

SPB 7020 by CJ; Corrections

334048	D	S	FAV	CJ, Evers	Delete everything after	02/16 06:52 PM
722298	AA	S	UNFAV	CJ, Gibson	Delete L.67 - 167:	02/16 06:52 PM
459704	A	S	WD	CJ, Evers	Delete L.116 - 749:	02/13 03:05 PM
764290	AA	S	WD	CJ, Evers	Delete L.47 - 83:	02/13 03:05 PM
792332	A	S	WD	CJ, Evers	btw L.756 - 757:	02/13 03:05 PM
266020	A	S	WD	CJ, Evers	btw L.771 - 772:	02/13 03:05 PM

SB 176 by Evers; (Identical to H 4005) Licenses to Carry Concealed Weapons or Firearms

SB 248 by Smith (CO-INTRODUCERS) Thompson, Bullard; (Compare to CS/H 0057) Recording of Law Enforcement Activities

268366	PCS	S	RCS	CJ		02/16 06:52 PM
954072	PCS:A	S	RCS	CJ, Brandes	btw L.74 - 75:	02/16 06:52 PM

SB 290 by Brandes (CO-INTRODUCERS) Bradley, Evers, Negrón; (Identical to H 0493) Carrying a Concealed Weapon or a Concealed Firearm

924218	A	S	RCS	CJ, Brandes	Delete L.34:	02/17 09:00 AM
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SB 540 by Evers; State-Operated Institutions Inmate Welfare Trust Fund/Department of Corrections

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Evers, Chair
Senator Gibson, Vice Chair

MEETING DATE: Monday, February 16, 2015
TIME: 4:00 —6:00 p.m.
PLACE: *Mallory Horne Committee Room, 37 Senate Office Building*

MEMBERS: Senator Evers, Chair; Senator Gibson, Vice Chair; Senators Bradley, Brandes, and Clemens

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Continuation of the discussion regarding the Department of Corrections, staffing, internal investigations, inmate health care, inmate mental health treatment, and inmate deaths.		Discussed
Consideration of proposed bill:			
2	SPB 7020	Corrections; Requiring the Criminal Justice Estimating Conference to develop projections of prison admissions and populations for elderly felony offenders; prohibiting an inmate from receiving incentive gain-time credits for completing the requirements for and receiving a general educational development certificate or vocational certificate if the inmate was convicted of a specified offense on or after a specified date; requiring each institution to create and maintain a system to track the use of force episodes to determine if inmates need subsequent physical or mental health treatment, etc.	Submitted as Committee Bill Yeas 5 Nays 0
3	SB 176 Evers (Identical H 4005)	Licenses to Carry Concealed Weapons or Firearms; Deleting a provision prohibiting concealed carry licensees from openly carrying a handgun or carrying a concealed weapon or firearm into a college or university facility, etc. CJ 02/16/2015 Favorable HE JU RC	Favorable Yeas 3 Nays 2

A proposed committee substitute for the following bill (SB 248) is expected to be considered:

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, February 16, 2015, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 248 Smith (Compare CS/H 57)	Recording of Law Enforcement Activities; Citing this act as the "Police and Citizen Protection Act"; requiring uniformed officers assigned primarily to patrol duties to be equipped with body cameras; exempting the recordings of such activities from specified provisions relating to the interception of wire, electronic, and oral communications, etc. CJ 02/16/2015 Fav/CS CA ACJ AP	Fav/CS Yeas 4 Nays 1
5	SB 290 Brandes (Identical H 493, Compare S 822)	Carrying a Concealed Weapon or a Concealed Firearm; Providing an exemption from criminal penalties for carrying a concealed weapon or a concealed firearm when evacuating pursuant to a mandatory evacuation order during a declared state of emergency, etc. CJ 02/16/2015 Fav/CS CA RC	Fav/CS Yeas 4 Nays 1
6	SB 540 Evers	State-Operated Institutions Inmate Welfare Trust Fund/Department of Corrections; Creating the State-Operated Institutions Inmate Welfare Trust Fund within the Department of Corrections; providing a purpose; requiring that any balance remaining in the trust fund at the end of the fiscal year remain in the trust fund, etc. CJ 02/16/2015 Favorable ACJ AP	Favorable Yeas 5 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SPB 7020

INTRODUCER: Criminal Justice Committee

SUBJECT: Corrections

DATE: February 18, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Sumner	Cannon		CJ Submitted as Committee Bill

I. Summary:

SPB 7020 is a bill with a wide variety of changes to the laws affecting the corrections system. Specifically, SPB 7020:

- Revises the method of appointment for the Secretary of Corrections for appointments made on or after July 1, 2015;
- Creates the Florida Corrections Commission to oversee the safe and effective operations of major correctional institutions;
- Requires the Criminal Justice Estimating Conference to project prison admissions for elderly felony offenders;
- Expands the Department of Correction's (department/DOC) security review inspection process to include safety considerations, the identification of blind spots, and the use of audio and video monitoring;
- Requires priority be given to inspecting those institutions with high incidents of use of force on inmates, assaults on employees, and sexual abuse of inmates;
- Expands the ability of an inmate to get a one-time award of gain-time for educational attainment without violating the requirement for every inmate to serve 85 percent of their court imposed sentence;
- Requires a Memorandum of Understanding between the Florida Department of Law Enforcement (FDLE) and DOC regarding external investigations of inmate deaths be written and requires notification to the Legislature;
- Requires inspector generals to have specialized training in sexual abuse investigations in conformity with the Prison Rape Elimination Act;
- Requires multiple internal ways for inmates to file a grievance; requires the Correctional Medical Authority (CMA) and DOC to review grievance procedures at each institution; and requires both entities to post their findings on their websites;
- Requires all correctional officer training programs to include specialized training for managing mentally ill inmates;
- Specifies that health care providers shall use an employee identification number in lieu of a name and signature when completing incident reports;

- Requires that each institution create and maintain a system to track the use of force incidents;
- Requires use of force reports written by employees to be under oath;
- Provides that an employee with two or more notations of inappropriate use of force incidents in their file not be assigned to transitional care, crisis stabilization, or mental health treatment facilities and also provides exceptions for extended good behavior;
- Includes private health care providers and employees of private correctional facilities to the list of persons who can be charged for a misdemeanor or felony for committing with malicious intent a battery or inflicting cruel or inhuman treatment by neglect;
- Creates a new third degree felony for DOC employees or employees of a private provider who willfully or by culpable negligence neglect an elderly or disabled inmate;
- Creates a new second degree felony for DOC employees or employees of a private provider who willfully or by culpable negligence neglect an inmate and in so doing causes great bodily harm;
- Authorizes DOC employees or employees of a private provider who witness abuse or neglect to anonymously report directly to the inspector general's office;
- Requires the correctional officer training program to include instruction on communication techniques to avoid the use of force;
- Requires the department to establish a policy to protect from retaliation inmates and employees who report abuse or cooperate with investigations;
- Establishes a usage and inventory policy to track the use of chemical agents and the disposal of expired, used, or damaged canisters;
- Requires the department to collect and report inmate health cost information for elderly inmates;
- Provides legislative intent related to veterans programs in state and private correctional institutions and requires the department to measure recidivism rates for veterans who participate in programs;
- Recreates the inmate welfare trust fund¹ for department operated institutions, caps the new trust fund at \$5 million, allows the funds to be used for education, chapels, visitation, libraries, wellness, televisions, and other expenditures and prohibits the fund from being used to purchase weight-training equipment;
- Requires correctional officers who have close contact with inmates housed in a mental health treatment facility to complete annual training in crisis intervention;
- Increases the frequency from every three years to every 18 months the mental and physical health care surveys conducted by the Correctional Medical Authority;
- Provides for damages in inmate health care contracts;
- Requires the department, in establishing minimum health care standards, to establish standards of care criteria for the needs of inmates over age 50;
- Allows for an inmate's family, lawyer, and other interested parties to hire and pay for an independent medical evaluation; and
- Expands the existing conditional medical release program to include elderly and infirm inmates which would allow the Commission on Offender Review to consider the release of elderly and infirm inmates.

¹ Contingent upon the passage of SB 540 by Senator Evers relating to State Operated Institutions Inmate Welfare Trust Fund.

II. Present Situation:

The Florida Corrections Commission and Appointment of the Secretary

The Florida Corrections Commission was established in Ch. 94-117, L.O.F., and was abolished in 2006. The commission consisted of nine members appointed by the Governor subject to confirmation by the Senate. The primary functions of the Corrections Commission was to:

- Recommend major correctional policies and assure that approved policies and revisions are properly executed;
- Review community-based intermediate sanctions and recommend intergovernmental approaches;
- Provide a status of elderly offenders, evaluate the annual Department of Corrections' legislative budget request, the comprehensive correctional master plan, and the tentative construction program;
- Monitor the financial status of the department; and
- Regularly evaluate the efficiency, productivity, and management of the department.

The head of the Department of Corrections is the Secretary of Corrections. The Secretary is appointed by the Governor, subject to confirmation by the Senate and shall serve at the pleasure of the Governor.² On January 5, 2015, Secretary Julie Jones was appointed by Governor Rick Scott to be Secretary of the Florida Department of Corrections.

Criminal Justice Estimating Conference

Consensus Estimating Conferences have statutory authority under ss. 216.133 – 216.138, F.S., to forecast economic, demographic, caseload, and revenue information for a variety of governmental planning and budgeting functions. This ensures that the “State meets the constitutional balanced budget requirement.”³ The forecasts are “primarily used in the development of the constitutionally required Long-Range Financial Outlook, the Governor’s budget recommendations and General Appropriations Act. Economic and demographic forecasts are also used to support estimates of revenues and demands for state services.”⁴

Specifically, the Criminal Justice Estimating Conference is statutorily tasked under s. 216.136(6), F.S., with developing forecasts of prison admissions and population and of supervised felony offender admissions and population; developing information relating to the number of eligible discharges and the projected number of civil commitments for determining needs for space; and developing information relating to the number of sexual offenders and sexual predators who are required by law to be placed on community control, probation, or conditional release who are subject to electronic monitoring.

Security Audits of Correctional Facilities

The 1995 escape of six inmates from Glades Correctional Institute in Belle Glade resulted in the passage of legislation creating a security review committee to help to ensure public safety and

² Section 20.315, F.S.

³ <http://edr.state.fl.us/Content/conferences/index.cfm>

⁴ Id.

contain violent and chronic offenders at correctional institutions and facilities.⁵ In addition, \$6.2 million was provided for 197 positions to help increase the relief factor and 4.7 million for 180 security staffing positions focusing in the areas of inmate movement, emergency response, searches, and confinement escort.⁶

The committee members are appointed by the Secretary and are composed of, at a minimum, the inspector general, the statewide security coordinator, the regional security coordinators, three wardens, and one correctional officer.

The committee:

- Establishes a periodic schedule for the physical inspection of buildings and structures;
- Conducts or causes to be conducted announced and unannounced comprehensive security audits;
- Adopts and enforces minimum security standards and policies;
- Annually makes written prioritized budget recommendations to the secretary that identify critical security deficiencies at major correctional institutions;
- Investigates and evaluates the usefulness and dependability of existing security technology at the institutions and new technology available and makes periodic written recommendations to the secretary on the discontinuation or purchase of various security devices;
- Contracts, if deemed necessary, with security personnel, consulting engineers, architects, or other security experts; and
- Establishes a periodic schedule for conducting announced and unannounced escape simulation drills.

Education Gain-Time

Gain-time⁷

Gain-time is authorized in s. 944.275, F.S., and is a means by which eligible inmates can earn a reduction in the sentence that was imposed by the court. Current forms of gain-time are based upon the department's assessment that the inmate has behaved satisfactorily and engaged in constructive activities. As such, gain-time is a tool by which the department can encourage good behavior and motivate inmates to participate in programs and work assignments. Inmates who are serving life sentences or certain minimum mandatory sentences are not eligible for gain-time during the portion of time that the mandatory sentences are in effect.

Incentive gain-time is awarded to inmates for institutional adjustment, work, and participation in programs.

⁵ Section 944.151, F.S.

⁶ Florida Department of Corrections Timeline, available at <http://www.dc.state.fl.us/oth/timeline/1992-1995b.html> (last visited January 29, 2015).

⁷ Information in this section of the analysis is derived from "Frequently Asked Questions Regarding Gaintime," <http://www.dc.state.fl.us/oth/inmates/gaintime.html#1>, viewed on January 28, 2015. Additional information regarding the history of Florida's sentencing laws and policies can be found in "Historical Summary of Sentencing and Policy in Florida," <http://www.dc.state.fl.us/pub/history/>, viewed on January 28, 2015.

Meritorious gain-time may be considered for an inmate who commits an outstanding deed. The maximum award is 60 days. Examples of outstanding deeds are saving a life or assisting in recapturing an escaped inmate, or in some manner performing an outstanding service.

Educational Achievement gain-time in the amount of 60 days may be awarded to an inmate who receives a General Education Development (GED) diploma or a certificate for completion of a vocational program. Inmates whose offense was committed on or after October 1, 1995, are not eligible for this one-time award.

Department of Corrections Inspector General and Memorandum of Understanding with FDLE

In 2002, legislation passed requiring the department to maintain a Memorandum of Understanding with FDLE for the notification and investigation of mutually agreed-upon predicate events. The memorandum must include, but is not limited to, reporting and investigation of suspicious deaths and major organized criminal activity.⁸ This practice had been in place previous to this legislation but had not been codified in statute.⁹

Inmate Grievance Procedure and Prison Rape Elimination Act

The department is required to establish by rule an inmate grievance procedure that conforms to the Minimum Standards for Inmate Grievance Procedures as promulgated by the U.S. Department of Justice. This procedure is overseen by the department's Office of General Counsel. According to the department, the purpose for the procedure is to "provide inmates with a channel for the administrative settlement of a legitimate complaint."¹⁰

The Prison Rape Elimination Act of 2003 (PREA) was created to eliminate sexual abuse in confinement facilities including adult prisons and jails, lockup, community confinement facilities, and juvenile facilities. PREA consists of 43 standards defining three goals: to prevent; detect; and respond to sexual abuse.

The department established a zero-tolerance policy for all forms of sexual abuse, sexual battery, and sexual harassment. The policy governs inmates, staff members, contractors, and volunteers. The department has two PREA coordinators to help in developing, implementing, and monitoring compliance with the standards.¹¹

Increase in Use of Force

In October 2014, a significant increase in the use-of-force cases in Florida correctional facilities prompted Secretary Crews (Secretary Crews resigned in November 2014) to order an independent audit of the agency's procedures and policies involving the use of force against

⁸ Ch. 2002.75 L.O.F.

⁹ See Senate Staff Analysis CS/SB 408, January 29, 2002.

¹⁰ Section 944.331, F.S.

¹¹ See Florida Department of Corrections, Prison Elimination Act <http://www.dc.state.fl.us/oth/PREA/> (last visited January 28, 2015).

inmates. There were 7,300 use of force cases by Florida correctional officers in the last fiscal year. This number has “roughly doubled since 2008.”¹²

Section 944.35, F.S., authorizes employees of the department to apply physical force upon an inmate only when and to the extent that it reasonably appears necessary:

- To defend himself or herself or another against such other imminent use of unlawful force;
- To prevent a person from escaping;
- To prevent damage to property;
- To quell a disturbance;
- To overcome physical resistance to a lawful command; or
- To administer medical treatment only by or under the supervision of a physician.

The Criminal Justice Standards and Training Commission (CJSTC) is required to develop a course designed to explain and teach the parameters of the proper methods and techniques in applying authorized force.

Prior to any authorized use of force, Rule 33-602.210, F.A.C., requires the shift supervisor to review the Risk Assessment Form for Use of Chemical Restrain Agents and Electronic Immobilization Devices to determine whether the inmate has a medical condition that may exacerbate the intended force.

Criminal Justice Standards and Training Commission Advanced Training Program

In 2006, the CJSTC adopted in its Advanced Training Program a course entitled Managing and Communicating with Inmates and Offenders. It is a 40-hour course intended for law enforcement officers, corrections officers, and correctional probation officers. Officers completing this course may be eligible for a salary incentive under s. 943.22, F.S. Attendance in this course is voluntary. The goal of the course is to identify managing and communication skills relating to officer safety when dealing with offenders and inmates who have mental illness, substance abuse, and co-occurring disorders and where such skills may increase the safety and security of a well-run facility. This course describes many of the different types of disorders an officer may encounter and provides various methods and techniques for de-escalation; and inmate/offender management.

The Correctional Basic Recruit Training Program provides a lesson on communications and a separate lesson on inmates with mental illness. Neither lesson meets the intent of s. 944.35, F.S., as amended in this bill.¹³

Criminal Penalties and Employee Misconduct

Employees of the department who, with malicious intent, commit a battery on an inmate supervised by the department, commits a first degree misdemeanor. Employees who, with malicious intent, commit a battery or inflict cruel or inhuman treatment by neglect causing great

¹² “Florida prison boss orders use-of-force audit” Miami Herald, 10/17/2014. <http://www.miamiherald.com/news/special-reports/florida-prisons/article2925586.html>

¹³ 2015 FDLE Legislative Bill Analysis

bodily harm, permanent disability, or permanent disfigurement to an inmate commits a third degree felony.¹⁴

Abuse and Neglect of an Elderly Person or Disabled Adult; penalties

Section 825.102, F.S., provides in part that a person who commits aggravated abuse of an elderly person or disabled adult commits a felony of the first degree. A person who willfully or by culpable negligence neglects an elderly person or disabled adult and in so doing causes great bodily harm, commits a felony of the second degree. A person who willfully or by culpable negligence neglects and elderly or disabled adult without causing great bodily harm commits a third degree felony.

Elderly Offenders

Section 944.8041, F.S., requires the department and the Correctional Medical Authority to each submit an annual report on the status and treatment of elderly offenders in the state-administered and private state correctional systems and the geriatric facilities and dorms. The report must also include an examination of promising geriatric policies, practices, and programs currently implemented in other correctional systems within the United States. Inmates age 50 and older are classified as “aging or elderly” under the Florida Administrative Code.¹⁵

The department reported that the number of elderly inmates in state prison has steadily increased from 11,178 on June 30, 2006, to 20,753 on June 30, 2014, with an expectation of a continued increase over the next decade.¹⁶

The Correctional Medical Authority’s 2013-2014 Report on Elderly Offenders reported the following findings and recommendations concerning elderly offenders:

The CMA’s report on the status of elderly offenders continues to show that older inmates have more health problems and generally consume more health care services than younger inmates. The demands of caring for the elderly continue to have an impact on corrections’ health care costs. According to The National Institute of Corrections, the overall cost of incarceration for inmates over 50 is as much as three times higher than for the younger population mostly due to the difference in health care costs.¹⁷ Across the country the impact of rising health care costs, especially for elderly inmates, is similar to the impact in Florida.

Florida’s elderly prison population has increased almost 5 percent over the last 5 years and is expected to gain over 6,000 inmates by the end of the next fiscal year. Considering the trend of increasing elderly inmate populations and health care costs, the CMA supports medical passes and special accommodations (e.g., low bunks, special shoes, wheelchairs, etc.) provided to older inmates housed in DOC’s general population. DOC policies ensuring periodic screenings, regularly scheduled clinic

¹⁴ Section 944.35(3)(a), F.S.

¹⁵ R. 33-601-217, F.A.C.

¹⁶ <http://www.dc.state.fl.us/pub/annual/1314/ar-additional-facts-elderly.html>

¹⁷ Florida TaxWatch Research Institute, Inc. (2014) Florida’s Aging Prisoner Problem (September 2014).

visits, and the establishment of specific facilities for elderly inmates in need of a higher level of care improves the health of elderly inmates. Improved health status within the aging population will serve as a positive cost-containment measure.

It is recommended that DOC continue to examine and consider the needs of inmates over 50 when establishing standards of care criteria for the private health care providers. Additionally, reporting of detailed health care costs for aging inmates would be beneficial for analysis of projected needs to adequately care for the elderly population in the coming years.

Elderly Inmates in prison on June 30, 2014

- The majority of elderly inmates in prison on June 30, 2014, were serving time for sex offenses (21.6%), murder/manslaughter (20.8%), or drug offenses (12.9%).
- The 20,753 elderly inmates in prison on June 30, 2014, represented 20.6% of the total inmate population.
- 94.6% of the elderly inmates in prison were male; 5.4% were female.
- 46.2% of the elderly inmates in prison had no prior prison commitments.
- On June 30, 2014, the department housed three inmates whose age was 92.

Most of the elderly inmates are housed separately from the general population for purposes of reducing the potential for predatory and abusive behavior by younger, more aggressive inmates and to promote efficient use of medical resources. There are three centers currently housing elderly inmates:

- Reception and Medical Center on-site in Lake Butler
- South Unit of the Central Florida Reception Center
- Zephyrhills Correctional Institution

Health Care Costs for Elderly Inmates

Florida TaxWatch in September 2014 reported¹⁸ that the department budget had grown by \$560 million (35 percent) from 2000-2012. The health care cost had grown by \$176 million or 76 percent. The report states that the elderly patients accounted for 49 percent of all hospital in days in 2012. By assuming that hospitalization is a representation of overall prison health care costs, the report states the elderly prison population is responsible for approximately half of the \$408 million in prisoner healthcare costs in 2012.

In addition, the Pew Center on Research estimated that the cost of managing elderly prisoners is \$70,000 annually which yields a per diem of \$192 compared to the average healthcare cost of \$10.96.¹⁹

¹⁸ "Florida's Aging Prisoner Problem," Florida TaxWatch, September 2014.

¹⁹ Florida Department of Corrections 2013-2014 Annual Report, Elderly Inmates at <http://www.dc.state.fl.us/pub/annual/1314/ar-additional-facts-elderly.html>

Veterans Programs in Correctional Facilities

In 2012, the department established Veteran’s Dormitories at Santa Rosa, Gulf, Martin, Sumter, and Lowell Correctional Institutions that can house around a total of 400 inmates. These dormitories provide inmates the opportunity to participate in specialized pre-release services including cognitive thinking training, Post-Traumatic Stress Disorder (PTSD) counseling, improved access to Veteran’s Affairs Benefits, and strict military standards.²⁰

Inmate Welfare Trust Fund and Revenue Received from Canteen Sales

For many years prior to 2003, s. 945.215, F.S., created a trust fund that allowed the department to use revenue from the purchase of inmate canteen items and from inmate telephone calls to fund chapels, education, and wellness programs at publically operated correctional facilities. The source of the revenue was from family and friends of the inmate. Chapter 2003-179, L.O.F., eliminated the trust fund and required the revenue from inmate canteens and telephone usage among other revenue generators to go directly into the General Revenue Fund. When s. 945.215, F.S., was amended to eliminate the Inmate Welfare Trust Fund for state operated correctional facilities, the Inmate Welfare Trust Fund for privately operated facilities was maintained in the law. Consequently, under current law, revenue from the purchase of canteen items and from telephone usage is deposited into General Revenue and not earmarked for inmate welfare or betterment programs.

According to a January 15, 2015, Auditor General audit²¹ of the department’s canteen operations, from July 2012 through February 2014 sales in department institution canteens totaled approximately \$133.31 million and catalog sales totaled \$868,474. The department received MP3 program commissions from Keefe totaling approximately \$940,412 relating to MP3 program sales totaling approximately \$5.99 million.

Below is a chart from the department showing revenues collected from inmate canteen purchases, medical co-pays, and inmate telephone usage from FY 2009-10 through FY 2013-14.

REVENUE COLLECTION SUMMARY						
FY 2009-10 – FY 2013-14						
Description	Authorizing Statute	Fiscal Year 2009-10	Fiscal Year 2010-11	Fiscal Year 2011-12	Fiscal Year 2012-13	Fiscal Year 2013-14
General Revenue Unallocated (GRU) Collections:						
Subsistence	s. 944.485 FS	\$ 5,686,726	\$ 6,748,740	\$ 7,712,150	\$ 8,035,040	\$ 8,092,206
Interest Income – ITF	s. 944.516(1)(f) FS	258,423	230,677	204,227	204,368	103,669
ITF Balances <\$1.00	s. 944.516(5) FS	1,367	1,194	1,219	1,197	1,211
Canteen Commissions	s. 945.215(1)(a) FS	31,382,837	31,162,387	30,970,697	30,907,621	31,027,325
Vending Commissions	s. 945.215(1)(e) FS	250,234	343,096	357,371	369,591	212,345
Telephone Commissions	s. 945.215(1)(b) FS	5,294,749	5,205,804	5,156,269	5,334,549	6,142,399
Medical Copay	s. 945.6037 FS	740,231	737,410	713,823	661,604	673,325
Inmate Bank-GR		\$43,614,567	\$44,429,308	\$45,115,756	\$45,513,970	\$46,252,480

²⁰ Florida Department of Corrections Opens Five Veteran’s Dormitories, November 9, 2011 at <http://www.dc.state.fl.us/secretary/press/2011/11-09VetDorms.html> (last visited January 29, 2015).

²¹ Report No. 2015-087, January 2015, “Department of Corrections Canteen Operations and Prior Audit Follow-up.”

Rights of Inmates Provided Mental Health Treatment

The Corrections Mental Health Act (ss. 945.40 through 945.49, F.S.) provides for the evaluation and appropriate treatment of mentally ill inmates who are in the department's custody. It establishes procedures that must be followed when an inmate is involuntarily placed into a hospital setting for the purpose of mental health treatment.

Section 945.48, F.S., provides that an inmate in a mental health treatment facility has the right to receive treatment that is suited to his or her needs and that is provided in a humane psychological environment. The inmate provided psychiatric treatment shall be asked to give express and informed written consent for the treatment. In addition, there are specific procedures for involuntary treatment of inmates and when and how hearings on involuntary treatment must be conducted.

Correctional Medical Authority

The Correctional Medical Authority (CMA) was created in July 1986, while the state's prison healthcare system was under the jurisdiction of the federal court as a result of litigation that began in 1972. *Costello v. Wainwright* (430 U.S. 57 (1977)) was a class action suit brought by inmates alleging that their constitutional rights had been violated by inadequate medical care, insufficient staffing, overcrowding, and poor sanitation. The CMA was created as part of the settlement of that case and continues to serve as an independent monitoring body providing oversight of the systems in place to provide health care to inmates in the Department of Corrections. In the final order closing the *Costello* case, Judge Susan Black noted that the creation of the CMA made it possible for the Federal Court to relinquish the prison monitoring and oversight function it had performed for the prior twenty years. In light of "Florida's affirmation of its continued commitment to the CMA's independence" and the support from the Defendant and the State of Florida, the court found that the CMA was capable of "performing an oversight and monitoring function over the department in order to assure continued compliance with the orders entered in this case."²²

In December 2001, DOC entered into a settlement agreement in a lawsuit (*Osterback v. Crosby*, 16 Fla. Weekly Fed. D 513 (N.D. Fla. 2003)) involving mentally ill inmates housed in close management (CM). The purpose of close management is to confine inmates separate from the general inmate population for reasons of security and for the order and effective management of the prison system. The *Osterback* agreement included a stipulation that the CMA monitor provisions of the agreement including clinical, administrative, and security components of the program designed to ensure effective treatment of mental illness in the CM population. The CMA completed its special monitoring responsibilities pending the outcome of the federal court's hearing of the case. The department completed and complied with each component of the CM corrective action plan process. The court entered a final judgment ruling in favor of the department and the case was closed on March 28, 2008. Facilities with CM are now monitored as part of the regular CMA survey process. In the 2011 Legislative Session, the CMA lost its funding. Governor Rick Scott vetoed a conforming bill which would have eliminated the CMA

²² State of Florida, Correctional Medical Authority 2012-2013 Annual Report and Report on Aging Inmates
http://www.flgov.com/wp-content/uploads/pdfs/correctional_medical_authority_2012-2013_annual_report.pdf

from statute. In the 2012 Legislative Session, the Governor requested funding be restored. The Legislature concurred and funding was provided effective July 1, 2012. Osterback, along with the multitude of lawsuits related to the provision of correctional health care, serve as reminders of the CMA's important role in ensuring proper health and mental health care is provided to incarcerated members of society.²³

The governing board of the authority is composed of nine persons appointed by the Governor subject to confirmation by the Senate. Members of the CMA are not compensated for performance of their duties but they are paid expenses incurred while engaged in the performance of such duties pursuant to s. 112.061, F.S.²⁴

Prior to July 1, 2011, the CMA was housed within the Department of Health (DOH) for administrative purposes. During the 2011 Legislative Session two bills designed to abolish the CMA passed both chambers and were sent to the Governor for approval, Ch. 2011-69, L.O.F., (the 2011 General Appropriations Act), which eliminated the funding and positions related to the authority, and HB 5305 which repealed the statutes related to the CMA. The Governor vetoed HB 5305, but not the General Appropriations Act, therefore the CMA did not have the funding to operate or perform its duties for the 2011-2012 fiscal year.

The CMA was funded again in 2012 as an independent state agency housed within the administrative structure of the Executive Office of the Governor.

Conditional Medical Release and Geriatric-Related Release Policies in Other States

In 1992, the Florida Legislature created the Conditional Medical Release Program (s. 947.149, F.S.) which is a discretionary release process allowing the Commission on Offender Review (Commission) to release inmates on supervision who are "terminally ill" or "permanently incapacitated" and who are not a danger to others. The department is charged with the responsibility of recommending to the Commission cases to be considered for conditional medical release. Upon release, the offender is subject to conditions of supervision set by the Commission. The Commission monitors the offender's progress through periodic medical reviews. The supervision can be revoked and the offender returned to prison if the Commission determines that a willful and substantial violation of supervision has occurred or if their medical or physical condition improves. In FY 2013-14, the Commission granted eight of the 19 inmates recommended by the department for conditional medical release.

Under current law, Florida does not have a geriatric-based release policy as exists in many states. Of those states with geriatric-related release policies, one state considers inmates as young as 45 (Louisiana); 55 (Alabama); and 60 to 65 (Virginia, North Carolina, Colorado, Washington D.C., New Mexico, Maryland, Oklahoma, Wisconsin).²⁵ The federal system considers inmates for geriatric release at age 70.²⁶

²³ *Id.*

²⁴ *Id.*

²⁵ "It's About Time: Aging Prisoner, Increasing Cost, and Geriatric Release," April 2010, Vera Institute of Justice.

²⁶ "Florida's Aging Prisoner Problem," September 2014, Florida Taxwatch.

III. Effect of Proposed Changes:

Section 1 revises the method of appointment of the Secretary of Corrections to be appointed by the Governor with the concurrence of three members of the Cabinet for appointments made after July 1, 2015.

It creates the Florida Corrections Commission. The commission is administratively assigned to the department but will function independently. The primary purpose of the commission will be to ensure the safe and effective operations of prisons. The commission will consist of 9 members appointed by the governor and subject to confirmation by the Senate. The composition of the commission shall consist of a sheriff, state attorney, public defender, pastor, community leader, and a business leader. The primary duties of the Commission shall be to:

- Conduct investigations, including internal affairs investigations and criminal investigations;
- Inspect both public and private correctional facilities;
- Identify and monitor high-risk facilities;
- Monitor the violence in the prisons and the introduction of contraband;
- Submit an annual report to the Governor and the Legislature;
- Develop budgetary, legislative, and operational recommendations for improvements to our correctional system;
- Review the annual LBR from the department and make recommendations and comments on the budgetary requests;
- Convene public hearings, with the commission able to issue subpoenas and take sworn testimony;
- Conduct confidential interviews with employees, inmates, contract providers, volunteers, and citizens relating to the operations and conditions of the prisons; and
- Develop and implement a set of standards and performance measures to establish and track an accountability system for each prison.

The Commission is prohibited from entering into the day-to-day operations, but may conduct investigations. It shall meet at least 6 times per year and the meetings shall be held at correctional facilities. The Commission may appoint an executive director.

Section 2 provides that the amendments made by this act to s. 20.315(3), F.S., do not apply to a Secretary of Corrections appointed before July 1, 2015. Secretary Julie Jones was appointed on January 5, 2015.

Section 3 amends s. 216.136, F.S., to require the Criminal Justice Estimating Conference to develop projections of prison admissions and populations for elderly felony offenders.

Section 4 amends s. 944.151, F.S., to amend the legislative intent to include “safety” as part of the department’s responsibilities in operating the correctional institutions and facilities. It requires that the department ensure the safety of department employees and offenders. It also includes institutions with a high level of substantiated or unsubstantiated incidents of use of force on inmates, assaults on employees, or inmate sexual abuse as part of the department’s periodic physical inspections. In conducting announced and unannounced audits of all state and private correctional institutions, the bill requires that the evaluation include the identification of blind

spots or areas where staff or inmates may be isolated and the deployment of audio and video monitoring systems and other monitoring technologies in such areas.

Section 5 amends s. 944.275, F.S., to allow inmates sentenced for an offense committed on or after October 1, 1995, to be eligible for education attainment gain-time in the amount of 60 days. If this bill becomes law, an inmate may receive a one-time award of 60 days of gain-time for receiving a General Education Development (GED) diploma or for earning a certificate for completion of a vocational program. Under current law, inmates whose offense was committed on or after October 1, 1995, are not eligible for this one-time award.

Section 6 amends s. 944.31, F.S., to require that memorandums of understanding (MOU) between the department and the Florida Department of Law Enforcement be in writing and that a copy of an active MOU be provided in a timely manner to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Under current law, MOU's are formed between the two agencies to, among other events, investigate suspicious deaths and organized criminal activity.

A new subsection (4) is created to require that the inspector general and inspectors who conduct sexual abuse investigations in confinement settings, shall receive specialized training in conducting the investigations. Specialized training shall include, techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution.

The Prison Rape Elimination Act (PREA) has set national standards for the prevention, detection, and response to sexual victimization. Each Department of Corrections' institution will be audited for compliance with the PREA standards. Failure to meet the PREA standards may result in the loss of federal grant funds. According to the department's legislative budget request for FY 2015-16, standard 115.34 requires all investigators to attend a specialized training to ensure sexual abuse investigations are conducted properly.

Section 7 amends s. 944.331, F.S., to require the department to provide multiple internal avenues for inmates to privately report sexual abuse and sexual harassment and any staff neglect of, or failure to perform, responsibilities which may have contributed to the incidents. The reports may be made in writing, anonymously, or by third parties.

The bill requires the department in consultation with the CMA to review inmate grievance procedures at each correctional institution and private correctional facility to determine the procedural soundness and effectiveness of the grievance process, to identify employees prone to misconduct, and to identify life-threatening inmate health and safety concerns.

Beginning October 1, 2015, the bill requires the department and the CMA to annually report their joint findings to their respective websites. The authority shall document findings on the:

- Effectiveness of inmate health care grievance procedures;
- Number of health care grievances filed by inmates, by institution and by region;
- Types of health care problems alleged by inmates; and

- Actions taken by the department or the authority as a result of its investigation of inmate health care grievances.

Section 8 amends s. 944.35, F.S., to require correctional officers to have specialized training in the effective, nonforceful management of mentally ill inmates who may exhibit erratic behavior.

The identity of the health care provider shall be designated by using an employee identification number in lieu of a name and signature when completing incident reports.

The bill requires that each institution create and maintain a system to track episodes involving the use of force to determine if inmates require subsequent physical or mental health treatment. By October 1 of each year, the department shall post on the agency website a report documenting incidents involving the use of force during the previous fiscal year. The report shall include, but not be limited to:

- Descriptive statistics on the reason force was used and whether the use of force was deemed appropriate;
- Multi-year statistics documenting annual trends in the use of force;
- Information on the level of inmate or officer injury, including death, in incidents involving the use of force;
- A breakdown, by institution, of statistics on use of force; and
- Statistics on the number of employees who were disciplined or terminated because of their involvement in incidents involving the inappropriate use of force, based on notations of such incidents in their personnel files.

The bill prohibits an employee with two or more notations in the employee's file related to inappropriate use of force to be assigned to transitional care, crisis stabilization, or corrections mental health treatment facility inmate housing units. An employee with two or more notations in the employees' file who remains free of inappropriate use of force incidents, for a significant time may be permitted to work in the transitional care, crisis stabilization, or corrections mental health treatment facility inmate housing units.

The bill clarifies that private health care providers and private correctional facilities along with any employee of the department can be prosecuted for committing certain misdemeanor or felony offenses by inflicting great bodily harm, permanent disability, or disfigurement to an inmate or an offender supervised by the department.

The bill defines "neglect of an inmate" as a failure or omission on the part of an employee of the department, private health care provider, or private correctional facility, to:

- Provide an inmate with the care, supervision, and services necessary to maintain the inmate's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the inmate; or
- Make a reasonable effort to protect an inmate from abuse, neglect, or exploitation by another person.

Determinations of neglect of an inmate may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or psychological injury or risk of death.

The bill creates two new felony offenses; a third degree felony and a second degree felony. Employees of the department or private providers who willfully or by culpable negligence neglect an elderly or disabled inmate without causing great bodily harm could be prosecuted for a third degree felony, punishable by up to 5 years in state prison. Employees of the department or private providers who willfully or by culpable negligence neglect an inmate and cause great bodily harm could be prosecuted for a second degree felony, punishable by up to 15 years in state prison.

The bill requires that instruction on communication techniques related to crisis stabilization to avoid use of force be included in the correctional officer training program. It requires the department to establish a policy to protect inmates and employees from retaliation who report physical or sexual abuse. The policy shall establish multiple protective measures for both inmates and employees relating to the reporting of abuse as well as designate a method of monitoring follow up.

According to FDLE, its Advanced Training Program course: Managing and Communicating with Inmates and Offenders, will have to be revised to incorporate additional techniques using non-forceful ways or the least amount of force necessary to effectively manage mentally ill inmates who exhibit erratic behavior. FDLE states that an extensive revision in these areas will be required, which may result in an increase in hours for the Correctional Basic Recruit Training Program. The program is currently 420 hours.

The bill requires the department to establish a usage and inventory policy to track, by institution, the use of chemical agents and the disposal of expired, used, or damaged canisters of chemical agents.

Section 9 amends s. 944.8041, F.S., by requiring the department to report the cost of health care to elderly inmates in the annual report. The report shall include the average incarceration cost per year and the types of health care delivered which result in the highest expenditures.

Section 10 creates s. 944.805, F.S., relating to veterans' programs in state and private correctional institutions. The bill provides legislative intent for specialized programs for veterans to facilitate inmate institutional adjustment, help inmates assume personal responsibility, and ease community reentry through availability of expanded community resources. It also provides legislative intent that veterans housed in state and private correctional institutions be provided special assistance before their release by identifying benefits and services available in the community where the veteran plans to reside.

The bill requires the department to measure recidivism rates for veterans who have participated in specialized dormitories and who have received special assistance in community reentry and include the data in the annual report.

Section 11 creates the State Operated Institutions Inmate Welfare Trust Fund contingent upon the passage of SB 540. The bill provides that the department hold this trust fund for the benefit and welfare of inmates incarcerated in correctional facilities operated directly by the department. The deposits shall not exceed \$5 million in any fiscal year. Deposits for purchases in excess of \$5 million shall be deposited into the General Revenue Fund.

The funds shall be used exclusively for correctional facilities operated by the department:

- To provide literacy programs, vocational training programs, and educational programs;
- To operate inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, and libraries;
- To provide inmate substance abuse treatment programs and transition and life skills training programs;
- To provide for the purchase, rental, maintenance or repair of electronic or audio visual equipment used by inmates;
- To provide for the purchase, rental, maintenance or repair of recreation and wellness equipment; or
- To provide for the purchase, rental, maintenance, or repair of bicycles used by inmates traveling to and from employment in the work release program.

Funds in the State Operated Institutions Inmate Welfare Trust Fund shall be expended only pursuant to legislative appropriation. Finally, the bill requires the department to annually compile a report. Funds may not be used to purchase weight-training equipment.

Section 12 amends s. 945.48, F.S., to require annual training in crisis intervention for correctional officers who have close contact with inmates housed in a mental health facility. Correctional officers who have two or more notations involving use of force in their personnel files may not be assigned to transitional care, crisis stabilization, or corrections mental health treatment facility inmate housing units. However, an employee with two or more notations in the employee's file who remains free of inappropriate use of force incidents, for a significant period may be permitted to work in the transitional care, crisis stabilization, or corrections mental health treatment facility inmate housing units.

Section 13 amends s. 945.6031, F.S., to change the frequency of surveys of the physical and mental health care system at each institution from triennially to every 18 months.

Section 14 amends s. 945.6033, F.S., to require the department to only enter into health care contracts which contain damage provisions.

Section 15 amends s. 945.6034, F.S., to require the department to consider the needs of inmates over 50 years of age and adopt health care standards for that population.

Section 16 amends s. 945.6039, F.S., to require the department to promulgate rules for independent medical evaluations and examinations. The department shall permit an inmate's family member, lawyer, or interested party to hire and pay for an independent medical evaluation or examination by a medical professional of an incarcerated inmate. The results of the medical evaluation or examination shall be provided to the department and to the Commission on Offender Review. The purpose is to assist in the delivery of medical care to the inmate and to

assist the commission on Offender Review in considering an inmate for conditional medical release.

Section 17 amends s. 947.149, F.S., to expand the eligibility for the conditional medical release program to include elderly and infirm inmates. An “elderly and infirm inmate” is defined as an inmate who has no current or prior convictions for capital or first degree felonies, who has no current or prior convictions for sexual offenses or offenses against children, who is over 70 years of age, and who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate infirm or physically impaired to the extent that the inmate does not constitute a danger to himself or herself or others.

Sections 18, 19, and 20 amend s. 921.0021 and s. 921.221, F.S., by conforming cross-references to changes made by this act.

Sections 21, 22, and 23 reenact certain sections and makes conforming changes.

Section 24 provides an effective date of July 1, 2015.

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:

Correctional Medical Authority

While no official estimates from the department, the Correctional Medical Authority, the Commission on Offender Review, or the Criminal Justice Estimating Conference were

available at the writing of this report, it is anticipated that the following sections of the bill will present the most likely fiscal impact:

Section(s) of the Bill	Issue	Estimated Fiscal Impact
1	Creates the Florida Corrections Commission	According to Criminal Justice Appropriations staff there will be a fiscal impact of \$970,000 recurring General Revenue for 6 FTE's and expenses
5	Expands use of education gain-time	Cost savings – The department projects average daily prison population to be reduced by 66 inmates over the course of the year
6	Requires specialized training for sexual abuse investigations by DOC inspectors	Need for indeterminate increase in funding for the department
8	Creates two new criminal penalties for neglect of inmates	Most likely insignificant prison bed impact
8	Requires the Criminal Justice Standards and Training Commission (within FDLE) to enhance the corrections basic recruit training program and revise the advance training program to avoid use of force on inmates and managing inmates who are mentally ill	According to FDLE, the additional workload may be absorbed within existing resources
11	Creates the inmates welfare trust fund for the department	Reduce by \$5 million funds deposited into GR, but will allow the department to fund \$5 million in inmate betterment programs
13	Increases the frequency of CMA surveys	Need for increase in funding and 6 additional FTEs to CMA
16	Allows inmate's family, lawyer or interested party to hire and pay for an independent medical evaluation	Additional workload by the department expected. Fiscal impact unknown
17	Expands the current conditional release program to include elderly and infirm inmates	Cost savings – has the potential to reduce average daily prison population slightly (97 inmates meet criteria). Additional workload by the Offender Review Commission may be able to be absorbed within existing resources

Education Gain-time

According to the preliminary projections by the department, approximately 650 inmates will immediately receive the one-time 60 day additional gain-time award for past educational attainments. It is estimated that approximately 60 of these inmates will be immediately released due to this award since this group is within 60 days of release. In

terms of future impact on prison bed space, the department estimates 24,000 fewer inmate-days saved per year as a result of this bill. In other words, the average daily prison population is projected to be reduced by 66 inmates over the course of the year.

Elderly and Infirm Inmates

The following table was provided by the department to show the medical grades for those elderly inmates in custody as of January 16, 2015.

“Elderly and Infirm” Inmates Over the Age of 70 who are Eligible²⁷ under the Bill to be Reviewed by the Commission and Possibly Released Under the Conditional Medical Release Program							
Age 70-plus	Current Medical Grade in the Department						
	Medical Grade Unknown	Routine care	Currently in Chronic Illness Clinic for six months	Currently in Chronic Illness Clinic for three months	Chronic Illness Clinic and Regular Health Contact	Long Term In-Patient Housing	Total Eligible Inmates as of 1-16-15
TOTAL	1	11	51	32	1	1	97

VI. Technical Deficiencies:

Section 1 of the bill providing that members of the commission include a sheriff, state attorney, and public defender violates Art. 2, s. 5 of the Florida Constitution which prohibits dual office holding. Staff recommends the following amendment to cure this defect in the bill: delete lines 222-223 and insert “greatest extent possible, include a deputy sheriff, assistant state attorney, assistant public defender, pastor or former prison chaplain, community”

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.315, 216.136, 944.151, 944.275, 944.31, 944.331, 944.35, 944.8041, 945.215, 945.48, 945.6031, 945.6033, 945.6034, 947.149, 921.0021, 948.10, and 951.221.

This bill creates sections 944.805 and 945.6039 of the Florida Statutes.

²⁷ To be eligible for possible early release the 70-plus year old inmate must meet criminal history limitations in the bill (have no current or prior convictions for capital or first degree felonies and who has no current or prior convictions for sexual offenses or offenses against children).

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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



334048

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/16/2015	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (3) of section 20.315, Florida Statutes, is amended, present subsections (4) through (12) of that section are redesignated as subsections (5) through (13), respectively, and a new subsection (4) is added to that section, to read:



334048

10 20.315 Department of Corrections.—There is created a
11 Department of Corrections.

12 (3) SECRETARY OF CORRECTIONS.—The head of the Department of
13 Corrections is the Secretary of Corrections. The secretary shall
14 be ~~is~~ appointed by the Governor with the concurrence of three
15 members of the Cabinet, subject to confirmation by the Senate,
16 and shall serve at the pleasure of the Governor and Cabinet. The
17 secretary is responsible for planning, coordinating, and
18 managing the corrections system of the state. The secretary
19 shall ensure that the programs and services of the department
20 are administered in accordance with state and federal laws,
21 rules, and regulations, with established program standards, and
22 consistent with legislative intent. The secretary shall identify
23 the need for and recommend funding for the secure and efficient
24 operation of the state correctional system.

25 (a) The secretary shall appoint a deputy secretary. The
26 deputy secretary shall be directly responsible to the secretary
27 and shall serve at the pleasure of the secretary.

28 (b) The secretary shall appoint a general counsel and an
29 inspector general, who are exempt from part II of chapter 110
30 and are included in the Senior Management Service.

31 (c) The secretary may appoint assistant secretaries,
32 directors, or other such persons that he or she deems are
33 necessary to accomplish the mission and goals of the department,
34 including, but not limited to, the following areas of program
35 responsibility:

36 1. Security and institutional operations, which shall
37 provide inmate work programs, offender programs, security
38 administration, emergency operations response, and operational



334048

39 oversight of the regions.

40 2. Health services, which shall be headed by a physician
41 licensed under chapter 458 or an osteopathic physician licensed
42 under chapter 459, or a professionally trained health care
43 administrator with progressively responsible experience in
44 health care administration. This individual shall be responsible
45 for the delivery of health services to offenders within the
46 system and shall have direct professional authority over such
47 services.

48 3. Community corrections, which shall provide for
49 coordination of community alternatives to incarceration and
50 operational oversight of community corrections regions.

51 4. Administrative services, which shall provide budget and
52 accounting services within the department, including the
53 construction and maintenance of correctional institutions, human
54 resource management, research, planning and evaluation, and
55 technology.

56 5. Program, transition, and postrelease services, which
57 shall provide for the direct management and supervision of all
58 departmental programs, including the coordination and delivery
59 of education and job training to the offenders in the custody of
60 the department. In addition, this program shall provide for the
61 direct management and supervision of all programs that furnish
62 transition assistance to inmates who are or have recently been
63 in the custody of the department, including the coordination,
64 facilitation, and contract management of prerelease and
65 postrelease transition services provided by governmental and
66 private providers, including faith-based service groups.

67 (4) FLORIDA CORRECTIONS COMMISSION.—The Florida Corrections



334048

68 Commission is created. The commission is assigned to the
69 Department of Corrections for administrative and fiscal
70 accountability purposes, but it shall otherwise function
71 independently of the control, supervision, and direction of the
72 department. The primary focus of the commission shall be on
73 matters relating to corrections with an emphasis on the safe and
74 effective operations of major correctional institutions.
75 However, in instances in which the policies of other components
76 of the criminal justice system affect corrections, the
77 commission shall advise and make recommendations.

78 (a) The commission shall consist of nine members appointed
79 by the Governor and subject to confirmation by the Senate. The
80 initial members of the commission shall be appointed by October
81 1, 2015. Members of the commission shall be appointed for terms
82 of 4 years. However, to achieve staggered terms, four of the
83 initial members shall be appointed to 2-year terms. Members must
84 be appointed in a manner that ensures equitable representation
85 of different geographic regions of this state. Each member of
86 the commission must be a resident and a registered voter of this
87 state. A commission member must represent the state as a whole
88 and may not subordinate the needs of the state to those of a
89 particular region. The commission's membership should, to the
90 greatest extent possible, include a sheriff, state attorney,
91 public defender, pastor or former prison chaplain, community
92 leader, and business leader.

93 (b) The primary duties and responsibilities of the Florida
94 Corrections Commission include:

95 1. Conducting investigations, internal affairs
96 investigations, and criminal investigations.



334048

97 2. Conducting announced and unannounced inspections of
98 correctional facilities, including facilities operated by
99 private contractors. The commission may enter any place where
100 prisoners in this state are kept and shall be immediately
101 admitted to such place as they desire and may consult and confer
102 with any prisoner privately and without molestation.

103 3. Identifying and monitoring high-risk and problematic
104 correctional facilities, and reporting findings and
105 recommendations relating to such facilities.

106 4. Continually monitoring on a statewide basis the
107 incidence of inmate-on-inmate and officer-on-inmate violence and
108 the introduction of contraband.

109 5. Submitting an annual report to the Governor, the
110 President of the Senate, and the Speaker of the House of
111 Representatives by each November 1, beginning in 2016.

112 6. Developing legislative, budgetary, and operational
113 recommendations for correctional system improvement.

114 7. Reviewing the annual Legislative Budget Request of the
115 department and making recommendations and comments on such
116 budgetary request to the Governor.

117 8. Convening public hearings, for which the commission is
118 authorized to issue subpoenas and take sworn testimony of
119 witnesses.

120 9. Conducting confidential interviews with staff, officers,
121 inmates, correctional health care professionals, citizens,
122 volunteers, and public officials relating to the operations and
123 conditions of correctional facilities.

124 10. Developing and implementing a set of standards and
125 performance measures which establishes an accountability system



334048

126 that allows each correctional institution or facility to be
127 individually measured annually for performance. The standards
128 and measures shall be primarily focused on inmate achievement,
129 inmate institutional adjustment, safe and secure prison
130 operations, officer safety, officer training, and inmate safety.
131 The Florida Corrections Commission shall maintain an
132 accountability system that tracks the department's progress
133 toward meeting specified goals at both regional and
134 institutional levels.

135 (c) The commission may not enter into the day-to-day
136 operation of the department, but may conduct investigations.

137 (d) The commission shall hold a minimum of six regular
138 meetings annually. A majority of the membership of the
139 commission constitutes a quorum at any meeting of the
140 commission. The chair shall be elected from the commission's
141 membership. The chair shall direct that complete and accurate
142 minutes be kept of all commission meetings, which shall be open
143 for public inspection. Additional meetings may be held upon the
144 written request of at least four members, with at least 1 week's
145 notice of such meeting being given to all members and the public
146 by the chair pursuant to chapter 120. Emergency meetings may be
147 held without notice upon request of all members. Meetings of the
148 commission shall be held at major correctional facilities around
149 the state as determined by the chair.

150 (e) The commission shall appoint an executive director who
151 shall serve under the direction, supervision, and control of the
152 commission. The executive director, with consent of the
153 commission, shall employ staff as necessary to adequately
154 perform the functions of the commission.



334048

155 (f) Commission members shall serve without compensation but
156 are entitled to receive reimbursement for per diem and travel
157 expenses as provided in s. 112.061.

158 (g) Commission members may not have an immediate family
159 member who works in the department or any private institution or
160 contractor under contract with the department and may not have
161 any interest, direct or indirect, in a contract, franchise,
162 privilege, or other benefit granted or awarded by the
163 department, or any of its contractors or subcontracts, while
164 serving as a member of the commission.

165 (h) The amendments made by this act to s. 20.315(3),
166 Florida Statutes, do not apply to a Secretary of Corrections
167 appointed before July 1, 2015.

168 Section 2. Paragraph (d) is added to subsection (5) of
169 section 216.136, Florida Statutes, to read:

170 216.136 Consensus estimating conferences; duties and
171 principals.—

172 (5) CRIMINAL JUSTICE ESTIMATING CONFERENCE.—The Criminal
173 Justice Estimating Conference shall:

174 (d) Develop projections of prison admissions and
175 populations for elderly felony offenders.

176 Section 3. Section 944.151, Florida Statutes, is amended to
177 read:

178 944.151 Safety and security of correctional institutions
179 and facilities.—It is the intent of the Legislature that the
180 Department of Corrections shall be responsible for the safe
181 operation and security of the correctional institutions and
182 facilities. The safe operation and security of the state's
183 correctional institutions and facilities is critical to ensure



334048

184 public safety and the safety of department employees and
185 offenders and to contain violent and chronic offenders until
186 offenders are otherwise released from the department's custody
187 pursuant to law. The Secretary of Corrections shall, at a
188 minimum:

189 (1) Appoint and designate select staff to the a safety and
190 security review committee which shall, at a minimum, be composed
191 of: the inspector general, the statewide security coordinator,
192 the regional security coordinators, and three wardens and one
193 correctional officer. The safety and security review committee
194 shall evaluate new safety and security technology; review and
195 discuss issues impacting correctional facilities; review and
196 discuss current issues impacting correctional facilities; and
197 review and discuss other issues as requested by management.÷

198 ~~(a) Establish a periodic schedule for the physical~~
199 ~~inspection of buildings and structures of each state and private~~
200 ~~correctional institution to determine security deficiencies. In~~
201 ~~scheduling the inspections, priority shall be given to older~~
202 ~~institutions, institutions that house a large proportion of~~
203 ~~violent offenders, and institutions that have experienced a~~
204 ~~significant number of escapes or escape attempts in the past.~~

205 (2) Ensure that appropriate staff establishes a periodic
206 schedule for the physical inspection of buildings and structures
207 of each state and private correctional institution and facility
208 to determine safety and security deficiencies. In scheduling the
209 inspections, priority shall be given to older institutions,
210 institutions that house a large proportion of violent offenders,
211 institutions with a high level of inappropriate incidents of use
212 of force on inmates, assaults on employees, or inmate sexual



334048

213 abuse, and institutions that have experienced a significant
214 number of escapes or escape attempts in the past.

215 (a) ~~(b)~~ Ensure that appropriate staff conducts ~~Conduct~~ or
216 causes ~~cause~~ to be conducted announced and unannounced
217 comprehensive safety and security audits of all state and
218 private correctional institutions. In conducting the security
219 audits, priority shall be given to older institutions,
220 institutions that house a large proportion of violent offenders,
221 institutions with a high level of inappropriate incidents of use
222 of force on inmates, assaults on employees, or inmate sexual
223 abuse, and institutions that have experienced a history of
224 escapes or escape attempts. At a minimum, the audit shall
225 include an evaluation of the physical plant, which shall include
226 the identification of blind spots or areas where staff or
227 inmates may be isolated and the deployment of audio and video
228 monitoring systems and other monitoring technologies in such
229 areas, landscaping, fencing, security alarms and perimeter
230 lighting, confinement, arsenal, key and lock, and entrance/exit
231 and ~~inmate classification and staffing~~ policies. Each
232 correctional institution shall be audited at least annually. ~~The~~
233 secretary shall

234 (b) Report the general survey findings annually to the
235 Governor and the Legislature.

236 (c) Ensure appropriate staff investigates and evaluates the
237 usefulness and dependability of existing safety and security
238 technology at the institutions and new technology and video
239 monitoring systems available and make periodic written
240 recommendations to the secretary on the discontinuation or
241 purchase of various safety and security devices.



334048

242 (d) Contract, if deemed necessary, with security personnel,
243 consulting engineers, architects, or other safety and security
244 experts the department deems necessary for safety and security
245 consultant services.

246 (e) Ensure appropriate staff, in conjunction with the
247 regional offices, establishes a periodic schedule for conducting
248 announced and unannounced escape simulation drills.

249 (f) Adopt, enforce, and annually cause the evaluation of
250 the emergency escape response procedures, which shall at a
251 minimum include the immediate notification and inclusion of
252 local and state law enforcement through mutual aid agreements.

253 (g) Ensure appropriate staff reviews staffing policies,
254 classification, and practices as needed.

255 (3)~~(e)~~ Adopt and enforce minimum safety and security
256 standards and policies that include, but are not limited to:

- 257 1. Random monitoring of outgoing telephone calls by
258 inmates.
- 259 2. Maintenance of current photographs of all inmates.
- 260 3. Daily inmate counts at varied intervals.
- 261 4. Use of canine units, where appropriate.
- 262 5. Use of escape alarms and perimeter lighting.
- 263 6. Florida Crime Information Center/National Crime
264 Information Center capabilities.
- 265 7. Employment background investigations.

266 ~~(d) Annually make written prioritized budget~~
267 ~~recommendations to the secretary that identify critical security~~
268 ~~deficiencies at major correctional institutions.~~

269 ~~(e) Investigate and evaluate the usefulness and~~
270 ~~dependability of existing security technology at the~~



334048

271 ~~institutions and new technology available and make periodic~~
272 ~~written recommendations to the secretary on the discontinuation~~
273 ~~or purchase of various security devices.~~

274 ~~(f) Contract, if deemed necessary, with security personnel,~~
275 ~~consulting engineers, architects, or other security experts the~~
276 ~~committee deems necessary for security audits and security~~
277 ~~consultant services.~~

278 ~~(g) Establish a periodic schedule for conducting announced~~
279 ~~and unannounced escape simulation drills.~~

280 ~~(4)(2) Direct staff to maintain and produce quarterly~~
281 ~~reports with accurate escape statistics. For the purposes of~~
282 ~~these reports, "escape" includes all possible types of escape,~~
283 ~~regardless of prosecution by the state attorney, and including~~
284 ~~offenders who walk away from nonsecure community facilities.~~

285 ~~(3) Adopt, enforce, and annually evaluate the emergency~~
286 ~~escape response procedures, which shall at a minimum include the~~
287 ~~immediate notification and inclusion of local and state law~~
288 ~~enforcement through a mutual aid agreement.~~

289 ~~(5)(4) Direct staff to submit in the annual legislative~~
290 ~~budget request a prioritized summary of critical safety and~~
291 ~~security deficiencies, and repair and renovation security needs.~~

292 Section 4. Paragraphs (d) and (e) of subsection (4) of
293 section 944.275, Florida Statutes, are amended to read:

294 944.275 Gain-time.—

295 (4)

296 (d) Notwithstanding paragraph (b) ~~subparagraphs (b)1. and~~
297 ~~2.~~, the education program manager shall recommend, and the
298 Department of Corrections may grant, a one-time award of 60
299 additional days of incentive gain-time to an inmate who is



334048

300 otherwise eligible and who successfully completes requirements
301 for and is awarded a high school equivalency diploma or
302 vocational certificate. This incentive gain-time award may be
303 granted to reduce any sentence for an offense committed on or
304 after October 1, 1995. However, this gain-time may not be
305 granted to reduce any sentence for an offense committed on or
306 after October 1, 1995, if the inmate is, or has previously been,
307 convicted of a violation of s. 794.011, s. 794.05, former s.
308 796.03, former s. 796.035, s. 800.04, s. 825.1025, s. 827.03, s.
309 827.071, s. 847.0133, s. 847.0135, s. 847.0137, s. 847.0138, s.
310 847.0145, or s. 985.701(1), or a forcible felony offense that is
311 specified in s. 776.08, except burglary as specified in s.
312 810.02(4). An inmate subject to the 85 percent minimum service
313 requirement pursuant to subparagraph (b)3. may not accumulate
314 gain-time awards at any point when the tentative release date is
315 the same as the 85 percent minimum service date of the sentence
316 imposed. Under no circumstances may an inmate receive more than
317 60 days for educational attainment pursuant to this section.

318 (e) Notwithstanding subparagraph (b)3. and paragraph (d),
319 for sentences imposed for offenses committed on or after October
320 1, 2014, the department may not grant incentive gain-time if the
321 offense is a violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2.
322 or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s.
323 794.011(10); s. 800.04; s. 825.1025; or s. 847.0135(5).

324 Section 5. Section 944.31, Florida Statutes, is amended to
325 read:

326 944.31 Inspector general; inspectors; power and duties.—

327 (1) The inspector general shall be responsible for prison
328 inspection and investigation, internal affairs investigations,



334048

329 and management reviews. The office of the inspector general
330 shall be charged with the duty of inspecting the penal and
331 correctional systems of the state. The office of the inspector
332 general shall inspect each correctional institution or any place
333 in which state prisoners are housed, worked, or kept within the
334 state, with reference to its physical conditions, cleanliness,
335 sanitation, safety, and comfort; the quality and supply of all
336 bedding; the quality, quantity, and diversity of food served and
337 the manner in which it is served; the number and condition of
338 the prisoners confined therein; and the general conditions of
339 each institution. The office of inspector general shall see that
340 all the rules and regulations issued by the department are
341 strictly observed and followed by all persons connected with the
342 correctional systems of the state. The office of the inspector
343 general shall coordinate and supervise the work of inspectors
344 throughout the state. The inspector general and inspectors may
345 enter any place where prisoners in this state are kept and shall
346 be immediately admitted to such place as they desire and may
347 consult and confer with any prisoner privately and without
348 molestation. The inspector general and inspectors shall be
349 responsible for criminal and administrative investigation of
350 matters relating to the Department of Corrections. The secretary
351 may designate persons within the office of the inspector general
352 as law enforcement officers to conduct any criminal
353 investigation that occurs on property owned or leased by the
354 department or involves matters over which the department has
355 jurisdiction. A person designated as a law enforcement officer
356 must be certified pursuant to s. 943.1395 and must have a
357 minimum of 3 years' experience as an inspector in the inspector



334048

358 general's office or as a law enforcement officer.

359 (2) The department, after consultation with the Florida
360 Corrections Commission, shall maintain a written memorandum of
361 understanding with the Department of Law Enforcement for the
362 notification and investigation of mutually agreed-upon predicate
363 events that shall include, but are not limited to, suspicious
364 deaths and organized criminal activity. A copy of an active
365 memorandum of understanding shall be provided in a timely manner
366 to the Governor, the President of the Senate, and the Speaker of
367 the House of Representatives.

368 (3) During investigations, the inspector general and
369 inspectors may consult and confer with any prisoner or staff
370 member privately and without molestation and persons designated
371 as law enforcement officers under this section shall have the
372 authority to arrest, with or without a warrant, any prisoner of
373 or visitor to a state correctional institution for a violation
374 of the criminal laws of the state involving an offense
375 classified as a felony that occurs on property owned or leased
376 by the department and may arrest offenders who have escaped or
377 absconded from custody. Persons designated as law enforcement
378 officers have the authority to arrest with or without a warrant
379 a staff member of the department, including any contract
380 employee, for a violation of the criminal laws of the state
381 involving an offense classified as a felony under this chapter
382 or chapter 893 on property owned or leased by the department. A
383 person designated as a law enforcement officer under this
384 section may make arrests of persons against whom arrest warrants
385 have been issued, including arrests of offenders who have
386 escaped or absconded from custody. The arrested person shall be



334048

387 surrendered without delay to the sheriff of the county in which
388 the arrest is made, with a formal complaint subsequently made
389 against her or him in accordance with law.

390 (4) The inspector general, and inspectors who conduct
391 sexual abuse investigations in confinement settings, shall
392 receive specialized training in conducting such investigations.
393 The department shall be responsible for providing the
394 specialized training. Specialized training shall include, but
395 need not be limited to, techniques for interviewing sexual abuse
396 victims, proper use of Miranda and Garrity warnings, sexual
397 abuse evidence collection in confinement settings, and the
398 criteria and evidence required to substantiate a case for
399 administrative action or prosecution.

400 Section 6. Section 944.331, Florida Statutes, is amended to
401 read:

402 944.331 Inmate grievance procedure.—

403 (1) The department shall establish by rule an inmate
404 grievance procedure, which ~~that~~ must conform to the Minimum
405 Standards for Inmate Grievance Procedures as promulgated by the
406 United States Department of Justice pursuant to 42 U.S.C. s.
407 1997e. The department's office of general counsel shall oversee
408 the grievance procedures established by the department.

409 (2) In establishing grievance procedures, the department
410 shall provide multiple internal avenues for inmates to privately
411 report sexual abuse and sexual harassment and any staff neglect
412 of, or failure to perform, responsibilities which may have
413 contributed to such incidents. The procedures must allow reports
414 to be made in writing by third parties.

415 (3) The department, in consultation with the Correctional



334048

416 Medical Authority, shall review inmate health care grievance
417 procedures at each correctional institution and private
418 correctional facility to determine the procedural soundness and
419 effectiveness of the current health care grievance process, to
420 identify employees prone to misconduct directly related to the
421 delivery of health care services, and to identify life-
422 threatening inmate health concerns. The review shall determine
423 whether inmate health care grievances are being properly
424 reported, transmitted, and processed; inmates are allowed
425 writing utensils and paper; multiple channels of communication
426 exist to report alleged abuse related to the delivery of health
427 care services; and protocols are being implemented to protect an
428 inmate who filed a grievance concerning the delivery of health
429 care from retaliation for filing a complaint alleging staff
430 misconduct.

431 (4) The department shall review inmate grievance procedures
432 at each correctional institution and private correctional
433 facility to determine the procedural soundness and effectiveness
434 of the current grievance process, to identify employees prone to
435 misconduct, and to identify life-threatening inmate safety
436 concerns. The review shall determine whether inmate grievances
437 are being properly reported, transmitted, and processed; inmates
438 are allowed writing utensils and paper; multiple channels of
439 communication exist to report alleged abuse; and protocols are
440 being implemented to protect an inmate who filed a grievance
441 from retaliation for filing a complaint alleging staff
442 misconduct.

443 (5) Beginning October 1, 2015, the department in
444 consultation with the Correctional Medical Authority shall



334048

445 annually report, and post to their respective websites, their
446 joint findings. The authority shall document in the report its
447 findings on the effectiveness of inmate health care grievance
448 procedures; cite the number of health care grievances filed by
449 inmates, by institution and by region; specify the types of
450 health care problems alleged by inmates; and summarize the
451 actions taken by the department or the authority as a result of
452 its investigation of inmate health care grievances.

453 Section 7. Section 944.35, Florida Statutes, is amended to
454 read:

455 944.35 Authorized use of force; malicious battery and
456 sexual misconduct prohibited; reporting required; penalties.—

457 (1) (a) An employee of the department is authorized to apply
458 physical force upon an inmate only when and to the extent that
459 it reasonably appears necessary:

460 1. To defend himself or herself or another against such
461 other imminent use of unlawful force;

462 2. To prevent a person from escaping from a state
463 correctional institution when the officer reasonably believes
464 that person is lawfully detained in such institution;

465 3. To prevent damage to property;

466 4. To quell a disturbance;

467 5. To overcome physical resistance to a lawful command; or

468 6. To administer medical treatment only by or under the
469 supervision of a physician or his or her designee and only:

470 a. When treatment is necessary to protect the health of
471 other persons, as in the case of contagious or venereal
472 diseases; or

473 b. When treatment is offered in satisfaction of a duty to



334048

474 protect the inmate against self-inflicted injury or death.

475

476 As part of the correctional officer training program, the
477 Criminal Justice Standards and Training Commission shall develop
478 a course specifically designed to explain the parameters of this
479 subsection and to teach the proper methods and techniques in
480 applying authorized physical force upon an inmate. Effective
481 October 1, 2015, this course shall include specialized training
482 for effectively managing in nonforceful ways mentally ill
483 inmates who may exhibit erratic behavior.

484 (b) Following any use of force, a qualified health care
485 provider shall examine any person physically involved to
486 determine the extent of injury, if any, and shall prepare a
487 report which shall include, but not be limited to, a statement
488 of whether further examination by a physician is necessary. The
489 identity of the qualified health care provider on the report
490 shall be designated by using an employee identification number
491 in lieu of a name and signature. Any noticeable physical injury
492 shall be examined by a physician, and the physician shall
493 prepare a report documenting the extent and probable cause of
494 the injury and the treatment prescribed. Such report shall be
495 completed within 5 working days of the incident and shall be
496 submitted to the warden for appropriate investigation.

497 (c) Each institution shall create and maintain a system to
498 track episodes involving the use of force to determine if
499 inmates require subsequent physical or mental health treatment.

500 (d) No later than October 1 of each year, the department
501 shall post on the agency website a report documenting incidents
502 involving the use of force during the previous fiscal year. The



334048

503 report shall include, but not be limited to:

504 1. Descriptive statistics on the reason force was used and
505 whether the use of force was deemed appropriate;

506 2. Multi-year statistics documenting annual trends in the
507 use of force;

508 3. Statistical information on the level of inmate or
509 officer injury, including death, in incidents involving the use
510 of force;

511 4. A breakdown, by institution, of statistics on use of
512 force; and

513 5. Statistics on the number of employees who were
514 disciplined or terminated because of their involvement in
515 incidents involving the inappropriate use of force, based on
516 notations of such incidents in their personnel files.

517 (2) Each employee of the department who either applies
518 physical force or was responsible for making the decision to
519 apply physical force upon an inmate or an offender supervised by
520 the department in the community pursuant to this subsection
521 shall prepare, date, and sign under oath an independent report
522 within 1 working day of the incident. The report shall be
523 delivered to the warden or the circuit administrator, who shall
524 forward the report with all appropriate documentation to the
525 office of the inspector general. The inspector general shall
526 conduct a review and make recommendations regarding the
527 appropriateness or inappropriateness of the use of force. If the
528 inspector general finds that the use of force was appropriate,
529 the employee's report, together with the inspector general's
530 written determination of the appropriateness of the force used
531 and the reasons therefor, shall be forwarded to the circuit



334048

532 administrator or warden upon completion of the review. If the
533 inspector general finds that the use of force was inappropriate,
534 the inspector general shall conduct a complete investigation
535 into the incident and forward the findings of fact to the
536 appropriate regional director for further action. Copies of the
537 employee's report and the inspector general's review shall be
538 kept in the files of the inmate or the offender supervised by
539 the department in the community. A notation of each incident
540 involving use of force and the outcome based on the inspector
541 general's evaluation shall be kept in the employee's file. An
542 employee with two or more notations in the employee's file for
543 inappropriate use of force incidents, as specified in s. 944.35,
544 shall not be assigned to transitional care, crisis
545 stabilization, or corrections mental health treatment facility
546 inmate housing units as defined in Florida Administrative Code.
547 However, an employee with two or more notations in the
548 employee's file who remains free of inappropriate use of force
549 incidents, for a significant period may be permitted to work in
550 the transitional care, crisis stabilization, or corrections
551 mental health treatment facility inmate housing units.

552 (3) (a) 1. Any employee of the department, private provider,
553 or private correctional facility who, with malicious intent,
554 commits a battery upon an inmate or an offender supervised by
555 the department in the community, commits a misdemeanor of the
556 first degree, punishable as provided in s. 775.082 or s.
557 775.083.

558 2. Any employee of the department, private provider, or
559 private correctional facility who, with malicious intent,
560 commits a battery or inflicts cruel or inhuman treatment by



334048

561 neglect or otherwise, and in so doing causes great bodily harm,
562 permanent disability, or permanent disfigurement to an inmate or
563 an offender supervised by the department in the community,
564 commits a felony of the third degree, punishable as provided in
565 s. 775.082, s. 775.083, or s. 775.084.

566 (b) As used in this paragraph, the term "neglect of an
567 inmate" means:

568 1. A failure or omission on the part of an employee of the
569 department, private provider, or private correctional facility,
570 to:

571 a. Provide an inmate with the care, supervision, and
572 services necessary to maintain the inmate's physical and mental
573 health, including, but not limited to, food, nutrition,
574 clothing, shelter, supervision, medicine, and medical services
575 that a prudent person would consider essential for the well-
576 being of the inmate; or

577 b. Make a reasonable effort to protect an inmate from
578 abuse, neglect, or exploitation by another person.

579 2. A determination of neglect of an inmate may be based on
580 repeated conduct or on a single incident or omission that
581 results in, or could reasonably be expected to result in,
582 serious physical or psychological injury, or a substantial risk
583 of death, to an inmate.

584 3. An employee of the department, private provider, or
585 private correctional facility who willfully or by culpable
586 negligence neglects an inmate and in so doing causes great
587 bodily harm, permanent disability, or permanent disfigurement to
588 the inmate commits a felony of the second degree, punishable as
589 provided in s. 775.082, s. 775.083, or s. 775.084.



334048

590 4. Any employee of the department, private provider, or
591 private correctional facility who willfully or by culpable
592 negligence neglects an elderly or disabled inmate without
593 causing great bodily harm, permanent disability, or permanent
594 disfigurement to the inmate commits a felony of the third
595 degree, punishable as provided in s. 775.082, s. 775.083, or s.
596 775.084.

597 (c) ~~(b)~~1. As used in this paragraph, the term "sexual
598 misconduct" means the oral, anal, or vaginal penetration by, or
599 union with, the sexual organ of another or the anal or vaginal
600 penetration of another by any other object, but does not include
601 an act done for a bona fide medical purpose or an internal
602 search conducted in the lawful performance of the employee's
603 duty.

604 2. Any employee of the department or a private correctional
605 facility as defined in s. 944.710 who engages in sexual
606 misconduct with an inmate or an offender supervised by the
607 department in the community, without committing the crime of
608 sexual battery, commits a felony of the third degree, punishable
609 as provided in s. 775.082, s. 775.083, or s. 775.084.

610 3. The consent of the inmate or offender supervised by the
611 department in the community to any act of sexual misconduct may
612 not be raised as a defense to a prosecution under this
613 paragraph.

614 4. This paragraph does not apply to any employee of the
615 department or any employee of a private correctional facility
616 who is legally married to an inmate or an offender supervised by
617 the department in the community, nor does it apply to any
618 employee who has no knowledge, and would have no reason to



334048

619 believe, that the person with whom the employee has engaged in
620 sexual misconduct is an inmate or an offender under community
621 supervision of the department.

622 (d)~~(e)~~ Notwithstanding prosecution, any violation of the
623 provisions of this subsection, as determined by the Public
624 Employees Relations Commission, shall constitute sufficient
625 cause under s. 110.227 for dismissal from employment with the
626 department, and such person shall not again be employed in any
627 capacity in connection with the correctional system.

628 (e)~~(d)~~ Each employee who witnesses, or has reasonable cause
629 to suspect, that an inmate or an offender under the supervision
630 of the department in the community has been unlawfully abused or
631 is the subject of sexual misconduct pursuant to this subsection
632 shall immediately prepare, date, and sign an independent report
633 specifically describing the nature of the force used or the
634 nature of the sexual misconduct, the location and time of the
635 incident, and the persons involved. The report shall be
636 delivered to the inspector general of the department with a copy
637 to be delivered to the warden of the institution or the regional
638 administrator. The inspector general shall immediately conduct
639 an appropriate investigation, and, if probable cause is
640 determined that a violation of this subsection has occurred, the
641 respective state attorney in the circuit in which the incident
642 occurred shall be notified.

643 (f) If an employee of the department, private provider, or
644 private correctional facility who witnesses unlawful abuse or
645 neglect or has reasonable cause to suspect that an inmate has
646 been unlawfully abused or neglected, as the term "neglected" is
647 defined in paragraph (b), fears retaliation by coworkers or



334048

648 supervisors if he or she submits a report as provided in
649 paragraph (e), the employee may anonymously and confidentially
650 report the inmate abuse or neglect directly to the department's
651 Office of Inspector General.

652 (4) (a) Any employee required to report pursuant to this
653 section who knowingly or willfully fails to do so, or who
654 knowingly or willfully prevents another person from doing so,
655 commits a misdemeanor of the first degree, punishable as
656 provided in s. 775.082 or s. 775.083.

657 (b) Any person who knowingly or willfully submits
658 inaccurate, incomplete, or untruthful information with regard to
659 reports required in this section commits a misdemeanor of the
660 first degree, punishable as provided in s. 775.082 or s.
661 775.083.

662 (c) Any person who knowingly or willfully coerces or
663 threatens any other person with the intent to alter either
664 testimony or a written report regarding an incident where force
665 was used or an incident of sexual misconduct commits a felony of
666 the third degree, punishable as provided in s. 775.082, s.
667 775.083, or s. 775.084.

668
669 As part of the correctional officer training program, the
670 Criminal Justice Standards and Training Commission shall develop
671 course materials for inclusion in the appropriate required
672 course specifically designed to explain the parameters of this
673 subsection, teach communication techniques related to crisis
674 stabilization to avoid the use of force, and ~~to~~ teach sexual
675 assault identification and prevention methods and techniques.

676 (5) The department shall establish a policy to protect from



334048

677 retaliation inmates and employees who report physical or sexual
678 abuse. This policy shall establish multiple protective measures
679 for both inmates and employees relating to the reporting of
680 abuse as well as designate a method of monitoring follow up.

681 (6) The department shall establish a usage and inventory
682 policy to track, by institution, the use of chemical agents and
683 the disposal of expired, used, or damaged canisters of chemical
684 agents. The policy shall include, but not be limited to, a
685 requirement that a numbered seal be affixed to each chemical
686 agent canister in such a manner that the canister cannot be
687 removed from the carrier without breaking the seal. All
688 canisters in the carriers will be checked out at the beginning
689 of each shift and checked back in at the end of the shift. The
690 shift supervisor should be charged with verifying the condition
691 of the numbered seals and periodically weighing random canisters
692 to insure that they have not been used without the required
693 documentation.

694 Section 8. Section 944.8041, Florida Statutes, is amended
695 to read:

696 944.8041 Elderly offenders; annual review.—

697 (1) For the purpose of providing information to the
698 Legislature on elderly offenders within the correctional system,
699 the department and the Correctional Medical Authority shall each
700 submit annually a report on the status and treatment of elderly
701 offenders in the state-administered and private state
702 correctional systems and the department's geriatric facilities
703 and dorms. In order to adequately prepare the reports, the
704 department and the Department of Management Services shall grant
705 access to the Correctional Medical Authority that includes



334048

706 access to the facilities, offenders, and any information the
707 agencies require to complete their reports. The review shall
708 also include an examination of promising geriatric policies,
709 practices, and programs currently implemented in other
710 correctional systems within the United States. The reports, with
711 specific findings and recommendations for implementation, shall
712 be submitted to the President of the Senate and the Speaker of
713 the House of Representatives on or before December 31 of each
714 year.

715 (2) The department, in producing the annual report required
716 under s. 20.315, shall report the cost of health care provided
717 to elderly inmates. The report shall include, but need not be
718 limited to, the average cost per year to incarcerate an elderly
719 inmate and the types of health care delivered to elderly inmates
720 which result in the highest expenditures.

721 Section 9. Section 944.805, Florida Statutes, is created to
722 read:

723 944.805 Veterans programs in state and private correctional
724 institutions.-

725 (1) The Legislature finds and declares that specialized
726 programs for veterans offered in state and private correctional
727 institutions have the potential to facilitate inmate
728 institutional adjustment, help inmates assume personal
729 responsibility, and ease community reentry through the
730 availability of expanded community resources. For the purposes
731 of this section, the term "veteran" has the same meaning as it
732 is defined in s. 1.01(14).

733 (2) It is the intent of the Legislature that the department
734 expand the use of specialized dormitories for veterans. It is



334048

735 also the intent of the Legislature that veterans housed in state
736 and private correctional institutions be provided special
737 assistance before their release by identifying benefits and
738 services available in the community where the veteran plans to
739 reside.

740 (3) The department shall measure recidivism rates for
741 veterans who have participated in specialized dormitories and
742 for veterans who have received special assistance in community
743 reentry. The findings shall be included in the annual report
744 required under s. 20.315.

745 Section 10. Effective upon SB 540 or similar legislation
746 creating the "State Operated Institutions Inmate Welfare Trust
747 Fund" being adopted in the 2015 Regular Session or an extension
748 thereof and becoming law, subsection (1) of section 945.215,
749 Florida Statutes, is amended, present subsections (2) and (3)
750 are redesignated as subsections (3) and (4), respectively, and a
751 new subsection (2) is added to that section to read:

752 945.215 Inmate welfare and employee benefit trust funds.—

753 (1) INMATE PURCHASES; DEPARTMENT OF CORRECTIONS; STATE
754 OPERATED INSTITUTIONS INMATE WELFARE TRUST FUND.—

755 (a) The ~~From the~~ net proceeds from operating inmate
756 canteens, vending machines used primarily by inmates and
757 visitors, hobby shops, and other such facilities must be
758 deposited in the State Operated Institutions Inmate Welfare
759 Trust Fund or, as set forth in this section, in the General
760 Revenue Fund; however, funds necessary to purchase items for
761 resale at inmate canteens and vending machines must be deposited
762 into local bank accounts designated by the department.

763 (b) All proceeds from contracted telephone commissions must



334048

764 be deposited in the State Operated Institutions Inmate Welfare
765 Trust Fund or, as set forth in this section, in the General
766 Revenue Fund. The department shall develop and update, as
767 necessary, administrative procedures to verify that:

768 1. Contracted telephone companies accurately record and
769 report all telephone calls made by inmates incarcerated in
770 correctional facilities under the department's jurisdiction;

771 2. Persons who accept collect calls from inmates are
772 charged the contracted rate; and

773 3. The department receives the contracted telephone
774 commissions.

775 (c) Any funds that may be assigned by inmates or donated to
776 the department by the general public or an inmate service
777 organization must be deposited in the State Operated
778 Institutions Inmate Welfare Trust Fund or, as set forth in this
779 section, in the General Revenue Fund; however, the department
780 shall not accept any donation from, or on behalf of, any
781 individual inmate.

782 (d) All proceeds from the following sources must be
783 deposited in the State Operated Institutions Inmate Welfare
784 Trust Fund or, as set forth in this section, in the General
785 Revenue Fund:

786 1. The confiscation and liquidation of any contraband found
787 upon, or in the possession of, any inmate;

788 2. Disciplinary fines imposed against inmates;

789 3. Forfeitures of inmate earnings; and

790 4. Unexpended balances in individual inmate trust fund
791 accounts of less than \$1.

792 (e) Items for resale at inmate canteens and vending



334048

793 machines maintained at the correctional facilities shall be
794 priced comparatively with like items for retail sale at fair
795 market prices.

796 (f) Notwithstanding any other provision of law, inmates
797 with sufficient balances in their individual inmate bank trust
798 fund accounts, after all debts against the account are
799 satisfied, shall be allowed to request a weekly draw of up to an
800 amount set by the Secretary of Corrections, not to exceed \$100,
801 to be expended for personal use on canteen and vending machine
802 items.

803 (2) (a) The State Operated Institutions Inmate Welfare Trust
804 Fund constitutes a trust held by the department for the benefit
805 and welfare of inmates incarcerated in correctional facilities
806 operated directly by the department.

807 (b) Deposits into the State Operated Institutions Inmate
808 Welfare Trust Fund shall not exceed a total of \$5 million in any
809 fiscal year. Any proceeds or funds that would cause deposits
810 into the State Operated Institutions Inmate Welfare Trust Fund to
811 exceed this restriction shall be deposited into the General
812 Revenue Fund.

813 (c) Funds in the State Operated Institutions Inmate Welfare
814 Trust Fund shall be used exclusively for the following purposes
815 at correctional facilities operated by the department:

816 1. To provide literacy programs, vocational training
817 programs, and educational programs;

818 2. To operate inmate chapels, faith-based programs,
819 visiting pavilions, visiting services and programs, family
820 services and programs, and libraries;

821 3. To provide inmate substance abuse treatment programs and



334048

822 transition and life skills training programs;

823 4. To provide for the purchase, rental, maintenance or
824 repair of electronic or audio visual equipment used by inmates;

825 or

826 5. To provide for the purchase, rental, maintenance or
827 repair of recreation and wellness equipment.

828 6. To provide for the purchase, rental, maintenance, or
829 repair of bicycles used by inmates traveling to and from
830 employment in the work-release program authorized in s.
831 945.091(1)(b).

832 (d) Funds in the State Operated Institutions Inmate Welfare
833 Trust Fund shall be expended only pursuant to legislative
834 appropriation.

835 (e) The department shall annually compile a report that
836 specifically documents State Operated Institutions Inmate
837 Welfare Trust Fund receipts and expenditures. This report shall
838 be compiled at both the statewide and institutional levels. The
839 department must submit this report for the previous fiscal year
840 by September 1 of each year to the chairs of the appropriate
841 substantive and fiscal committees of the Senate and the House of
842 Representatives and to the Executive Office of the Governor.

843 (f) Funds in the State Operated Institutions Inmate Welfare
844 Trust Fund or any other fund may not be used to purchase weight-
845 training equipment.

846 Section 11. Subsection (7) is added to section 945.48,
847 Florida Statutes, to read:

848 945.48 Rights of inmates provided mental health treatment;
849 procedure for involuntary treatment; correctional officer
850 staffing requirements.-



334048

851 (7) CORRECTIONAL OFFICER STAFFING.—A correctional officer
852 who has close contact with inmates housed in a mental health
853 treatment facility shall annually complete training in crisis
854 intervention. An employee with two or more notations in the
855 employee's file for inappropriate use of force incidents, as
856 specified in s. 944.35, may not be assigned to transitional
857 care, crisis stabilization, or corrections mental health
858 treatment facility inmate housing units as defined in Florida
859 Administrative Code. However, an employee with two or more
860 notations in the employee's file who remains free of
861 inappropriate use of force incidents, for a significant period
862 may be permitted to work in the transitional care, crisis
863 stabilization, or corrections mental health treatment facility
864 inmate housing units.

865 Section 12. Subsection (2) of section 945.6031, Florida
866 Statutes, is amended to read:

867 945.6031 Required reports and surveys.—

868 (2) The authority shall conduct surveys of the physical and
869 mental health care system at each correctional institution at
870 least every 18 months ~~triennially~~ and shall report the survey
871 findings for each institution to the Secretary of Corrections.

872 Section 13. Section 945.6033, Florida Statutes, is amended
873 to read:

874 945.6033 Continuing contracts with health care providers.—

875 (1) The Department of Corrections may enter into continuing
876 contracts with licensed health care providers, including
877 hospitals and health maintenance organizations, for the
878 provision of inmate health care services which the department is
879 unable to provide in its facilities.



334048

880 (2) The Department of Corrections, in negotiating contracts
881 for the delivery of inmate health care, shall only enter into
882 contracts which contain damage provisions.

883 Section 14. Subsection (1) of section 945.6034, Florida
884 Statutes, is amended to read:

885 945.6034 Minimum health care standards.—

886 (1) The Assistant Secretary for Health Services is
887 responsible for developing a comprehensive health care delivery
888 system and promulgating all department health care standards.
889 Such health care standards shall include, but are not limited
890 to, rules relating to the management structure of the health
891 care system and the provision of health care services to
892 inmates, health care policies, health care plans, quality
893 management systems and procedures, health service bulletins, and
894 treatment protocols. In establishing standards of care, the
895 department shall examine and consider the needs of inmates over
896 50 years of age and adopt health care standards unique to this
897 population.

898 Section 15. Section 945.6039, Florida Statutes, is created
899 to read:

900 945.6039 Independent Medical Evaluations and Examinations.—

901 (1) The department shall promulgate rules and permit an
902 inmate's family member, lawyer, or interested party to hire and
903 pay for an independent medical evaluation or examination by a
904 medical professional of an incarcerated inmate. The results of
905 the medical evaluation or examination shall be provided to the
906 department and to the Commission on Offender Review. The purpose
907 of these outside evaluations is to assist in the delivery of
908 medical care to the inmate and to assist the Commission on



334048

909 Offender Review in considering an inmate for conditional medical
910 release. Inmates at all department facilities and the contracted
911 private correctional facilities are eligible for consideration
912 to arrange for these medical evaluations. The department's
913 contracted private health care providers may also provide such
914 medical evaluations. The department, the private correctional
915 facilities, and private health care providers shall provide
916 reasonable and timely access to the inmate once a family member,
917 lawyer, or interested party provides a written request for
918 access.

919 Section 16. Present paragraphs (a) and (b) of subsection
920 (1) of section 947.149, Florida Statutes, are redesignated as
921 paragraphs (b) and (c), respectively, and a new paragraph (a) is
922 added to that subsection, to read:

923 947.149 Conditional medical release.—

924 (1) The commission shall, in conjunction with the
925 department, establish the conditional medical release program.
926 An inmate is eligible for consideration for release under the
927 conditional medical release program when the inmate, because of
928 an existing medical or physical condition, is determined by the
929 department to be within one of the following designations:

930 (a) "Elderly and infirm inmate," which means an inmate who
931 has no current or prior convictions for capital or first degree
932 felonies, who has no current or prior convictions for sexual
933 offenses or offenses against children, who is over 70 years of
934 age, and who has a condition caused by injury, disease, or
935 illness which, to a reasonable degree of medical certainty,
936 renders the inmate infirm or physically impaired to the extent
937 that the inmate does not constitute a danger to himself or



334048

938 herself or others.

939 Section 17. Paragraph (c) of subsection (7) of section
940 921.0021, Florida Statutes, is amended to read:

941 921.0021 Definitions.—As used in this chapter, for any
942 felony offense, except any capital felony, committed on or after
943 October 1, 1998, the term:

944 (7)

945 (c) The sentence points provided under s. 921.0024 for
946 sexual contact or sexual penetration may not be assessed for a
947 violation of s. 944.35(3)(c)2. ~~s. 944.35(3)(b)2.~~

948 Section 18. Subsection (5) of section 948.10, Florida
949 Statutes, is amended to read:

950 948.10 Community control programs.—

951 (5) In its annual report to the Governor, the President of
952 the Senate, and the Speaker of the House of Representatives
953 under s. 20.315(6) ~~s. 20.315(5)~~, the department shall include a
954 detailed analysis of the community control program and the
955 department's specific efforts to protect the public from
956 offenders placed on community control. The analysis must
957 include, but need not be limited to, specific information on the
958 department's ability to meet minimum officer-to-offender contact
959 standards, the number of crimes committed by offenders on
960 community control, and the level of community supervision
961 provided.

962 Section 19. Subsection (1) of section 951.221, Florida
963 Statutes, is amended to read:

964 951.221 Sexual misconduct between detention facility
965 employees and inmates; penalties.—

966 (1) Any employee of a county or municipal detention



334048

967 facility or of a private detention facility under contract with
968 a county commission who engages in sexual misconduct, as defined
969 in s. 944.35(3)(c)1. ~~s. 944.35(3)(b)1.~~, with an inmate or an
970 offender supervised by the facility without committing the crime
971 of sexual battery commits a felony of the third degree,
972 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
973 The consent of an inmate to any act of sexual misconduct may not
974 be raised as a defense to prosecution under this section.

975 Section 20. Paragraph (uu) of subsection (2) of s. 435.04
976 and paragraph (f) of subsection (3) of s. 921.0022, Florida
977 Statutes, are reenacted for the purpose of incorporating the
978 amendment made by this act to s. 944.35, Florida Statutes, in
979 references thereto.

980 Section 21. Subsection (1) of s. 944.72, subsection (1) of
981 s. 945.21501, and s. 945.2151, Florida Statutes, are reenacted
982 for the purpose of incorporating the amendment made by this act
983 to s. 945.215, Florida Statutes, in references thereto.

984 Section 22. Subsection (6) of s. 945.6035, Florida Statutes,
985 is reenacted for the purpose of incorporating the amendment made
986 by this act to s. 945.6031, Florida Statutes, in a reference
987 thereto.

988 Section 23. Except as otherwise provided in this act, this
989 act shall take effect July 1, 2015.

990
991 ===== T I T L E A M E N D M E N T =====
992 And the title is amended as follows:

993 Delete everything before the enacting clause
994 and insert:

995 A bill to be entitled



334048

996 An act relating to corrections; amending s. 20.315,
997 F.S.; revising the method of appointment for the
998 Secretary of Corrections; creating the Florida
999 Corrections Commission within the department;
1000 providing for membership and terms of appointment for
1001 commission members; prescribing duties and
1002 responsibilities of the commission; prohibiting the
1003 commission from entering into the department's
1004 operation; establishing meeting and notice
1005 requirements; requiring the commission to appoint an
1006 executive director; authorizing reimbursement of per
1007 diem and travel expenses for commission members;
1008 prohibiting certain conflicts of interest among
1009 commission members; providing for applicability;
1010 amending s. 216.136, F.S.; requiring the Criminal
1011 Justice Estimating Conference to develop projections
1012 of prison admissions and populations for elderly
1013 felony offenders; amending s. 944.151, F.S.; expanding
1014 the department's security review committee functions;
1015 ensuring physical inspections of state and private
1016 buildings and structures and prioritizing institutions
1017 for inspection that meet certain criteria; amending s.
1018 944.275, F.S.; prohibiting an inmate from receiving
1019 incentive gain-time credits for completing the
1020 requirements for and receiving a general educational
1021 development certificate or vocational certificate if
1022 the inmate was convicted of a specified offense on or
1023 after a specified date; amending s. 944.31, F.S.;
1024 requiring that a copy of a written memorandum of



1025 understanding for notification and investigation of
1026 certain events between the Department of Corrections
1027 and the Department of Law Enforcement be provided in a
1028 timely manner to the Governor, the President of the
1029 Senate, and the Speaker of the House of
1030 Representatives; requiring specialized training in
1031 certain circumstances; amending s. 944.331, F.S.;
1032 requiring the Department of Corrections to provide
1033 multiple private, internal avenues for the reporting
1034 by inmates of sexual abuse and sexual harassment;
1035 requiring the department, in consultation with the
1036 Correctional Medical Authority, to review inmate
1037 health care grievance procedures at each correctional
1038 institution and private correctional facility;
1039 requiring the department to review inmate grievance
1040 procedures at each correctional institution and
1041 private correctional facility; amending s. 944.35,
1042 F.S.; requiring that correctional officers have
1043 specialized training in the effective, nonforceful
1044 management of mentally ill inmates who may exhibit
1045 erratic behavior; requiring each institution to create
1046 and maintain a system to track the use of force
1047 episodes to determine if inmates need subsequent
1048 physical or mental health treatment; requiring annual
1049 reporting of use of force on the agency website;
1050 requiring that reports of physical force be signed
1051 under oath; prohibiting employees with notations
1052 regarding incidents involving the inappropriate use of
1053 force from being assigned to transitional care, crisis



1054 stabilization, or corrections mental health treatment
1055 facility housing; providing an exception; expanding
1056 applicability of a current felony offense to include
1057 certain employees of private providers and private
1058 correctional facilities; defining the term "neglect of
1059 an inmate"; providing for the determination of neglect
1060 of an inmate; creating criminal penalties for certain
1061 employees who neglect an inmate in specified
1062 circumstances; providing for anonymous reporting of
1063 inmate abuse directly to the department's Office of
1064 Inspector General; requiring that instruction on
1065 communication techniques related to crisis
1066 stabilization to avoid use of force be included in the
1067 correctional officer training program; directing the
1068 department to establish policies to protect inmates
1069 and employees from retaliation; requiring the
1070 department to establish policies relating to the use
1071 of chemical agents; amending s. 944.8041, F.S.;
1072 requiring the department to report health care costs
1073 for elderly inmates in its annual report; creating s.
1074 944.805, F.S.; providing legislative intent relating
1075 to specialized programs for veterans; requiring the
1076 department to measure recidivism and report its
1077 finding in that regard; amending s. 945.215, F.S.;
1078 requiring that specified proceeds and certain funds be
1079 deposited in the State Operated Institutions Inmate
1080 Welfare Trust Fund; providing that the State Operated
1081 Institutions Inmate Welfare Trust Fund is a trust held
1082 by the Department of Corrections for the benefit and



334048

1083 welfare of certain inmates; prohibiting deposits into
1084 the trust fund from exceeding \$5 million per fiscal
1085 year; requiring that deposits in excess of that amount
1086 be deposited into the General Revenue Fund; requiring
1087 that funds of the trust fund be used exclusively for
1088 specified purposes at correctional facilities operated
1089 by the department; requiring that funds from the trust
1090 fund only be expended pursuant to legislative
1091 appropriations; requiring the department to annually
1092 compile a report, at the statewide and institutional
1093 level documenting trust fund receipts and
1094 expenditures; requiring the report be submitted by
1095 September 1 for the previous fiscal year to specified
1096 offices of the Legislature and to the Executive Office
1097 of the Governor; prohibiting the purchase of weight-
1098 training equipment; providing a contingent effective
1099 date; amending s. 945.48, F.S.; specifying
1100 correctional officer staffing requirements pertaining
1101 to inmates housed in mental health treatment
1102 facilities; amending s. 945.6031, F.S.; changing the
1103 frequency of required surveys; amending s. 945.6033,
1104 F.S.; provides for damages in inmate health care
1105 contracts; amending s. 945.6034, F.S.; requiring the
1106 department to consider the needs of inmates over 50
1107 years of age and adopt health care standards for that
1108 population; creating s. 945.6039; F.S.; allowing an
1109 inmate's family, lawyer, and other interested parties
1110 to hire and pay for an independent medical evaluation;
1111 specifying the purpose for outside evaluations;



334048

1112 requiring the department to provide reasonable and
1113 timely access to the inmate; amending s. 947.149,
1114 F.S.; defining the term "elderly and infirm inmate";
1115 expanding eligibility for conditional medical release
1116 to include elderly and infirm inmates; amending ss.
1117 921.0021, 948.10, and 951.221. F.S.; conforming cross-
1118 references to changes made by the act; providing for
1119 applicability; reenacting ss. 435.04(2)(uu) and
1120 921.0022(3)(f), F.S., to incorporate the amendment
1121 made to s. 944.35, F.S., in references thereto;
1122 reenacting ss. 944.72(1), 945.21501(1), and 945.2151,
1123 F.S., to incorporate the amendment made to s. 945.215,
1124 F.S., in references thereto; reenacting s.
1125 945.6035(6), F.S., to incorporate the amendment made
1126 to s. 945.6031, F.S., in a reference thereto;
1127 providing effective dates.



722298

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/16/2015	.	
	.	
	.	
	.	

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

1 **Senate Amendment to Amendment (334048) (with directory and**
2 **title amendments)**

3
4 Delete lines 67 - 167
5 and insert:

6 Section 2. The amendments made by this act to s. 20.315(3),
7 Florida Statutes, do not apply to a Secretary of Corrections
8 appointed before July 1, 2015.

9
10 Delete lines 359 - 360



722298

11 and insert:

12 (2) The department shall maintain a written memorandum of

13

14 Delete lines 948 - 961.

15

16 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

17 And the directory clause is amended as follows:

18 Delete lines 6 - 8

19 and insert:

20 Statutes, is amended

21

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

23 And the title is amended as follows:

24 Delete lines 998 - 1009

25 and insert:

26 Secretary of Corrections; providing for applicability;

27 Delete line 1117

28 and insert:

29 921.0021 and 951.221, F.S.; conforming cross-



459704

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/13/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 116 - 749

and insert:

Section 2. Section 944.151, Florida Statutes, is amended to read:

944.151 Safety and security of correctional institutions and facilities.—It is the intent of the Legislature that the Department of Corrections shall be responsible for the safe operation and security of the correctional institutions and



459704

11 facilities. The safe operation and security of the state's
12 correctional institutions and facilities is critical to ensure
13 public safety and the safety of department employees and
14 offenders and to contain violent and chronic offenders until
15 offenders are otherwise released from the department's custody
16 pursuant to law. The Secretary of Corrections shall, at a
17 minimum:

18 (1) Appoint and designate select staff to the a safety and
19 security review committee which shall, at a minimum, be composed
20 of: the inspector general, the statewide security coordinator,
21 the regional security coordinators, and three wardens and one
22 correctional officer. The safety and security review committee
23 shall evaluate new safety and security technology; review and
24 discuss issues impacting correctional facilities; review and
25 discuss current issues impacting correctional facilities; and
26 review and discuss other issues as requested by management.†

27 ~~(a) Establish a periodic schedule for the physical~~
28 ~~inspection of buildings and structures of each state and private~~
29 ~~correctional institution to determine security deficiencies. In~~
30 ~~scheduling the inspections, priority shall be given to older~~
31 ~~institutions, institutions that house a large proportion of~~
32 ~~violent offenders, and institutions that have experienced a~~
33 ~~significant number of escapes or escape attempts in the past.~~

34 (2) Ensure that appropriate staff establishes a periodic
35 schedule for the physical inspection of buildings and structures
36 of each state and private correctional institution and facility
37 to determine safety and security deficiencies. In scheduling the
38 inspections, priority shall be given to older institutions,
39 institutions that house a large proportion of violent offenders,



459704

40 institutions with a high level of inappropriate incidents of use
41 of force on inmates, assaults on employees, or inmate sexual
42 abuse, and institutions that have experienced a significant
43 number of escapes or escape attempts in the past.

44 (a) ~~(b)~~ Ensure that appropriate staff conducts ~~Conduct~~ or
45 causes ~~cause~~ to be conducted announced and unannounced
46 comprehensive safety and security audits of all state and
47 private correctional institutions. These audits shall give
48 priority to those institutions with a high level of
49 inappropriate incidents of use of force on inmates, assaults on
50 employees, or inmate sexual abuse. ~~In conducting the security~~
51 audits, ~~priority shall be given to older institutions,~~
52 ~~institutions that house a large proportion of violent offenders,~~
53 ~~and institutions that have experienced a history of escapes or~~
54 ~~escape attempts.~~ At a minimum, the audit shall include an
55 evaluation of the physical plant, which shall include the
56 identification of blind spots or areas where staff or inmates
57 may be isolated and the deployment of video monitoring systems
58 and other monitoring technologies in such areas, landscaping,
59 fencing, security alarms and perimeter lighting, confinement,
60 arsenal, key and lock, and entrance/exit ~~and inmate~~
61 classification and staffing policies. Each correctional
62 institution shall be audited at least annually. ~~The secretary~~
63 shall

64 (b) Report the general survey findings annually to the
65 Governor and the Legislature.

66 (c) Ensure appropriate staff investigates and evaluates the
67 usefulness and dependability of existing safety and security
68 technology at the institutions and new technology and video



459704

69 monitoring systems available and make periodic written
70 recommendations to the secretary on the discontinuation or
71 purchase of various safety and security devices.

72 (d) Contract, if deemed necessary, with security personnel,
73 consulting engineers, architects, or other safety and security
74 experts the department deems necessary for safety and security
75 consultant services.

76 (e) Ensure appropriate staff, in conjunction with the
77 regional offices, establishes a periodic schedule for conducting
78 announced and unannounced escape simulation drills.

79 (f) Adopt, enforce, and annually cause the evaluation of
80 the emergency escape response procedures, which shall at a
81 minimum include the immediate notification and inclusion of
82 local and state law enforcement through mutual aid agreements.

83 (g) Ensure appropriate staff reviews staffing policies and
84 practices as needed.

85 (3)-(e) Adopt and enforce minimum safety and security
86 standards and policies that include, but are not limited to:

87 1. Random monitoring of outgoing telephone calls by
88 inmates.

89 2. Maintenance of current photographs of all inmates.

90 3. Daily inmate counts at varied intervals.

91 4. Use of canine units, where appropriate.

92 5. Use of escape alarms and perimeter lighting.

93 6. Florida Crime Information Center/National Crime
94 Information Center capabilities.

95 7. Employment background investigations.

96 ~~(d) Annually make written prioritized budget~~
97 ~~recommendations to the secretary that identify critical security~~



459704

98 ~~deficiencies at major correctional institutions.~~

99 ~~(e) Investigate and evaluate the usefulness and~~
100 ~~dependability of existing security technology at the~~
101 ~~institutions and new technology available and make periodic~~
102 ~~written recommendations to the secretary on the discontinuation~~
103 ~~or purchase of various security devices.~~

104 ~~(f) Contract, if deemed necessary, with security personnel,~~
105 ~~consulting engineers, architects, or other security experts the~~
106 ~~committee deems necessary for security audits and security~~
107 ~~consultant services.~~

108 ~~(g) Establish a periodic schedule for conducting announced~~
109 ~~and unannounced escape simulation drills.~~

110 ~~(4)(2) Direct staff to maintain and produce quarterly~~
111 ~~reports with accurate escape statistics. For the purposes of~~
112 ~~these reports, "escape" includes all possible types of escape,~~
113 ~~regardless of prosecution by the state attorney, and including~~
114 ~~offenders who walk away from nonsecure community facilities.~~

115 ~~(3) Adopt, enforce, and annually evaluate the emergency~~
116 ~~escape response procedures, which shall at a minimum include the~~
117 ~~immediate notification and inclusion of local and state law~~
118 ~~enforcement through a mutual aid agreement.~~

119 ~~(5)(4) Direct staff to submit in the annual legislative~~
120 ~~budget request a prioritized summary of critical safety and~~
121 ~~security deficiencies, and repair and renovation security needs.~~

122 Section 3. Paragraphs (d) and (e) of subsection (4) of
123 section 944.275, Florida Statutes, are amended to read:

124 944.275 Gain-time.—

125 (4)

126 (d) Notwithstanding paragraph (b) ~~subparagraphs (b)1. and~~



459704

127 ~~2.~~, the education program manager shall recommend, and the
128 Department of Corrections may grant, a one-time award of 60
129 additional days of incentive gain-time to an inmate who is
130 otherwise eligible and who successfully completes requirements
131 for and is awarded a high school equivalency diploma or
132 vocational certificate. This incentive gain-time award may be
133 granted to reduce any sentence for an offense committed on or
134 after October 1, 1995. However, this gain-time may not be
135 granted to reduce any sentence for an offense committed on or
136 after October 1, 1995, if the inmate is, or has previously been,
137 convicted of a violation of s. 794.011, s. 794.05, former s.
138 796.03, former s. 796.035, s. 800.04, s. 825.1025, s. 827.03, s.
139 827.071, s. 847.0133, s. 847.0135, s. 847.0137, s. 847.0138, s.
140 847.0145, or s. 985.701(1), or a forcible felony offense that is
141 specified in s. 776.08, except burglary as specified in s.
142 810.02(4). An inmate subject to the 85 percent minimum service
143 requirement pursuant to subparagraph (b)3. may not accumulate
144 gain-time awards at any point when the tentative release date is
145 the same as the 85 percent minimum service date of the sentence
146 imposed. Under no circumstances may an inmate receive more than
147 60 days for educational attainment pursuant to this section.

148 (e) Notwithstanding subparagraph (b)3. and paragraph (d),
149 for sentences imposed for offenses committed on or after October
150 1, 2014, the department may not grant incentive gain-time if the
151 offense is a violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2.
152 or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s.
153 794.011(10); s. 800.04; s. 825.1025; or s. 847.0135(5).

154 Section 4. Section 944.31, Florida Statutes, is amended to
155 read:



459704

156 944.31 Inspector general; inspectors; power and duties.—
157 (1) The inspector general shall be responsible for prison
158 inspection and investigation, internal affairs investigations,
159 and management reviews. The office of the inspector general
160 shall be charged with the duty of inspecting the penal and
161 correctional systems of the state. The office of the inspector
162 general shall inspect each correctional institution or any place
163 in which state prisoners are housed, worked, or kept within the
164 state, with reference to its physical conditions, cleanliness,
165 sanitation, safety, and comfort; the quality and supply of all
166 bedding; the quality, quantity, and diversity of food served and
167 the manner in which it is served; the number and condition of
168 the prisoners confined therein; and the general conditions of
169 each institution. The office of inspector general shall see that
170 all the rules and regulations issued by the department are
171 strictly observed and followed by all persons connected with the
172 correctional systems of the state. The office of the inspector
173 general shall coordinate and supervise the work of inspectors
174 throughout the state. The inspector general and inspectors may
175 enter any place where prisoners in this state are kept and shall
176 be immediately admitted to such place as they desire and may
177 consult and confer with any prisoner privately and without
178 molestation. The inspector general and inspectors shall be
179 responsible for criminal and administrative investigation of
180 matters relating to the Department of Corrections. The secretary
181 may designate persons within the office of the inspector general
182 as law enforcement officers to conduct any criminal
183 investigation that occurs on property owned or leased by the
184 department or involves matters over which the department has



459704

185 jurisdiction. A person designated as a law enforcement officer
186 must be certified pursuant to s. 943.1395 and must have a
187 minimum of 3 years' experience as an inspector in the inspector
188 general's office or as a law enforcement officer.

189 (2) The department shall maintain a written memorandum of
190 understanding with the Department of Law Enforcement for the
191 notification and investigation of mutually agreed-upon predicate
192 events that shall include, but are not limited to, suspicious
193 deaths and organized criminal activity. A copy of an active
194 memorandum of understanding shall be provided in a timely manner
195 to the Governor, the President of the Senate, and the Speaker of
196 the House of Representatives.

197 (3) During investigations, the inspector general and
198 inspectors may consult and confer with any prisoner or staff
199 member privately and without molestation and persons designated
200 as law enforcement officers under this section shall have the
201 authority to arrest, with or without a warrant, any prisoner of
202 or visitor to a state correctional institution for a violation
203 of the criminal laws of the state involving an offense
204 classified as a felony that occurs on property owned or leased
205 by the department and may arrest offenders who have escaped or
206 absconded from custody. Persons designated as law enforcement
207 officers have the authority to arrest with or without a warrant
208 a staff member of the department, including any contract
209 employee, for a violation of the criminal laws of the state
210 involving an offense classified as a felony under this chapter
211 or chapter 893 on property owned or leased by the department. A
212 person designated as a law enforcement officer under this
213 section may make arrests of persons against whom arrest warrants



459704

214 have been issued, including arrests of offenders who have
215 escaped or absconded from custody. The arrested person shall be
216 surrendered without delay to the sheriff of the county in which
217 the arrest is made, with a formal complaint subsequently made
218 against her or him in accordance with law.

219 (4) The inspector general, and inspectors who conduct
220 sexual abuse investigations in confinement settings, shall
221 receive specialized training in conducting such investigations.
222 The department shall be responsible for providing the
223 specialized training. Specialized training shall include, but
224 need not be limited to, techniques for interviewing sexual abuse
225 victims, proper use of Miranda and Garrity warnings, sexual
226 abuse evidence collection in confinement settings, and the
227 criteria and evidence required to substantiate a case for
228 administrative action or prosecution.

229 Section 5. Section 944.331, Florida Statutes, is amended to
230 read:

231 944.331 Inmate grievance procedure.—

232 (1) The department shall establish by rule an inmate
233 grievance procedure, which ~~that~~ must conform to the Minimum
234 Standards for Inmate Grievance Procedures as promulgated by the
235 United States Department of Justice pursuant to 42 U.S.C. s.
236 1997e. The department's office of general counsel shall oversee
237 the grievance procedures established by the department.

238 (2) In establishing grievance procedures, the department
239 shall provide multiple internal avenues for inmates to privately
240 report sexual abuse and sexual harassment and any staff neglect
241 of, or failure to perform, responsibilities which may have
242 contributed to such incidents. The procedures must allow reports



459704

243 to be made in writing by third parties.

244 (3) The department, in consultation with the Correctional
245 Medical Authority, shall review inmate health care grievance
246 procedures at each correctional institution and private
247 correctional facility to determine the procedural soundness and
248 effectiveness of the current health care grievance process, to
249 identify employees prone to misconduct directly related to the
250 delivery of health care services, and to identify life-
251 threatening inmate health concerns. The review shall determine
252 whether inmate health care grievances are being properly
253 reported, transmitted, and processed; inmates are allowed
254 writing utensils and paper; multiple channels of communication
255 exist to report alleged abuse related to the delivery of health
256 care services; and protocols are being implemented to protect an
257 inmate who filed a grievance concerning the delivery of health
258 care from retaliation for filing a complaint alleging staff
259 misconduct.

260 (4) The department shall review inmate grievance procedures
261 at each correctional institution and private correctional
262 facility to determine the procedural soundness and effectiveness
263 of the current grievance process, to identify employees prone to
264 misconduct, and to identify life-threatening inmate safety
265 concerns. The review shall determine whether inmate grievances
266 are being properly reported, transmitted, and processed; inmates
267 are allowed writing utensils and paper; multiple channels of
268 communication exist to report alleged abuse; and protocols are
269 being implemented to protect an inmate who filed a grievance
270 from retaliation for filing a complaint alleging staff
271 misconduct.



459704

272 (5) Beginning October 1, 2016, the department in
273 consultation with the Correctional Medical Authority shall
274 annually report, and post to their respective websites, their
275 joint findings. The authority shall document in the report its
276 findings on the effectiveness of inmate health care grievance
277 procedures; cite the number of health care grievances filed by
278 inmates, by institution and by region; specify the types of
279 health care problems alleged by inmates; and summarize the
280 actions taken by the department or the authority as a result of
281 its investigation of inmate health care grievances.

282 Section 6. Section 944.35, Florida Statutes, is amended to
283 read:

284 944.35 Authorized use of force; malicious battery and
285 sexual misconduct prohibited; reporting required; penalties.—

286 (1) (a) An employee of the department is authorized to apply
287 physical force upon an inmate only when and to the extent that
288 it reasonably appears necessary:

289 1. To defend himself or herself or another against such
290 other imminent use of unlawful force;

291 2. To prevent a person from escaping from a state
292 correctional institution when the officer reasonably believes
293 that person is lawfully detained in such institution;

294 3. To prevent damage to property;

295 4. To quell a disturbance;

296 5. To overcome physical resistance to a lawful command; or

297 6. To administer medical treatment only by or under the
298 supervision of a physician or his or her designee and only:

299 a. When treatment is necessary to protect the health of
300 other persons, as in the case of contagious or venereal



459704

301 diseases; or

302 b. When treatment is offered in satisfaction of a duty to
303 protect the inmate against self-inflicted injury or death.

304
305 As part of the correctional officer training program, the
306 Criminal Justice Standards and Training Commission shall develop
307 a course specifically designed to explain the parameters of this
308 subsection and to teach the proper methods and techniques in
309 applying authorized physical force upon an inmate. Effective
310 July 1, 2016, this course shall include specialized training for
311 effectively managing in nonforceful ways mentally ill inmates
312 who may exhibit erratic behavior.

313 (b) Following any use of force, a qualified health care
314 provider shall examine any person physically involved to
315 determine the extent of injury, if any, and shall prepare a
316 report which shall include, but not be limited to, a statement
317 of whether further examination by a physician is necessary. Any
318 noticeable physical injury shall be examined by a physician, and
319 the physician shall prepare a report documenting the extent and
320 probable cause of the injury and the treatment prescribed. Such
321 report shall be completed within 5 working days of the incident
322 and shall be submitted to the warden for appropriate
323 investigation.

324 (c) Each institution shall create and maintain a system to
325 track episodes involving the use of force to determine if
326 inmates require subsequent physical or mental health treatment.

327 (d) No later than October 1 of each year, the department
328 shall post on the agency website a report documenting incidents
329 involving the use of force during the previous fiscal year. The



459704

330 report shall include, but not be limited to:

331 1. Descriptive statistics on the reason force was used and
332 whether the use of force was deemed appropriate;

333 2. Multi-year statistics documenting annual trends in the
334 use of force;

335 3. Statistical information on the level of inmate or
336 officer injury, including death, in incidents involving the use
337 of force;

338 4. A breakdown, by institution, of statistics on use of
339 force; and

340 5. Statistics on the number of employees who were
341 disciplined or terminated because of their involvement in
342 incidents involving the inappropriate use of force, based on
343 notations of such incidents in their personnel files.

344 (2) Each employee of the department who either applies
345 physical force or was responsible for making the decision to
346 apply physical force upon an inmate or an offender supervised by
347 the department in the community pursuant to this subsection
348 shall prepare, date, and sign under oath an independent report
349 within 1 working day of the incident. The report shall be
350 delivered to the warden or the circuit administrator, who shall
351 forward the report with all appropriate documentation to the
352 office of the inspector general. The inspector general shall
353 conduct a review and make recommendations regarding the
354 appropriateness or inappropriateness of the use of force. If the
355 inspector general finds that the use of force was appropriate,
356 the employee's report, together with the inspector general's
357 written determination of the appropriateness of the force used
358 and the reasons therefor, shall be forwarded to the circuit



459704

359 administrator or warden upon completion of the review. If the
360 inspector general finds that the use of force was inappropriate,
361 the inspector general shall conduct a complete investigation
362 into the incident and forward the findings of fact to the
363 appropriate regional director for further action. Copies of the
364 employee's report and the inspector general's review shall be
365 kept in the files of the inmate or the offender supervised by
366 the department in the community. A notation of each incident
367 involving use of force and the outcome based on the inspector
368 general's evaluation shall be kept in the employee's file. An
369 employee with two or more notations in the employee's file for
370 inappropriate use of force incidents, as specified in s. 944.35,
371 shall not be assigned to transitional care, crisis
372 stabilization, or corrections mental health treatment facility
373 inmate housing units as defined in Florida Administrative Code.
374 However, an employee with two or more notations in the
375 employee's file who remains free of inappropriate use of force
376 incidents, for a significant period may be permitted to work in
377 the transitional care, crisis stabilization, or corrections
378 mental health treatment facility inmate housing units.

379 (3) (a) 1. Any employee of the department, private provider,
380 or private correctional facility who, with malicious intent,
381 commits a battery upon an inmate or an offender supervised by
382 the department in the community, commits a misdemeanor of the
383 first degree, punishable as provided in s. 775.082 or s.
384 775.083.

385 2. Any employee of the department, private provider, or
386 private correctional facility who, with malicious intent,
387 commits a battery or inflicts cruel or inhuman treatment by



459704

388 neglect or otherwise, and in so doing causes great bodily harm,
389 permanent disability, or permanent disfigurement to an inmate or
390 an offender supervised by the department in the community,
391 commits a felony of the third degree, punishable as provided in
392 s. 775.082, s. 775.083, or s. 775.084.

393 (b) As used in this paragraph, the term "neglect of an
394 inmate" means:

395 1. A failure or omission on the part of an employee of the
396 department, private provider, or private correctional facility,
397 to:

398 a. Provide an inmate with the care, supervision, and
399 services necessary to maintain the inmate's physical and mental
400 health, including, but not limited to, food, nutrition,
401 clothing, shelter, supervision, medicine, and medical services
402 that a prudent person would consider essential for the well-
403 being of the inmate; or

404 b. Make a reasonable effort to protect an inmate from
405 abuse, neglect, or exploitation by another person.

406 2. A determination of neglect of an inmate may be based on
407 repeated conduct or on a single incident or omission that
408 results in, or could reasonably be expected to result in,
409 serious physical or psychological injury, or a substantial risk
410 of death, to an inmate.

411 3. An employee of the department, private provider, or
412 private correctional facility who willfully or by culpable
413 negligence neglects an inmate and in so doing causes great
414 bodily harm, permanent disability, or permanent disfigurement to
415 the inmate commits a felony of the second degree, punishable as
416 provided in s. 775.082, s. 775.083, or s. 775.084.



459704

417 4. Any employee of the department, private provider, or
418 private correctional facility who willfully or by culpable
419 negligence neglects an elderly or disabled inmate without
420 causing great bodily harm, permanent disability, or permanent
421 disfigurement to the inmate commits a felony of the third
422 degree, punishable as provided in s. 775.082, s. 775.083, or s.
423 775.084.

424 (c) ~~(b)~~1. As used in this paragraph, the term "sexual
425 misconduct" means the oral, anal, or vaginal penetration by, or
426 union with, the sexual organ of another or the anal or vaginal
427 penetration of another by any other object, but does not include
428 an act done for a bona fide medical purpose or an internal
429 search conducted in the lawful performance of the employee's
430 duty.

431 2. Any employee of the department or a private correctional
432 facility as defined in s. 944.710 who engages in sexual
433 misconduct with an inmate or an offender supervised by the
434 department in the community, without committing the crime of
435 sexual battery, commits a felony of the third degree, punishable
436 as provided in s. 775.082, s. 775.083, or s. 775.084.

437 3. The consent of the inmate or offender supervised by the
438 department in the community to any act of sexual misconduct may
439 not be raised as a defense to a prosecution under this
440 paragraph.

441 4. This paragraph does not apply to any employee of the
442 department or any employee of a private correctional facility
443 who is legally married to an inmate or an offender supervised by
444 the department in the community, nor does it apply to any
445 employee who has no knowledge, and would have no reason to



459704

446 believe, that the person with whom the employee has engaged in
447 sexual misconduct is an inmate or an offender under community
448 supervision of the department.

449 (d)~~(e)~~ Notwithstanding prosecution, any violation of the
450 provisions of this subsection, as determined by the Public
451 Employees Relations Commission, shall constitute sufficient
452 cause under s. 110.227 for dismissal from employment with the
453 department, and such person shall not again be employed in any
454 capacity in connection with the correctional system.

455 (e)~~(d)~~ Each employee who witnesses, or has reasonable cause
456 to suspect, that an inmate or an offender under the supervision
457 of the department in the community has been unlawfully abused or
458 is the subject of sexual misconduct pursuant to this subsection
459 shall immediately prepare, date, and sign an independent report
460 specifically describing the nature of the force used or the
461 nature of the sexual misconduct, the location and time of the
462 incident, and the persons involved. The report shall be
463 delivered to the inspector general of the department with a copy
464 to be delivered to the warden of the institution or the regional
465 administrator. The inspector general shall immediately conduct
466 an appropriate investigation, and, if probable cause is
467 determined that a violation of this subsection has occurred, the
468 respective state attorney in the circuit in which the incident
469 occurred shall be notified.

470 (f) If an employee of the department, private provider, or
471 private correctional facility who witnesses unlawful abuse or
472 neglect or has reasonable cause to suspect that an inmate has
473 been unlawfully abused or neglected, as the term "neglected" is
474 defined in paragraph (b), fears retaliation by coworkers or



459704

475 supervisors if he or she submits a report as provided in
476 paragraph (e), the employee may anonymously and confidentially
477 report the inmate abuse or neglect directly to the department's
478 Office of Inspector General.

479 (4) (a) Any employee required to report pursuant to this
480 section who knowingly or willfully fails to do so, or who
481 knowingly or willfully prevents another person from doing so,
482 commits a misdemeanor of the first degree, punishable as
483 provided in s. 775.082 or s. 775.083.

484 (b) Any person who knowingly or willfully submits
485 inaccurate, incomplete, or untruthful information with regard to
486 reports required in this section commits a misdemeanor of the
487 first degree, punishable as provided in s. 775.082 or s.
488 775.083.

489 (c) Any person who knowingly or willfully coerces or
490 threatens any other person with the intent to alter either
491 testimony or a written report regarding an incident where force
492 was used or an incident of sexual misconduct commits a felony of
493 the third degree, punishable as provided in s. 775.082, s.
494 775.083, or s. 775.084.

495
496 As part of the correctional officer training program, the
497 Criminal Justice Standards and Training Commission shall develop
498 course materials for inclusion in the appropriate required
499 course specifically designed to explain the parameters of this
500 subsection, teach communication techniques related to crisis
501 stabilization to avoid the use of force, and ~~to~~ teach sexual
502 assault identification and prevention methods and techniques.

503 (5) The department shall establish a policy to protect from



459704

504 retaliation inmates and employees who report physical or sexual
505 abuse. This policy shall establish multiple protective measures
506 for both inmates and employees relating to the reporting of
507 abuse as well as designate a method of monitoring follow up.

508 Section 7. Section 944.8041, Florida Statutes, is amended
509 to read:

510 944.8041 Elderly offenders; annual review.-

511 (1) For the purpose of providing information to the
512 Legislature on elderly offenders within the correctional system,
513 the department and the Correctional Medical Authority shall each
514 submit annually a report on the status and treatment of elderly
515 offenders in the state-administered and private state
516 correctional systems and the department's geriatric facilities
517 and dorms. In order to adequately prepare the reports, the
518 department and the Department of Management Services shall grant
519 access to the Correctional Medical Authority that includes
520 access to the facilities, offenders, and any information the
521 agencies require to complete their reports. The review shall
522 also include an examination of promising geriatric policies,
523 practices, and programs currently implemented in other
524 correctional systems within the United States. The reports, with
525 specific findings and recommendations for implementation, shall
526 be submitted to the President of the Senate and the Speaker of
527 the House of Representatives on or before December 31 of each
528 year.

529 (2) The department, in producing the annual report required
530 under s. 20.315, shall report the cost of health care provided
531 to elderly inmates. The report shall include, but need not be
532 limited to, the average cost per year to incarcerate an elderly



459704

533 inmate and the types of health care delivered to elderly inmates
534 which result in the highest expenditures.

535 Section 8. Section 944.805, Florida Statutes, is created to
536 read:

537 944.805 Veterans programs in state and private correctional
538 institutions.—

539 (1) The Legislature finds and declares that specialized
540 programs for veterans offered in state and private correctional
541 institutions have the potential to facilitate inmate
542 institutional adjustment, help inmates assume personal
543 responsibility, and ease community reentry through the
544 availability of expanded community resources. For the purposes
545 of this section, the term "veteran" has the same meaning as it
546 is defined in s. 1.01(14).

547 (2) It is the intent of the Legislature that the department
548 expand the use of specialized dormitories for veterans. It is
549 also the intent of the Legislature that veterans housed in state
550 and private correctional institutions be provided special
551 assistance before their release by identifying benefits and
552 services available in the community where the veteran plans to
553 reside.

554 (3) The department shall measure recidivism rates for
555 veterans who have participated in specialized dormitories and
556 for veterans who have received special assistance in community
557 reentry. The findings shall be included in the annual report
558 required under s. 20.315.

559 Section 9. Effective upon SB 540 or similar legislation
560 creating the "State Operated Institutions Inmate Welfare Trust
561 Fund" being adopted in the 2015 Regular Session or an extension



459704

562 thereof and becoming law, subsection (1) of section 945.215,
563 Florida Statutes, is amended, present subsections (2) and (3)
564 are redesignated as subsections (3) and (4), respectively, and a
565 new subsection (2) is added to that section to read:

566 945.215 Inmate welfare and employee benefit trust funds.—

567 (1) INMATE PURCHASES; DEPARTMENT OF CORRECTIONS; STATE
568 OPERATED INSTITUTIONS INMATE WELFARE TRUST FUND.—

569 (a) From the net proceeds from operating inmate canteens,
570 vending machines used primarily by inmates and visitors, hobby
571 shops, and other such facilities must be deposited in the State
572 Operated Institutions Inmate Welfare Trust Fund or in the
573 General Revenue Fund; however, funds necessary to purchase items
574 for resale at inmate canteens and vending machines must be
575 deposited into local bank accounts designated by the department.

576 (b) All proceeds from contracted telephone commissions must
577 be deposited in the State Operated Institutions Inmate Welfare
578 Trust Fund or in the General Revenue Fund. The department shall
579 develop and update, as necessary, administrative procedures to
580 verify that:

581 1. Contracted telephone companies accurately record and
582 report all telephone calls made by inmates incarcerated in
583 correctional facilities under the department's jurisdiction;

584 2. Persons who accept collect calls from inmates are
585 charged the contracted rate; and

586 3. The department receives the contracted telephone
587 commissions.

588 (c) Any funds that may be assigned by inmates or donated to
589 the department by the general public or an inmate service
590 organization must be deposited in the State Operated



459704

591 Institutions Inmate Welfare Trust Fund or in the General Revenue
592 Fund; however, the department shall not accept any donation
593 from, or on behalf of, any individual inmate.

594 (d) All proceeds from the following sources must be
595 deposited in the State Operated Institutions Inmate Welfare
596 Trust Fund or in the General Revenue Fund:

597 1. The confiscation and liquidation of any contraband found
598 upon, or in the possession of, any inmate;

599 2. Disciplinary fines imposed against inmates;

600 3. Forfeitures of inmate earnings; and

601 4. Unexpended balances in individual inmate trust fund
602 accounts of less than \$1.

603 (e) Items for resale at inmate canteens and vending
604 machines maintained at the correctional facilities shall be
605 priced comparatively with like items for retail sale at fair
606 market prices.

607 (f) Notwithstanding any other provision of law, inmates
608 with sufficient balances in their individual inmate bank trust
609 fund accounts, after all debts against the account are
610 satisfied, shall be allowed to request a weekly draw of up to an
611 amount set by the Secretary of Corrections, not to exceed \$100,
612 to be expended for personal use on canteen and vending machine
613 items.

614 (2) (a) The State Operated Institutions Inmate Welfare Trust
615 Fund constitutes a trust held by the department for the benefit
616 and welfare of inmates incarcerated in correctional facilities
617 operated directly by the department.

618 (b) Deposits into the State Operated Institutions Inmate
619 Welfare Trust Fund shall not exceed \$10 million in any fiscal



459704

620 year. Deposits for purchases pursuant to this section in excess
621 of \$10 million shall be deposited into the General Revenue Fund.

622 (c) Funds in the State Operated Institutions Inmate Welfare
623 Trust Fund shall be used exclusively for the following purposes
624 at correctional facilities operated by the department:

625 1. To provide literacy programs, vocational training
626 programs, and educational programs;

627 2. To operate inmate chapels, faith-based programs,
628 visiting pavilions, visiting services and programs, family
629 services and programs, and libraries;

630 3. To provide inmate substance abuse treatment programs and
631 transition and life skills training programs;

632 4. To provide for the purchase, rental, maintenance or
633 repair of electronic or audio visual equipment used by inmates;
634 or

635 5. To provide for the purchase, rental, maintenance or
636 repair of recreation and wellness equipment.

637 (d) Funds in the State Operated Institutions Inmate Welfare
638 Trust Fund shall be expended only pursuant to legislative
639 appropriation.

640 (e) The department shall annually compile a report that
641 specifically documents State Operated Institutions Inmate
642 Welfare Trust Fund receipts and expenditures. This report shall
643 be compiled at both the statewide and institutional levels. The
644 department must submit this report for the previous fiscal year
645 by September 1 of each year to the chairs of the appropriate
646 substantive and fiscal committees of the Senate and the House of
647 Representatives and to the Executive Office of the Governor.

648 Section 10. Subsection (7) is added to section 945.48,



459704

649 Florida Statutes, to read:

650 945.48 Rights of inmates provided mental health treatment;
651 procedure for involuntary treatment; correctional officer
652 staffing requirements.-

653 (7) CORRECTIONAL OFFICER STAFFING.-A correctional officer
654 who has close contact with inmates housed in a mental health
655 treatment facility shall annually complete training in crisis
656 intervention. An employee with two or more notations in the
657 employee's file for inappropriate use of force incidents, as
658 specified in s. 944.35, may not be assigned to transitional
659 care, crisis stabilization, or corrections mental health
660 treatment facility inmate housing units as defined in Florida
661 Administrative Code. However, an employee with two or more
662 notations in the employee's file who remains free of
663 inappropriate use of force incidents, for a significant period
664 may be permitted to work in the transitional care, crisis
665 stabilization, or corrections mental health treatment facility
666 inmate housing units.

667
668 ===== T I T L E A M E N D M E N T =====

669 And the title is amended as follows:

670 Delete lines 6 - 87

671 and insert:

672 s. 944.151, F.S.; expanding the department's security
673 review committee functions; ensuring physical
674 inspections of state and private buildings and
675 structures and prioritizing institutions for
676 inspection that meet certain criteria; amending s.
677 944.275, F.S.; prohibiting an inmate from receiving



459704

678 incentive gain-time credits for completing the
679 requirements for and receiving a general educational
680 development certificate or vocational certificate if
681 the inmate was convicted of a specified offense on or
682 after a specified date; amending s. 944.31, F.S.;
683 requiring that a copy of a written memorandum of
684 understanding for notification and investigation of
685 certain events between the Department of Corrections
686 and the Department of Law Enforcement be provided in a
687 timely manner to the Governor, the President of the
688 Senate, and the Speaker of the House of
689 Representatives; requiring specialized training in
690 certain circumstances; amending s. 944.331, F.S.;
691 requiring the Department of Corrections to provide
692 multiple private, internal avenues for the reporting
693 by inmates of sexual abuse and sexual harassment;
694 requiring the department, in consultation with the
695 Correctional Medical Authority, to review inmate
696 health care grievance procedures at each correctional
697 institution and private correctional facility;
698 requiring the department to review inmate grievance
699 procedures at each correctional institution and
700 private correctional facility; amending s. 944.35,
701 F.S.; requiring that correctional officers have
702 specialized training in the effective, nonforceful
703 management of mentally ill inmates who may exhibit
704 erratic behavior; requiring each institution to create
705 and maintain a system to track the use of force
706 episodes to determine if inmates need subsequent



707 physical or mental health treatment; requiring annual
708 reporting of use of force on the agency website;
709 requiring that reports of physical force be signed
710 under oath; prohibiting employees with notations
711 regarding incidents involving the inappropriate use of
712 force from being assigned to transitional care, crisis
713 stabilization, or corrections mental health treatment
714 facility housing; providing an exception; expanding
715 applicability of a current felony offense to include
716 certain employees of private providers and private
717 correctional facilities; defining the term "neglect of
718 an inmate"; providing for the determination of neglect
719 of an inmate; creating criminal penalties for certain
720 employees who neglect an inmate in specified
721 circumstances; providing for anonymous reporting of
722 inmate abuse directly to the department's Office of
723 Inspector General; requiring that instruction on
724 communication techniques related to crisis
725 stabilization to avoid use of force be included in the
726 correctional officer training program; directing the
727 department to establish policies to protect inmates
728 and employees from retaliation; amending s. 944.8041,
729 F.S.; requiring the department to report health care
730 costs for elderly inmates in its annual report;
731 creating s. 944.805, F.S.; providing legislative
732 intent relating to specialized programs for veterans;
733 requiring the department to measure recidivism and
734 report its finding in that regard; amending s.
735 945.215, F.S.; requiring that specified proceeds and



459704

736 certain funds be deposited in the State Operated
737 Institutions Inmate Welfare Trust Fund; providing that
738 the State Operated Institutions Inmate Welfare Trust
739 Fund is a trust held by the Department of Corrections
740 for the benefit and welfare of certain inmates;
741 prohibiting deposits into the trust fund from
742 exceeding \$10 million per fiscal year; requiring that
743 deposits in excess of that amount be deposited into
744 the General Revenue Fund; requiring that funds of the
745 trust fund be used exclusively for specified purposes
746 at correctional facilities operated by the department;
747 requiring that funds from the trust fund only be
748 expended pursuant to legislative appropriations;
749 requiring the department to annually compile a report,
750 at the statewide and institutional level documenting
751 trust fund receipts and expenditures; requiring the
752 report be submitted by September 1 for the previous
753 fiscal year to specified offices of the Legislature
754 and to the Executive Office of the Governor; providing
755 a contingent effective date; amending s. 945.48, F.S.;
756 specifying correctional officer staffing requirements
757 pertaining to inmates housed in mental health
758 treatment facilities; amending s. 945.6031, F.S.;
759 changing the
760



764290

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/13/2015	.	
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The Committee on Criminal Justice (Evers) recommended the following:

Senate Amendment to Amendment (459704)

Delete lines 47 - 83
and insert:
private correctional institutions. In conducting the security audits, priority shall be given to older institutions, institutions that house a large proportion of violent offenders, institutions with a high level of inappropriate incidents of use of force on inmates, assaults on employees, or inmate sexual abuse, and institutions that have experienced a history of



764290

11 escapes or escape attempts. At a minimum, the audit shall
12 include an evaluation of the physical plant, which shall include
13 the identification of blind spots or areas where staff or
14 inmates may be isolated and the deployment of video monitoring
15 systems and other monitoring technologies in such areas,
16 landscaping, fencing, security alarms and perimeter lighting,
17 confinement, arsenal, key and lock, and entrance/exit and inmate
18 classification and staffing policies. Each correctional
19 institution shall be audited at least annually. ~~The secretary~~
20 ~~shall~~

21 (b) Report the general survey findings annually to the
22 Governor and the Legislature.

23 (c) Ensure appropriate staff investigates and evaluates the
24 usefulness and dependability of existing safety and security
25 technology at the institutions and new technology and video
26 monitoring systems available and make periodic written
27 recommendations to the secretary on the discontinuation or
28 purchase of various safety and security devices.

29 (d) Contract, if deemed necessary, with security personnel,
30 consulting engineers, architects, or other safety and security
31 experts the department deems necessary for safety and security
32 consultant services.

33 (e) Ensure appropriate staff, in conjunction with the
34 regional offices, establishes a periodic schedule for conducting
35 announced and unannounced escape simulation drills.

36 (f) Adopt, enforce, and annually cause the evaluation of
37 the emergency escape response procedures, which shall at a
38 minimum include the immediate notification and inclusion of
39 local and state law enforcement through mutual aid agreements.



764290

40 (g) Ensure appropriate staff reviews staffing policies,
41 classification, and



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/13/2015	.	
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The Committee on Criminal Justice (Evers) recommended the following:

Senate Amendment (with title amendment)

Between lines 756 and 757

insert:

Section 12. Section 945.6033, Florida Statutes, is amended to read:

945.6033 Continuing contracts with health care providers.—

(1) The Department of Corrections may enter into continuing contracts with licensed health care providers, including hospitals and health maintenance organizations, for the



792332

11 provision of inmate health care services which the department is
12 unable to provide in its facilities.

13 (2) The Department of Corrections, in negotiating contracts
14 for the delivery of inmate health care, shall only enter into
15 contracts which contain damage provisions.

16
17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 Delete line 88

20 and insert:

21 frequency of required surveys; amending s. 945.6033,
22 F.S.; provides for damages in inmate health care
23 contracts; amending s. 945.6034,



266020

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/13/2015	.	
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The Committee on Criminal Justice (Evers) recommended the following:

Senate Amendment (with title amendment)

Between lines 771 and 772

insert:

Section 13. Section 945.6039, Florida Statutes, is created to read:

945.6039 Independent Medical Evaluations and Examinations.-

(1) The department shall promulgate rules and permit an inmate's family member, lawyer, or interested party to hire and pay for an independent medical evaluation or examination by a



266020

11 medical professional of an incarcerated inmate. The results of
12 the medical evaluation or examination shall be provided to the
13 department and, if appropriate, to the Commission on Offender
14 Review. The purpose of these outside evaluations is to assist in
15 the delivery of medical care to the inmate and to assist the
16 Commission on Offender Review in considering an inmate for
17 conditional medical release. Inmates at all department
18 facilities and the contracted private correctional facilities
19 are eligible for consideration to arrange for these medical
20 evaluations. The department's contracted private health care
21 providers may also provide such medical evaluations. The
22 department, the private correctional facilities, and private
23 health care providers shall provide reasonable and timely access
24 to the inmate once a family member, lawyer, or interested party
25 provides a written request for access and such access is
26 approved.

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 line 91

31 and insert:

32 standards for that population; creating s. 945.6039;
33 F.S.; allowing an inmate's family, lawyer, and other
34 interested parties to hire and pay for an independent
35 medical evaluation; specifying the purpose for outside
36 evaluations; requiring the department to provide
37 reasonable and timely access to the inmate; amending
38 s. 947.149,

FOR CONSIDERATION By the Committee on Criminal Justice

591-01153A-15

20157020pb

1 A bill to be entitled
 2 An act relating to corrections; amending s. 216.136,
 3 F.S.; requiring the Criminal Justice Estimating
 4 Conference to develop projections of prison admissions
 5 and populations for elderly felony offenders; amending
 6 s. 944.151, F.S.; expanding the department's security
 7 review committee functions; amending s. 944.275, F.S.;
 8 prohibiting an inmate from receiving incentive gain-
 9 time credits for completing the requirements for and
 10 receiving a general educational development
 11 certificate or vocational certificate if the inmate
 12 was convicted of a specified offense on or after a
 13 specified date; amending s. 944.31, F.S.; requiring
 14 that a copy of a written memorandum of understanding
 15 for notification and investigation of certain events
 16 between the Department of Corrections and the
 17 Department of Law Enforcement be provided in a timely
 18 manner to the Governor, the President of the Senate,
 19 and the Speaker of the House of Representatives;
 20 requiring specialized training in certain
 21 circumstances; amending s. 944.331, F.S.; requiring
 22 the Department of Corrections to provide multiple
 23 private, internal avenues for the reporting by inmates
 24 of sexual abuse and sexual harassment; requiring the
 25 department, in consultation with the Correctional
 26 Medical Authority, to review inmate grievance
 27 procedures at each correctional institution and
 28 private correctional facility; amending s. 944.35,
 29 F.S.; requiring that correctional officers have

Page 1 of 29

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591-01153A-15

20157020pb

30 specialized training in the effective, nonforceful
 31 management of mentally ill inmates who may exhibit
 32 erratic behavior; requiring each institution to create
 33 and maintain a system to track the use of force
 34 episodes to determine if inmates need subsequent
 35 physical or mental health treatment; requiring annual
 36 reporting of use of force on the agency website;
 37 requiring that reports of physical force be signed
 38 under oath; prohibiting employees with notations
 39 regarding incidents involving the inappropriate use of
 40 force from working in close proximity with mentally
 41 ill inmates; providing an exception; expanding
 42 applicability of a current felony offense to include
 43 certain employees of private health care providers and
 44 private correctional facilities; defining the term
 45 "neglect of an inmate"; providing for the
 46 determination of neglect of an inmate; creating
 47 criminal penalties for certain employees who neglect
 48 an inmate in specified circumstances; providing for
 49 anonymous reporting of inmate abuse directly to the
 50 department's Office of Inspector General; requiring
 51 that instruction on communication techniques related
 52 to crisis stabilization to avoid use of force be
 53 included in the correctional officer training program;
 54 directing the department to establish policies to
 55 protect inmates and employees from retaliation;
 56 requiring certain monitoring of the conduct and
 57 treatment of inmates; amending s. 944.8041, F.S.;
 58 requiring the department to report health care costs

Page 2 of 29

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591-01153A-15

20157020pb

59 for elderly inmates in its annual report; creating s.
60 944.805, F.S.; providing legislative intent relating
61 to specialized programs for veterans; requiring the
62 department to measure recidivism and report its
63 finding in that regard; amending s. 945.215, F.S.;
64 requiring that specified proceeds and certain funds be
65 deposited in the State Operated Institutions Inmate
66 Welfare Trust Fund; providing that the State Operated
67 Institutions Inmate Welfare Trust Fund is a trust held
68 by the Department of Corrections for the benefit and
69 welfare of certain inmates; prohibiting deposits into
70 the trust fund from exceeding \$10 million per fiscal
71 year; requiring that deposits in excess of that amount
72 be deposited into the General Revenue Fund; requiring
73 that funds of the trust fund be used exclusively for
74 specified purposes at correctional facilities operated
75 by the department; requiring that funds from the trust
76 fund only be expended pursuant to legislative
77 appropriations; requiring the department to annually
78 compile a report, at the statewide and institutional
79 level documenting trust fund receipts and
80 expenditures; requiring the report be submitted by
81 September 1 for the previous fiscal year to specified
82 offices of the Legislature and to the Executive Office
83 of the Governor; providing a contingent effective
84 date; amending s. 945.48, F.S.; specifying
85 correctional officer staffing requirements pertaining
86 to inmates housed in mental health treatment
87 facilities; amending s. 945.6031, F.S.; changing the

Page 3 of 29

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591-01153A-15

20157020pb

88 frequency of required surveys; amending s. 945.6034,
89 F.S.; requiring the department to consider the needs
90 of inmates over 50 years of age and adopt health care
91 standards for that population; amending s. 947.149,
92 F.S.; defining the term "elderly and infirm inmate";
93 expanding eligibility for conditional medical release
94 to include elderly and infirm inmates; amending ss.
95 921.0021 and 951.221. F.S.; conforming cross-
96 references to changes made by the act; reenacting ss.
97 435.04(2)(uu) and 921.0022(3)(f), F.S., to incorporate
98 the amendment made to s. 944.35, F.S., in references
99 thereto; reenacting ss. 944.72(1), 945.21501(1), and
100 945.2151, F.S., to incorporate the amendment made to
101 s. 945.215, F.S., in references thereto; reenacting s.
102 945.6035(6), F.S., to incorporate the amendment made
103 to s. 945.6031, F.S., in a reference thereto;
104 providing effective dates.

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

108 Section 1. Paragraph (d) is added to subsection (5) of
109 section 216.136, Florida Statutes, to read:

110 216.136 Consensus estimating conferences; duties and
111 principals.—

112 (5) CRIMINAL JUSTICE ESTIMATING CONFERENCE.—The Criminal
113 Justice Estimating Conference shall:

114 (d) Develop projections of prison admissions and
115 populations for elderly felony offenders.

116 Section 2. Section 944.151, Florida Statutes, is amended to

Page 4 of 29

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591-01153A-15

20157020pb

117 read:

118 944.151 Safety and security of correctional institutions
 119 and facilities.—It is the intent of the Legislature that the
 120 Department of Corrections shall be responsible for the safe
 121 operation and security of the correctional institutions and
 122 facilities. The safe operation and security of the state's
 123 correctional institutions and facilities is critical to ensure
 124 public safety and the safety of department employees and
 125 offenders and to contain violent and chronic offenders until
 126 offenders are otherwise released from the department's custody
 127 pursuant to law. The Secretary of Corrections shall, at a
 128 minimum:

129 (1) Appoint a safety and security review committee which
 130 shall, at a minimum, be composed of: the inspector general, the
 131 statewide safety and security coordinator, the regional safety
 132 and security coordinators, ~~and~~ three wardens, and one
 133 correctional officer. The safety and security review committee
 134 shall:

135 (a) Establish a periodic schedule for the physical
 136 inspection of buildings and structures of each state and private
 137 correctional institution to determine safety and security
 138 deficiencies. In scheduling the inspections, priority shall be
 139 given to older institutions, institutions that house a large
 140 proportion of violent offenders, institutions with a high level
 141 of substantiated or unsubstantiated incidents of use of force on
 142 inmates, assaults on employees, or inmate sexual abuse, and
 143 institutions that have experienced a significant number of
 144 escapes or escape attempts in the past.

145 (b) Conduct or cause to be conducted announced and

Page 5 of 29

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591-01153A-15

20157020pb

146 unannounced comprehensive safety and security audits of all
 147 state and private correctional institutions. In conducting such
 148 ~~the security~~ audits, priority shall be given to older
 149 institutions, institutions that house a large proportion of
 150 violent offenders, institutions with a high level of
 151 substantiated or unsubstantiated incidents of use of force on
 152 inmates, assaults on employees, or inmate sexual abuse, and
 153 institutions that have experienced a history of escapes or
 154 escape attempts. At a minimum, the audit shall include an
 155 evaluation of the physical plant, which shall include the
 156 identification of blind spots or areas where staff or inmates
 157 may be isolated and the deployment of video monitoring systems
 158 and other monitoring technologies in such areas, landscaping,
 159 fencing, security alarms and perimeter lighting, and inmate
 160 classification and staffing policies. Each correctional
 161 institution shall be audited at least annually. The secretary
 162 shall report the general survey findings annually to the
 163 Governor and the Legislature.

164 (c) Adopt and enforce minimum safety and security standards
 165 and policies that include, but are not limited to:

- 166 1. Random monitoring of outgoing telephone calls by
- 167 inmates.
- 168 2. Maintenance of current photographs of all inmates.
- 169 3. Daily inmate counts at varied intervals.
- 170 4. Use of canine units, where appropriate.
- 171 5. Use of escape alarms and perimeter lighting.
- 172 6. Florida Crime Information Center/National Crime
- 173 Information Center capabilities.
- 174 7. Employment background investigations.

Page 6 of 29

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591-01153A-15

20157020pb

175 (d) Annually make written prioritized budget
 176 recommendations to the secretary ~~which that~~ identify critical
 177 safety and security deficiencies at major correctional
 178 institutions.

179 (e) Investigate and evaluate the usefulness and
 180 dependability of existing safety and security technology at the
 181 institutions and new technology and video monitoring systems
 182 available and make periodic written recommendations to the
 183 secretary on the discontinuation or purchase of various security
 184 devices.

185 (f) Contract, if ~~deemed~~ necessary, with security personnel,
 186 consulting engineers, architects, or other security experts the
 187 committee determines are ~~deems~~ necessary for safety and security
 188 audits and safety and security consultant services.

189 (g) Establish a periodic schedule for conducting announced
 190 and unannounced escape simulation drills.

191 (2) Maintain and produce quarterly reports with accurate
 192 escape statistics. For the purposes of these reports, "escape"
 193 includes all possible types of escape, regardless of prosecution
 194 by the state attorney, and including offenders who walk away
 195 from nonsecure community facilities.

196 (3) Adopt, enforce, and annually evaluate the emergency
 197 escape response procedures, which shall at a minimum include the
 198 immediate notification and inclusion of local and state law
 199 enforcement through a mutual aid agreement.

200 (4) Submit in the annual legislative budget request a
 201 prioritized summary of critical repair and renovation security
 202 needs.

203 Section 3. Paragraphs (d) and (e) of subsection (4) of

Page 7 of 29

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591-01153A-15

20157020pb

204 section 944.275, Florida Statutes, are amended to read:

205 944.275 Gain-time.—

206 (4)

207 (d) Notwithstanding paragraph (b) ~~subparagraphs (b)1. and~~
 208 ~~2.~~, the education program manager shall recommend, and the
 209 Department of Corrections may grant, a one-time award of 60
 210 additional days of incentive gain-time to an inmate who is
 211 otherwise eligible and who successfully completes requirements
 212 for and is awarded a high school equivalency diploma or
 213 vocational certificate. This incentive gain-time award may be
 214 granted to reduce any sentence for an offense committed on or
 215 after October 1, 1995. However, this gain-time may not be
 216 granted to reduce any sentence for an offense committed on or
 217 after October 1, 1995, if the inmate is, or has previously been,
 218 convicted of a violation of s. 794.011, s. 794.05, former s.
 219 796.03, former s. 796.035, s. 800.04, s. 825.1025, s. 827.03, s.
 220 827.071, s. 847.0133, s. 847.0135, s. 847.0137, s. 847.0138, s.
 221 847.0145, or s. 985.701(1), or a forcible felony offense that is
 222 specified in s. 776.08, except burglary as specified in s.
 223 810.02(4). An inmate subject to the 85 percent minimum service
 224 requirement pursuant to subparagraph (b)3. may not accumulate
 225 gain-time awards at any point when the tentative release date is
 226 the same as the 85 percent minimum service date of the sentence
 227 imposed. Under no circumstances may an inmate receive more than
 228 60 days for educational attainment pursuant to this section.

229 (e) Notwithstanding subparagraph (b)3. and paragraph (d),
 230 for sentences imposed for offenses committed on or after October
 231 1, 2014, the department may not grant incentive gain-time if the
 232 offense is a violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2.

Page 8 of 29

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591-01153A-15

20157020pb

233 or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s.
 234 794.011(10); s. 800.04; s. 825.1025; or s. 847.0135(5).
 235 Section 4. Section 944.31, Florida Statutes, is amended to
 236 read:
 237 944.31 Inspector general; inspectors; power and duties.—
 238 (1) The inspector general shall be responsible for prison
 239 inspection and investigation, internal affairs investigations,
 240 and management reviews. The office of the inspector general
 241 shall be charged with the duty of inspecting the penal and
 242 correctional systems of the state. The office of the inspector
 243 general shall inspect each correctional institution or any place
 244 in which state prisoners are housed, worked, or kept within the
 245 state, with reference to its physical conditions, cleanliness,
 246 sanitation, safety, and comfort; the quality and supply of all
 247 bedding; the quality, quantity, and diversity of food served and
 248 the manner in which it is served; the number and condition of
 249 the prisoners confined therein; and the general conditions of
 250 each institution. The office of inspector general shall see that
 251 all the rules and regulations issued by the department are
 252 strictly observed and followed by all persons connected with the
 253 correctional systems of the state. The office of the inspector
 254 general shall coordinate and supervise the work of inspectors
 255 throughout the state. The inspector general and inspectors may
 256 enter any place where prisoners in this state are kept and shall
 257 be immediately admitted to such place as they desire and may
 258 consult and confer with any prisoner privately and without
 259 molestation. The inspector general and inspectors shall be
 260 responsible for criminal and administrative investigation of
 261 matters relating to the Department of Corrections. The secretary

Page 9 of 29

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591-01153A-15

20157020pb

262 may designate persons within the office of the inspector general
 263 as law enforcement officers to conduct any criminal
 264 investigation that occurs on property owned or leased by the
 265 department or involves matters over which the department has
 266 jurisdiction. A person designated as a law enforcement officer
 267 must be certified pursuant to s. 943.1395 and must have a
 268 minimum of 3 years' experience as an inspector in the inspector
 269 general's office or as a law enforcement officer.
 270 (2) The department shall maintain a written memorandum of
 271 understanding with the Department of Law Enforcement for the
 272 notification and investigation of mutually agreed-upon predicate
 273 events that shall include, but are not limited to, suspicious
 274 deaths and organized criminal activity. A copy of an active
 275 memorandum of understanding shall be provided in a timely manner
 276 to the Governor, the President of the Senate, and the Speaker of
 277 the House of Representatives.
 278 (3) During investigations, the inspector general and
 279 inspectors may consult and confer with any prisoner or staff
 280 member privately and without molestation and persons designated
 281 as law enforcement officers under this section shall have the
 282 authority to arrest, with or without a warrant, any prisoner of
 283 or visitor to a state correctional institution for a violation
 284 of the criminal laws of the state involving an offense
 285 classified as a felony that occurs on property owned or leased
 286 by the department and may arrest offenders who have escaped or
 287 absconded from custody. Persons designated as law enforcement
 288 officers have the authority to arrest with or without a warrant
 289 a staff member of the department, including any contract
 290 employee, for a violation of the criminal laws of the state

Page 10 of 29

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591-01153A-15

20157020pb

291 involving an offense classified as a felony under this chapter
 292 or chapter 893 on property owned or leased by the department. A
 293 person designated as a law enforcement officer under this
 294 section may make arrests of persons against whom arrest warrants
 295 have been issued, including arrests of offenders who have
 296 escaped or absconded from custody. The arrested person shall be
 297 surrendered without delay to the sheriff of the county in which
 298 the arrest is made, with a formal complaint subsequently made
 299 against her or him in accordance with law.

300 (4) The inspector general, and inspectors who conduct
 301 sexual abuse investigations in confinement settings, shall
 302 receive specialized training in conducting such investigations.
 303 Specialized training shall include, but need not be limited to,
 304 techniques for interviewing sexual abuse victims, proper use of
 305 Miranda and Garrity warnings, sexual abuse evidence collection
 306 in confinement settings, and the criteria and evidence required
 307 to substantiate a case for administrative action or prosecution.

308 Section 5. Section 944.331, Florida Statutes, is amended to
 309 read:

310 944.331 Inmate grievance procedure.—

311 (1) The department shall establish by rule an inmate
 312 grievance procedure, ~~which that~~ must conform to the Minimum
 313 Standards for Inmate Grievance Procedures as promulgated by the
 314 United States Department of Justice pursuant to 42 U.S.C. s.
 315 1997e. The department's office of general counsel shall oversee
 316 the grievance procedures established by the department.

317 (2) In establishing grievance procedures, the department
 318 shall provide multiple internal avenues for inmates to privately
 319 report sexual abuse and sexual harassment and any staff neglect

591-01153A-15

20157020pb

320 of, or failure to perform, responsibilities which may have
 321 contributed to such incidents. The procedures must allow reports
 322 to be made orally, in writing, anonymously, or by third parties,
 323 and must require that any oral report be promptly documented in
 324 writing by the department or its designee.

325 (3) The department, in consultation with the Correctional
 326 Medical Authority, shall review inmate grievance procedures at
 327 each correctional institution and private correctional facility
 328 to determine the procedural soundness and effectiveness of the
 329 current grievance process, to identify employees prone to
 330 misconduct, and to identify life-threatening inmate health and
 331 safety concerns. The review shall determine whether grievances
 332 are being properly reported, transmitted, and processed; inmates
 333 are allowed writing utensils and paper; multiple channels of
 334 communication exist to report alleged abuse; and protocols are
 335 being implemented to protect an inmate who filed a grievance
 336 from retaliation for filing a complaint alleging staff
 337 misconduct.

338 (4) Beginning October 1, 2016, the department and the
 339 Correctional Medical Authority shall annually report, and post
 340 to their respective websites, their joint findings. The
 341 authority shall document in the report its findings on the
 342 effectiveness of inmate grievance procedures; cite the number of
 343 grievances filed by inmates, by institution and by region;
 344 specify the types of problems alleged by inmates; and summarize
 345 the actions taken by the department or the authority as a result
 346 of its investigation of inmate grievances.

347 Section 6. Section 944.35, Florida Statutes, is amended to
 348 read:

591-01153A-15

20157020pb

349 944.35 Authorized use of force; malicious battery and
350 sexual misconduct prohibited; reporting required; penalties.—

351 (1) (a) An employee of the department is authorized to apply
352 physical force upon an inmate only when and to the extent that
353 it reasonably appears necessary:

354 1. To defend himself or herself or another against such
355 other imminent use of unlawful force;

356 2. To prevent a person from escaping from a state
357 correctional institution when the officer reasonably believes
358 that person is lawfully detained in such institution;

359 3. To prevent damage to property;

360 4. To quell a disturbance;

361 5. To overcome physical resistance to a lawful command; or

362 6. To administer medical treatment only by or under the
363 supervision of a physician or his or her designee and only:

364 a. When treatment is necessary to protect the health of
365 other persons, as in the case of contagious or venereal
366 diseases; or

367 b. When treatment is offered in satisfaction of a duty to
368 protect the inmate against self-inflicted injury or death.

369

370 As part of the correctional officer training program, the
371 Criminal Justice Standards and Training Commission shall develop
372 a course specifically designed to explain the parameters of this
373 subsection and to teach the proper methods and techniques in
374 applying authorized physical force upon an inmate. This course
375 shall include specialized training for effectively managing in
376 nonforceful ways mentally ill inmates who may exhibit erratic
377 behavior.

591-01153A-15

20157020pb

378 (b) Following any use of force, a qualified health care
379 provider shall examine any person physically involved to
380 determine the extent of injury, if any, and shall prepare a
381 report which shall include, but not be limited to, a statement
382 of whether further examination by a physician is necessary. Any
383 noticeable physical injury shall be examined by a physician, and
384 the physician shall prepare a report documenting the extent and
385 probable cause of the injury and the treatment prescribed. Such
386 report shall be completed within 5 working days of the incident
387 and shall be submitted to the warden for appropriate
388 investigation.

389 (c) Each institution shall create and maintain a system to
390 track episodes involving the use of force to determine if
391 inmates require subsequent physical or mental health treatment.

392 (d) No later than October 1 of each year, the department
393 shall post on the agency website a report documenting incidents
394 involving the use of force during the previous fiscal year. The
395 report shall include, but not be limited to:

396 1. Descriptive statistics on the reason force was used and
397 whether the use of force was deemed appropriate;

398 2. Multi-year statistics documenting annual trends in the
399 use of force;

400 3. Information on the level of inmate or officer injury,
401 including death, in incidents involving the use of force;

402 4. A breakdown, by institution, of statistics on use of
403 force; and

404 5. Statistics on the number of employees who were
405 disciplined or terminated because of their involvement in
406 incidents involving the inappropriate use of force, based on

591-01153A-15

20157020pb

407 notations of such incidents in their personnel files.
 408 (2) Each employee of the department who either applies
 409 physical force or was responsible for making the decision to
 410 apply physical force upon an inmate or an offender supervised by
 411 the department in the community pursuant to this subsection
 412 shall prepare, date, and sign under oath an independent report
 413 within 1 working day of the incident. The report shall be
 414 delivered to the warden or the circuit administrator, who shall
 415 forward the report with all appropriate documentation to the
 416 office of the inspector general. The inspector general shall
 417 conduct a review and make recommendations regarding the
 418 appropriateness or inappropriateness of the use of force. If the
 419 inspector general finds that the use of force was appropriate,
 420 the employee's report, together with the inspector general's
 421 written determination of the appropriateness of the force used
 422 and the reasons therefor, shall be forwarded to the circuit
 423 administrator or warden upon completion of the review. If the
 424 inspector general finds that the use of force was inappropriate,
 425 the inspector general shall conduct a complete investigation
 426 into the incident and forward the findings of fact to the
 427 appropriate regional director for further action. Copies of the
 428 employee's report and the inspector general's review shall be
 429 kept in the files of the inmate or the offender supervised by
 430 the department in the community. A notation of each incident
 431 involving use of force and the outcome based on the inspector
 432 general's evaluation shall be kept in the employee's file. An
 433 employee with two or more notations in the employee's file
 434 related to incidents involving the inappropriate use of force
 435 may not work in close proximity with mentally ill inmates or

Page 15 of 29

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591-01153A-15

20157020pb

436 inmates on psychotropic medications. However, an employee with
 437 two or more notations in the employee's file who remains
 438 incident free for a significant period may be permitted to work
 439 with mentally ill inmates or inmates on psychotropic
 440 medications.
 441 (3) (a) 1. Any employee of the department, private health
 442 care provider, or private correctional facility who, with
 443 malicious intent, commits a battery upon an inmate or an
 444 offender supervised by the department in the community, commits
 445 a misdemeanor of the first degree, punishable as provided in s.
 446 775.082 or s. 775.083.
 447 2. Any employee of the department, private health care
 448 provider, or private correctional facility who, with malicious
 449 intent, commits a battery or inflicts cruel or inhuman treatment
 450 by neglect or otherwise, and in so doing causes great bodily
 451 harm, permanent disability, or permanent disfigurement to an
 452 inmate or an offender supervised by the department in the
 453 community, commits a felony of the third degree, punishable as
 454 provided in s. 775.082, s. 775.083, or s. 775.084.
 455 (b) As used in this paragraph, the term "neglect of an
 456 inmate" means:
 457 1. A failure or omission on the part of an employee of the
 458 department, private health care provider, or private
 459 correctional facility, to:
 460 a. Provide an inmate with the care, supervision, and
 461 services necessary to maintain the inmate's physical and mental
 462 health, including, but not limited to, food, nutrition,
 463 clothing, shelter, supervision, medicine, and medical services
 464 that a prudent person would consider essential for the well-

Page 16 of 29

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591-01153A-15

20157020pb

465 being of the inmate; or

466 b. Make a reasonable effort to protect an inmate from
 467 abuse, neglect, or exploitation by another person.

468 2. A determination of neglect of an inmate may be based on
 469 repeated conduct or on a single incident or omission that
 470 results in, or could reasonably be expected to result in,
 471 serious physical or psychological injury, or a substantial risk
 472 of death, to an inmate.

473 3. An employee of the department, private health care
 474 provider, or private correctional facility who willfully or by
 475 culpable negligence neglects an inmate and in so doing causes
 476 great bodily harm, permanent disability, or permanent
 477 disfigurement to the inmate commits a felony of the second
 478 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 479 775.084.

480 4. Any employee of the department, private health care
 481 provider, or private correctional facility who willfully or by
 482 culpable negligence neglects an elderly or disabled inmate
 483 without causing great bodily harm, permanent disability, or
 484 permanent disfigurement to the inmate commits a felony of the
 485 third degree, punishable as provided in s. 775.082, s. 775.083,
 486 or s. 775.084.

487 (c)(b)1. As used in this paragraph, the term "sexual
 488 misconduct" means the oral, anal, or vaginal penetration by, or
 489 union with, the sexual organ of another or the anal or vaginal
 490 penetration of another by any other object, but does not include
 491 an act done for a bona fide medical purpose or an internal
 492 search conducted in the lawful performance of the employee's
 493 duty.

Page 17 of 29

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591-01153A-15

20157020pb

494 2. Any employee of the department or a private correctional
 495 facility as defined in s. 944.710 who engages in sexual
 496 misconduct with an inmate or an offender supervised by the
 497 department in the community, without committing the crime of
 498 sexual battery, commits a felony of the third degree, punishable
 499 as provided in s. 775.082, s. 775.083, or s. 775.084.

500 3. The consent of the inmate or offender supervised by the
 501 department in the community to any act of sexual misconduct may
 502 not be raised as a defense to a prosecution under this
 503 paragraph.

504 4. This paragraph does not apply to any employee of the
 505 department or any employee of a private correctional facility
 506 who is legally married to an inmate or an offender supervised by
 507 the department in the community, nor does it apply to any
 508 employee who has no knowledge, and would have no reason to
 509 believe, that the person with whom the employee has engaged in
 510 sexual misconduct is an inmate or an offender under community
 511 supervision of the department.

512 (d)(e) Notwithstanding prosecution, any violation of the
 513 provisions of this subsection, as determined by the Public
 514 Employees Relations Commission, shall constitute sufficient
 515 cause under s. 110.227 for dismissal from employment with the
 516 department, and such person shall not again be employed in any
 517 capacity in connection with the correctional system.

518 (e)(d) Each employee who witnesses, or has reasonable cause
 519 to suspect, that an inmate or an offender under the supervision
 520 of the department in the community has been unlawfully abused or
 521 is the subject of sexual misconduct pursuant to this subsection
 522 shall immediately prepare, date, and sign an independent report

Page 18 of 29

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591-01153A-15 20157020pb

523 specifically describing the nature of the force used or the
 524 nature of the sexual misconduct, the location and time of the
 525 incident, and the persons involved. The report shall be
 526 delivered to the inspector general of the department with a copy
 527 to be delivered to the warden of the institution or the regional
 528 administrator. The inspector general shall immediately conduct
 529 an appropriate investigation, and, if probable cause is
 530 determined that a violation of this subsection has occurred, the
 531 respective state attorney in the circuit in which the incident
 532 occurred shall be notified.

533 (f) If an employee of the department, private health care
 534 provider, or private correctional facility who witnesses
 535 unlawful abuse or neglect or has reasonable cause to suspect
 536 that an inmate has been unlawfully abused or neglected, as the
 537 term "neglected" is defined in paragraph (b), fears retaliation
 538 by coworkers or supervisors if he or she submits a report as
 539 provided in paragraph (e), the employee may anonymously and
 540 confidentially report the inmate abuse or neglect directly to
 541 the department's Office of Inspector General.

542 (4) (a) Any employee required to report pursuant to this
 543 section who knowingly or willfully fails to do so, or who
 544 knowingly or willfully prevents another person from doing so,
 545 commits a misdemeanor of the first degree, punishable as
 546 provided in s. 775.082 or s. 775.083.

547 (b) Any person who knowingly or willfully submits
 548 inaccurate, incomplete, or untruthful information with regard to
 549 reports required in this section commits a misdemeanor of the
 550 first degree, punishable as provided in s. 775.082 or s.
 551 775.083.

Page 19 of 29

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591-01153A-15 20157020pb

552 (c) Any person who knowingly or willfully coerces or
 553 threatens any other person with the intent to alter either
 554 testimony or a written report regarding an incident where force
 555 was used or an incident of sexual misconduct commits a felony of
 556 the third degree, punishable as provided in s. 775.082, s.
 557 775.083, or s. 775.084.

558
 559 As part of the correctional officer training program, the
 560 Criminal Justice Standards and Training Commission shall develop
 561 course materials for inclusion in the appropriate required
 562 course specifically designed to explain the parameters of this
 563 subsection, teach communication techniques related to crisis
 564 stabilization to avoid the use of force, and ~~to~~ teach sexual
 565 assault identification and prevention methods and techniques.

566 (5) The department shall establish a policy to protect from
 567 retaliation inmates and employees who report physical or sexual
 568 abuse or who cooperate with investigations. This policy shall
 569 protect inmates and employees from retaliation by other inmates
 570 or employees. As part of this policy, the department shall:

571 (a) Designate the employees who are charged with monitoring
 572 suspected acts of retaliation.

573 (b) Include multiple protection measures, such as housing
 574 changes or transfers for inmate victims or abusers, removal of
 575 alleged abusive employees or alleged abusive inmates from
 576 contact with victims, and services for employees who fear
 577 retaliation for reporting abuse or for cooperating with
 578 investigations.

579 (c) For at least 90 days following a report of physical or
 580 sexual abuse, monitor the conduct and treatment of inmates and

Page 20 of 29

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591-01153A-15

20157020pb

581 employees who reported the abuse and of inmates who were
 582 reported to have suffered abuse to determine if there are
 583 changes that may suggest possible retaliation by inmates or
 584 employees. The department shall act promptly to remedy any such
 585 retaliation. In the course of such monitoring, the department
 586 may review inmate disciplinary reports or housing or program
 587 changes, and any negative performance review or reassignment of
 588 employees. The department shall continue such monitoring beyond
 589 90 days if the initial monitoring indicates the need for
 590 extended monitoring. The department's obligation to continue the
 591 monitoring terminates if the department determines that the
 592 allegation that prompted the monitoring is unfounded.

593 Section 7. Section 944.8041, Florida Statutes, is amended
 594 to read:

595 944.8041 Elderly offenders; annual review.—

596 (1) For the purpose of providing information to the
 597 Legislature on elderly offenders within the correctional system,
 598 the department and the Correctional Medical Authority shall each
 599 submit annually a report on the status and treatment of elderly
 600 offenders in the state-administered and private state
 601 correctional systems and the department's geriatric facilities
 602 and dorms. In order to adequately prepare the reports, the
 603 department and the Department of Management Services shall grant
 604 access to the Correctional Medical Authority that includes
 605 access to the facilities, offenders, and any information the
 606 agencies require to complete their reports. The review shall
 607 also include an examination of promising geriatric policies,
 608 practices, and programs currently implemented in other
 609 correctional systems within the United States. The reports, with

Page 21 of 29

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591-01153A-15

20157020pb

610 specific findings and recommendations for implementation, shall
 611 be submitted to the President of the Senate and the Speaker of
 612 the House of Representatives on or before December 31 of each
 613 year.

614 (2) The department, in producing the annual report required
 615 under s. 20.315, shall report the cost of health care provided
 616 to elderly inmates. The report shall include, but need not be
 617 limited to, the average cost per year to incarcerate an elderly
 618 inmate and the types of health care delivered to elderly inmates
 619 which result in the highest expenditures.

620 Section 8. Section 944.805, Florida Statutes, is created to
 621 read:

622 944.805 Veterans programs in state and private correctional
 623 institutions.—

624 (1) The Legislature finds and declares that specialized
 625 programs for veterans offered in state and private correctional
 626 institutions have the potential to facilitate inmate
 627 institutional adjustment, help inmates assume personal
 628 responsibility, and ease community reentry through the
 629 availability of expanded community resources. For the purposes
 630 of this section, the term "veteran" has the same meaning as it
 631 is defined in s. 1.01(14).

632 (2) It is the intent of the Legislature that the department
 633 expand the use of specialized dormitories for veterans. It is
 634 also the intent of the Legislature that veterans housed in state
 635 and private correctional institutions be provided special
 636 assistance before their release by identifying benefits and
 637 services available in the community where the veteran plans to
 638 reside.

Page 22 of 29

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591-01153A-15

20157020pb

639 (3) The department shall measure recidivism rates for
 640 veterans who have participated in specialized dormitories and
 641 for veterans who have received special assistance in community
 642 reentry. The findings shall be included in the annual report
 643 required under s. 20.315.

644 Section 9. Effective upon SB ___ or similar legislation
 645 creating the "State Operated Institutions Inmate Welfare Trust
 646 Fund" being adopted in the 2015 Regular Session or an extension
 647 thereof and becoming law, subsection (1) of section 945.215,
 648 Florida Statutes, is amended, present subsections (2) and (3)
 649 are redesignated as subsections (3) and (4), respectively, and a
 650 new subsection (2) is added to that section to read:

651 945.215 Inmate welfare and employee benefit trust funds.-

652 (1) INMATE PURCHASES; DEPARTMENT OF CORRECTIONS; STATE
 653 OPERATED INSTITUTIONS INMATE WELFARE TRUST FUND.-

654 (a) From the net proceeds from operating inmate canteens,
 655 vending machines used primarily by inmates and visitors, hobby
 656 shops, and other such facilities must be deposited in the State
 657 Operated Institutions Inmate Welfare Trust Fund or in the
 658 General Revenue Fund; however, funds necessary to purchase items
 659 for resale at inmate canteens and vending machines must be
 660 deposited into local bank accounts designated by the department.

661 (b) All proceeds from contracted telephone commissions must
 662 be deposited in the State Operated Institutions Inmate Welfare
 663 Trust Fund or in the General Revenue Fund. The department shall
 664 develop and update, as necessary, administrative procedures to
 665 verify that:

666 1. Contracted telephone companies accurately record and
 667 report all telephone calls made by inmates incarcerated in

Page 23 of 29

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591-01153A-15

20157020pb

668 correctional facilities under the department's jurisdiction;

669 2. Persons who accept collect calls from inmates are
 670 charged the contracted rate; and

671 3. The department receives the contracted telephone
 672 commissions.

673 (c) Any funds that may be assigned by inmates or donated to
 674 the department by the general public or an inmate service
 675 organization must be deposited in the State Operated
 676 Institutions Inmate Welfare Trust Fund or in the General Revenue
 677 Fund; however, the department shall not accept any donation
 678 from, or on behalf of, any individual inmate.

679 (d) All proceeds from the following sources must be
 680 deposited in the State Operated Institutions Inmate Welfare
 681 Trust Fund or in the General Revenue Fund:

682 1. The confiscation and liquidation of any contraband found
 683 upon, or in the possession of, any inmate;

684 2. Disciplinary fines imposed against inmates;

685 3. Forfeitures of inmate earnings; and

686 4. Unexpended balances in individual inmate trust fund
 687 accounts of less than \$1.

688 (e) Items for resale at inmate canteens and vending
 689 machines maintained at the correctional facilities shall be
 690 priced comparatively with like items for retail sale at fair
 691 market prices.

692 (f) Notwithstanding any other provision of law, inmates
 693 with sufficient balances in their individual inmate bank trust
 694 fund accounts, after all debts against the account are
 695 satisfied, shall be allowed to request a weekly draw of up to an
 696 amount set by the Secretary of Corrections, not to exceed \$100,

Page 24 of 29

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591-01153A-15 20157020pb

697 to be expended for personal use on canteen and vending machine
698 items.

699 (2) (a) The State Operated Institutions Inmate Welfare Trust
700 Fund constitutes a trust held by the department for the benefit
701 and welfare of inmates incarcerated in correctional facilities
702 operated directly by the department.

703 (b) Deposits into the State Operated Institutions Inmate
704 Welfare Trust Fund shall not exceed \$10 million in any fiscal
705 year. Deposits for purchases pursuant to this section in excess
706 of \$10 million shall be deposited into the General Revenue Fund.

707 (c) Funds in the State Operated Institutions Inmate Welfare
708 Trust Fund shall be used exclusively for the following purposes
709 at correctional facilities operated by the department:

710 1. To provide literacy programs, vocational training
711 programs, and educational programs;

712 2. To operate inmate chapels, faith-based programs,
713 visiting pavilions, visiting services and programs, family
714 services and programs, and libraries;

715 3. To provide inmate substance abuse treatment programs and
716 transition and life skills training programs;

717 4. To provide for the purchase, rental, maintenance or
718 repair of electronic or audio visual equipment used by inmates;
719 or

720 5. To provide for the purchase, rental, maintenance or
721 repair of recreation and wellness equipment.

722 (d) Funds in the State Operated Institutions Inmate Welfare
723 Trust Fund shall be expended only pursuant to legislative
724 appropriation.

725 (e) The department shall annually compile a report that

591-01153A-15 20157020pb

726 specifically documents State Operated Institutions Inmate
727 Welfare Trust Fund receipts and expenditures. This report shall
728 be compiled at both the statewide and institutional levels. The
729 department must submit this report for the previous fiscal year
730 by September 1 of each year to the chairs of the appropriate
731 substantive and fiscal committees of the Senate and the House of
732 Representatives and to the Executive Office of the Governor.

733 Section 10. Subsection (7) is added to section 945.48,
734 Florida Statutes, to read:

735 945.48 Rights of inmates provided mental health treatment;
736 procedure for involuntary treatment; correctional officer
737 staffing requirements.-

738 (7) CORRECTIONAL OFFICER STAFFING.-A correctional officer
739 who has close contact with inmates housed in a mental health
740 treatment facility shall annually complete training in crisis
741 intervention. A correctional officer whose personnel file
742 includes two or more notations of his or her involvement in an
743 incident involving use of force, as specified in s. 944.35, may
744 not work in close contact with mentally ill inmates or inmates
745 on psychotropic medications. However, a correctional officer
746 with two or more notations in the employee's file who remains
747 incident free for a significant period may be permitted to work
748 with mentally ill inmates or inmates on psychotropic
749 medications.

750 Section 11. Subsection (2) of section 945.6031, Florida
751 Statutes, is amended to read:

752 945.6031 Required reports and surveys.-

753 (2) The authority shall conduct surveys of the physical and
754 mental health care system at each correctional institution at

591-01153A-15 20157020pb

755 least every 18 months ~~triennially~~ and shall report the survey
756 findings for each institution to the Secretary of Corrections.

757 Section 12. Subsection (1) of section 945.6034, Florida
758 Statutes, is amended to read:

759 945.6034 Minimum health care standards.—

760 (1) The Assistant Secretary for Health Services is
761 responsible for developing a comprehensive health care delivery
762 system and promulgating all department health care standards.
763 Such health care standards shall include, but are not limited
764 to, rules relating to the management structure of the health
765 care system and the provision of health care services to
766 inmates, health care policies, health care plans, quality
767 management systems and procedures, health service bulletins, and
768 treatment protocols. In establishing standards of care, the
769 department shall examine and consider the needs of inmates over
770 50 years of age and adopt health care standards unique to this
771 population.

772 Section 13. Present paragraphs (a) and (b) of subsection
773 (1) of section 947.149, Florida Statutes, are redesignated as
774 paragraphs (b) and (c), respectively, and a new paragraph (a) is
775 added to that subsection, to read:

776 947.149 Conditional medical release.—

777 (1) The commission shall, in conjunction with the
778 department, establish the conditional medical release program.
779 An inmate is eligible for consideration for release under the
780 conditional medical release program when the inmate, because of
781 an existing medical or physical condition, is determined by the
782 department to be within one of the following designations:

783 (a) "Elderly and infirm inmate," which means an inmate who

591-01153A-15 20157020pb

784 has no current or prior convictions for capital or first degree
785 felonies, who has no current or prior convictions for sexual
786 offenses or offenses against children, who is over 70 years of
787 age, and who has a condition caused by injury, disease, or
788 illness which, to a reasonable degree of medical certainty,
789 renders the inmate infirm or physically impaired to the extent
790 that the inmate does not constitute a danger to himself or
791 herself or others.

792 Section 14. Paragraph (c) of subsection (7) of section
793 921.0021, Florida Statutes, is amended to read:

794 921.0021 Definitions.—As used in this chapter, for any
795 felony offense, except any capital felony, committed on or after
796 October 1, 1998, the term:

797 (7)

798 (c) The sentence points provided under s. 921.0024 for
799 sexual contact or sexual penetration may not be assessed for a
800 violation of s. 944.35(3)(c)2. ~~s. 944.35(3)(b)2.~~

801 Section 15. Subsection (1) of section 951.221, Florida
802 Statutes, is amended to read:

803 951.221 Sexual misconduct between detention facility
804 employees and inmates; penalties.—

805 (1) Any employee of a county or municipal detention
806 facility or of a private detention facility under contract with
807 a county commission who engages in sexual misconduct, as defined
808 in s. 944.35(3)(c)1. ~~s. 944.35(3)(b)1.~~, with an inmate or an
809 offender supervised by the facility without committing the crime
810 of sexual battery commits a felony of the third degree,
811 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
812 The consent of an inmate to any act of sexual misconduct may not

591-01153A-15

20157020pb

813 be raised as a defense to prosecution under this section.

814 Section 16. Paragraph (uu) of subsection (2) of s. 435.04
815 and paragraph (f) of subsection (3) of s. 921.0022, Florida
816 Statutes, are reenacted for the purpose of incorporating the
817 amendment made by this act to s. 944.35, Florida Statutes, in
818 references thereto.

819 Section 17. Subsection (1) of s. 944.72, subsection (1) of
820 s. 945.21501, and s. 945.2151, Florida Statutes, are reenacted
821 for the purpose of incorporating the amendment made by this act
822 to s. 945.215, Florida Statutes, in references thereto.

823 Section 18. Subsection (6) of s. 945.6035, Florida Statutes,
824 is reenacted for the purpose of incorporating the amendment made
825 by this act to s. 945.6031, Florida Statutes, in a reference
826 thereto.

827 Section 19. Except as otherwise provided in this act, this
828 act shall take effect October 1, 2015.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/16/15
Meeting Date

strike ALL Amend.

7020
Bill Number (if applicable)

Topic BCB 7020 / Collections

Amendment Barcode (if applicable)

Name Allison DeFoor

Job Title Chairman, Project on Accountable Justice

Address 949 Alachua
Street

Phone 508 9252

TLH / 32308
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Project on Accountable Justice

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No
(unrelated)

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)

2/16/15
Meeting Date

SPB 7020
Bill Number (if applicable)

Topic SPB 701

Amendment Barcode (if applicable)

Name Natalie Kato

Job Title Human Rights Watch

Address _____
Street

Phone 743 221 3151

City

State

Zip

Email Katon

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Human Rights Watch.

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

2/16/2015 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

7020
Bill Number (if applicable)

Topic SB 7020

Amendment Barcode (if applicable)

Name Jim DeBeaugrine

Job Title Special Consultant

Address 215 S. Monroe
Street

Phone 222-3533

Gallahassee FL 32301
City State Zip

Email jdebeaugrine@penninstonlaw.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Bridges of America

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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)

2-16-2015
Meeting Date

7020
Bill Number (if applicable)

Topic Criminal Reform

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-929

St Petersburg FL 33705
City State Zip

Email justice2jesus@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 176

INTRODUCER: Senator Evers

SUBJECT: Licenses to Carry Concealed Weapons or Firearms

DATE: February 13, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Favorable
2.			HE	
3.			JU	
4.			RC	

I. Summary:

SB 176 eliminates the statutory prohibition against carrying a concealed weapon or firearm by concealed carry license-holders into any college or university facilities.

Current law specifically includes these facilities among the places where a concealed weapon or firearm license does not authorize the licensee to “openly carry a handgun or carry a concealed weapon or firearm.”¹

II. Present Situation:

Florida Carry, Inc. v. University of North Florida

In December, 2013, the Florida First District Court of Appeal decided the case of *Florida Carry, Inc. v. University of North Florida*.² The issue of statutory construction before the court was whether the university (UNF) violated the Legislature’s preemption of the “whole field of regulation of firearms”³ by adopting policies and regulations prohibiting storing a weapon in a vehicle located on UNF’s property.

The university’s position was that the regulation was authorized under s. 790.115(2), F.S., which provides that firearms may not be possessed on school property except when securely encased within a vehicle, but that “school districts” may adopt policies to waive the “within a vehicle” exception. The judges all agreed that UNF did not meet the definition of “school district” and

¹ s. 790.06(12)(a)13., F.S.

² 133 So.3d 966 (Fla. 1st DCA, 2013). For a comprehensive analysis of the court’s 12-3 decision in which the judges issued seven separate opinions, see <http://www.floridaappellateview.com/constitutional-litigation/fl-university-cant-prohibit> (posted December 20, 2013).

³ s. 790.33, F.S.

therefore the university could not waive the “within a vehicle” exception. This finding by the court settled the matter under dispute which opened the door for firearms and weapons being stored in vehicles on postsecondary school property.

The court went beyond the resolution of the matter of statutory construction, however, taking up the question of whether state universities have the power, under Article IX, Section 7⁴ of the Florida Constitution, to implement a regulation that conflicts with a statutory provision.

The court found that the Legislature had preempted UNF’s independent regulation of firearms, but in doing so also acknowledged:

If the issue in this case involved the right of a student to carry a firearm in the classroom or at a sporting event, our analysis would be different. There are certain places where firearms can be legally prohibited, but the legislature has recognized that a citizen who is going to be in one of these places should be able to keep a firearm securely encased within his or her vehicle.⁵

Since the *UNF* opinion was issued, Florida Carry, Inc. has prevailed in getting similar policies changed at other Florida colleges, in keeping with the current law as interpreted by the 1st DCA.⁶ Florida Carry, Inc. has appealed the dismissal of its lawsuit against the University of Florida which raised the issue of the university’s compliance with the *UNF* ruling.⁷

The UF case also raised the question of the interplay between the statutory ban of firearms on university property found in s. 790.115(2)(a), F.S.,⁸ and s. 790.25(n), F.S., which authorizes possession of firearms at home regardless of open carry and concealed carry laws. The circuit court did not find an exception for dorms or residence halls in s. 790.115, F.S., so that matter is being appealed by Florida Carry, Inc.

Other States - Firearms and Postsecondary School Campuses

As of December 2014, 19 states banned carrying a concealed weapon on a college campus.⁹ In 23 states the decision to ban or allow concealed weapons on campus is the prerogative of the

⁴ This section of the Constitution establishes a system of governance for the state university system.

⁵ *Florida Carry, Inc. v. University of North Florida*, 133 So.3d 966 (Fla. 1st DCA, 2013).

⁶ <http://www.floridacarry.org/litigation> last visited February 12, 2015.

⁷ *Florida Carry, Inc. v. University of Florida*, Florida 1st DCA Case No. 1D14-4614; Fla. 8th Cir. Case No. 01-2014-CA-0104.

⁸ A person shall not possess any firearm, electric weapon or device, destructive device, or other weapon as defined in s. 790.001(13), including a razor blade or box cutter, except as authorized in support of school-sanctioned activities, at a school-sponsored event or on the property of any school, school bus, or school bus stop; however, a person may carry a firearm:

1. In a case to a firearms program, class or function which has been approved in advance by the principal or chief administrative officer of the school as a program or class to which firearms could be carried;
2. In a case to a career center having a firearms training range; or
3. In a vehicle pursuant to s. 790.25(5); except that school districts may adopt written and published policies that waive the exception in this subparagraph for purposes of student and campus parking privileges.

For the purposes of this section, “school” means any preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic.

⁹ <http://www.ncsl.org/research/education/guns-on-campus-overview.aspx> last visited February 11, 2015.

state university system.¹⁰ Due to court rulings and legislation, 8 states allow carrying concealed weapons on public postsecondary campuses.¹¹

The Colorado Supreme Court and the Oregon Court of Appeals overturned firearm bans in 2012 and 2011, respectively.¹² In both cases the rulings were based upon the court finding that it is within the exclusive power of the Legislature, not the higher education system, to regulate firearms in those states.

The statutes have dealt with the matter of firearms on college campuses in several ways:

- Wisconsin colleges and universities must allow concealed carry on campus grounds but if signs are posted at every entrance to a building stating that weapons are prohibited, firearms are not allowed within the building.¹³
- In Idaho persons who possess an “enhanced carry permit” may carry weapons and firearms on campus but not in dorms and buildings and buildings and functions housing more 1,000 people.¹⁴
- Kansas law contains a provision that colleges and universities cannot ban concealed carry on campus but may prohibit weapons inside buildings that have “adequate security measures” (defined by statute) and post signs to the effect.¹⁵

Florida Statutory Law

School Property

Section 790.115(2)(a), F.S., prohibits the possession of weapons or firearms on school property, whether public or nonpublic. The prohibition includes postsecondary school property.

A person shall not possess any firearm, electric weapon or device, destructive device, or other weapon as defined in s. 790.001(13), including a razor blade or box cutter, except as authorized in support of school-sanctioned activities, at a school-sponsored event or on the property of any school, school bus, or school bus stop; however, a person may carry a firearm:

1. In a case to a firearms program, class or function which has been approved in advance by the principal or chief administrative officer of the school as a program or class to which firearms could be carried;
2. In a case to a career center having a firearms training range; or
3. In a vehicle pursuant to s. 790.25(5); except that school districts may adopt written and published policies that waive the exception in this subparagraph for purposes of student and campus parking privileges.

¹⁰ *Id.*

¹¹ *Id.*, see also <http://smartgunlaws.org/2014-state-firearms-legislation-overview>, last visited January 14, 2015. These states are: Alaska, Colorado, Idaho, Kansas, Mississippi, Oregon, Utah and Wisconsin.

¹² *Id.* It should be noted that in Oregon the Board of Higher Education retained the authority to create internal policies for some areas of campus. The Board has banned firearms in campus buildings. As a condition of purchasing a ticket to an athletic event, a concert, or a performance at the Colorado University at Boulder even concealed carry licensees agree not to bring a weapon into the venue. (<http://police.colorado.edu/services/weapons-campus>, last visited January 14, 2015.)

¹³ <http://www.ncsl.org/research/education/guns-on-campus-overview>, last visited February 12, 2014.

¹⁴ <http://www.legislature.idaho.gov/legislation/2014/S1254.pdf>

¹⁵ <http://www.ncsl.org/research/education/guns-on-campus-overview>, last visited February 12, 2014.

For the purposes of this section, “school” means any preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic.

Prohibitions Against the Concealed Carrying of a Firearm or Weapon

Section 790.01, F.S., prohibits the carrying of a concealed firearm and punishes a violation of the law as a third degree felony unless the person carrying the concealed firearm is licensed under s. 790.06, F.S.¹⁶ The carrying of a weapon in a concealed manner by a person who is not licensed to do so under s. 790.06, F.S., is a first degree misdemeanor.¹⁷

Limitations on the Concealed Carrying of a Firearm or Weapon for Licensees

Persons who hold a valid license to carry a concealed weapon or firearm are statutorily authorized to carry a handgun,¹⁸ electronic weapon or device,¹⁹ tear gas gun,²⁰ knife,²¹ or billie in a concealed manner.²²

However, s. 790.06(12), F.S., sets forth the following limitations on the concealed carry statutory authorization. It should be noted that concealed carry by a licensee is not specifically limited unless the firearm or weapon is carried *into* the listed places.

A license issued under this section does not authorize any person to openly carry a handgun or carry a concealed weapon or firearm *into*:

1. Any place of nuisance as defined in s. 823.05;
2. Any police, sheriff, or highway patrol station;
3. Any detention facility, prison, or jail;
4. Any courthouse;
5. Any courtroom, except that nothing in this section would preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his or her courtroom;
6. Any polling place;
7. Any meeting of the governing body of a county, public school district, municipality, or special district;
8. Any meeting of the Legislature or a committee thereof;
9. Any school, college, or professional athletic event not related to firearms;

¹⁶ s. 790.01(2), (3), F.S. Concealed firearm is defined in s. 790.001(2), F.S.

¹⁷ s. 790.01(1), (3), F.S. Concealed weapon is defined in s. 790.001(3), F.S.

¹⁸ “Handgun” means a firearm capable of being carried and used by one hand, such as a pistol or revolver. s. 790.0655, F.S.

¹⁹ “Electric weapon or device” means any device which, through the application or use of electrical current, is designed, redesigned, used, or intended to be used for offensive or defensive purposes, the destruction of life, or the infliction of injury. s. 790.001(14), F.S.

²⁰ “Tear gas gun” or “chemical weapon or device” means any weapon of such nature, except a device known as a “self-defense chemical spray.” “Self-defense chemical spray” means a device carried solely for purposes of lawful self-defense that is compact in size, designed to be carried on or about the person, and contains not more than two ounces of chemical. s. 790.001(3)(b), F.S.

²¹ “Knife” is defined as what it is *not* in s. 790.001(13), F.S.: “Weapon” means...or other deadly weapon *except* ... a common pocketknife, plastic knife, or blunt-bladed table knife.

²² s. 790.06(1), F.S.

10. Any elementary or secondary school facility or administration building;
11. Any career center;
12. Any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose;
13. Any college or university facility unless the licensee is a registered student, employee, or faculty member of such college or university and the weapon is a stun gun or nonlethal electric weapon or device designed solely for defensive purposes and the weapon does not fire a dart or projectile;
14. The inside of the passenger terminal and sterile area of any airport, provided that no person shall be prohibited from carrying any legal firearm into the terminal, which firearm is encased for shipment for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; or
15. Any place where the carrying of firearms is prohibited by federal law.²³

Concealed Carry Licensure

The Department of Agriculture and Consumer Services (DACS) *issues a license* to carry concealed weapons or firearms if the applicant:

- Is a resident of the United States and a citizen of the United States or a permanent resident alien of the United States or is a consular security official of a foreign government and is certified as such by the foreign government and by the appropriate embassy in this country;
- Is 21 years of age or older²⁴;
- Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm;
- Is not ineligible to possess a firearm pursuant to s. 790.23, F.S., by virtue of having been convicted of a felony;
- Has not been committed for the abuse of a controlled substance or been found guilty of a crime under the provisions of ch. 893, F.S., or similar laws of any other state relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if the applicant has been committed under ch. 397, F.S., or under the provisions of former ch. 396, F.S., or has been convicted under s. 790.151, F.S., or has been deemed a habitual offender under s. 856.011(3), F.S., or has had two or more convictions under s. 316.193, F.S., or similar laws of any other state, within the 3-year period immediately preceding the date on which the application is submitted;
- Desires a legal means to carry a concealed weapon or firearm for lawful self-defense;
- Demonstrates competence with a firearm;

²³ s. 790.06(12)(a), F.S.

²⁴ The minimum age requirement is waived if the applicant otherwise qualifies and is either a service member as defined in s. 250.01, F.S., or a veteran of the U.S. Armed Forces who was discharged under honorable conditions. s. 790.062, F.S.

- Has not been adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state, unless 5 years have elapsed since the applicant's restoration to capacity by court order;
- Has not been committed to a mental institution under ch. 394, F.S., or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least 5 years prior to the date of submission of the application;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been sealed or expunged;
- Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.²⁵

DACS shall *deny a concealed carry license* if the applicant has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence constituting a misdemeanor, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled or the record has been sealed or expunged.²⁶

DACS shall *revoke* a license if the licensee has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence within the preceding 3 years.²⁷

Upon notification by a law enforcement agency, a court, or the Florida Department of Law Enforcement and subsequent written verification, DACS shall *suspend* a license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime that would disqualify such person from having a license under this section, until final disposition of the case.²⁸ DACS is also required to *suspend* a license or the processing of an application for a license if the licensee or applicant is issued an injunction that restrains the licensee or applicant from committing acts of domestic violence or acts of repeat violence.²⁹

A license already issued must be *suspended or revoked* by DACS if the licensee:

- Is found to be ineligible under the criteria set forth in s. 790.06(2), F.S.;
- Develops or sustains a physical infirmity which prevents the safe handling of a weapon or firearm;
- Is convicted of a felony which would make the licensee ineligible to possess a firearm pursuant to s. 790.23, F.S.;

²⁵ s. 790.06(2)(a)-(m), F.S.

²⁶ s. 790.06(3), F.S.

²⁷ s. 790.06(3), F.S.

²⁸ s. 790.06(3), F.S.

²⁹ s. 790.06(3), F.S.

- Is found guilty of a crime under the provisions of ch. 893, F.S., or similar laws of any other state, relating to controlled substances;
- Is committed as a substance abuser under ch. 397, F.S., or is deemed a habitual offender under s. 856.011(3), F.S., or similar laws of any other state;
- Is convicted of a second violation of s. 316.193, F.S., or a similar law of another state, within 3 years of a previous conviction of such section, or similar law of another state, even though the first violation may have occurred prior to the date on which the application was submitted;
- Is adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state; or
- Is committed to a mental institution under ch. 394, F.S., or similar laws of any other state.³⁰

The concealed carry license issued by DACS, along with valid identification, must be carried at all times the licensee is in actual possession of a concealed weapon or firearm and must be displayed upon demand of a law enforcement officer.³¹

Section 790.015, F.S. – Reciprocity for Nonresident Concealed Carry Licensees

Nonresidents of Florida who are concealed carry licenseholders from states that honor Florida concealed carry licenses may carry a weapon or firearm in a concealed manner in Florida. The nonresident must have a valid license in his or her immediate possession and must abide by Florida concealed carry laws.³²

Open Carrying of a Firearm Generally Prohibited

Section 790.053, F.S., prohibits the open carrying of a firearm or electric weapon or device. The offense is punished as a second degree misdemeanor.³³

It is not a violation of the open carry prohibition for a person to openly carry a self-defense chemical spray or a nonlethal stun gun, dart-firing stun gun, or other nonlethal electric weapon, if the weapon is carried for purposes of lawful self-defense.³⁴

Non-Criminal Open and Concealed Carry in Florida

Section 790.25, F.S., contains an exception to the requirement that a person possess a valid concealed carry license in order to lawfully carry in a concealed manner *if* the person is engaged in certain listed activities. Likewise a person engaged in those activities may lawfully carry a firearm or weapon openly.

³⁰ s. 790.06(10), F.S.

³¹ s. 790.06(1), F.S.

³² s. 790.015, F.S., <http://www.freshfromflorida.com/Divisions-Offices/Licensing/Consumer-Services/Concealed-Weapon-License/States-Recognizing-Florida-License>, last visited February 9, 2015, indicates that non-Florida residents from 33 states currently fit this reciprocity criteria.

³³ It is not a violation of s. 790.053, F.S., for a person who is licensed to carry a concealed firearm under s. 790.06(1), F.S., and who is carrying the firearm in a lawful manner to briefly and openly display the firearm to the ordinary sight of another person, unless the firearm is intentionally displayed in an angry or threatening manner, not in self-defense.

³⁴ s. 790.053(2), F.S.

Section 790.25, F.S. states in part:

790.25 Lawful ownership, possession, and use of firearms and other weapons.—

(2) USES NOT AUTHORIZED.—

(a) This section *does not authorize* carrying a concealed weapon without a permit, as prohibited by ss. 790.01 and 790.02. ...

(3) LAWFUL USES.—The provisions of ss. 790.053 and 790.06 *do not apply* in the following instances, and, despite such sections, it is lawful for the following persons to own, possess, and lawfully use firearms and other weapons, ammunition, and supplies for lawful purposes³⁵:

(h) A person engaged in fishing, camping, or lawful hunting or going to or returning from a fishing, camping, or lawful hunting expedition; ...

(l) A person traveling by private conveyance when the weapon is securely encased or in a public conveyance when the weapon is securely encased and not in the person's manual possession; ...

(n) A person possessing arms at his or her home or place of business; ...

(5) POSSESSION IN PRIVATE CONVEYANCE.—Notwithstanding subsection (2), it is lawful and is not a violation of s. 790.01 for a person 18 years of age or older to possess a concealed firearm or other weapon for self-defense or other lawful purpose within the interior of a private conveyance, without a license, if the firearm or other weapon is securely encased³⁶ or is otherwise not readily accessible for immediate use.³⁷ Nothing herein contained prohibits the carrying of a legal firearm other than a handgun anywhere in a private conveyance when such firearm is being carried for a lawful use. Nothing herein contained shall be construed to authorize the carrying of a concealed firearm or other weapon on the person. This subsection shall be liberally construed in favor of the lawful use, ownership, and possession of firearms and other weapons, including lawful self-defense as provided in s. 776.012. (emphasis added)

Florida courts and the Attorney General have interpreted and applied some of the various exceptions found in s. 790.25, F.S., as follows:

- [T]he possession of a concealed weapons license does not authorize a person to openly carry a weapon. However, to the extent that a weapon is carried openly for the specified lawful uses set forth in s. 790.25(3), F.S. (1990 Supp.), or as otherwise authorized by statute, such conduct is lawful.³⁸

³⁵ The categories listed here represent a partial list of those found in s. 790.25(3)(a)-(p), F.S.

³⁶ "Securely encased" means in a glove compartment, whether or not locked; snapped in a holster; in a gun case, whether or not locked; in a zippered gun case; or in a closed box or container which requires a lid or cover to be opened for access. s. 790.001(17), F.S.

³⁷ "Readily accessible for immediate use" means that a firearm or other weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as easily and quickly as if carried on the person. s. 790.001(16), F.S.

³⁸ 1991 Fla.Op.Atty.Gen. 114, Fla. AGO 91-36, May 17, 1991.

- A person, in defense of his home or place of business, is permitted to conceal his possession of a firearm.³⁹
- The trial court erred when it instructed the jury that carrying a concealed weapon in one's home in the presence of other people is illegal.⁴⁰
- The defendant was not "at his home" for purposes of the exception found in s. 790.25(3)(n), F.S. He was not on his own property nor was he on property to which he had the exclusive right of possession because he was standing with a group of people in the parking lot of his apartment complex, 25-30 feet from the building in which he resided.⁴¹
- The "place of business" exception does not only apply to a business owned by the defendant himself, but extends to employees of a business.⁴²

III. Effect of Proposed Changes:

The bill amends s. 790.06(12)(a), F.S., to remove the prohibition against concealed weapon and firearm licensees carrying weapons and firearms into any college or university facility.

Current law reads as follows:

790.06 License to carry concealed weapon or firearm.-

(12)(a) A license issued under this section does not authorize any person to openly carry a handgun or carry a concealed weapon or firearm into:

13. Any college or university facility⁴³ unless the licensee is a registered student, employee, or faculty member of such college or university and the weapon is a stun gun or nonlethal electric weapon or device designed solely for defensive purposes and the weapon does not fire a dart or projectile;

Section 790.06(12), F.S., as part of the concealed weapon or firearm licensure statute, appears to be clarifying in nature by stating what the license *does not* authorize. The effect of the bill, therefore, is to create the possibility of concealed carry licensees being able to carry concealed *into any college or university facility* so long as that possibility is not prohibited by other laws.

College or university facilities would likely include classroom buildings, residence halls, dining halls, libraries, laboratories, auditoriums, and sports or entertainment arenas. Section 790.06(12)(a)9., F.S., which is *not* amended by the bill, contains a specific concealed carry prohibition into any school, college, or professional athletic event not related to firearms. Even

³⁹ *Peoples v. State*, 287 So.2d 63 (Fla. 1973)

⁴⁰ *Santiago v. State*, 77 So.3d 874 (Fla. 4th DCA, 2012).

⁴¹ *Sherrod v. State*, 484 So.2d 1279 (Fla. 4th DCA, 1986); see also *McNair v. State*, 354 So.2d 473 (Fla. 3d DCA, 1978) where defendant was not "at his home," but rather 30-35 feet from his apartment; *Brant v. State*, 349 So.2d 674 (Fla. 3d DCA, 1977) where the defendant was in the hallway of a hotel; but see also *Collins v. State*, 475 So.2d 968 (Fla. 4th DCA, 1985) where the "at his home" concealed carry exception applied in the defendant's driveway and yard.

⁴² *State v. Little*, 104 So.3d 1263 (Fla. 4th DCA, 2013); *Curry-Pennamon v. State*, 40 Fla. L. Weekly D110 (Fla. 1st DCA, 2015); and see *State v. Anton*, 700 So.2d 743 (Fla. 2d DCA 1997) which interpreted the "place of business" exception to encompass property surrounding the business, including parking lots.

⁴³ "Educational facilities" means the buildings and equipment, structures, and special educational use areas that are built, installed, or established to serve primarily the educational purposes and secondarily the social and recreational purposes of the community and which may lawfully be used as authorized by the Florida Statutes and approved by boards. s. 1013.01(6), F.S.

though a person who possesses a valid concealed carry license would be statutorily authorized by the bill to carry a concealed weapon or firearm into any college or university facility, it appears that a school, college, or professional athletic event should not be taking place at the facility at that time.

The bill does not address the prohibition of the possession of weapons and firearms on “school property.”⁴⁴

Because s. 790.115, F.S., does not contain an exception for college or university facilities it appears that the practical effect of the bill may rest upon a change to the statutory blanket “school property” prohibition⁴⁵ or further expansion or interpretation by the courts.

Like persons who do not have a concealed weapons or firearm license, concealed carry licensees are prohibited from *openly* carrying a handgun, weapon, or firearm *except* as provided in s. 790.25, F.S.⁴⁶

The bill would become effective on July 1, 2015.

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.

⁴⁴ The definition of “school” includes any postsecondary school whether public or nonpublic. s. 790.115(2)(a), F.S.

⁴⁵ Except for parking lots, as decided by *Florida Carry, Inc. v. University of North Florida*.

⁴⁶ See s. 790.053, F.S.

C. Government Sector Impact:

The Florida Department of Education bill analysis suggests that the bill may have an indeterminate fiscal impact on insurance premiums paid by colleges and universities.

The Board of Governors suggests there may be a fiscal impact due to the hiring of additional law enforcement officers to patrol the grounds of each institution.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 790.06 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Evers

2-00398-15

2015176__

1 A bill to be entitled
 2 An act relating to licenses to carry concealed weapons
 3 or firearms; amending s. 790.06, F.S.; deleting a
 4 provision prohibiting concealed carry licensees from
 5 openly carrying a handgun or carrying a concealed
 6 weapon or firearm into a college or university
 7 facility; providing an effective date.
 8
 9 Be It Enacted by the Legislature of the State of Florida:
 10
 11 Section 1. Paragraph (a) of subsection (12) of section
 12 790.06, Florida Statutes, is amended to read:
 13 790.06 License to carry concealed weapon or firearm.-
 14 (12) (a) A license issued under this section does not
 15 authorize any person to openly carry a handgun or carry a
 16 concealed weapon or firearm into:
 17 1. Any place of nuisance as defined in s. 823.05;
 18 2. Any police, sheriff, or highway patrol station;
 19 3. Any detention facility, prison, or jail;
 20 4. Any courthouse;
 21 5. Any courtroom, except that nothing in this section would
 22 preclude a judge from carrying a concealed weapon or determining
 23 who will carry a concealed weapon in his or her courtroom;
 24 6. Any polling place;
 25 7. Any meeting of the governing body of a county, public
 26 school district, municipality, or special district;
 27 8. Any meeting of the Legislature or a committee thereof;
 28 9. Any school, college, or professional athletic event not
 29 related to firearms;

Page 1 of 2

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

2-00398-15

2015176__

30 10. Any elementary or secondary school facility or
 31 administration building;
 32 11. Any career center;
 33 12. Any portion of an establishment licensed to dispense
 34 alcoholic beverages for consumption on the premises, which
 35 portion of the establishment is primarily devoted to such
 36 purpose;
 37 ~~13. Any college or university facility unless the licensee~~
 38 ~~is a registered student, employee, or faculty member of such~~
 39 ~~college or university and the weapon is a stun gun or nonlethal~~
 40 ~~electric weapon or device designed solely for defensive purposes~~
 41 ~~and the weapon does not fire a dart or projectile;~~
 42 13.14. The inside of the passenger terminal and sterile
 43 area of any airport, provided that no person shall be prohibited
 44 from carrying any legal firearm into the terminal, which firearm
 45 is encased for shipment for purposes of checking such firearm as
 46 baggage to be lawfully transported on any aircraft; or
 47 ~~14.15.~~ Any place where the carrying of firearms is
 48 prohibited by federal law.
 49 Section 2. This act shall take effect July 1, 2015.

Page 2 of 2

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THE FLORIDA SENATE

APPEARANCE RECORD

2 / 2015

Meeting Date

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

176

Bill Number (if applicable)

Topic Concealed Weapons on Campus'

Name Yolanda J Franklin

Job Title Doctoral Student / TA

Address 2117 Lake Bradford Rd #3

Street

Tallahassee FL 32310

City

State

Zip

Phone 850.980.0389

Email

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-16-15

Meeting Date

SB 176

Bill Number (if applicable)

Topic Concealed Carry on College Campus

Name Eric Friday

Amendment Barcode (if applicable)

Job Title General Counsel, Florida Carry, Inc.

Address 541 E. Monroe St.

Street

Jacksonville

City

FL

State

32202

Zip

Phone 904-353-7733

Email efriday@fletcherandphillips.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Carry, 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.

This form is part of the public record.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/15
Meeting Date

SB 176
Bill Number (if applicable)

Topic Cancelled Carry on Campus

Amendment Barcode (if applicable)

Name STEVEN LANDGRAF

Job Title RESEARCH ASSISTANT - FSU

Address 2104 MULBERRY BLVD
Street

Phone 608 438 7908

TALLAHASSEE FL 32303
City State Zip

Email STEVENLANDGRAF@EMAIL.GM

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing MYSELF

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)

2/16/15

Meeting Date

SB 176 & SB 290

Bill Number (if applicable)

Topic Concealed Carry Bills

Amendment Barcode (if applicable)

Name Mark Jones

Job Title

Address 2313 Orleans Dr. Street

Phone 850-325-1156

Tallahassee FL 32308 City State Zip

Email

Speaking: For [] Against [x] Information []

Waive Speaking: In Support [] Against [] (The Chair will read this information into the record.)

Representing Parent of FSU student who heard shooting at Library

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

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

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)

2-16-15
Meeting Date

176
Bill Number (if applicable)

Topic Concealed Carry on Campus

Amendment Barcode (if applicable)

Name Natalie Tuttle

Job Title FSU student

Address 75 N. Woodward Ave #100802
Street

Phone 850-450-7123

Tallahassee FL 32313
City State Zip

Email nt13b@my.fsu.edu

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Students for Concealed Carry

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)

2/16/15
Meeting Date

SB 176
Bill Number (if applicable)

Topic Firearms on Campus

Amendment Barcode (if applicable)

Name Dr. Jennifer Proffitt

Job Title President - United Faculty of Florida, FSU

Address 307 Chestnut Dr
Street

Phone 850 445 0373

Tallahassee, FL 32301
City State Zip

Email jennifer.proffitt@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing UFF - FSU

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)

2/16/15

Meeting Date

SB 176

Bill Number (if applicable)

Topic Concealed Carry on University campuses

Amendment Barcode (if applicable)

Name Matthew Lata

Job Title Professor of Music

Address Florida State University

Street

Tallahassee

City

Florida

State

32302

Zip

Phone (850)644-0408

Email mlata@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing United Faculty of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-16-15

Meeting Date

SB 176

Bill Number (if applicable)

Topic Campus Carry Bill

Amendment Barcode (if applicable)

Name Nashandra Howard

Job Title Student

Address 3025 S. Adams St. Street

Phone 352-812-0181

Tallahassee FL 32301 City State Zip

Email nashandra.howard@gmail.com

Speaking: [] For [] Against [] Information

Waive Speaking: [] In Support [x] Against (The Chair will read this information into the record.)

Representing Myself

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

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

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

APPEARANCE RECORD

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

02/16/2013
Meeting Date

SB 176
Bill Number (if applicable)

Topic Concealed carry on campus

Amendment Barcode (if applicable)

Name Jacob Elpern

Job Title Director

Address 222 N Ocala Rd
Street

Phone 561-537-1310

Tallahassee FL
City State

32304
Zip

Email elpern-jacob@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Coalition To Keep Guns Off FSU

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)

2/14/2015
Meeting Date

176
Bill Number (if applicable)

Topic concealed carry on campus

Amendment Barcode (if applicable)

Name KATHRYN GRANT

Job Title STATE DIRECTOR

Address _____
Street

Phone FOR 759.9959

CROYTON FALLS, NEW YORK
City State Zip

keepgunsoffcampusfl@gmail.com
Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Campaign to keep guns off campus

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)

02/16/2015

Meeting Date

176

Bill Number (if applicable)

Topic concealed and carry on campus

Amendment Barcode (if applicable)

Name Daniela FERNANDEZ

Job Title

Address A305 C Ogelsby Union FSU

Phone

Tallahassee FL 32306

Email fsudemis@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing FSU college Demis

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)

2/16/15

Meeting Date

176

Bill Number (if applicable)

Topic CONCEALED WEAPONS

Amendment Barcode (if applicable)

Name NANCY ROGERS

Job Title ASSOC. PROF. OF MUSIC

Address 2069 WILDRIDGE DRIVE

Phone 850-562-2733

Street

TALLAHASSEE, FL 32303

City

State

Zip

Email nancy-m-rogers@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing SELF

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)

2-16-2015

Meeting Date

176

Bill Number (if applicable)

Topic Concealed weapons on campus

Amendment Barcode (if applicable)

Name TIMOTHY HOEKMAN

Job Title Professor

Address 6320 Mallard Trace Dr.

Phone 850-345-1423

Street

Tallahassee FL 32312

Email timothyhoekman@gmail.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing self

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)

2-16-15

Meeting Date

SB 176

Bill Number (if applicable)

Topic Guns on Campuses

Amendment Barcode (if applicable)

Name Amy Datzl

Job Title Retired State Worker

Address 1130 Crestview Ave.

Phone (850) 322-7599

Street

Tallahassee FL 32303

Email amaliadatz@mac.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing Self.

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)

2/16/15

Meeting Date

SB 176

Bill Number (if applicable)

Topic Campus Carry Bill

Amendment Barcode (if applicable)

Name Ryan Komegay

Job Title

Address 258 NW Riverine Way

Phone 850-242-9164

Greenville

City

FL

State

32331

Zip

Email ryan.komegay@gmail.com

Speaking: For [] Against [x] Information []

Waive Speaking: In Support [] Against [x] (The Chair will read this information into the record.)

Representing Myself

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

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

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)

2/16

Meeting Date

176

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Harrison P. Bosar

Job Title Director, Governmental Affairs

Address 100 Woodward FSU

Phone _____

Street

Tallahassee

32304

Email _____

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FSU, Florida Student 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)

02/16/2015

Meeting Date

SB 176

Bill Number (if applicable)

Topic SB 176

Amendment Barcode (if applicable)

Name Debbie Harrison Rumberger

Job Title Legislative Liaison

Address 2454 Beverly Court
Street

Phone _____

Jalapaone FL 32301
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing The League of Women Voters of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE

APPEARANCE RECORD

Feb 16 2015

Meeting Date

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

SB 176

Bill Number (if applicable)

Topic Concealed Carry on Campus

Amendment Barcode (if applicable)

Name Kay Lynn Toomey

Job Title President

Address 1325 W Tharpe St apt 612

Phone 561 927 5772

Street

Tallahassee

FL

32303

City

State

Zip

Email kaylynn.toomey@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing College Democrats at FSU

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.

APPEARANCE RECORD

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

2.14.2015
Meeting Date

176
Bill Number (if applicable)

Topic Cancelled carry on campus

Amendment Barcode (if applicable)

Name Michele D. Della Costa

Job Title Student

Address 75 N Woodward Ave

Phone 941-504-3316

U-Box 64610 Tallahassee, FL 32313
City State Zip

Email wentzaidella.costa@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing SUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

2.16.2015
Meeting Date

176
Bill Number (if applicable)

Topic Concealed carry on campus

Amendment Barcode (if applicable)

Name Jamecia Gray

Job Title

Address A305 C
Street

Phone

City State Zip

Email fsdemise@gmail.com

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

Waive Speaking: [] In Support [] Against
(The Chair will read this information into the record.)

Representing self

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

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

176

Meeting Date _____

Bill Number (if applicable) _____

Topic CONCAI carry on campus

Amendment Barcode (if applicable) _____

Name William Whitmire

Job Title Student

Address Degruff

Phone 954-439-3395

Tallahassee FL 31213

Email _____

City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/14

Meeting Date

SB176

Bill Number (if applicable)

Topic Conceal Carry on College Campuses

Amendment Barcode (if applicable)

Name Marjorie Sanfilippo

Job Title Associate Dean of Faculty, Professor, Eckerd College

Address 4200 54th Ave. S.

Phone 727-864-7562

Street

St. Petersburg

FL

33711

Email sanfilmd@eckerd.edu

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Colleges and universities

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/10/2015
Meeting Date

176
Bill Number (if applicable)

Topic Concealed Carry On Weapon

Amendment Barcode (if applicable)

Name Lewisha Gibson

Job Title _____

Address A 305 C Ogilby Union, FSU
Street

Phone _____

Tallahassee FL
City State Zip

Email fsudems@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

176

Meeting Date

Bill Number (if applicable)

Topic SB 176

Amendment Barcode (if applicable)

Name Brandon Johnson

Job Title Senator FAMU SGA

Address 810 NE 14th Street

Phone 352-222-4983

Street

Gainesville, FL

City

State

Zip

Email brandonjohnson@senators.fl.gov

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing NAACP, FAMU SGA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/2015

Meeting Date

5B176

Bill Number (if applicable)

Topic Concealed Weapons on College Campuses

Amendment Barcode (if applicable)

Name Lakey

Job Title Student - Florida State University + Graduate Assistant

Address 3816 Lost Lane # 32

Phone 850-345-0818

Street

Tallahassee FL 32309

City

State

Zip

Email llakey@fsu.edu

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FSU Progress Coalition / FSU - Graduate Assistants United

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.

I have to leave at 4:45pm

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-16-15

Meeting Date

SB 176

Bill Number (if applicable)

Topic Licenses To Carry Concealed Weapons of Firearms

Amendment Barcode (if applicable)

Name Roy F. Blondeau, Jr.

Job Title Attorney at Law

Address 6712 Buck Lake Road

Phone 850-228-0388

Street

Tallahassee

FL

32317

Email rfl07@gmail.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/15

Meeting Date

SB 176

Bill Number (if applicable)

Topic concealed weapons on campus

Amendment Barcode (if applicable)

Name Rebecca Krueger

Job Title Student

Address 206 Cactus St
Street

Phone _____

Tallahassee FL 32304
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-16-15
Meeting Date

SB 176
Bill Number (if applicable)

Topic Guns on Campus

Amendment Barcode (if applicable)

Name Herb Shelton

Job Title Self

Address 245 Longview Dr.
Street

Phone _____

Tallahassee FL 32303
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Concerned Citizens

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/15
Meeting Date

SB176
Bill Number (if applicable)

Topic concealed carry on campus

Amendment Barcode (if applicable)

Name Stephen Downey

Job Title _____

Address 132 Ferndale DR

Phone 615 9720306

Street

Tallahassee FL 32301

Email sdowney2002@comcast.net

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/15
Meeting Date

SB 0176
Bill Number (if applicable)

Topic Bill to allow Concealed Carry on FL Campuses

Amendment Barcode (if applicable)

Name Erek Culbreath

Job Title FSU student

Address 2001 Belle View way, Apt 24
Street

Phone 941-224-4744

Tallahassee FL 32304
City State Zip

Email etc04@my.fsu.edu

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Students for Concealed Carry at FSU

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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TESTIFY LAST PLEASE

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-16-15

Meeting Date

Topic CAMPUS CARRY

Bill Number SB-174
(if applicable)

Name MARION P. HAMMER

Amendment Barcode _____
(if applicable)

Job Title _____

Address P.O. BOX 1387
Street

Phone 850-222-9518

TALLAHASSEE FL 32302
City State Zip

E-mail _____

Speaking: For Against Information

Representing NRA (NATIONAL RIFLE ASSOCIATION) UNITED SPORTSMEN OF FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE

APPEARANCE RECORD

2/10/15

Meeting Date

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

SB 176

Bill Number (if applicable)

Topic Concealed Carry on Campus

Amendment Barcode (if applicable)

Name Melanie Andrade

Job Title

Address 2218 E Magnolia Cir Apt 124-A

Phone (850) 443-2105

Tallahassee FL 32301

Email melurestles@gmail.com

Speaking: [] For [x] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing

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

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

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/16
Meeting Date

176
Bill Number (if applicable)

Topic Carry Firearm on Campus

Amendment Barcode (if applicable)

Name Jon Payson

Job Title Student - masters of criminology

Address 1817 W Call St
Street

Phone 954 319 4247

Tallahassee, FL City State 32304 Zip

Email JPayson@calico.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

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
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: PCS/SB 248 (268366)

INTRODUCER: Criminal Justice Committee

SUBJECT: Public Records/Recordings by Law Enforcement Officers

DATE: February 13, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Pre-meeting
2.			CA	
3.			ACJ	
4.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 248 creates a public records exemption for an audio or video recording made by a law enforcement officer in the course of the officer performing his or her official duties and responsibilities, if the recording:

- Is taken within the interior of a private residence;
- Is taken on the property of a facility that offers health care, mental health care, or social services;
- Is taken at the scene of a medical emergency;
- Is taken at a place where a person recorded or depicted in the recording has a reasonable expectation of privacy;
- Shows a child younger than 18 years of age inside a school or on school property; or
- Shows a child younger than 14 years of age at any location.

If the audio or video recording or a portion of such recording is exempt or confidential and exempt pursuant to another exemption in s. 119.071, F.S., that exemption applies and determines under which circumstances, if any, the recording or a portion of the recording may be disclosed to the public.

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature. The bill also provides a statement of public necessity for the exemption.

The bill authorizes the law enforcement agency having custody over the recording to disclose the recording to another law enforcement agency in furtherance of that agency's official duties and responsibilities and specifies persons who may inspect the recording.

This bill creates a new public record exemption; therefore, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

II. Present Situation:

Body-Worn Cameras and Public Records

Body-Worn Cameras (BWCs) or "body cameras" are currently being used or considered for use by many law enforcement agencies.¹ "BWCs are mobile audio and video capture devices that allow officers to record what they see and hear. Devices can be attached to various body areas, including the head, by helmet, glasses or other means, or to the body by pocket, badge, or other means of attachment (such as in-car on the dash). They have the capability to record officer interactions that previously could only be captured by in-car interrogation room camera systems."²

The Florida Police Chiefs Association staff is aware of 13 Florida police departments that currently use BWCs³ and 9 Florida police departments that have implemented pilot programs to test the use of BWCs.⁴ The media have reported that the Flagler County Sheriff's Office is using BWC⁵ and the Pasco County Sheriff has indicated an intent to purchase BWCs.⁶ Other Florida sheriffs' offices may be considering whether to use BWCs.

On December 1, 2014, the White House announced that President Barack Obama was proposing "a three-year \$263 million investment package that will increase use of body-worn cameras, expand training for law enforcement agencies (LEAs), add more resources for police department reform, and multiply the number of cities where DOJ facilitates community and local LEA engagement. As part of this initiative, a new Body Worn Camera Partnership Program would provide a 50 percent match to States/localities who purchase body worn cameras and requisite

¹ The bill uses the language "audio or video recording by a law enforcement officer" in the new exemption. The staff analysis focuses on BWCs because it appears that BWCs are the most recent recording devices being used by law enforcement agencies and some of the BWC recordings would be covered by the new exemption. However, an audio or video recording made by another recording device, such as a hand-held video camera or cellphone, should also be covered by the new exemption.

² Sensor, Surveillance, and Biometric Technologies Center of Excellence. September 2012. *A Primer on Body-Worn Cameras for Law Enforcement*. National Institute of Justice. The quoted text is from page 5 of the report, which is available at <https://www.justnet.org/pdf/00-Body-Worn-Cameras-508.pdf>.

³ Police departments: Eustis; City of Miami; Cocoa; Daytona Beach; Daytona Beach Shores; Florida State University (motorcycle officers); Gulfport; Palm Bay (SWAT Officers); Pensacola; West Melbourne; Windermere; Miami Beach; and Rockledge.

⁴ Police departments: Clearwater; Ft. Myers; Marianna; Orlando (University of South Florida study); Plant City; Sarasota; St. Petersburg; Tampa; and West Palm Beach.

⁵ Metz, Claire. "Flagler County deputies fitted with new body cameras. WESH.com (Orlando). August 28, 2014. The news broadcast video is available at <http://www.wesh.com/flagler-county-deputies-fitted-with-new-body-cameras/27779830>.

⁶ Behrman, Elizabeth. "Local law enforcement split on body cameras." *The Tampa Tribune*. December 14, 2014. The article is available at <http://tbo.com/news/crime/-20141226/>.

storage. Overall, the proposed \$75 million investment over three years could help purchase 50,000 body worn cameras.”⁷

In a recently released report on BWCs it was noted:

State public disclosure laws, often known as freedom of information laws, govern when footage from body-worn cameras is subject to public release. However, most of these laws were written long before law enforcement agencies began deploying body-worn cameras, so the laws do not necessarily account for all of the considerations that must be made when police departments undertake a body-worn camera program.

Although broad disclosure policies can promote police agency transparency and accountability, some videos—especially recordings of victims or from inside people’s homes—will raise privacy concerns if they are released to the public or the news media. When determining how to approach public disclosure issues, law enforcement agencies must balance the legitimate interest of openness with protecting privacy rights.

In most state public disclosure laws, exceptions are outlined that may exempt body-worn camera footage from public release. For example, even the broadest disclosure laws typically contain an exception for video that contains evidence or is part of an ongoing investigation. Some state disclosure laws, such as those in North Carolina, also exempt personnel records from public release. Body-worn camera videos used to monitor officer performance may fall under this type of exception.⁸

Depending upon the content recorded by a BWC, the recording or particular information in the recording may be subject to a public records exemption in current Florida law. If not subject to an exemption, the recording would be a public record. Some of the current public records exemptions that may be relevant to a BWC recording include:

- Active criminal intelligence information and active criminal investigative information (exempt);⁹
- Information revealing surveillance techniques or procedures or personnel (exempt);¹⁰
- Information revealing the substance of a confession of a person arrested (exempt);¹¹
- Information revealing the identity of a confidential informant or a confidential source (exempt);¹²
- Criminal intelligence information or criminal investigative information that reveals the identity of the victim of the crime of child abuse or any sexual offense or a videotape or

⁷ “FACT SHEET: Strengthening Community Policing,” Office of the Press Secretary, The White House. December 1, 2014. The document is available at <http://www.whitehouse.gov/the-press-office/2014/12/01/fact-sheet-strengthening-community-policing>.

⁸ Miller, Lindsay, Jessica Toliver, and Police Executive Research Forum. 2014. *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned*. Washington, DC: Office of Community Oriented Policing Services. The quoted text is from page 17 (footnote omitted) of the report, which is available at <http://www.justice.gov/iso/opa/resources/472014912134715246869.pdf>.

⁹ Section 119.071(2)(a), F.S.

¹⁰ Section 119.071(2)(d), F.S.

¹¹ Section 119.071(2)(e), F.S.

¹² Section 119.071(2)(f), F.S.

image of any part of the body of the victim of a statutorily-specified sexual offense (confidential and exempt);¹³

- Any information in a videotaped statement of a minor who is alleged to be or who is a victim of a statutorily-specified sexual offense, which reveals that minor's identity, home, school, etc. (confidential and exempt);¹⁴ or
- Information revealing undercover personnel of any criminal justice agency (exempt).¹⁵

Public Records Laws

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.¹⁶ The records of the legislative, executive, and judicial branches are specifically included.¹⁷

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act¹⁸ guarantees every person's right to inspect and copy any state or local government public record¹⁹ at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.²⁰

Only the Legislature may create an exemption to public records requirements.²¹ This exemption must be created by general law and must specifically state the public necessity justifying the exemption.²² Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions²³

¹³ Section 119.071(2)(h), F.S.

¹⁴ Section 119.071(2)(j)2.a, F.S.

¹⁵ Section 119.071(4)(c), F.S.

¹⁶ FLA. CONST., art. I, s. 24(a).

¹⁷ *Id.*

¹⁸ Chapter 119, F.S.

¹⁹ Section 119.011(12), F.S., defines "public records" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records *Locke v. Hawkes*, 595 So.2d 32 (Fla.1992).

²⁰ Section 119.07(1)(a), F.S.

²¹ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates exempt from public records requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), *review denied* 892 So.2d 1015 (Fla.2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991)). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. Attorney General Opinion 85-62, (August 1, 1985).

²² FLA. CONST., art. I, s. 24(c).

²³ However, the bill may contain multiple exemptions that relate to one subject.

and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.²⁴

The Open Government Sunset Review Act²⁵ requires a newly created or expanded public records exemption to be repealed on October 2 of the fifth year after enactment, unless reviewed and reenacted by the Legislature.²⁶ It further provides that a public records exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet the public purpose it serves.²⁷

III. Effect of Proposed Changes:

The bill creates a public records exemption for an audio or video recording made by a law enforcement officer in the course of the officer performing his or her official duties and responsibilities, if the recording:

- Is taken within the interior of a private residence;
- Is taken on the property of a facility that offers health care, mental health care, or social services;
- Is taken at the scene of a medical emergency;
- Is taken at a place where a person recorded or depicted in the recording has a reasonable expectation of privacy;
- Shows a child younger than 18 years of age inside a school, as defined in s. 1003.01, F.S., or on school property, as defined in s. 810.095, F.S.; or
- Shows a child younger than 14 years of age at any location.

If the audio or video recording or a portion of such recording is exempt or confidential and exempt pursuant to another exemption in s. 119.071, F.S., that exemption applies and determines under which circumstances, if any, the recording or a portion of the recording may be disclosed to the public.

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill also provides a statement of public necessity for the exemption. The specific findings relevant to the public necessity for the exemption are as follows:

The Legislature finds that information recorded by these devices in these circumstances is significantly more likely to include highly sensitive personal information regarding the persons recorded than in other circumstances. The Legislature finds that public disclosure of these recordings could have an undesirable, chilling effect: persons who know sensitive personal information about them is being or may be recorded may be unwilling to cooperate with law enforcement officers and make calls for the services of law enforcement officers. In the case of minors, information about those minors could

²⁴ FLA. CONST., art. I, s. 24(c).

²⁵ Section 119.15, F.S.

²⁶ Section 119.15(3), F.S.

²⁷ Section 119.15(5)(b), F.S.

jeopardize their safety. The Legislature finds that these interests or concerns not only necessitate the exemption of the recordings but outweigh any public benefit that may be derived from their disclosure.

The bill also authorizes the law enforcement agency having custody over the recording to disclose the recording to another law enforcement agency in furtherance of that agency's official duties and responsibilities.

The bill also specifies that the following persons may inspect the recording:

- A person recorded or depicted in the recording;
- The agent or attorney of a person recorded or depicted in the recording, if inspection is authorized by that person; and
- A person not recorded or depicted in the recording, if inspection is authorized by all persons recorded or depicted in the recording.²⁸

The described inspection of the recording does not apply to information in the recording that is exempt or confidential and exempt pursuant to another provision of s. 119.071, F.S.

The bill also conforms cross-references in other statutes.

The bill takes effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, Section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

²⁸ Other exemptions provide for limited disclosure of exempted information to specific persons. For example, s. 119.071(2)(d), F.S., exempts any comprehensive inventory of state and local law enforcement resources compiled pursuant to part 1, ch. 293, F.S., and any comprehensive policies or plans compiled by a criminal justice agency pertaining to the mobilization, deployment, or tactical operations involved in responding to an emergency. This information is unavailable for inspection except by personnel authorized by the state or local law enforcement agency, the Office of the Governor, the Department of Legal Affairs, the Department of Law Enforcement, or the Division of Emergency Management as having an official need for access to this information. Further, s. 119.071(3)(b), F.S., exempts building plans, blueprints, schematic drawings, and diagrams, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency. This information may be disclosed to another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities; to a licensed architect, engineer, or contractor who is performing work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by an agency; or upon a showing of good cause before a court of competent jurisdiction.

Public Necessity Statement

Article I, Section 24(c) of the Florida Constitution requires a public necessity statement for a newly created public record exemption. The bill creates a public record exemption; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, Section 24(c) of the Florida Constitution requires a newly created public record exemption to be no broader than necessary to accomplish the stated purpose of the law.

The bill does not exempt all audio or video recordings made by law enforcement officers. The bill exempts an audio or video recording by a law enforcement officer, if the recording:

- Is taken within the interior of a private residence;
- Is taken on the property of a facility that offers health care, mental health care, or social services;
- Is taken at the scene of a medical emergency;
- Is taken at a place where there is a reasonable expectation of privacy;
- Shows a child younger than 18 years of age inside a school or on school property; or
- Shows a child younger than 14 years of age at any location.

The bill authorizes the law enforcement agency having custody over the recording to disclose the recording to another law enforcement agency in furtherance of that agency's official duties and responsibilities and specifies persons who may inspect the recording.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill, in part, exempts from public disclosure an audio or video recording made by a law enforcement officer at a place where a person recorded or depicted in the recording has a *reasonable expectation of privacy*.²⁹

Article I, Section 23 of the Florida Constitution provides: "Every natural person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein. This section shall not be construed to limit the public's right of access to public records and meetings as provide by law."

²⁹ Emphasis provided. The term is undefined in the bill but the term is also undefined in several statutes: s. 90.507, F.S. (waiver of privilege against disclosure of confidential matter or communication); s. 365.16, F.S. (obscene or harassing telephone calls); s. 810.14, F.S. (voyeurism); and s. 877.26, F.S. (direct observation, videotaping, or visual surveillance of customers in merchant's dressing room). As indicated in the analysis, the Florida Supreme Court has articulated how it determines whether an individual has a legitimate expectation of privacy for purposes of determining whether the individual has a right to privacy under Article I, Section 23 of the Florida Constitution.

In *Berkley v. Eisen*,³⁰ the Florida Fourth District Court of Appeal stated that the Florida Supreme Court “expressly recognized that ‘the law in the state of Florida recognizes an individual’s legitimate expectation of privacy in financial institution records.’”³¹ The appellate court noted that “[a]lthough article 1, section 23 states that the right of privacy ‘shall not be construed to limit the public’s right of access to public records,’” there was a public records exemption that covered the financial institutional information that the respondents in that case were seeking to discover. “Thus, the legislature has recognized the confidential nature of the exact type of information at issue here.”³²

The Florida Supreme Court has opined that “[b]efore the right of privacy³³ attaches ‘a reasonable expectation of privacy must exist.’ *Winfield*, 477 So.2d at 547. Determining ‘whether an *individual* has a legitimate expectation of privacy in any give case must be made by considering all the circumstances, especially objective manifestations of that expectation’ *Shaktman v. State*, 533 So.2d 148, 153 (Fla.1989) (Ehrlich, C.J., concurring, emphasis added).”³⁴

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. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 92.56; 119.011; 119.071; 119.0714; 784.046; 794.024; and 794.03.

³⁰ 699 So.2d 789 (Fla. 4th DCA 1997).

³¹ *Id.* at 790, citing and quoting *Winfield v. Division of Pari-Mutuel Wagering, Dep’t of Bus. Regulation*, 477 So.2d 544, 547 (Fla.1985).

³² *Id.* at 791.

³³ The Court is referring to the “right of privacy” under Article I, Section 23 of the Florida Constitution.

³⁴ *Stall v. State*, 570 So.2d 257, 260 (Fla.1990).

IX. Additional Information:

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

PCS (268366) by Criminal Justice:

- Creates a public records exemption for an audio or video recording made by a law enforcement officer in the course of the officer performing his or her official duties or responsibilities, if the recording is taken within certain locations, shows a minor inside a school or on school property, or shows a child younger than 14 years of age at any location.
- Specifies how the exemption operates in relation to other exemptions that may apply.
- Provides for future legislative review and repeal of the exemption under the Open Government Sunset Review Act.
- Authorizes the law enforcement agency with custody over the recording to disclose the recording to another law enforcement agency in furtherance of that agency's official duties and responsibilities.
- Specifies persons who may inspect the recording.
- Provides a statement of public necessity for the exemption.

- B. **Amendments:**

None.



954072

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 74 and 75
insert:

6. A law enforcement agency under this paragraph must have a retention policy of not longer than 90 days for audio or video recordings unless the audio or video recording is part of an active criminal investigation or criminal intelligence operation or a court orders its retention for a longer period. A law enforcement agency must disclose its records retention policy



954072

11 for audio or video recordings under this paragraph.

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

13 And the title is amended as follows:

14 Delete line 19

15 and insert:

16 inspect the recording; requiring a law enforcement
17 agency to have a retention policy for audio or video
18 recordings of not longer than 90 days; providing an
19 exception; requiring a law enforcement agency to
20 disclose its records retention policy for audio or
21 video recordings; amending ss. 92.56, 119.011,



268366

CJ.CJ.01572

Proposed Committee Substitute by the Committee on Criminal
Justice

A bill to be entitled

An act relating to public records; amending s.
119.071, F.S.; providing an exemption from public
record requirements for an audio or video recording
made by a law enforcement officer in the course of the
officer performing his or her official duties and
responsibilities, if the recording is taken within
certain locations, shows a minor inside a school or on
school property, or shows a child younger than 14
years of age at any location; specifying how the
exemption operates in relation to other exemptions
that may apply to the recording; providing for future
legislative review and repeal of the exemption under
the Open Government Sunset Review Act; authorizing the
law enforcement agency with custody over the recording
to disclose the recording to another law enforcement
agency in furtherance of that agency's official duties
and responsibilities; specifying persons who may
inspect the recording; amending ss. 92.56, 119.011,
119.0714, 784.046, 794.024, and 794.03, F.S.;
conforming cross-references; providing a statement of
public necessity; providing an effective date.

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

Section 1. Paragraphs (g), (h), (i), (j), and (k) of
subsection (2) of section 119.071, Florida Statutes, are



268366

CJ.CJ.01572

28 redesignated as paragraphs (h), (i), (j), (k), and (l),
29 respectively, and paragraph (g) is added to that subsection, to
30 read:

31 119.071 General exemptions from inspection or copying of
32 public records.—

33 (2) AGENCY INVESTIGATIONS.—

34 (g)1. An audio or video recording made by a law enforcement
35 officer in the course of the officer performing his or her
36 official duties and responsibilities is exempt from 119.07(1)
37 and s. 24(a), Art. 1 of the State Constitution, if the
38 recording:

39 a. Is taken within the interior of a private residence;

40 b. Is taken on the property of a facility that offers
41 health care, mental health care, or social services;

42 c. Is taken at the scene of a medical emergency;

43 d. Is taken in a place where a person recorded or depicted
44 in the recording has a reasonable expectation of privacy; or
45 e. Shows a child younger than 18 years of age inside a
46 school, as defined in s. 1003.01, or on school property, as
47 defined in s. 810.095, or shows a child younger than 14 years of
48 age at any location.

49 2. If the audio or video recording or a portion of such
50 recording is exempt or confidential and exempt pursuant to
51 another exemption in this section, that exemption applies and
52 determines under which circumstances, if any, the recording or a
53 portion of the recording may be disclosed to the public.

54 3. This paragraph is subject to the Open Government Sunset
55 Review Act in accordance with s. 119.15 and shall stand repealed
56 on October 2, 2020, unless reviewed and saved from repeal



268366

CJ.CJ.01572

57 through reenactment by the Legislature.

58 4. The law enforcement agency having custody of an audio or
59 video recording described in subparagraph 1. may disclose the
60 recording to another law enforcement agency in furtherance of
61 that agency's official duties and responsibilities.

62 5.a. In accordance with s. 119.07, the following persons
63 may inspect an audio or video recording described in
64 subparagraph 1.:

65 (I.) A person recorded or depicted in the recording.

66 (II.) The agent or attorney of a person recorded or
67 depicted in the recording, if inspection is authorized by that
68 person.

69 (III.) A person not recorded or depicted in the recording,
70 if inspection is authorized by all persons recorded or depicted
71 in the recording.

72 b. This subparagraph does not apply to information in the
73 recording that is exempt or confidential and exempt pursuant to
74 another provision of this section.

75 Section 2. Paragraph (a) of subsection (1) of section
76 92.56, Florida Statutes, is amended to read:

77 92.56 Judicial proceedings and court records involving
78 sexual offenses and human trafficking.—

79 (1) (a) The confidential and exempt status of criminal
80 intelligence information or criminal investigative information
81 made confidential and exempt pursuant to s. 119.071(2)(i) ~~s.~~
82 ~~119.071(2)(h)~~ must be maintained in court records pursuant to s.
83 119.0714(1)(h) and in court proceedings, including testimony
84 from witnesses.

85 Section 3. Paragraph (c) of subsection (3) of section



268366

CJ.CJ.01572

86 119.011, Florida Statutes, is amended to read:

87 119.011 Definitions.—As used in this chapter, the term:
88 (3)

89 (c) "Criminal intelligence information" and "criminal
90 investigative information" shall not include:

91 1. The time, date, location, and nature of a reported
92 crime.

93 2. The name, sex, age, and address of a person arrested or
94 of the victim of a crime except as provided in s. 119.071(2)(i)
95 ~~s. 119.071(2)(h)~~.

96 3. The time, date, and location of the incident and of the
97 arrest.

98 4. The crime charged.

99 5. Documents given or required by law or agency rule to be
100 given to the person arrested, except as provided in s.
101 119.071(2)(i) ~~s. 119.071(2)(h)~~, and, except that the court in a
102 criminal case may order that certain information required by law
103 or agency rule to be given to the person arrested be maintained
104 in a confidential manner and exempt from the provisions of s.
105 119.07(1) until released at trial if it is found that the
106 release of such information would:

107 a. Be defamatory to the good name of a victim or witness or
108 would jeopardize the safety of such victim or witness; and

109 b. Impair the ability of a state attorney to locate or
110 prosecute a codefendant.

111 6. Informations and indictments except as provided in s.
112 905.26.

113 Section 4. Paragraph (h) of subsection (1) of section
114 119.0714, Florida Statutes, is amended to read:



CJ.CJ.01572

115 119.0714 Court files; court records; official records.-
116 (1) COURT FILES.-Nothing in this chapter shall be construed
117 to exempt from s. 119.07(1) a public record that was made a part
118 of a court file and that is not specifically closed by order of
119 court, except:

120 (h) Criminal intelligence information or criminal
121 investigative information that is confidential and exempt as
122 provided in s. 119.071(2)(i) ~~s. 119.071(2)(h)~~.

123 Section 5. Paragraph (b) of subsection (4) of section
124 784.046, Florida Statutes, is amended to read:

125 784.046 Action by victim of repeat violence, sexual
126 violence, or dating violence for protective injunction; dating
127 violence investigations, notice to victims, and reporting;
128 pretrial release violations; public records exemption.-

129 (4)

130 (b) The sworn petition must be in substantially the
131 following form:

132
133 PETITION FOR INJUNCTION FOR PROTECTION
134 AGAINST REPEAT VIOLENCE, SEXUAL
135 VIOLENCE, OR DATING VIOLENCE
136

137 Before me, the undersigned authority, personally appeared
138 Petitioner ...(Name)..., who has been sworn and says that the
139 following statements are true:

140
141 1. Petitioner resides at ...(address)... (A petitioner for
142 an injunction for protection against sexual violence may furnish
143 an address to the court in a separate confidential filing if,



CJ.CJ.01572

144 for safety reasons, the petitioner requires the location of his
145 or her current residence to be confidential pursuant to s.
146 119.071(2)(k) ~~s. 119.071(2)(j)~~, Florida Statutes.)

147 2. Respondent resides at ...(address)....

148 3.a. Petitioner has suffered repeat violence as
149 demonstrated by the fact that the respondent has:
150 ...(enumerate incidents of violence)...

151
152
153
154
155

156 b. Petitioner has suffered sexual violence as demonstrated
157 by the fact that the respondent has: ...(enumerate incident of
158 violence and include incident report number from law enforcement
159 agency or attach notice of inmate release.)...

160
161
162
163
164

165 c. Petitioner is a victim of dating violence and has
166 reasonable cause to believe that he or she is in imminent danger
167 of becoming the victim of another act of dating violence or has
168 reasonable cause to believe that he or she is in imminent danger
169 of becoming a victim of dating violence, as demonstrated by the
170 fact that the respondent has: ...(list the specific incident or
171 incidents of violence and describe the length of time of the
172 relationship, whether it has been in existence during the last 6



CJ.CJ.01572

173 months, the nature of the relationship of a romantic or intimate
174 nature, the frequency and type of interaction, and any other
175 facts that characterize the relationship.)...

176
177
178
179

181 4. Petitioner genuinely fears repeat violence by the
182 respondent.

183 5. Petitioner seeks: an immediate injunction against the
184 respondent, enjoining him or her from committing any further
185 acts of violence; an injunction enjoining the respondent from
186 committing any further acts of violence; and an injunction
187 providing any terms the court deems necessary for the protection
188 of the petitioner and the petitioner's immediate family,
189 including any injunctions or directives to law enforcement
190 agencies.

191 Section 6. Subsection (1) of section 794.024, Florida
192 Statutes, is amended to read:

193 794.024 Unlawful to disclose identifying information.—

194 (1) A public employee or officer who has access to the
195 photograph, name, or address of a person who is alleged to be
196 the victim of an offense described in this chapter, chapter 800,
197 s. 827.03, s. 827.04, or s. 827.071 may not willfully and
198 knowingly disclose it to a person who is not assisting in the
199 investigation or prosecution of the alleged offense or to any
200 person other than the defendant, the defendant's attorney, a
201 person specified in an order entered by the court having



CJ.CJ.01572

202 jurisdiction of the alleged offense, or organizations authorized
203 to receive such information made exempt by s. 119.071(2)(i) ~~s.~~
204 ~~119.071(2)(h)~~, or to a rape crisis center or sexual assault
205 counselor, as defined in s. 90.5035(1)(b), who will be offering
206 services to the victim.

207 Section 7. Section 794.03, Florida Statutes, is amended to
208 read:

209 794.03 Unlawful to publish or broadcast information
210 identifying sexual offense victim.—No person shall print,
211 publish, or broadcast, or cause or allow to be printed,
212 published, or broadcast, in any instrument of mass communication
213 the name, address, or other identifying fact or information of
214 the victim of any sexual offense within this chapter, except as
215 provided in s. 119.071(2)(i) ~~s. 119.071(2)(h)~~ or unless the
216 court determines that such information is no longer confidential
217 and exempt pursuant to s. 92.56. An offense under this section
218 shall constitute a misdemeanor of the second degree, punishable
219 as provided in s. 775.082 or s. 775.083.

220 Section 8. The Legislature finds that it is a public
221 necessity that an audio or video recording made by a law
222 enforcement officer in the course of the officer performing his
223 or her official duties and responsibilities be made exempt from
224 the public records requirements of s. 119.07(1) and s. 24(a),
225 Article I of the State Constitution, if the recording: is taken
226 within the interior of a private residence; is taken on the
227 property of a facility that offers health care, mental health
228 care, or social services; is taken at the scene of a medical
229 emergency; is taken at a place where a person recorded or
230 depicted in the recording has a reasonable expectation of



268366

CJ.CJ.01572

231 privacy; or shows a child younger than 18 years of age inside a
232 school or on school property or a child younger than 14 years of
233 age at any location. The Legislature finds that information
234 recorded by these devices in these circumstances is
235 significantly more likely to include highly sensitive personal
236 information regarding the persons recorded than in other
237 circumstances. The Legislature finds that public disclosure of
238 these recordings could have an undesirable, chilling effect:
239 persons who know sensitive personal information about them is
240 being or may be recorded may be unwilling to cooperate with law
241 enforcement officers and make calls for the services of law
242 enforcement officers. In the case of minors, information about
243 those minors could jeopardize their safety. The Legislature
244 finds that these interests or concerns not only necessitate the
245 exemption of the recordings but outweigh any public benefit that
246 may be derived from their disclosure.

247 Section 9. This act shall take effect July 1, 2015.

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 248

INTRODUCER: Criminal Justice Committee and Senator Smith and others

SUBJECT: Public Records/Recordings by Law Enforcement Officers

DATE: February 17, 2015 **REVISED:** _____

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

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

I. Summary:

CS/SB 248 creates a public records exemption for an audio or video recording made by a law enforcement officer in the course of the officer performing his or her official duties and responsibilities, if the recording:

- Is taken within the interior of a private residence;
- Is taken on the property of a facility that offers health care, mental health care, or social services;
- Is taken at the scene of a medical emergency;
- Is taken at a place where a person recorded or depicted in the recording has a reasonable expectation of privacy;
- Shows a child younger than 18 years of age inside a school or on school property; or
- Shows a child younger than 14 years of age at any location.

If the audio or video recording or a portion of such recording is exempt or confidential and exempt pursuant to another exemption in s. 119.071, F.S., that exemption applies and determines under which circumstances, if any, the recording or a portion of the recording may be disclosed to the public.

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature. The bill also provides a statement of public necessity for the exemption.

The bill authorizes the law enforcement agency having custody over the recording to disclose the recording to another law enforcement agency in furtherance of that agency's official duties and responsibilities and specifies persons who may inspect the recording.

Applicable to the new exemption, a law enforcement agency must have a retention policy of not longer than 90 days for the audio or video recordings unless the recording is part of an active criminal investigation or criminal intelligence operation or a court orders its retention for a longer period. A law enforcement agency must disclose its records retention policy for recordings under the new exemption.

This bill creates a new public record exemption; therefore, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

II. Present Situation:

Body-Worn Cameras and Public Records

Body-Worn Cameras (BWCs) or "body cameras" are currently being used or considered for use by many law enforcement agencies.¹ "BWCs are mobile audio and video capture devices that allow officers to record what they see and hear. Devices can be attached to various body areas, including the head, by helmet, glasses or other means, or to the body by pocket, badge, or other means of attachment (such as in-car on the dash). They have the capability to record officer interactions that previously could only be captured by in-car interrogation room camera systems."²

The Florida Police Chiefs Association staff is aware of 13 Florida police departments that currently use BWCs³ and 9 Florida police departments that have implemented pilot programs to test the use of BWCs.⁴ The media have reported that the Flagler County Sheriff's Office is using BWC⁵ and the Pasco County Sheriff has indicated an intent to purchase BWCs.⁶ Other Florida sheriffs' offices may be considering whether to use BWCs.

¹ The bill uses the language "audio or video recording by a law enforcement officer" in the new exemption. The staff analysis focuses on BWCs because it appears that BWCs are the most recent recording devices being used by law enforcement agencies and some of the BWC recordings would be covered by the new exemption. However, an audio or video recording made by another recording device, such as a hand-held video camera or cellphone, should also be covered by the new exemption.

² Sensor, Surveillance, and Biometric Technologies Center of Excellence. September 2012. *A Primer on Body-Worn Cameras for Law Enforcement*. National Institute of Justice. The quoted text is from page 5 of the report, which is available at <https://www.justnet.org/pdf/00-Body-Worn-Cameras-508.pdf>.

³ Police departments: Eustis; City of Miami; Cocoa; Daytona Beach Shores; Florida State University (motorcycle officers); Gulfport; Palm Bay (SWAT Officers); Pensacola; West Melbourne; Windermere; Miami Beach; and Rockledge.

⁴ Police departments: Clearwater; Ft. Myers; Marianna; Orlando (University of South Florida study); Plant City; Sarasota; St. Petersburg; Tampa; and West Palm Beach.

⁵ Metz, Claire. "Flagler County deputies fitted with new body cameras. WESH.com (Orlando). August 28, 2014. The news broadcast video is available at <http://www.wesh.com/flagler-county-deputies-fitted-with-new-body-cameras/27779830>.

⁶ Behrman, Elizabeth. "Local law enforcement split on body cameras." *The Tampa Tribune*. December 14, 2014. The article is available at <http://tbo.com/news/crime/-20141226/>.

On December 1, 2014, the White House announced that President Barack Obama was proposing “a three-year \$263 million investment package that will increase use of body-worn cameras, expand training for law enforcement agencies (LEAs), add more resources for police department reform, and multiply the number of cities where DOJ facilitates community and local LEA engagement. As part of this initiative, a new Body Worn Camera Partnership Program would provide a 50 percent match to States/localities who purchase body worn cameras and requisite storage. Overall, the proposed \$75 million investment over three years could help purchase 50,000 body worn cameras.”⁷

In a recently released report on BWCs it was noted:

State public disclosure laws, often known as freedom of information laws, govern when footage from body-worn cameras is subject to public release. However, most of these laws were written long before law enforcement agencies began deploying body-worn cameras, so the laws do not necessarily account for all of the considerations that must be made when police departments undertake a body-worn camera program.

Although broad disclosure policies can promote police agency transparency and accountability, some videos—especially recordings of victims or from inside people’s homes—will raise privacy concerns if they are released to the public or the news media. When determining how to approach public disclosure issues, law enforcement agencies must balance the legitimate interest of openness with protecting privacy rights.

In most state public disclosure laws, exceptions are outlined that may exempt body-worn camera footage from public release. For example, even the broadest disclosure laws typically contain an exception for video that contains evidence or is part of an ongoing investigation. Some state disclosure laws, such as those in North Carolina, also exempt personnel records from public release. Body-worn camera videos used to monitor officer performance may fall under this type of exception.⁸

Depending upon the content recorded by a BWC, the recording or particular information in the recording may be subject to a public records exemption in current Florida law. If not subject to an exemption, the recording would be a public record. Some of the current public records exemptions that may be relevant to a BWC recording include:

- Active criminal intelligence information and active criminal investigative information (exempt);⁹
- Information revealing surveillance techniques or procedures or personnel (exempt);¹⁰

⁷ “FACT SHEET: Strengthening Community Policing,” Office of the Press Secretary, The White House. December 1, 2014. The document is available at <http://www.whitehouse.gov/the-press-office/2014/12/01/fact-sheet-strengthening-community-policing>.

⁸ Miller, Lindsay, Jessica Toliver, and Police Executive Research Forum. 2014. *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned*. Washington, DC: Office of Community Oriented Policing Services. The quoted text is from page 17 (footnote omitted) of the report, which is available at <http://www.justice.gov/iso/opa/resources/472014912134715246869.pdf>.

⁹ Section 119.071(2)(a), F.S.

¹⁰ Section 119.071(2)(d), F.S.

- Information revealing the substance of a confession of a person arrested (exempt);¹¹
- Information revealing the identity of a confidential informant or a confidential source (exempt);¹²
- Criminal intelligence information or criminal investigative information that reveals the identity of the victim of the crime of child abuse or any sexual offense or a videotape or image of any part of the body of the victim of a statutorily-specified sexual offense (confidential and exempt);¹³
- Any information in a videotaped statement of a minor who is alleged to be or who is a victim of a statutorily-specified sexual offense, which reveals that minor's identity, home, school, etc. (confidential and exempt);¹⁴ or
- Information revealing undercover personnel of any criminal justice agency (exempt).¹⁵

Public Records Laws

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.¹⁶ The records of the legislative, executive, and judicial branches are specifically included.¹⁷

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act¹⁸ guarantees every person's right to inspect and copy any state or local government public record¹⁹ at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.²⁰

Only the Legislature may create an exemption to public records requirements.²¹ This exemption must be created by general law and must specifically state the public necessity justifying the

¹¹ Section 119.071(2)(e), F.S.

¹² Section 119.071(2)(f), F.S.

¹³ Section 119.071(2)(h), F.S.

¹⁴ Section 119.071(2)(j)2.a, F.S.

¹⁵ Section 119.071(4)(c), F.S.

¹⁶ FLA. CONST., art. I, s. 24(a).

¹⁷ *Id.*

¹⁸ Chapter 119, F.S.

¹⁹ Section 119.011(12), F.S., defines "public records" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records *Locke v. Hawkes*, 595 So.2d 32 (Fla.1992).

²⁰ Section 119.07(1)(a), F.S.

²¹ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates exempt from public records requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), *review denied* 892 So.2d 1015 (Fla.2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991)). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to

exemption.²² Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions²³ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.²⁴

The Open Government Sunset Review Act²⁵ requires a newly created or expanded public records exemption to be repealed on October 2 of the fifth year after enactment, unless reviewed and reenacted by the Legislature.²⁶ It further provides that a public records exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet the public purpose it serves.²⁷

III. Effect of Proposed Changes:

The bill creates a public records exemption for an audio or video recording made by a law enforcement officer in the course of the officer performing his or her official duties and responsibilities, if the recording:

- Is taken within the interior of a private residence;
- Is taken on the property of a facility that offers health care, mental health care, or social services;
- Is taken at the scene of a medical emergency;
- Is taken at a place where a person recorded or depicted in the recording has a reasonable expectation of privacy;
- Shows a child younger than 18 years of age inside a school, as defined in s. 1003.01, F.S., or on school property, as defined in s. 810.095, F.S.; or
- Shows a child younger than 14 years of age at any location.

If the audio or video recording or a portion of such recording is exempt or confidential and exempt pursuant to another exemption in s. 119.071, F.S., that exemption applies and determines under which circumstances, if any, the recording or a portion of the recording may be disclosed to the public.

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill also provides a statement of public necessity for the exemption. The specific findings relevant to the public necessity for the exemption are as follows:

The Legislature finds that information recorded by these devices in these circumstances is significantly more likely to include highly sensitive personal information regarding the

anyone other than the persons or entities specifically designated in the statutory exemption. Attorney General Opinion 85-62, (August 1, 1985).

²² FLA. CONST., art. I, s. 24(c).

²³ However, the bill may contain multiple exemptions that relate to one subject.

²⁴ FLA. CONST., art. I, s. 24(c).

²⁵ Section 119.15, F.S.

²⁶ Section 119.15(3), F.S.

²⁷ Section 119.15(5)(b), F.S.

persons recorded than in other circumstances. The Legislature finds that public disclosure of these recordings could have an undesirable, chilling effect: persons who know sensitive personal information about them is being or may be recorded may be unwilling to cooperate with law enforcement officers and make calls for the services of law enforcement officers. In the case of minors, information about those minors could jeopardize their safety. The Legislature finds that these interests or concerns not only necessitate the exemption of the recordings but outweigh any public benefit that may be derived from their disclosure.

The bill also authorizes the law enforcement agency having custody over the recording to disclose the recording to another law enforcement agency in furtherance of that agency's official duties and responsibilities.

The bill also specifies that the following persons may inspect the recording:

- A person recorded or depicted in the recording;
- The agent or attorney of a person recorded or depicted in the recording, if inspection is authorized by that person; and
- A person not recorded or depicted in the recording, if inspection is authorized by all persons recorded or depicted in the recording.²⁸

The described inspection of the recording does not apply to information in the recording that is exempt or confidential and exempt pursuant to another provision of s. 119.071, F.S.

Applicable to the new exemption, a law enforcement agency must have a retention policy of not longer than 90 days for the audio or video recordings unless the recording is part of an active criminal investigation or criminal intelligence operation or a court orders its retention for a longer period. A law enforcement agency must disclose its records retention policy for recordings under the new exemption.

The bill also conforms cross-references in other statutes.

The bill takes effect July 1, 2015.

²⁸ Other exemptions provide for limited disclosure of exempted information to specific persons. For example, s. 119.071(2)(d), F.S., exempts any comprehensive inventory of state and local law enforcement resources compiled pursuant to part 1, ch. 293, F.S., and any comprehensive policies or plans compiled by a criminal justice agency pertaining to the mobilization, deployment, or tactical operations involved in responding to an emergency. This information is unavailable for inspection except by personnel authorized by the state or local law enforcement agency, the Office of the Governor, the Department of Legal Affairs, the Department of Law Enforcement, or the Division of Emergency Management as having an official need for access to this information. Further, s. 119.071(3)(b), F.S., exempts building plans, blueprints, schematic drawings, and diagrams, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency. This information may be disclosed to another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities; to a licensed architect, engineer, or contractor who is performing work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by an agency; or upon a showing of good cause before a court of competent jurisdiction.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:**Vote Requirement**

Article I, Section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, Section 24(c) of the Florida Constitution requires a public necessity statement for a newly created public record exemption. The bill creates a public record exemption; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, Section 24(c) of the Florida Constitution requires a newly created public record exemption to be no broader than necessary to accomplish the stated purpose of the law.

The bill does not exempt all audio or video recordings made by law enforcement officers. The bill exempts an audio or video recording by a law enforcement officer, if the recording:

- Is taken within the interior of a private residence;
- Is taken on the property of a facility that offers health care, mental health care, or social services;
- Is taken at the scene of a medical emergency;
- Is taken at a place where there is a reasonable expectation of privacy;
- Shows a child younger than 18 years of age inside a school or on school property; or
- Shows a child younger than 14 years of age at any location.

The bill authorizes the law enforcement agency having custody over the recording to disclose the recording to another law enforcement agency in furtherance of that agency's official duties and responsibilities and specifies persons who may inspect the recording.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill, in part, exempts from public disclosure an audio or video recording made by a law enforcement officer at a place where a person recorded or depicted in the recording has a *reasonable expectation of privacy*.²⁹

Article I, Section 23 of the Florida Constitution provides: “Every natural person has the right to be let alone and free from governmental intrusion into the person’s private life except as otherwise provided herein. This section shall not be construed to limit the public’s right of access to public records and meetings as provide by law.”

In *Berkley v. Eisen*,³⁰ the Florida Fourth District Court of Appeal stated that the Florida Supreme Court “expressly recognized that ‘the law in the state of Florida recognizes an individual’s legitimate expectation of privacy in financial institution records.’”³¹ The appellate court noted that “[a]lthough article 1, section 23 states that the right of privacy ‘shall not be construed to limit the public’s right of access to public records,’” there was a public records exemption that covered the financial institutional information that the respondents in that case were seeking to discover. “Thus, the legislature has recognized the confidential nature of the exact type of information at issue here.”³²

The Florida Supreme Court has opined that “[b]efore the right of privacy³³ attaches ‘a reasonable expectation of privacy must exist.’ *Winfield*, 477 So.2d at 547. Determining ‘whether an *individual* has a legitimate expectation of privacy in any give case must be made by considering all the circumstances, especially objective manifestations of that expectation’ *Shaktman v. State*, 533 So.2d 148, 153 (Fla.1989) (Ehrlich, C.J., concurring, emphasis added).”³⁴

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

None.

B. Private Sector Impact:

None.

²⁹ Emphasis provided. The term is undefined in the bill but the term is also undefined in several statutes: s. 90.507, F.S. (waiver of privilege against disclosure of confidential matter or communication); s. 365.16, F.S. (obscene or harassing telephone calls); s. 810.14, F.S. (voyeurism); and s. 877.26, F.S. (direct observation, videotaping, or visual surveillance of customers in merchant’s dressing room). As indicated in the analysis, the Florida Supreme Court has articulated how it determines whether an individual has a legitimate expectation of privacy for purposes of determining whether the individual has a right to privacy under Article I, Section 23 of the Florida Constitution.

³⁰ 699 So.2d 789 (Fla. 4th DCA 1997).

³¹ *Id.* at 790, citing and quoting *Winfield v. Division of Pari-Mutuel Wagering, Dep’t of Bus. Regulation*, 477 So.2d 544, 547 (Fla.1985).

³² *Id.* at 791.

³³ The Court is referring to the “right of privacy” under Article I, Section 23 of the Florida Constitution.

³⁴ *Stall v. State*, 570 So.2d 257, 260 (Fla.1990).

C. **Government Sector Impact:**

None.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

The bill substantially amends the following sections of the Florida Statutes: 92.56; 119.011; 119.071; 119.0714; 784.046; 794.024; and 794.03.

IX. **Additional Information:**

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

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

CS by Criminal Justice on February 16, 2015:

- Creates a public records exemption for an audio or video recording made by a law enforcement officer in the course of the officer performing his or her official duties or responsibilities, if the recording is taken within certain locations, shows a minor inside a school or on school property, or shows a child younger than 14 years of age at any location.
- Specifies how the exemption operates in relation to other exemptions that may apply.
- Provides for future legislative review and repeal of the exemption under the Open Government Sunset Review Act.
- Authorizes the law enforcement agency with custody over the recording to disclose the recording to another law enforcement agency in furtherance of that agency's official duties and responsibilities.
- Specifies persons who may inspect the recording.
- Requires a law enforcement agency to have a retention policy of not longer than 90 days for the audio or video recordings unless the recording is part of an active criminal investigation or criminal intelligence operation or a court orders its retention for a longer period.
- Requires a law enforcement agency to disclose its records retention policy for recordings under the new exemption.
- Provides a statement of public necessity for the exemption.

B. **Amendments:**

None.

By Senator Smith

31-00342-15

2015248__

1 A bill to be entitled
 2 An act relating to the recording of law enforcement
 3 activities; providing a short title; creating s.
 4 943.1718, F.S.; providing a definition; requiring
 5 uniformed officers assigned primarily to patrol duties
 6 to be equipped with body cameras; requiring the use of
 7 such cameras during specified activities; exempting
 8 the recordings of such activities from specified
 9 provisions relating to the interception of wire,
 10 electronic, and oral communications; providing an
 11 effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. This act may be cited as the "Police and Citizen
 16 Protection Act."

17 Section 2. Section 943.1718, Florida Statutes, is created
 18 to read:

19 943.1718 Use of body cameras; recordings.-

20 (1) As used in this section, the term "body camera" means a
 21 device that is worn by a law enforcement officer which
 22 electronically records audio and video of his or her activities.

23 (2) Every uniformed law enforcement officer in this state
 24 who is primarily assigned to patrol duties shall be equipped
 25 with a body camera while performing such duties. The camera
 26 shall be used by the officer to record activities that take
 27 place during motor vehicle stops or other law enforcement
 28 actions taken during the course of his or her official duties.

29 (3) Chapter 934 does not apply to recordings made pursuant

Page 1 of 2

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

31-00342-15

2015248__

30 to this section.

31 Section 3. This act shall take effect January 1, 2016.

Page 2 of 2

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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)

2/16/15
Meeting Date

Waive
248
Bill Number (if applicable)
954072
Amendment Barcode (if applicable)

Topic Body Cameras

Name Natalie Kato

Job Title _____

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Human Rights Watch

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

2-16-15

Meeting Date

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

248-ACS

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name JESS MCCARTY

Job Title _____

Address 111 NW 1ST ST. 2810

Phone 305-979-7110

Street

MIAMI 33128

Email JMM2@MIAMIDADE

City

State

Zip

GOV

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing MIAMI-DADE COUNTY

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)

2/16/15

Meeting Date

SB 248

Bill Number (if applicable)

PCS

Amendment Barcode (if applicable)

Topic BODY CAMERAS

Name MICHELLE RICHARDSON

Job Title POLICY DIRECTOR, ACLU of FLORIDA

Address 4500 BISCAYNE BLVD # 340

Phone 786-363-2700

Street

MIAMI

City

FL

State

33137

Zip

Email mrichardson@aclufl.org

Speaking: For [] Against [x] Information []

Waive Speaking: In Support [] Against [] (The Chair will read this information into the record.)

Representing ACLU of FLORIDA

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

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

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

February 16, 2015

248

Meeting Date

Bill Number (if applicable)

Topic Body Cameras

Amendment Barcode (if applicable)

Name Honorable Stacy Scott

Job Title Public Defender, 8th Judicial Circuit

Address 35 North Main Street

Phone 352.338.7370

Street

Gainesville

Florida

32601

Email scotts@pdo8.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Public Defender Association, 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.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/15
Meeting Date

SB 248
Bill Number (if applicable)

Topic POLICE BODY CAMERAS

Amendment Barcode (if applicable)

Name GARY BRADFORD

Job Title LEGISLATIVE AFFAIRS

Address 300 E Broadway St
Street

Phone 800-733-3722

Tallahassee FL 34639
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA PBA

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 Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: January 22, 2015

I respectfully request that **Senate Bill #248**, relating to Recording of Law Enforcement Activities, be placed on the:

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

A handwritten signature in black ink, appearing to read "C. Smith", written over a horizontal line.

Senator Christopher L. Smith
Florida Senate, District 31

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 290

INTRODUCER: Criminal Justice Committee and Senator Brandes and others

SUBJECT: Carrying a Concealed Weapon or a Concealed Firearm

DATE: February 17, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

PLEASE MAKE SELECTION

I. Summary:

CS/SB 290 creates an exception to s. 790.01, F.S. Section 790.01, F.S., is the statute that prohibits carrying concealed weapons or firearms unless a person is licensed to do so or if the weapon is a self-defense chemical spray or nonlethal stun gun or similar device designed for defensive purposes.

The exception provided in the bill allows a person to carry a concealed weapon, or firearm if he or she may otherwise lawfully possess a firearm, while in the act of complying with a mandatory evacuation order issued during a state of emergency declared by the Governor pursuant to ch. 252, F.S., or declared by a local authority pursuant to ch. 870, F.S., regardless of licensure status.

The bill provides a definition for “in the act of evacuating.” It also sets forth a 48 hour period within which the exception to s. 790.01, F.S., is applicable, which may be extended by executive order.

II. Present Situation:

Under current Florida law, it is lawful for a person to carry a concealed weapon without a concealed weapon license for purposes of lawful self-defense, so long as the weapon is limited to

self-defense chemical spray, a nonlethal stun gun, a dart-firing stun gun, or other nonlethal electric weapon or device that is designed solely for defensive purposes.¹

Without licensure, carrying a different type of concealed weapon,² electric weapon, or device other than one designed solely for defensive purposes is a first degree misdemeanor.³ Carrying a concealed firearm without proper licensure is a third degree felony offense.⁴

It is lawful for a person to openly carry a self-defense chemical spray, nonlethal stun gun or dart-firing stun gun, or other nonlethal electric weapon or device that is designed solely for defensive purposes.⁵

Certain persons under particular circumstances are exempt from the limitations on the open carry of weapons in s. 790.053, F.S., and the concealed firearm carry licensure requirements in s. 790.06, F.S., when the weapons and firearms are lawfully owned, possessed, and used. These persons and circumstances include:

- Members of the Militia, National Guard, Florida State Defense Force, Army, Navy, Air Force, Marine Corps, Coast Guard, organized reserves, and other armed forces of the state and of the United States, when on duty, when training or preparing themselves for military duty, or while subject to recall or mobilization;
- Citizens of this state subject to duty in the Armed Forces under s. 2, Art. X of the State Constitution, under chs. 250 and 251, F.S., and under federal laws, when on duty or when training or preparing themselves for military duty;
- Persons carrying out or training for emergency management duties under ch. 252, F.S.;
- Sheriffs, marshals, prison or jail wardens, police officers, Florida highway patrol officers, game wardens, revenue officers, forest officials, special officers appointed under the provisions of ch. 354, F.S., and other peace and law enforcement officers and their deputies and assistants and full-time paid peace officers of other states and of the Federal Government who are carrying out official duties while in this state;
- Guards or messengers of common carriers, express companies, armored car carriers, mail carriers, banks, and other financial institutions, while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state;
- Officers or employees of the state or United States duly authorized to carry a concealed weapon;
- Regularly enrolled members of any organization duly authorized to purchase or receive weapons from the United States or from this state, or regularly enrolled members of clubs organized for target, skeet, or trap shooting, while at or going to or from shooting practice; or regularly enrolled members of clubs organized for modern or antique firearms collecting,

¹ s. 790.01(4), F.S.

² A concealed weapon, under s. 790.001(3)(a), F.S., means any dirk, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon carried on or about a person in such a manner as to conceal the weapon from the ordinary sight of another person. The weapons listed in this definition require licensure to carry them in a concealed manner.

³ s. 790.01(1), F.S.

⁴ s. 790.01(2), F.S.

⁵ s. 790.053, F.S.

while such members are at or going to or from their collectors' gun shows, conventions, or exhibits;

- A person engaged in fishing, camping, or lawful hunting or going to or returning from a fishing, camping, or lawful hunting expedition;
- A person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of any such person while engaged in the lawful course of such business;
- A person firing weapons for testing or target practice under safe conditions and in a safe place not prohibited by law or going to or from such place;
- A person firing weapons in a safe and secure indoor range for testing and target practice;
- A person traveling by private conveyance when the weapon is securely encased or in a public conveyance when the weapon is securely encased and not in the person's manual possession;
- A person while carrying a pistol unloaded and in a secure wrapper, concealed or otherwise, from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business;
- A person possessing arms at his or her home or place of business; and
- Investigators employed by the public defenders and capital collateral regional counsel of the state, while actually carrying out official duties.⁶

Concealed Weapons and Firearm Licensure

The Department of Agriculture and Consumer Services (DACCS) is authorized to issue concealed weapon and firearm licenses to those applicants that qualify.⁷ Concealed weapons or concealed firearms are defined as a handgun, electronic weapon or device, tear gas gun, knife, or billie but not a machine gun for purposes of the licensure law.⁸

To obtain a concealed weapons or firearm license, a person must complete, under oath, an application that includes:

- The name, address, place and date of birth, race, and occupation of the applicant;
- A full frontal view color photograph of the applicant which must be taken within the preceding 30 days;
- A statement that the applicant has been furnished with a copy of ch. 790, F.S., relating to weapons and firearms and is knowledgeable of its provisions;
- A warning that the application is executed under oath with penalties for falsifying or substituting false documents;
- A statement that the applicant desires a concealed weapon or firearms license as a means of lawful self-defense;
- A full set of fingerprints;
- Documented proof of completion of a firearms safety and training course; and
- A nonrefundable license fee.⁹

⁶ s. 790.25(3), F.S.

⁷ s. 790.06(1), F.S.

⁸ *Id.*

⁹ s. 790.06(1)-(5), F.S.

Additionally, the applicant must attest that he or she is in compliance with the criteria contained in subsections (2) and (3) of s. 790.06, F.S.

Subsection (2) of s. 790.06, F.S., requires DACS to issue the license to carry a concealed weapon, if all other requirements are met, and the applicant:

- Is a resident of the United States and a citizen of the United States or a permanent resident alien of the United States, as determined by the United States Bureau of Citizenship and Immigration Services, or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm;
- Is not ineligible to possess a firearm pursuant to s. 790.23, F.S., by virtue of having been convicted of a felony;
- Has not been committed for the abuse of a controlled substance or been found guilty of a crime under the provisions of ch. 893, F.S., or similar laws of any other state relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if the applicant has been committed under ch. 397, F.S., or under the provisions of former ch. 396, F.S., or has been convicted under s. 790.151, F.S., or has been deemed a habitual offender under s. 856.011(3), F.S., or has had two or more convictions under s. 316.193, F.S., or similar laws of any other state, within the 3-year period immediately preceding the date on which the application is submitted;
- Has not been adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state, unless 5 years have elapsed since the applicant's restoration to capacity by court order;
- Has not been committed to a mental institution under ch. 394, F.S., or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least 5 years prior to the date of submission of the application;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been sealed or expunged;
- Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.¹⁰

¹⁰ s. 790.06(2), F.S.

DACS must deny the application if the applicant has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence constituting a misdemeanor, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled or the record has been sealed or expunged.¹¹

DACS shall revoke a license if the licensee has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence within the preceding 3 years.¹²

DACS shall, upon notification by a law enforcement agency, a court, or the Florida Department of Law Enforcement and subsequent written verification, suspend a license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime that would disqualify such person from having a license under this section, until final disposition of the case.¹³ DACS shall suspend a license or the processing of an application for a license if the licensee or applicant is issued an injunction that restrains the licensee or applicant from committing acts of domestic violence or acts of repeat violence.¹⁴

In addition, DACS is required to suspend or revoke a concealed weapons license if the licensee:

- Is found to be ineligible under the criteria set forth in s. 790.06(2), F.S.;
- Develops or sustains a physical infirmity which prevents the safe handling of a weapon or firearm;
- Is convicted of a felony which would make the licensee ineligible to possess a firearm pursuant to s. 790.23, F.S.;
- Is found guilty of a crime under the provisions of ch. 893, F.S., or similar laws of any other state, relating to controlled substances;
- Is committed as a substance abuser under ch. 397, F.S., or is deemed a habitual offender under s. 856.011(3), F.S., or similar laws of any other state;
- Is convicted of a second violation of s. 316.193, F.S., or a similar law of another state, within 3 years of a previous conviction of such section, or similar law of another state, even though the first violation may have occurred prior to the date on which the application was submitted;
- Is adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state; or
- Is committed to a mental institution under ch. 394, F.S., or similar laws of any other state.¹⁵

Licensees must carry their license and valid identification any time they are in actual possession of a concealed weapon or firearm and display both documents upon demand by a law enforcement officer.¹⁶ Failure to have proper documentation and display it upon demand is a second degree misdemeanor.¹⁷

¹¹ s. 790.06(3), F.S.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ s. 790.06(10), F.S.

¹⁶ s. 790.790.06(1), F.S.

¹⁷ s. 790.06(1), F.S.

A concealed weapon or firearms license does not authorize a person to carry a weapon or firearm in a concealed manner into:

- Any place of nuisance as defined in s. 823.05, F.S.;
- Any police, sheriff, or highway patrol station;
- Any detention facility, prison, or jail;
- Any courthouse;
- Any courtroom, except that nothing in this section would preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his or her courtroom;
- Any polling place;
- Any meeting of the governing body of a county, public school district, municipality, or special district;
- Any meeting of the Legislature or a committee thereof;
- Any school, college, or professional athletic event not related to firearms;
- Any school administration building;
- Any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose;
- Any elementary or secondary school facility;
- Any career center;
- Any college or university facility unless the licensee is a registered student, employee, or faculty member of such college or university and the weapon is a stun gun or nonlethal electric weapon or device designed solely for defensive purposes and the weapon does not fire a dart or projectile;
- Inside the passenger terminal and sterile area of any airport, provided that no person shall be prohibited from carrying any legal firearm into the terminal, which firearm is encased for shipment for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; or
- Any place where the carrying of firearms is prohibited by federal law.

Any person who willfully violates any of the above-listed provisions commits a misdemeanor of the second degree.¹⁸

Firearms in Vehicles

It is lawful for a person 18 years of age or older to possess a concealed firearm or other weapon for self-defense or other lawful purpose within the interior of a private conveyance, without a license, if the firearm or other weapon is securely encased or is otherwise not readily accessible for immediate use. The same is true for a legal long gun, without the need for encasement, when it is carried in the private conveyance for a lawful purpose.¹⁹

“Securely encased” means in a glove compartment, whether or not locked; snapped in a holster; in a gun case, whether or not locked; in a zippered gun case; or in a closed box or container which requires a lid or cover to be opened for access.²⁰ The term “readily accessible for

¹⁸ s. 790.06(12), F.S.

¹⁹ s. 790.25(5), F.S.

²⁰ s. 790.001(17), F.S.

immediate use” means that a firearm or other weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as easily and quickly as if carried on the person.²¹

Reciprocity

DACS provides an up-to-date list of the states that honor Florida concealed carry licenses.²² It should be noted that travel with a concealed weapon or firearm into states that do not honor Florida’s concealed carry licenses, or when a person does not possess a concealed carry license subjects the person to the laws of that state.

Limitations on Purchase of a Firearm

Florida law prohibits transfer of a firearm by a federally licensed firearm dealer to a person who:

- Has been convicted of a felony and is prohibited from receipt or possession of a firearm pursuant to s. 790.23, F.S.;
- Has been convicted of a misdemeanor crime of domestic violence;
- Has had an adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless three years have elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred;
- Has been indicted or has had an information filed against her or him for an offense that is a felony under state or federal law (pending disposition information that indicates the potential buyer is not prohibited);
- Has had an injunction for protection against domestic violence entered against him or her under s. 741.30, F.S.;
- Has had an injunction for protection against repeat violence entered against him or her under s. 784.046, F.S.; or
- Has been arrested for a dangerous crime as specified under s. 907.041(4)(a), F.S., or the crimes listed in s. 790.065(2)(c), F.S., (pending disposition information that indicates the potential buyer is not prohibited).

Emergency Management Powers of the Governor

Section 252.36(1), F.S., states that the Governor is responsible for meeting the dangers presented to this state and its people by emergencies. Under that authority the Governor can declare a state of emergency.

Section 252.36(2), F.S., provides that the state of emergency shall continue until the Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and she or he terminates the state of emergency by executive order or proclamation, but no state of emergency may continue for longer than 60 days unless renewed by the Governor. The Legislature by concurrent resolution may terminate a state of emergency at any time. Thereupon, the Governor shall issue an executive order or proclamation ending the state of emergency.

²¹ s. 790.001(16), F.S.

²² <http://www.freshfromflorida.com/content/download/7444/118465/ReciprocityList.pdf>

In addition, pursuant to s. 252.36(5), F.S., the Governor may:

- Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state;²³ and
- Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles. However, nothing contained in ss. 252.31-252.90, F.S., shall be construed to authorize the seizure, taking, or confiscation of firearms that are lawfully possessed, unless a person is engaged in the commission of a criminal act.²⁴

Local States of Emergency for Overt Acts of Violence

Section 870.043, F.S., authorizes sheriffs and designated city officials to declare a state of emergency if he or she determines that there has been an act of violence or a flagrant and substantial defiance of, or resistance to, a lawful exercise of public authority and that, on account thereof, there is reason to believe that there exists a clear and present danger of a riot or other general public disorder, widespread disobedience of the law, and substantial injury to persons or to property, all of which constitute an imminent threat to public peace or order and to the general welfare of the jurisdiction affected or a part or parts thereof. The state of emergency commences upon its declaration and terminates 72 hours thereafter unless, prior to the end of the 72-hour period, the public official, Governor, county commission, or city council terminate it.²⁵

Whenever a sheriff or city official declares a state of emergency, he or she may order and promulgate all or any of the following emergency measures, in whole or in part, with any limitations and conditions he or she deems appropriate:

- The establishment of curfews, including, but not limited to, the prohibition of or restrictions on pedestrian and vehicular movement, standing, and parking;
- The prohibition of the sale or distribution of any alcoholic beverage;
- The prohibition of the possession on any person in a public place of any portable container containing any alcoholic beverage;
- The closing of places of public assemblage with designated exceptions;
- The prohibition of the sale or other transfer of possession, with or without consideration, of gasoline or any other flammable or combustible liquid altogether or except by delivery into a tank properly affixed to an operable motor-driven vehicle, bike, scooter, boat, or airplane and necessary for the propulsion thereof; and
- The prohibition of the possession in a public place of any portable container containing gasoline or any other flammable or combustible liquid.²⁶

In addition to the above-described measures that a local public official has discretion to order, the following acts are prohibited during a state of emergency declared under ch. 870, F.S.:

- The sale of, or offer to sell, with or without consideration, any ammunition or gun or other firearm of any size or description;

²³ s. 252.36(5)(e), F.S.

²⁴ s. 252.36(5)(h), F.S.

²⁵ s. 870.047, F.S.

²⁶ s. 870.045, F.S.

- The intentional display, after the emergency is declared, by or in any store or shop of any ammunition or gun or other firearm of any size or description; and
- The intentional possession in a public place of a firearm by any person, except a duly authorized law enforcement official or person in military service acting in the official performance of her or his duty.²⁷

A violation of any of the above-described provisions is a first degree misdemeanor.

III. Effect of Proposed Changes:

The bill creates an exception to s. 790.01, F.S., the statute that prohibits carrying concealed weapons or firearms unless a person is licensed to do so. If the weapon is a self-defense chemical spray or nonlethal stun gun or similar device designed for defensive purposes, a person may carry it concealed without a license.

The exception provided in the bill allows a person to carry a concealed weapon or firearm on or about his or her person, regardless of licensure status, while in the act of complying with a mandatory evacuation order issued during a state of emergency declared by the Governor pursuant to ch. 252, F.S., or declared by a local authority pursuant to ch. 870, F.S. In order to carry a firearm the person must be lawfully able to possess the firearm.

The bill defines the term “in the act of evacuating” as the immediate and urgent movement of a person away from the evacuation zone within 48 hours after a mandatory evacuation is ordered. It provides that the 48 hours may be extended by an order issued by the Governor.

The bill provides an effective date of July 1, 2015.

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.

²⁷ s. 870.044, F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC) has not yet met to consider the prison bed impact, if any, of SB 290. However, SB 296 (2014 Session) was considered on January 30, 2014, by CJIC and determined that it would have an insignificant prison bed impact.

VI. Technical Deficiencies:

Section 870.044(3), F.S., prohibits a person from intentionally possessing a firearm in a public place during a state of emergency declared by a local authority. This provision appears to conflict with the bill, which allows a person to carry a concealed weapon or firearm while complying with a mandatory evacuation order issued during a state of emergency declared by a local authority. This apparent conflict may be resolved with a notwithstanding clause.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 790.01 of the Florida Statutes.

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

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

CS by Criminal Justice on February 16, 2015:

Provides a definition for the term “in the act of evacuating.” It sets forth a 48 hour timeframe within which the exception to s. 790.01, F.S., is applicable. The 48 hours may be extended by an order issued by the Governor.

B. Amendments:

None.



924218

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/17/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete line 34
and insert:
252 or declared by a local authority pursuant to chapter 870. As used in this subsection, the term "in the act of evacuating" means the immediate and urgent movement of a person away from the evacuation zone within 48 hours after a mandatory evacuation is ordered. The 48 hours may be extended by an order issued by the Governor.



924218

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

12 And the title is amended as follows:

13 Delete line 7

14 and insert:

15 during a declared state of emergency; defining the

16 term "in the act of evacuating"; providing an

By Senator Brandes

22-00260A-15

2015290__

A bill to be entitled

An act relating to carrying a concealed weapon or a concealed firearm; amending s. 790.01, F.S.; providing an exemption from criminal penalties for carrying a concealed weapon or a concealed firearm when evacuating pursuant to a mandatory evacuation order during a declared state of emergency; providing an effective date.

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

Section 1. Section 790.01, Florida Statutes, is amended to read:

790.01 Unlicensed carrying of concealed weapons or concealed firearms.—

(1) Except as provided in subsection (3) ~~(4)~~, a person who is not licensed under s. 790.06 and who carries a concealed weapon or electric weapon or device on or about his or her person commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Except as provided in subsection (3), a person who is not licensed under s. 790.06 and who carries a concealed firearm on or about his or her person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does not apply to: ~~a person licensed to carry a concealed weapon or a concealed firearm pursuant to the provisions of s. 790.06.~~

(a) A person who carries a concealed weapon, or a person

Page 1 of 2

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

22-00260A-15

2015290__

who may lawfully possess a firearm and who carries a concealed firearm, on or about his or her person while in the act of evacuating during a mandatory evacuation order issued during a state of emergency declared by the Governor pursuant to chapter 252 or declared by a local authority pursuant to chapter 870.

~~(b) (4) It is not a violation of this section for~~ A person who carries ~~to carry~~ for purposes of lawful self-defense, in a concealed manner:

1. (a) A self-defense chemical spray.

2. (b) A nonlethal stun gun or dart-firing stun gun or other nonlethal electric weapon or device that is designed solely for defensive purposes.

~~(4) (5)~~ This section does not preclude any prosecution for the use of an electric weapon or device, a dart-firing stun gun, or a self-defense chemical spray during the commission of any criminal offense under s. 790.07, s. 790.10, s. 790.23, or s. 790.235, or for any other criminal offense.

Section 2. This act shall take effect July 1, 2015.

Page 2 of 2

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

THE FLORIDA SENATE
APPEARANCE RECORD

1st

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

2/16/15
Meeting Date

290
Bill Number (if applicable)

Topic Concealed Carry - Mandatory EVACS, Amendment Barcode (if applicable)

Name Amy Mercer

Job Title Ex. Director

Address 924 N. Gadsden St.
Street

Phone 8502193631

Tallahassee
City State Zip

Email amercer@fpcfla.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Police Chiefs 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/2015
Meeting Date

0290
Bill Number (if applicable)

Topic Concealed Carry during emergencies

Amendment Barcode (if applicable)

Name Erick Culbreth

Job Title FSU student

Address 209 Belle Vue Way, apt. 24
Street

Phone 941-224-4744

Tallahassee, FL 32304
City State Zip

Email etc01@my.fsu.edu

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Students for Concealed Carry at FSU

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2/16/15
Meeting Date

SB290
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BOTZ GUALTIERI

Job Title PINELLAS COUNTY SHERIFF

Address 10750 UMBERTON RD
Street

Phone 727-532-6206

Largo FL 33772
City State Zip

Email gualtierib@pinellas.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FSA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2-16-15

Meeting Date

SB 290

Bill Number (if applicable)

924218

Amendment Barcode (if applicable)

Topic Concealed Carry during emergency evacuation

Name Eric Friday

Job Title General Counsel, Florida Carry, Inc.

Address 541 E. Monroe St.

Street

Jacksonville

City

FL

State

32202

Zip

Phone 904-353-7733

Email efriday@fletcherandphillips.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Carry, 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.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-16-15

Meeting Date

SB 290

Bill Number (if applicable)

Topic Concealed Carry during emergency evacuation

Amendment Barcode (if applicable)

Name Eric Friday

Job Title General Counsel, Florida Carry, Inc.

Address 541 E. Monroe St.

Street

Phone 904-353-7733

Jacksonville

FL

32202

Email efriday@fletcherandphillips.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Carry, 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.

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

S-001 (10/14/14)

BILL AND AMENDMENT

TESTIFY LAST PLEASE

THE FLORIDA SENATE

APPEARANCE RECORD

2-16-15

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

Meeting Date

Topic MANDATORY EVACUATION

Bill Number SB-290

Name MARION P. HAMMER

Amendment Barcode 924218

(if applicable)

(if applicable)

Job Title _____

Address P.O. BOX 1387

Phone 850-222-9518

Street

TALLAHASSEE

FL

32302

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing NRA (NATIONAL RIFLE ASSOCIATION) UNITED SPORTSMEN OF FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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



The Florida Senate

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice



Subject: Committee Agenda Request

Date: January 19, 2015

I respectfully request that **Senate Bill #290**, relating to **Carrying a Concealed Weapon or a Concealed Firearm**, 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

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 540
INTRODUCER: Senator Evers
SUBJECT: State-Operated Institutions Inmate Welfare Trust Fund/Department of Corrections
DATE: February 13, 2015 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	Favorable
2.			ACJ	
3.			AP	

I. Summary:

SB 540 creates the State-Operated Institutions Inmate Welfare Trust Fund (Trust Fund) within the Department of Corrections (department). The purpose of the Trust Fund is for the benefit and welfare of inmates incarcerated in state-operated correctional facilities. Any balance in the Trust Fund at the end of a fiscal year must remain in the trust fund and be available for carrying out the purposes of the fund. In accordance with s. 19(f)(2), Art. III of the State Constitution, the Trust Fund shall be terminated on July 1, 2019, unless terminated sooner.

II. Present Situation:

Inmate Welfare Trust Funds for Public Correctional Facilities

From 1979 until 2003, s. 945.215, F.S., provided for a trust fund that allowed the department to use revenue from the purchase of inmate canteen items and from inmate telephone calls to fund chapels, education, and wellness programs at publically operated correctional facilities. The source of the revenue was from family and friends of the inmate. Chapter 2003-179, L.O.F., eliminated the trust fund for public correctional facilities and required the revenue from inmate canteens and telephone usage to go directly into the General Revenue Fund.

According to a January 15, 2015, Auditor General audit of the department's canteen operations, (which are outsourced to Keefe Commissary Network, LLC) from July 2012 through February 2014 sales in department institution canteens totaled approximately \$133.31 million and \$868,474 in catalog sales. In addition, the department received MP3 program commissions from Keefe totaling \$940,412 relating to MP3 program sales which totaled approximately \$5.99 million. The department's contract with Keefe expires March 31, 2015.

Canteens operate on a cashless system. Inmates use photo identification cards like bank debit cards. Inmates may make purchases on a weekly basis not to exceed \$100.¹ Items excluded from this purchase limit include MP3 sales and catalog items.

Below is a chart from the department showing revenues collected from inmate canteen purchases, medical co-pays, and inmate telephone usage from FY 2009-10 through FY 2013-14.

REVENUE COLLECTION SUMMARY FY 2009-10 – FY 2013-14						
Description	Authorizing Statute	Fiscal Year 2009-10	Fiscal Year 2010-11	Fiscal Year 2011-12	Fiscal Year 2012-13	Fiscal Year 2013-14
General Revenue Unallocated (GRU) Collections:						
Subsistence	s. 944.485 FS	\$ 5,686,726	\$ 6,748,740	\$ 7,712,150	\$ 8,035,040	\$ 8,092,206
Interest Income – ITF	s. 944.516(1)(f) FS	258,423	230,677	204,227	204,368	103,669
ITF Balances <\$1.00	s. 944.516(5) FS	1,367	1,194	1,219	1,197	1,211
Canteen Commissions	s. 945.215(1)(a) FS	31,382,837	31,162,387	30,970,697	30,907,621	31,027,325
Vending Commissions	s. 945.215(1)(e) FS	250,234	343,096	357,371	369,591	212,345
Telephone Commissions	s. 945.215(1)(b) FS	5,294,749	5,205,804	5,156,269	5,334,549	6,142,399
Medical Copay	s. 945.6037 FS	740,231	737,410	713,823	661,604	673,325
Inmate Bank-GR		\$43,614,567	\$44,429,308	\$45,115,756	\$45,513,970	\$46,252,480

Inmate Welfare Trust Fund for Privately Operated Institutions

An Inmate Welfare Trust Fund for private correctional facilities created in 1998 continues to operate.² The purpose of the trust fund is to be the benefit and welfare of inmates incarcerated in private correctional facilities under contract with the Department of Management Services (DMS). Net proceeds from inmate canteens, vending machines used primarily by inmates, telephone commissions, and other similar sources of proceeds are deposited in the fund. The DMS compiles an annual report documenting the receipts and expenditures at each private facility. For FY 2013-14, DMS reported total revenues of \$3,252,201.41. The total expenditures for vocational programs, canine detection training programs, and community service programs was \$1,014,038.88.

III. Effect of Proposed Changes:

The bill creates the State-Operated Institutions Inmate Welfare Trust Fund within the Department of Corrections. The language of the bill closely mirrors the language that was in s. 945.215, F.S., when the trust fund was originally created. The purpose of the Trust Fund is for the benefit and welfare of inmates incarcerated in state-operated correctional facilities. Any balance in the Trust Fund at the end of a fiscal year must remain in the trust fund and be available for carrying out the purposed of the fund. The Trust Fund shall be terminated on July 1, 2019, unless terminated sooner.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹ Rule 33-203.101, F.A.C.

² s. 944.72, F.S.

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. Statutes Affected:

This bill creates section 944.73 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

CourtSmart Tag Report

Room: LL 37
Caption: Senate Criminal Justice

Case:
Judge:

Type:

Started: 2/16/2015 4:00:24 PM

Ends: 2/16/2015 5:52:52 PM

Length: 01:52:29

4:00:27 PM Meeting called to order. Quorum present
4:01:13 PM Secretary Julie Jones, DOC
4:02:01 PM Update on current status of staffing study. Survey given to employees.
4:04:53 PM Staff would like input on policies and procedures
4:05:50 PM DOC is going to create teams to look at specific issues
4:06:50 PM Beginning a recognition program for staff
4:07:09 PM Senator Evers-Have you had a chance to review the bill? How do you feel about the bill regarding the trust fund?
4:08:12 PM Secretary Jones: One of the best elements of the bill.
4:09:16 PM Senator Evers-Education benefit programs, etc. Are you familiar with items such as that? Yes, departments goals.
4:10:49 PM Senator Evers continues with budget questions
4:12:40 PM Senator Evers-Officer turnover due to salary
4:18:45 PM SB 540-Welfare Trust Fund
4:19:51 PM Call the roll on SB 540-Favorable
4:20:09 PM SB 248-Recording of Law Enforcement Activities, Senator Smith
4:21:18 PM PCS barcode 268366 without objection
4:22:04 PM Amendment to the PCS barcode 954072 by Senator Brandes
4:23:11 PM Barcode 954072-favorable without objection
4:24:27 PM Speaking on the amendment-Michelle Richardson, Policy Director for the ACLU of Florida speaking in opposition
4:26:08 PM Senator Bradley with a question
4:28:12 PM Stacey Scott with Public Defenders Association
4:30:35 PM Gary Bradford, PBA waves in support
4:30:49 PM Senator Gibson with questions for Senator Smith
4:31:50 PM Senator Bradley in debate
4:33:16 PM Senator Bradley not ready to move forward on changing the Public Records law.
4:34:27 PM Senator Smith to close.
4:35:32 PM CS/SB 248-vote favorable
4:35:51 PM SPB 7020-Corrections
4:36:59 PM Amendment barcode 334048 is explained
4:38:38 PM Senator Bradley continues the explanation of the amendment
4:42:06 PM Amendment to the delete-all barcode 722298 by Senator Gibson
4:42:23 PM Senator Gibson explains the amendment
4:45:57 PM Senator Clemens with a question
4:46:06 PM Senator Gibson responds
4:46:31 PM Senator Gibson in debate of the amendment to the amendment
4:48:18 PM Roll call on amendment to amendment-Failed
4:48:34 PM Back on the amendment-Senator Clemens with a question to Senator Bradley
4:49:49 PM Senator Gibson with a question-What are we going to do in the meantime for immediate accountability? Also line 189 question
4:51:17 PM Question on line 854 by Senator Gibson
4:52:37 PM Delete-all amendment-adopted
4:53:38 PM Back on the bill as amended-Senator Clemens with a question regarding chemicals
4:55:29 PM Brian Pitts, Justice for Jesus
4:59:27 PM Back on the bill as amended. Roll call-Favorable
5:00:43 PM SB 290-Senator Brandes-Mandatory Evacuation. Barcode 924218-adopted
5:01:25 PM Back on the bill as amended-no questions
5:03:08 PM Bob Gualtieri, FSA, Pinellas County Sheriff
5:04:10 PM Senator Bradley-Roll Call on CS/SB 290-Favorable
5:05:31 PM Representative Stubee-SB 176
5:05:52 PM Senator Bradley with a question

5:06:33 PM Senator Bradley continues with questions
5:06:53 PM Senator Clemens-why do we need this bill
5:08:16 PM Senator Gibson with questions
5:10:02 PM Senator Evers with questions
5:12:07 PM Matthew Lata, FSU Professor of Music-Against
5:17:03 PM Jennifer Proffit, President United Faculty of Florida, FSU
5:18:04 PM Yolanda Franklin, Doctoral Student/TA
5:19:18 PM Marshall Ogletree, Interim Executive Director United Faculty of Florida
5:22:15 PM Mark Jones -Parent of FSU student
5:23:50 PM Steven Landgraf-FSU
5:26:04 PM Ronald Nelson-President of FAMU Chapter of the NAACP
5:27:08 PM Senator Brandes with a question
5:27:37 PM Erek Culbreath-Students for Concealed Carry from FSU
5:29:33 PM Eric Friday, General Counsel, Florida Carry, Inc.
5:31:52 PM Jon Pason-Student Masters of Criminology
5:33:14 PM Marion Hammer, NRA Unified Sportsmen of Florida
5:37:55 PM Marjorie Sanfilippo Associate Dean of Faculty, Professor, Eckerd College
5:41:30 PM Debate on the bill. Senator Bradley moves time certain for 5:55pm
5:41:46 PM Senator Gibson in debate
5:45:52 PM Senator Clemens in debate
5:49:14 PM Senator Evers in debate
5:49:26 PM Representative Stubee to close on the bill
5:51:34 PM By your vote SB 176 favorable
5:52:37 PM Adjourn