 448 (Fla. 1stDCA 2011) a cell phone search was upheld. The *Smallwood* court followed U.S. Supreme Court precedent on container searches incident to arrest. The court, however, recognized the "unique qualities of a cell phone which, like a computer, may contain a large amount of sensitive personal information," and asked the Florida Supreme Court to review whether the general rule ought to apply to such devices.

In *Tracey v. State*, 69 So.3d 992 (Fla. 4th DCA 2011) the court held that the Fourth Amendment was not implicated in the real-time tracking situation because a person's location on the open road is not protected by the Fourth Amendment (no reasonable expectation of privacy). However, the *Tracey* court performed an exhaustive analysis of Chapter 934, F.S., because the court had extended its order approving a "pen register" and "trap and trace" request under that statutory scheme to include real-time cell phone tracking. The Florida Supreme Court has exercised its discretionary jurisdiction to review the constitutional issues in this case.

The U.S. Supreme Court has recently ruled in a Global Positioning System tracking case but has not yet agreed to review a case relating to the location information of an electronic device. To the extent that a Global Positioning System (GPS) is comparable to an electronic device as defined in the bill, there may be some elements of the GPS case that apply. In *U.S. v. Jones*, 132 S.Ct. 945 (2012) the court decided that attaching a GPS tracking device to someone's private property (motor vehicle) is a search or seizure within the meaning of the Fourth Amendment.

Statutory Right Prohibiting the Search or Seizure of Information from or Location of a PED
The law regarding whether a state legislature has the power to convey rights *in addition to* those rights conveyed in the U.S. Constitution is not well-settled. The Florida Supreme Court has

³ In *City of Ontario v. Quon*, 130 S. Ct. 2619 (2010) the court was asked to decide the issue of whether text messages should be afforded Fourth Amendment privacy protection. The court declined to reach the issue, instead ruling in the case on narrower grounds. The court stated: "The court must proceed with care when considering the whole concept of privacy expectations in communications made on electronic equipment...The judiciary risks error by elaborating too fully on Fourth Amendment implications of emerging technology before its role in society has become clear." 130 S. Ct. at 2629, citing *Olmstead v. U.S.*, 277 U.S. 438 (1928).

⁴ This is well-established precedent, beginning with *Chimel v. California*, 395 U.S. 752 (1969).

⁵ See for example, *United States v. Quintana*, 594 F.Supp.2d 1291 (M.D.Fla.2009).

stated its position that states are free to place even more rigorous restraints upon state governmental intrusion than federal law requires.⁶

In his concurring opinion in *State v. Owen*, 696 So.2d 715 (Fla. 1997), Justice Shaw explained the rationale of the *Traylor* court:

This Court explained in *Traylor v. State*, 596 So.2d 957 (Fla.1992), that although the federal constitution secures a common degree of protection for the citizens of all fifty states, the United States Supreme Court has been parsimonious in construing the extent of this protection for good reason:

[F]ederal precedent applies equally throughout fifty diverse and independent states; a ruling that may be suitable in one may be inappropriate in others. And [also], the federal union embraces a multitude of localities; the Court oftentimes is simply unfamiliar with local problems, conditions and traditions. (*Traylor* at 961).

State high courts, on the other hand, do not suffer these concerns and may construe their state constitutions freely to address local conditions:

[N]o court is more sensitive or responsive to the needs of the diverse localities within a state, or the state as a whole, than that state's own high court. In any given state, the federal Constitution thus represents the floor for basic freedoms; the state constitution, the ceiling. (*Traylor* at 962).

This division of labor between the United States Supreme Court and the state high courts is the essence of our federalist system.⁷

When a person (defendant) invokes his or her right against an unreasonable search or seizure, the court is generally bound by the current search or seizure decisional law.⁸ Also, as previously noted, in Florida the courts are bound by the decisions of the U.S. Supreme Court.⁹

As with this bill, where there is a statutorily-created prohibition against state governmental interference with the right against an unreasonable search or seizure, it is likely that the courts could focus on the fact that the bill *does not subject citizens* to a search let alone an unreasonable one.¹⁰ Where a statute *prohibits or limits* certain *law enforcement conduct*, it seems reasonable to

⁶ *Traylor v. State*, 596 So.2d 957 (Fla. 1992). As it relates to this bill in particular it should be noted that Congress has the power to regulate interstate communications. (See footnote 10 below.) However, the Florida Constitution states with particularity that “the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, and against the unreasonable interception of private communications by any means, shall not be violated.” Article I, Section 12, Constitution of Florida. (emphasis added)

⁷ *State v. Owen*, 696 So.2d 715 (Fla. 1997).

⁸ This legal doctrine is known as *stare decisis* which means “to stand by that which was decided.” To the extent that the facts of a particular case do not distinguish it from the facts of cases that came before, courts tend to apply established legal precedent. This lends a certain stability and predictability to the courts’ application of the law to questions that come before them.

⁹ Article I, section 12, of the Florida Constitution.

¹⁰ In fact, although the bill does not specifically make the statement, the bill creates the presumption that a PED search or seizure is *per se unreasonable* (except under the limited circumstances listed in the bill).

expect that the courts will decide that it is within the Legislature's power to *protect* citizens from police conduct just as it is within its power to *subject* citizens to police action. Therefore, although a Florida statute may extend certain rights against governmental intrusion beyond the reaches of current decisional law, it is reasonable to expect that the Florida courts will make whatever decisional leap forward is necessary to apply a statutory remedy to a governmental violation of the statute.

Current Florida Statutory Law, Security of Communications

Florida law governing security of communications is found in Chapter 934, F.S. Among the subjects covered in the chapter are procedures related to and limitations upon the government's use of "wiretapping" and "mobile tracking devices." This chapter mirrors the Federal statutory law found in the Electronic Communications Privacy Act of 1986.¹¹

It is currently unclear how the interplay between federal law and the state law in this area will evolve. Congress has the power to regulate interstate communications; therefore, state law may be preempted by the federal law.¹²

The interception of communications and the installation and monitoring of a tracking device require a court order.¹³ To obtain a court order authorizing a wiretap the applicant must show probable cause for belief of certain facts.¹⁴

To obtain authorization for the installation and use of a mobile tracking device the applicant must certify to the court that the information likely to be obtained is relevant to an ongoing criminal investigation.¹⁵ A "mobile tracking device" is defined as an electronic or mechanical device which permits the tracking of the movement of a person or object.¹⁶

An investigative or law enforcement officer may request a court order authorizing the use of a mobile tracking device or a communications intercept.¹⁷ Section 934.01, F.S., defines these terms and law enforcement agency as follows:

- "Investigative or law enforcement officer" means any officer of the State of Florida or political subdivision thereof, of the United States, or of any other state or political subdivision thereof, who is empowered by law to conduct on behalf of the Government investigations of, or to make arrests for, offenses enumerated in this chapter or similar federal offenses, any attorney authorized by law to prosecute or participate in the prosecution of such offenses, or any other attorney representing the State of Florida or political subdivision thereof in any civil, regulatory, disciplinary, or forfeiture action relating to, based upon, or derived from such offenses.

¹¹ 18 U.S.C. 2510-3127.

¹² *State v. Rivers*, 660 So.2d 1360 (Fla. 1995); *State v. Otte*, 887 So.2d 1186 (Fla. 2004).

¹³ Section 934.42, F.S.

¹⁴ Section 934.09(3), F.S.

¹⁵ Section 934.42(1)(b), F.S.

¹⁶ Section 934.42(6), F.S.

¹⁷ Sections 934.42(1) and 934.09(1)(a), F.S.

- “Law enforcement agency” means an agency of the State of Florida or a political subdivision thereof or of the United States if the primary responsibility of the agency is the prevention and detection of crime or the enforcement of the penal, traffic, or highway laws of this state and if its agents and officers are empowered by law to conduct criminal investigations and to make arrests.

Section 934.42(5), F.S., requires that the standards established by the United States Supreme Court related to mobile tracking devices be applied to the installation and use of the devices authorized by Florida law.

Section 934.09(10)(a), F.S., provides a statutory remedy for a person who has had his or her communications intercepted under the wiretap statute. This remedy is a statutorily-created Motion to Suppress (or “exclude”) the evidence derived from the wiretap. The nature of the remedy removes an alleged statutory violation from the usual Fourth Amendment search and seizure analysis.¹⁸

III. Effect of Proposed Changes:

This bill creates a new section of Florida Statutes that protects a person from a post-arrest warrantless search of the contents or communications of his or her PED by a law enforcement agency or other governmental entity.

The bill also prohibits location informational tracking of an electronic device, both historical and current, by a law enforcement agency or other governmental entity without a valid court order. In addition, the bill states that its provisions do not create a cause of action against any foreign or Florida private entity, its officers, agents, employees or other specified persons for providing location information.

The bill also provides Legislative findings, Legislative intent, definitions, procedures and exceptions to the bill’s prohibitions. The bill creates statutory remedies made available to an aggrieved party.

Section 1: PED Defined, Legislative Findings, Legislative Intent and Warrantless Search of PED Incident to Arrest

A *PED* is defined in the bill as an object capable of being easily transported or conveyed by a person which is capable of creating, receiving, accessing, or storing electronic data or communications and that communicates with, by any means, another entity or individual.

¹⁸ See *State v. Garcia*, 547 So.2d 628 (Fla. 1989): The fourth amendment’s exclusionary rule operates as “ ‘a judicially created remedy designed to safeguard Fourth Amendment rights generally through its deterrent effect, rather than a personal constitutional right of the party aggrieved.’ ” *Leon*, 468 U.S. at 906, 104 S.Ct. at 3411 (quoting *United States v. Calandra*, 414 U.S. 338, 348, 94 S.Ct. 613, 620, 38 L.Ed.2d 561 (1974)). The exclusionary rule in this case, however, is statutorily mandated. Chapter 934, F.S., pertaining to security of communications, unequivocally expresses the Legislature’s desire to suppress evidence obtained in violation of that chapter: Whenever any wire or oral communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court ... if the disclosure of that information would be in violation of this chapter. s. 934.06, F.S. (1985).

The *Legislative findings* in this section of the bill set forth or recognize:

- The growing common usage of PED's, and that there is a reasonable and justifiable expectation of privacy in the information PED's can contain and access through the Internet.
- The language found in the Florida Constitution, that the people's right against the unreasonable interception of private communications by any means shall not be violated.
- The general requirements for a search warrant to be issued by a judge include probable cause, a supporting affidavit setting forth with particularity the place to be searched, person or thing to be seized, the communication to be intercepted, and the nature of the evidence to be obtained.¹⁹
- That the enormity of the intrusion upon an arrested person's private information and freedom of communication requires the arresting officer to obtain a search warrant in order to access the information or communication through his or her PED.

The *Legislative Intent* subsection states: It is the intent of the Legislature that this section prohibit the search of information contained in a portable electronic device, as defined in this section, by a law enforcement agency or other governmental entity, incident to arrest, except pursuant to a warrant issued by a duly authorized judicial officer using established procedures.

Acts Prohibited – Search Incident to Arrest; Exceptions; Procedural Matters; Remedy

A law enforcement agency or other governmental entity may not search or seize the contents and communications of a PED, incident to the arrest of a person, except pursuant to a valid search warrant. This prohibition has the effect of eliminating the warrantless search of a PED incident to arrest by a law enforcement agency or by a governmental entity.

The exceptions to the search prohibition are granted in the following circumstances:

- Reliance on other lawful exceptions to the warrant requirement. These include the exigent circumstances exception and consent exception among others.
- Searches incident to national security.
- Searches in the case of a missing child.
- Searches of transponders used for toll-collection.
- Searches in response to the user's call for emergency services.

There is a *procedural requirement* in the bill when a government entity is seeking the contents of a PED under the circumstances listed above. The government entity must file with the appropriate court a written statement setting forth the facts giving rise to the emergency and the facts as to why the person or persons whose contents of a portable electronic device was sought are believed to be important in addressing the emergency, no later than 48 hours after seeking disclosure. Private entities providing electronic communications services are not responsible for ensuring that government entities comply with this requirement.

¹⁹ See generally Ch. 933, F.S., related to search warrants.

Remedy: The bill creates a statutory remedy for an aggrieved party in the form of a Motion to Suppress the contents of information contained in a PED or evidence derived from that information.

Section 2. Location Informational Tracking, Legislative Findings, Legislative Intent, Definitions, Prohibitions, Procedural Matters, Remedy and “Hold Harmless” Clause

Location information is defined in the bill as information, concerning the location of an electronic device, including both the current location and any previous location of the device, that, in whole or in part, is generated, derived from, or obtained by the operation of an electronic device.

The *Legislative findings* in this section of the bill state: The Legislature finds that existing law authorizes a court to issue a warrant for the search of a place and the seizure of property or things identified in the warrant when there is probable cause to believe that specified grounds exist. The Legislature also finds that existing law provides for a judicial procedure for the acquisition of stored communications in the possession of a provider of electronic communication service or a remote computing service.

The *Legislative intent* is to prohibit a government entity from obtaining the location information of an electronic device without a valid court order issued by a duly authorized judicial officer unless certain exceptions apply, including in an emergency or when requested by the owner of the device. However, it is also the intent of the Legislature that this bill, with certain exceptions, prohibit the use of information obtained in violation of this section in a civil or administrative hearing.

The last sentence within the Legislative intent subsection of the bill indicates the expectation that a search warrant will henceforth be required in order to use location information in matters that are not limited to those that are criminal in nature.

The following terms are *defined* in this section of the bill:

- “Electronic communication service” means a service that provides to its users the ability to send or receive wire or electronic communications.
- “Government entity” means a state or local agency, including, but not limited to, a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission, or an individual acting or purporting to act for or on behalf of a state or local agency. In this section of the bill a law enforcement agency falls under the umbrella of “government entity” however the same can not be said for the definitions in section 1 of the bill.
- “Location information” means information, concerning the location of an electronic device, including both the current location and any previous location of the device, that, in whole or in part, is generated, derived from, or obtained by the operation of an electronic device.
- “Location information service” means the provision of a global positioning service or other mapping, locational, or directional information service.
- “Owner” means the person or entity recognized by the law as having the legal title, claim, or right to an electronic device.

- “Portable electronic device” means an object capable of being easily transported or conveyed by a person which is capable of creating, receiving, accessing, or storing electronic data or communications and that communicates with, by any means, another entity or individual.
- “Remote computing service” means the provision of computer storage or processing services by means of an electronic communications system.
- “User” means a person or entity that uses an electronic device.

Prohibition, Time Limitations, Remedy. Under this section of the bill a law enforcement agency or other governmental entity must obtain a valid court order to access the location information of an electronic device. A court order may only be issued for a limited time and can be extended at the judge’s discretion, upon request and a finding of continuing probable cause and necessity.

So long as federal law does not prohibit disclosure of the location information, *exceptions* to the general warrant requirement occur under the following circumstances:

- Transponders used for the purpose of assessing or collecting tolls.
- Reliance by a law enforcement agency or other governmental entity on lawful exceptions to the warrant requirement.
- Cases of a search conducted incident to a national security event.
- Cases of a search for a missing child who is less than 18 years of age.
- In order to respond to the user’s call for emergency services.
- With the informed, affirmative consent of the owner or user of the electronic device concerned, provided that the owner or user may not consent to the disclosure of location information if the device is known or believed to be in the possession of, or attached to a possession of, a third party known to the owner or user, unless that third party is less than 18 years of age. The informed, affirmative consent of the owner or user of the electronic device concerned may not be used as consent to disclose the location information of another portable electronic device that may be remotely linked or connected to the owner or user of the portable electronic device concerned.
- With the informed, affirmative consent of the legal guardian or next of kin of the electronic device’s user, if the user is believed to be deceased or has been reported missing and unable to be contacted.
- If the government entity reasonably believes that an emergency involving immediate danger of death or serious physical injury to a person requires the disclosure, without delay, of location information concerning a specific person or persons and that a warrant cannot be obtained in time to prevent the identified danger and the possessor of the location information, in good faith, believes that an emergency involving danger of death or serious physical injury to a person requires the disclosure without delay.

Procedural requirement: The government entity, which includes a law enforcement agency, is required to file with the appropriate court a written statement setting forth the facts giving rise to the emergency and the facts as to why the person or persons whose location information was sought are believed to be important in addressing the emergency, no later than 48 hours after seeking disclosure. Private entities providing electronic communications services shall not be made responsible for ensuring that government entities comply with this section.

Remedy: The bill creates a statutory remedy for an aggrieved party in the form of a Motion to Suppress the contents of information contained in a PED or evidence derived from that information.

No cause of action is created by this section of the bill against any foreign or Florida private entity, its officers, employees, agents, or other specified persons, for providing location information.

The bill becomes effective July 1, 2013.

Other Potential Implications:

Chapter 934, F.S., contains provisions related to the interception of the contents of any wire, electronic or oral communication through the use of any electronic, mechanical, or other device. This is commonly called “wiretapping.” This chapter also governs the installation and monitoring of “mobile tracking devices.”

It cannot be ruled out with complete certainty that any overlap between Chapter 934, F.S., and the new law created by the bill could engender confusion among practitioners or the courts. This is especially possible due to the nature of the technology as defined in the bill and in current law.

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 provisions in the bill would create more security for the people in their location information and communications information as related to PED’s.

C. Government Sector Impact:

Law enforcement and other agencies will be limited in their ability to search a person's PED incident to arrest. Other than the manpower it may take to implement the new search warrant requirements, there is no known fiscal impact.

VI. Technical Deficiencies:

The term "other governmental entity" is not defined in Section 1 of the bill. In Section 2 of the bill the term is defined as: a state or local agency, including, but not limited to, a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission, or an individual acting or purporting to act for or on behalf of a state or local agency.

It is unclear how the bill applies to the conduct of a governmental entity since protections from unreasonable search and seizure under the federal and state constitutions do not apply unless a person is in peril of losing his or her liberty because of the unlawful acts of the police power. The actual effect of the bill as applied to any "other governmental entity" that is not a law enforcement agency is therefore difficult to discern.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Criminal Justice on March 4, 2013:

- Clarifies the sponsor's intent that the bill prohibit searches of information contained within or transmitted from portable electronic devices (PED's) *incident to the arrest* of a person. The bill previously prohibited the search or seizure *at any time*.
- Provides that a search warrant is required for the search or seizure of *information* within or transmitted from a PED, incident to arrest, but that a valid court order is required for the search or seizure of *PED location information*.
- Creates a statutory remedy for an aggrieved person.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2013	.	
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	.	

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

Senate Amendment (with title amendment)

Delete lines 60 - 224
and insert:

enforcement agency or other governmental entity incident to arrest except pursuant to a warrant issued by a duly authorized judicial officer using established procedures.

(3) DEFINITION.—As used in this section, the term “portable electronic device” means an object capable of being easily transported or conveyed by a person which is capable of creating, receiving, accessing, or storing electronic data or communications and that communicates with, by any means, another



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13 entity or individual.

14 (4) PROHIBITED ACTS.—

15 (a) The contents and communications of a portable
16 electronic device, including, but not limited to, data or
17 information contained in or transmitted from the portable
18 electronic device, are not subject to a search or seizure by a
19 law enforcement agency or other governmental entity except
20 pursuant to a warrant issued by a duly authorized judicial
21 officer using the procedures established by law.

22 (b) Except as provided in paragraph (a), this section does
23 not:

24 1. Curtail reliance by a law enforcement agency or other
25 governmental entity on lawful exceptions to the warrant
26 requirement;

27 2. Apply in cases of a search conducted incident to
28 national security; or

29 3. Apply in cases of a search for a missing child who is
30 less than 18 years of age.

31 4. Apply to transponders used for the purpose of assessing
32 or collecting toll.

33 5. Apply whenever the government entity reasonably believes
34 that an emergency involving immediate danger of death or serious
35 physical injury to a person requires the search or seizure,
36 without delay, of the contents of a portable electronic device
37 concerning a specific person or persons and that a warrant
38 cannot be obtained in time to prevent the identified danger, or
39 the possessor of the portable electronic device, in good faith,
40 believes that an emergency involves the danger of death.



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42 The government entity seeking the contents of the portable
43 electronic device shall file with the appropriate court a
44 written statement setting forth the facts giving rise to the
45 emergency and the facts as to why the person or persons whose
46 contents of a portable electronic device was sought are believed
47 to be important in addressing the emergency, no later than 48
48 hours after seeking disclosure. Private entities providing
49 electronic communications services shall not be made responsible
50 for ensuring that government entities comply with this section.

51 (5) Remedy.—

52 (a) Any aggrieved person in any trial, hearing, or
53 proceeding in or before any court, department, officer, agency,
54 regulatory body, or other authority may move to suppress the
55 contents of any information contained in a portable electronic
56 device or evidence derived therefrom, on the grounds that:

57 1. The information was unlawfully obtained;

58 2. The search warrant under which it was obtained is
59 insufficient on its face; or

60 3. The information was not obtained in conformity with the
61 search warrant.

62
63 Such motion shall be made before the trial, hearing, or
64 proceeding unless there was no opportunity to make such motion
65 or the person was not aware of the grounds of the motion. If the
66 motion is granted, the information or evidence derived
67 therefrom, shall be suppressed. The judge, upon the filing of
68 such motion by the aggrieved person, may make available to the
69 aggrieved person or his or her counsel for inspection such
70 portions of the information or evidence derived therefrom as the



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71 judge determines to be in the interest of justice.

72 (b) In addition to any other right to appeal, the state
73 shall have the right to appeal from an order granting a motion
74 to suppress made under paragraph (a) or the denial of an
75 application for a search warrant if the attorney shall certify
76 to the judge or other official granting such motion or denying
77 such application that the appeal is not taken for purposes of
78 delay. Such appeal shall be taken within 30 days after the date
79 the order was entered and shall be diligently prosecuted.

80 (c) The remedies and sanctions described herein with
81 respect to the information contained in a portable electronic
82 device are the only judicial remedies and sanctions for
83 violations of those sections involving such information.

84 Section 2. Location informational tracking; prohibited
85 search and seizure.-

86 (1) FINDINGS.-The Legislature finds that existing law
87 authorizes a court to issue a warrant for the search of a place
88 and the seizure of property or things identified in the warrant
89 when there is probable cause to believe that specified grounds
90 exist. The Legislature also finds that existing law provides for
91 a judicial procedure for the acquisition of stored
92 communications in the possession of a provider of electronic
93 communication service or a remote computing service.

94 (2) INTENT.-It is the intent of the Legislature to prohibit
95 a government entity from obtaining the location information of
96 an electronic device without a valid court order issued by a
97 duly authorized judicial officer unless certain exceptions
98 apply, including in an emergency or when requested by the owner
99 of the device. However, it is also the intent of the Legislature



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100 that this bill, with certain exceptions, prohibits the use of
101 information obtained in violation of this section in a civil or
102 administrative hearing.

103 (3) DEFINITIONS.-As used in this section the term:

104 (a) "Electronic communication service" means a service that
105 provides to its users the ability to send or receive wire or
106 electronic communications.

107 (b) "Government entity" means a state or local agency,
108 including, but not limited to, a law enforcement entity or any
109 other investigative entity, agency, department, division,
110 bureau, board, or commission, or an individual acting or
111 purporting to act for or on behalf of a state or local agency.

112 (c) "Location information" means information, concerning
113 the location of an electronic device, including both the current
114 location and any previous location of the device, that, in whole
115 or in part, is generated, derived from, or obtained by the
116 operation of an electronic device.

117 (d) "Location information service" means the provision of a
118 global positioning service or other mapping, locational, or
119 directional information service.

120 (e) "Owner" means the person or entity recognized by the
121 law as having the legal title, claim, or right to an electronic
122 device.

123 (f) "Portable electronic device" means an object capable of
124 being easily transported or conveyed by a person which is
125 capable of creating, receiving, accessing, or storing electronic
126 data or communications and that communicates with, by any means,
127 another entity or individual.

128 (g) "Remote computing service" means the provision of



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129 computer storage or processing services by means of an
130 electronic communications system.

131 (h) "User" means a person or entity that uses an electronic
132 device.

133 (4) PROHIBITED ACTS.-

134 (a) A law enforcement agency or other government entity may
135 not obtain the location information of an electronic device
136 without a valid court order issued by a duly authorized judicial
137 officer using the procedure set forth in this section.

138 (b) An investigative or law enforcement officer may make
139 application to a judge of competent jurisdiction for an order
140 authorizing or approving the search for and seizure of the
141 location information related to an electronic device.

142 (c) The application must include:

143 1. A statement of the identity of the applicant and the
144 identity of the law enforcement agency conducting the
145 investigation.

146 2. A certification by the applicant that the information
147 likely to be obtained is relevant to an ongoing criminal
148 investigation being conducted by the investigating agency.

149 3. A statement of the offense to which the information
150 likely to be obtained relates.

151 4. A statement whether it may be necessary to monitor the
152 electronic device outside the jurisdiction of the court from
153 which authorization is being sought.

154 (d) If the court finds that the required certification and
155 statements have been made in the application, the court shall
156 enter an ex parte order authorizing the monitoring of an
157 electronic device. Such order may authorize the monitoring of



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158 the device within the jurisdiction of the court and outside that
159 jurisdiction but within the State of Florida.

160 (e) A court may not require greater specificity or
161 additional information beyond that which is required by this
162 section as a requisite for issuing an order.

163 (f) A court order may not be issued for the location of an
164 electronic device pursuant to this section for a period of time
165 longer than is necessary to achieve the objective of the
166 authorization, and in any event no longer than 30 days,
167 commencing on the day the order is issued, or 10 days after the
168 location information is initially obtained whichever comes
169 first.

170 (g) Extensions of an order may be granted, but only upon a
171 judge finding continuing probable cause and that the extension
172 is necessary to achieve the objective of the authorization. Each
173 extension granted for an order pursuant to this section shall be
174 for no longer than the authorizing judge deems necessary to
175 achieve the purposes for which the order was originally granted,
176 but in any event, shall be for no longer than 30 days.

177 (5) EXCEPTIONS.—Notwithstanding subsection (4), a
178 government entity may obtain location information without a
179 search warrant if disclosure of the location information is not
180 prohibited by federal law, in any of the following
181 circumstances:

182 (a) Transponders used for the purpose of assessing or
183 collecting tolls.

184 (b) Reliance by a law enforcement agency or other
185 governmental entity on lawful exceptions to the warrant
186 requirement.



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187 (c) Cases of a search conducted incident to a national
188 security event.

189 (d) Cases of a search for a missing child who is less than
190 18 years of age.

191 (e) In order to respond to the user's call for emergency
192 services.

193 (f) With the informed, affirmative consent of the owner or
194 user of the electronic device concerned, provided that the owner
195 or user may not consent to the disclosure of location
196 information if the device is known or believed to be in the
197 possession of, or attached to a possession of, a third party
198 known to the owner or user, unless that third party is less than
199 18 years of age. The informed, affirmative consent of the owner
200 or user of the electronic device concerned may not be used as
201 consent to disclose the location information of another portable
202 electronic device that may be remotely linked or connected to
203 the owner or user of the portable electronic device concerned.

204 (g) With the informed, affirmative consent of the legal
205 guardian or next of kin of the electronic device's user, if the
206 user is believed to be deceased or has been reported missing and
207 unable to be contacted.

208 (h) If the government entity reasonably believes that an
209 emergency involving immediate danger of death or serious
210 physical injury to a person requires the disclosure, without
211 delay, of location information concerning a specific person or
212 persons and that a warrant cannot be obtained in time to prevent
213 the identified danger and the possessor of the location
214 information, in good faith, believes that an emergency involving
215 danger of death or serious physical injury to a person requires



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216 the disclosure without delay.

217

218 The government entity seeking the location information shall
219 file with the appropriate court a written statement setting
220 forth the facts giving rise to the emergency and the facts as to
221 why the person or persons whose location information was sought
222 are believed to be important in addressing the emergency, no
223 later than 48 hours after seeking disclosure. Private entities
224 providing electronic communications services shall not be made
225 responsible for ensuring that government entities comply with
226 this section.

227 (6) Remedy.-

228 (a) Any aggrieved person in any trial, hearing, or
229 proceeding in or before any court, department, officer, agency,
230 regulatory body, or other authority may move to suppress the
231 contents of any information contained in a portable electronic
232 device or evidence derived therefrom, on the grounds that:

233 1. The information was unlawfully obtained;

234 2. The order of authorization or approval under which it
235 was obtained is insufficient on its face; or

236 3. The information was not obtained in conformity with the
237 order of authorization or approval.

238

239 Such motion shall be made before the trial, hearing, or
240 proceeding unless there was no opportunity to make such motion
241 or the person was not aware of the grounds of the motion. If the
242 motion is granted, the information or evidence derived
243 therefrom, shall be suppressed. The judge, upon the filing of
244 such motion by the aggrieved person, may make available to the



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245 aggrieved person or his or her counsel for inspection such
246 portions of the information or evidence derived therefrom as the
247 judge determines to be in the interest of justice.

248 (b) In addition to any other right to appeal, the state
249 shall have the right to appeal from an order granting a motion
250 to suppress made under paragraph (a) or the denial of an
251 application for an order of approval if the attorney shall
252 certify to the judge or other official granting such motion or
253 denying such application that the appeal is not taken for
254 purposes of delay. Such appeal shall be taken within 30 days
255 after the date the order was entered and shall be diligently
256 prosecuted.

257 (c) The remedies and sanctions described herein with
258 respect to the information contained in a portable electronic
259 device are the only judicial remedies and sanctions for
260 violations of those sections involving such information.

261 (7) CAUSE OF ACTION.—This section does not create a cause
262

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

264 And the title is amended as follows:

265 Delete lines 10 - 24

266 and insert:

267 established by law; providing exceptions; providing a
268 remedy; prohibiting location informational tracking;
269 providing legislative findings and intent; defining
270 terms; prohibiting a government entity from obtaining
271 the location information of an electronic device
272 without a valid court order issued by a duly
273 authorized judicial officer; providing that a court



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274 order may not be issued for the location of an
275 electronic device for a period of time longer than is
276 necessary to achieve the objective of the court order
277 authorization; providing time periods for the validity
278 of a court order; providing criteria by which to
279 extend a court order for location information;
280 providing exceptions to the requirement to obtain a
281 court order for location information; providing a
282 remedy; providing an



809350

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2013	.	
	.	
	.	
	.	

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

Senate Amendment to Amendment (743804)

Delete line 18
and insert:
electronic device, are not subject to a search or seizure
incident to arrest by a

By Senator Brandes

22-00191F-13

2013846__

A bill to be entitled

An act relating to search and seizure of a portable electronic device; providing legislative findings and intent; defining the term "portable electronic device"; providing that information contained in a portable electronic device is not subject to a search by a law enforcement officer incident to an arrest except pursuant to a warrant issued by a duly authorized judicial officer using procedures established by law; providing exceptions; prohibiting location informational tracking; providing legislative findings and intent; defining terms; prohibiting a government entity from obtaining the location information of an electronic device without a valid search warrant issued by a duly authorized judicial officer; providing that a search warrant may not be issued for the location of an electronic device for a period of time longer than is necessary to achieve the objective of the search warrant authorization; providing time periods for the validity of a search warrant; providing criteria by which to extend a search warrant for location information; providing exceptions to the requirement to obtain a search warrant for location information; providing an effective date.

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

Section 1. Portable electronic device; prohibited search

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

22-00191F-13

2013846__

and seizure.

(1) FINDINGS.—The Legislature finds that:

(a) The number of residents of this state using and carrying portable electronic devices is growing at a rapidly increasing rate. These devices can store, and do encourage the storing of, an almost limitless amount of personal and private information. Commonly linked to the Internet, these devices are used to access personal and business information and databases in computers and servers that are located anywhere in the world. A user of a portable electronic device has a reasonable and justifiable expectation of privacy in the information that these devices contain and can access through the Internet.

(b) The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, and against the unreasonable interception of private communications by any means, shall not be violated.

(c) No warrant shall be issued except upon probable cause, supported by affidavit, particularly describing the place or places to be searched, the person or persons, thing or things to be seized, the communication to be intercepted, and the nature of evidence to be obtained.

(d) The intrusion on the privacy of information and the freedom of communication of any person who is arrested is of such enormity that the officer who makes the arrest must obtain a warrant to search the information contained in, or accessed through, the arrested person's portable electronic device, such as a cellular telephone.

(2) INTENT.—It is the intent of the Legislature that this section prohibit the search of information contained in a

Page 2 of 8

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

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 59 portable electronic device, as defined in this section, by a law
 60 enforcement agency or other governmental entity at any time
 61 except pursuant to a warrant issued by a duly authorized
 62 judicial officer using established procedures.

63 (3) DEFINITION.—As used in this section, the term “portable
 64 electronic device” means an object capable of being easily
 65 transported or conveyed by a person which is capable of
 66 creating, receiving, accessing, or storing electronic data or
 67 communications and that communicates with, by any means, another
 68 entity or individual.

69 (4) PROHIBITED ACTS.—

70 (a) The contents and communications of a portable
 71 electronic device, including, but not limited to, data or
 72 information contained in or transmitted from the portable
 73 electronic device, are not subject to a search or seizure by a
 74 law enforcement agency or other governmental entity except
 75 pursuant to a warrant issued by a duly authorized judicial
 76 officer using the procedures established by law.

77 (b) Except as provided in paragraph (a), this section does
 78 not:

79 1. Curtail reliance by a law enforcement agency or other
 80 governmental entity on lawful exceptions to the warrant
 81 requirement;

82 2. Apply in cases of a search conducted incident to
 83 national security; or

84 3. Apply in cases of a search for a missing child who is
 85 less than 18 years of age.

86 4. Apply to transponders used for the purpose of assessing
 87 or collecting toll.

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 88 5. Apply whenever the government entity reasonably believes
 89 that an emergency involving immediate danger of death or serious
 90 physical injury to a person requires the search or seizure,
 91 without delay, of the contents of a portable electronic device
 92 concerning a specific person or persons and that a warrant
 93 cannot be obtained in time to prevent the identified danger, or
 94 the possessor of the portable electronic device, in good faith,
 95 believes that an emergency involves the danger of death.

96
 97 The government entity seeking the contents of the portable
 98 electronic device shall file with the appropriate court a
 99 written statement setting forth the facts giving rise to the
 100 emergency and the facts as to why the person or persons whose
 101 contents of a portable electronic device was sought are believed
 102 to be important in addressing the emergency, no later than 48
 103 hours after seeking disclosure. Private entities providing
 104 electronic communications services shall not be made responsible
 105 for ensuring that government entities comply with this section.

106 Section 2. Location informational tracking; prohibited
 107 search and seizure.—

108 (1) FINDINGS.—The Legislature finds that existing law
 109 authorizes a court to issue a warrant for the search of a place
 110 and the seizure of property or things identified in the warrant
 111 when there is probable cause to believe that specified grounds
 112 exist. The Legislature also finds that existing law provides for
 113 a warrant procedure for the acquisition of stored communications
 114 in the possession of a provider of electronic communication
 115 service or a remote computing service.

116 (2) INTENT.—It is the intent of the Legislature to prohibit

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 117 a government entity from obtaining the location information of
 118 an electronic device without a valid search warrant issued by a
 119 duly authorized judicial officer unless certain exceptions
 120 apply, including in an emergency or when requested by the owner
 121 of the device. However, it is also the intent of the Legislature
 122 that this bill, with certain exceptions, prohibits the use of
 123 information obtained in violation of this section in a civil or
 124 administrative hearing.

125 (3) DEFINITIONS.-As used in this section the term:

126 (a) "Electronic communication service" means a service that
 127 provides to its users the ability to send or receive wire or
 128 electronic communications.

129 (b) "Government entity" means a state or local agency,
 130 including, but not limited to, a law enforcement entity or any
 131 other investigative entity, agency, department, division,
 132 bureau, board, or commission, or an individual acting or
 133 purporting to act for or on behalf of a state or local agency.

134 (c) "Location information" means information, concerning
 135 the location of an electronic device, including both the current
 136 location and any previous location of the device, that, in whole
 137 or in part, is generated, derived from, or obtained by the
 138 operation of an electronic device.

139 (d) "Location information service" means the provision of a
 140 global positioning service or other mapping, locational, or
 141 directional information service.

142 (e) "Owner" means the person or entity recognized by the
 143 law as having the legal title, claim, or right to an electronic
 144 device.

145 (f) "Portable electronic device" means an object capable of

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 146 being easily transported or conveyed by a person which is
 147 capable of creating, receiving, accessing, or storing electronic
 148 data or communications and that communicates with, by any means,
 149 another entity or individual.

150 (g) "Remote computing service" means the provision of
 151 computer storage or processing services by means of an
 152 electronic communications system.

153 (h) "User" means a person or entity that uses an electronic
 154 device.

155 (4) PROHIBITED ACTS.-

156 (a) A law enforcement agency or other government entity may
 157 not obtain the location information of an electronic device
 158 without a valid search warrant issued by a duly authorized
 159 judicial officer using procedures established pursuant to law.

160 (b)1. A search warrant may not be issued for the location
 161 of an electronic device pursuant to this section for a period of
 162 time longer than is necessary to achieve the objective of the
 163 authorization, and in any event no longer than 30 days,
 164 commencing on the day the location information is initially
 165 obtained, or 10 days after the issuance of the warrant,
 166 whichever comes first.

167 2. Extensions of a warrant may be granted, but only upon a
 168 judge finding continuing probable cause and that the extension
 169 is necessary to achieve the objective of the authorization. Each
 170 extension granted for a warrant pursuant to this section shall
 171 be for no longer than the authorizing judge deems necessary to
 172 achieve the purposes for which the warrant was originally
 173 granted, but in any event, shall be for no longer than 30 days.

174 (5) EXCEPTIONS.-Notwithstanding subsection (4), a

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175 government entity may obtain location information without a
 176 search warrant if disclosure of the location information is not
 177 prohibited by federal law, in any of the following
 178 circumstances:

179 (a) Transponders used for the purpose of assessing or
 180 collecting tolls.

181 (b) Reliance by a law enforcement agency or other
 182 governmental entity on lawful exceptions to the warrant
 183 requirement.

184 (c) Cases of a search conducted incident to a national
 185 security event.

186 (d) Cases of a search for a missing child who is less than
 187 18 years of age.

188 (e) In order to respond to the user's call for emergency
 189 services.

190 (f) With the informed, affirmative consent of the owner or
 191 user of the electronic device concerned, provided that the owner
 192 or user may not consent to the disclosure of location
 193 information if the device is known or believed to be in the
 194 possession of, or attached to a possession of, a third party
 195 known to the owner or user, unless that third party is less than
 196 18 years of age. The informed, affirmative consent of the owner
 197 or user of the electronic device concerned may not be used as
 198 consent to disclose the location information of another portable
 199 electronic device that may be remotely linked or connected to
 200 the owner or user of the portable electronic device concerned.

201 (g) With the informed, affirmative consent of the legal
 202 guardian or next of kin of the electronic device's user, if the
 203 user is believed to be deceased or has been reported missing and

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204 unable to be contacted.

205 (h) If the government entity reasonably believes that an
 206 emergency involving immediate danger of death or serious
 207 physical injury to a person requires the disclosure, without
 208 delay, of location information concerning a specific person or
 209 persons and that a warrant cannot be obtained in time to prevent
 210 the identified danger and the possessor of the location
 211 information, in good faith, believes that an emergency involving
 212 danger of death or serious physical injury to a person requires
 213 the disclosure without delay.

214
 215 The government entity seeking the location information shall
 216 file with the appropriate court a written statement setting
 217 forth the facts giving rise to the emergency and the facts as to
 218 why the person or persons whose location information was sought
 219 are believed to be important in addressing the emergency, no
 220 later than 48 hours after seeking disclosure. Private entities
 221 providing electronic communications services shall not be made
 222 responsible for ensuring that government entities comply with
 223 this section.

224 (6) CAUSE OF ACTION.—This section does not create a cause
 225 of action against any foreign or Florida private entity, its
 226 officers, employees, agents, or other specified persons, for
 227 providing location information.

228 Section 3. This act shall take effect July 1, 2013.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3 / 4 / 2013

Meeting Date

Topic _____

Bill Number 846
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/4/2013
Meeting Date

Topic Search's seizure of portable electronic devices

Bill Number 846
(if applicable)

Name Jorge Chamizo

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 108 South Monroe Street

Phone (850) 681-0024

Street Tallahassee FL 32301
City *State* *Zip*

E-mail jorge@flapartners.com

Speaking: For Against Information

Representing Fla Association of Criminal Defense Lawyers

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

5:13:15

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

03/04/2013

Meeting Date

Topic Search and Seizure of a Portable Electronic Device

Bill Number SB 846 ^(as amended)

Name Michael Ramage

Amendment Barcode 743804 ^(if applicable)

Job Title General Counsel

Address 2331 Phillips Road

Phone 850-410-7676

Street

Tallahassee FL 32308

E-mail michaelramage@fdle.state.fl.us

City

State

Zip

Speaking: For Against Information

Representing Florida Department of Law Enforcement

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

5:12:30

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

3/4/13

Meeting Date

Topic Search Warrants

Bill Number SB 846
(if applicable)

Name Buddy Jacobs

Amendment Barcode _____
(if applicable)

Job Title General Counsel, FL Prosecuting Attys Assoc.

Address 961687 Gateway Blvd. Suite 201-I

Phone 904-261-3693

Street

Fnda Bch FL, 32034

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.

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

S-001 (10/20/11)

Senator Arrowood
5:10:10

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-4-13

Meeting Date

Topic SEARCH & SEIZURE Bill Number 846
(if applicable)

Name Sheriff Wayne Ivey Amendment Barcode _____
(if applicable)

Job Title Sheriff, Brevard Co. Sheriffs Office

Address _____ Phone _____
Street

_____ E-mail _____
City State Zip

Speaking: For Against Information

Representing Florida Sheriffs Assoc.

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

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

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

S-001 (10/20/11)



The Florida Senate

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: February 20, 2013

I respectfully request that **Senate Bill #846**, relating to the Search and Seizure of a Portable Device, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes".

Senator Jeff Brandes
Florida Senate, District 22

CC: Amanda Cannon
Staff Director

CourtSmart Tag Report

Room: LL 37

Caption: Senate Criminal Justice Committee

Case:

Judge:

Type:

Started: 3/4/2013 3:34:34 PM

Ends: 3/4/2013 5:30:21 PM Length: 01:55:48

3:34:36 PM Meeting to order
3:35:45 PM Tab 1 - Confirmation of Bernard R. Cohen, Sr.
3:37:52 PM Roll Call
3:38:15 PM Tab 2 - Confirmation of Melinda N. Coonrod
3:41:21 PM Senator Gibson makes a statement
3:42:29 PM Roll call
3:44:13 PM Confirmations of Tab 3 - Jeffrey E. Lewis, Tab 4 - Ita M. Neymotin, Tab 5 - Eugene F. Zenobi, Tab 6 - Jeffrey D. Deen
3:45:55 PM Roll Call
3:46:54 PM Tab 8, SB420 Senator Sachs
3:55:14 PM Senator Simmons makes comments on SB 420
3:55:43 PM Senator Bradley makes comments to SB420
4:05:05 PM Sheriff Wayne Ivey, Brevard County speaks on SB420
4:19:59 PM Doug Waller, Brevard County Sheriffs Office
4:23:44 PM Sarah Cowell, Florida Sheriffs Assn.
4:30:15 PM Buddy Jacobs, Florida Prosecuting Atty's Assn.
4:38:01 PM Derek Byrd, President Florida Assn of Criminal Defense Lawyers
4:47:37 PM Brian Pitts, Justice-2-Jesus
4:50:36 PM Senator Bradley makes comments
4:52:04 PM Senator Evers speaks
4:55:08 PM Roll Call
4:55:50 PM Tab 14 SB 846 Senator Brandes
4:56:39 PM Amendment by Senator Smith; explained by Senator Brandes
4:58:48 PM Late amendment to the amendment by Senator Smith
5:08:48 PM Sheriff Wayne Ivey, Florida Sheriffs Assoc.
5:12:00 PM Buddy Jacobs, General Counsel, Florida Prosecuting Attorneys Assn.
5:12:42 PM Michael Ramage, Florida Dept. of Law Enforcement
5:17:47 PM Senator Brandes closes on SB 846
5:19:03 PM Roll Call
5:19:44 PM Tab 11 SB 676 Senator Evers
5:21:44 PM Brian Pitts, Justice-2-Jesus
5:23:41 PM Cheryl Massaro, County Council Member, Flagler County
5:29:17 PM Roll call
5:29:34 PM Meeting Adjourned