

Tab 1	SB 496 by Burgess; (Compare to CS/H 00329) Electronic Monitoring of Persons Charged with or Convicted of Offenses Involving Schools or Students					
840234	D	S	RCS	CJ, Burgess	Delete everything after	03/27 06:43 PM
Tab 2	SB 528 by Davis (CO-INTRODUCERS) Book; (Compare to CS/H 00537) Gain-time for Attempted Sexual Offenses					
852262	D	S	RCS	CJ, Davis	Delete everything after	03/27 06:43 PM
Tab 3	SB 836 by Powell; (Similar to CS/H 00889) Theft from Nonprofit Organizations					
443382	A	S	RCS	CJ, Powell	Delete L.16 - 36:	03/27 06:43 PM
Tab 4	SB 994 by Calatayud (CO-INTRODUCERS) Perry, Gruters, Rodriguez, Avila; (Similar to CS/H 00269) Public Nuisances					
529702	D	S	RCS	CJ, Calatayud	Delete everything after	03/27 06:43 PM
Tab 5	SB 998 by Burgess; (Identical to H 00935) Chiefs of Police					
741470	A	S	RCS	CJ, Burgess	Delete L.55 - 85:	03/27 06:43 PM
Tab 6	SB 1104 by Wright; (Similar to H 01577) Victim Compensation Claims					
Tab 7	SB 1126 by Avila; (Compare to H 01539) Impeding, Provoking, or Harassing First Responders					
155538	A	S	RCS	CJ, Avila	Delete L.17 - 29:	03/27 06:43 PM
Tab 8	SB 1140 by Ingoglia; (Identical to H 01105) Rapid DNA Grant Program					
Tab 9	SB 1208 by Burgess; (Identical to H 01037) Depositions of Witnesses in Criminal Proceedings					
466338	D	S	RCS	CJ, Burgess	Delete everything after	03/27 06:43 PM
Tab 10	SB 1300 by Burton; (Similar to H 01047) Animals Working with Law Enforcement Officers					
Tab 11	SB 1402 by Martin; (Similar to CS/H 01327) Public Records/Investigative Genetic Genealogy Materials					
Tab 12	SB 1442 by Collins (CO-INTRODUCERS) Boyd, Burgess; (Identical to H 01501) Terrorism					
Tab 13	SB 1456 by Avila; (Identical to H 01465) Firearm Offenses					
Tab 14	SB 1510 by Pizzo; (Compare to H 00119) Visiting County and Municipal Detention Facilities					
410686	D	S	RCS	CJ, Pizzo	Delete everything after	03/27 06:43 PM
Tab 15	SB 1520 by Pizzo; (Similar to H 01233) Controlled Substances					
Tab 16	SB 1534 by Martin; (Compare to CS/H 01627) Pretrial Release and Detention					
Tab 17	SB 1588 by Burgess; (Similar to H 01595) Law Enforcement Operations					

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Martin, Chair
Senator Bradley, Vice Chair

MEETING DATE: Monday, March 27, 2023

TIME: 3:00—6:00 p.m.

PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Martin, Chair; Senator Bradley, Vice Chair; Senators Ingoglia, Perry, Pizzo, Polsky, Powell, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 496 Burgess (Compare CS/H 329)	Electronic Monitoring of Persons Charged with or Convicted of Offenses Involving Schools or Students; Authorizing electronic monitoring and location restrictions as conditions of pretrial release of persons charged with certain offenses against schools or students; authorizing courts to order electronic monitoring and location restrictions for offenders who commit certain offenses against schools or students, etc. CJ 03/27/2023 Fav/CS JU RC	Fav/CS Yeas 8 Nays 0
2	SB 528 Davis (Compare CS/H 537)	Gain-time for Attempted Sexual Offenses; Eliminating the possibility of gain-time for persons convicted of attempting specified offenses, etc. CJ 03/20/2023 Temporarily Postponed CJ 03/27/2023 Fav/CS ACJ FP	Fav/CS Yeas 8 Nays 0
3	SB 836 Powell (Similar CS/H 889)	Theft from Nonprofit Organizations; Providing for the reclassification of certain theft offenses of specified amounts from nonprofit organizations; requiring restitution and community service for certain violations, etc. CJ 03/27/2023 Fav/CS ACJ FP	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, March 27, 2023, 3:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 994 Calatayud (Similar CS/H 269)	Public Nuisances; Prohibiting the distribution of certain materials which leads to littering; providing for reclassification of certain offenses; providing criminal penalties; prohibiting the stalking of certain individuals based on their wearing of certain garments; providing criminal penalties; prohibiting willful and malicious defacement of or injury or damage to certain religious property; requiring that certain violations be reported as hate crimes, etc. CJ 03/27/2023 Fav/CS JU RC	Fav/CS Yeas 8 Nays 0
5	SB 998 Burgess (Identical H 935)	Chiefs of Police; Providing rights of chiefs of police; requiring an aggrieved chief of police to provide his or her employing agency with a certain written notice within a specified timeframe; requiring an employing agency to cure an alleged violation within a specified timeframe, etc. CJ 03/27/2023 Fav/CS GO RC	Fav/CS Yeas 8 Nays 0
6	SB 1104 Wright (Similar H 1577)	Victim Compensation Claims; Authorizing the Department of Legal Affairs to issue waivers of any claim filing deadlines for specified victim claims for compensation upon a showing that a delay in filing the application occurred because of a delay in the testing of, or delay in the DNA profile matching from, a sexual assault forensic examination kit or biological material collected as evidence related to a sexual offense, etc. CJ 03/27/2023 Favorable ACJ FP	Favorable Yeas 8 Nays 0
7	SB 1126 Avila (Compare H 1539)	Impeding, Provoking, or Harassing First Responders; Prohibiting any person from approaching a first responder or remaining within a specified distance of such first responder, with specified intent, after receiving a warning not to approach; providing criminal penalties, etc. CJ 03/27/2023 Fav/CS CA RC	Fav/CS Yeas 6 Nays 2

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, March 27, 2023, 3:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 1140 Ingoglia (Identical H 1105)	Rapid DNA Grant Program; Creating the Rapid DNA Grant Program within the Department of Law Enforcement for county jails or sheriffs' offices; requiring the department to annually award grant funds to county jails or sheriffs' offices; providing funding requirements; authorizing the department to establish criteria and set specific time periods for the acceptance of applications and the selection process for awarding grant funds, etc. CJ 03/27/2023 Favorable ACJ FP	Favorable Yeas 7 Nays 0
9	SB 1208 Burgess (Identical H 1037)	Depositions of Witnesses in Criminal Proceedings; Prohibiting the deposition of victims and certain witnesses in certain proceedings without a showing of good cause; providing for motions to depose witnesses; providing for factors to be considered in granting such motions; requiring written findings of fact in rulings on such motions, etc. CJ 03/27/2023 Fav/CS JU RC	Fav/CS Yeas 6 Nays 2
10	SB 1300 Burton (Similar H 1047)	Animals Working with Law Enforcement Officers; Prohibiting the knowing and willful resistance to, obstruction of, or opposition to a police canine or police horse under certain circumstances; increasing criminal penalties for persons who actually and intentionally maliciously touch, strike, or cause bodily harm to a police canine, fire canine, SAR canine, or police horse, etc. CJ 03/27/2023 Favorable JU RC	Favorable Yeas 8 Nays 0
11	SB 1402 Martin (Similar CS/H 1327)	Public Records/Investigative Genetic Genealogy Materials; Providing an exemption from public records requirements for investigative genetic genealogy materials; authorizing the disclosure of investigative genetic genealogy materials under specified circumstances; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. CJ 03/27/2023 Favorable GO RC	Favorable Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, March 27, 2023, 3:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	SB 1442 Collins (Identical H 1501)	Terrorism; Specifying that there is no right to a jury trial under specified provisions and that neither defendants nor certain persons may use the resources of the courts of this state in furtherance of a defense or objection to postjudgment collection proceedings in any postjudgment execution proceedings to enforce certain judgments; providing a directive to the Division of Law Revision, etc. JU 03/21/2023 Favorable CJ 03/27/2023 Favorable RC	Favorable Yeas 8 Nays 0
13	SB 1456 Avila (Identical H 1465)	Firearm Offenses; Adding the conviction for committing or the attempt to commit a felony offense of human trafficking to the list of offenses during the commission of which if a person possesses a firearm, destructive device, a semiautomatic firearm and its high-capacity detachable box magazine, or a machine gun, such person is subject to a specified mandatory minimum term of imprisonment; increasing the maximum number of days of detention that a minor who violates specified provisions for a first, second, or subsequent offense may serve in a secure detention facility; increasing the criminal penalties and providing that it is grand theft of the second degree if the property stolen is a firearm and the offender has previously been convicted for grand theft of a firearm under a specified provision, etc. CJ 03/27/2023 Favorable FP	Favorable Yeas 8 Nays 0
14	SB 1510 Pizzo (Compare H 119)	Visiting County and Municipal Detention Facilities; Authorizing specified persons to visit at their pleasure any county or municipal detention facility; prohibiting persons not otherwise authorized by law from entering such facilities; providing exceptions; prohibiting the unreasonable withholding of permission for professional journalists or writers to enter such facilities, etc. CJ 03/27/2023 Fav/CS CA RC	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, March 27, 2023, 3:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
15	SB 1520 Pizzo (Similar H 1233)	Controlled Substances; Revising specified prohibited activities involving controlled substances within 1,000 feet of certain schools during their hours of operation; revising specified prohibited activities involving controlled substances during the hours of operation within 1,000 feet of certain parks, community centers, or publicly owned recreational facilities; revising specified prohibited activities involving controlled substances within 1,000 feet of specified places of worship when churches or religious organizations are conducting services or other activities, etc. CJ 03/27/2023 Favorable JU RC	Favorable Yeas 7 Nays 0
16	SB 1534 Martin (Compare CS/H 1627)	Pretrial Release and Detention; Specifying that only a judge is authorized to set, reduce, or alter a defendant's bail; authorizing the chief judge of a judicial circuit to petition the Florida Supreme Court for approval of a countywide or circuitwide bond schedule that sets a lower bond amount than required by the uniform statewide bond schedule; revising the requirements with which a defendant must comply as conditions of pretrial release imposed by the court; prohibiting persons arrested for, rather than charged with, a dangerous crime from being granted nonmonetary pretrial release at a first appearance hearing, etc. CJ 03/27/2023 Favorable FP	Favorable Yeas 6 Nays 1
17	SB 1588 Burgess (Similar H 1595, Compare H 1373, S 1490)	Law Enforcement Operations; Revising the powers, duties, and obligations of a sheriff; creating an office of the sheriff in each county; authorizing certain persons to file a petition with the Division of Administrative Hearings, rather than an appeal to the Administration Commission, if the tentative budget of a municipality contains a certain reduction, etc. CJ 03/27/2023 Favorable RC	Favorable Yeas 7 Nays 1

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: CS/SB 496

INTRODUCER: Criminal Justice Committee and Senator Burgess

SUBJECT: Electronic Monitoring of Persons Charged with or Convicted of Offenses Involving
Schools or Students

DATE: March 29, 2023 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u> </u>	<u> </u>	<u>JU</u>	<u> </u>
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 496 amends s. 903.041, F.S., authorizing electronic monitoring and location restrictions as conditions of pretrial release of persons charged with certain offenses against schools or students. The court must consider whether conditions of electronic monitoring and a prohibition of being within 1,000 of any school are appropriate conditions of pretrial release, when a defendant is charged with any of the certain offenses if such offense is against a school or a student.

The bill creates s. 948.301, F.S., authorizing courts to order electronic monitoring and location restrictions for probationers or community controllees who commit certain offenses against schools or students. The bill provides the court must consider whether or not to require electronic monitoring or prohibit the probationer or community controllee from being within 1,000 feet of any school.

The bill is effective October 1, 2023.

II. Present Situation:

Use of Electronic Monitoring in Florida's Criminal Justice System

There are several stages of the criminal justice system in which a court or another authorized entity may order a person to wear an electronic monitoring device. An electronic monitoring device (EM) is a tamper-resistant device worn on the body that monitors the location of a person at all times of the day. The monitoring agency is notified for various violations of the terms of supervision, such as if the person travels to a location he or she is not authorized to be or if the device is removed. Electronic monitoring systems can be either “passive” or “active” and are typically operated through radio frequency or global positioning system (GPS) monitoring.¹ Some of the instances where a person may be placed on an EM include:

- A court order allowing the release from custody to a pretrial release program while the defendant awaits trial.²
- A judge placing an offender on probation³ or community control⁴ in lieu of or in addition to incarceration.⁵
- Supervision by the Florida Commission on Offender Review.⁶

Section 843.23, F.S., makes it a third-degree felony⁷ to tamper with an EM, which includes any device that is used to track the location of a person. Tampering in violation of this section includes when a person intentionally and without authority:

- Removes, destroys, alters, tampers with, damages, or circumvents the operation of an electronic monitoring device that must be worn or used by that person or another person pursuant to a specified order; or
- Requests, authorizes, or solicits a person to remove, destroy, alter, tamper with, damage, or circumvent the operation of an electronic monitoring device.

¹ Office of Juvenile Justice and Delinquency Prevention, Home Confinement and Electronic Monitoring, October 2014, available at https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/home_confinement_em.pdf (last visited March 22, 2023).

² Office of Program Policy Analysis & Gov't Accountability, County Pretrial Release Programs: Calendar Year 2017, Report No. 18-06, at 1, 2, and 8-9, November 2018, available at <https://oppaga.fl.gov/Documents/Reports/18-06.pdf> (last visited March 22, 2023); See also s. 907.041, F.S., which provides a presumption in favor of release on nonmonetary conditions for any person who is granted pretrial release unless such person is charged with an enumerated dangerous crime.

³ Section 948.001(8), F.S. Probation is a form of community supervision requiring specified contacts with probation officers and other conditions a court may impose. Standard conditions of probation are enumerated in s. 948.03, F.S., and are not required to be announced on the record, but the court must orally pronounce, as well as provide in writing, any special conditions of probation imposed.

⁴ Section 948.001(3), F.S., defines “community control” as a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads. Section 948.10(2), F.S., provides that caseloads must be no more than 30 cases per officer.

⁵ Sections 948.01 and 948.11, F.S. The DOC supervises more than 146,000 offenders on active community supervision. This includes offenders released from prison on parole, conditional release, or conditional medical release and offenders placed on court-ordered supervision including probation, drug offender probation, sex offender probation, and community control. DOC, Introduction to Community Corrections, available at <http://www.dc.state.fl.us/cc/index.html> (last visited March 22, 2023).

⁶ Section 947.1405(7), (8), and (10), F.S.

⁷ A third-degree felony is punishable by up to 5 years of incarceration and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

Electronic Monitoring

The Department of Corrections (DOC) must electronically monitor an offender sentenced to community control when the court has imposed such condition.⁸ Any offender placed under supervision who violates the terms and conditions of supervision and is restored to supervision may be supervised by means of an electronic monitoring device or system if ordered by the court.⁹

Electronic monitoring is a condition of a court or commission order for probationers, community controllees, or conditional releasees who have current or prior convictions for violent or sexual offenses. A system that actively monitors and identifies the offender's locations and timely reports or records the offender's presence near or within a crime scene or in a prohibited area or the offender's departure from specified geographic limitations must be used.¹⁰

Any person who intentionally alters, tampers with, damages, or destroys any electronic monitoring equipment pursuant to court or commission order, commits a third degree felony.¹¹

Probation

The Office of Community Corrections currently supervises more than 146,000 offenders throughout Florida. These adult offenders are monitored and supervised by probation officers located in 130 probation offices. This includes offenders released from prison on parole, conditional release, or conditional medical release. It also includes offenders placed on court ordered supervision including regular probation, administrative probation, drug offender probation, sex offender probation, and community control.¹²

III. Effect of Proposed Changes:

This bill amends s. 903.041, F.S., authorizing electronic monitoring and location restrictions as conditions of pretrial release of persons charged with certain offenses against schools or students. The court must consider whether conditions of electronic monitoring and a prohibition of being within 1,000 of any school are appropriate conditions of pretrial release, when a defendant is charged with any of the following offenses if such offense is against a school or a student:

- Possessing or discharging weapons or firearms at a school-sponsored event or on school property prohibited;¹³
- Making, possessing, throwing, projecting, placing, or discharging any destructive device or attempt so to do;¹⁴
- Unlawful throwing, projecting, or discharging of destructive device or bomb that results in injury to another;¹⁵

⁸ Section 948.11(1), F.S.

⁹ Section 948.11(2), F.S.

¹⁰ Section 948.11(6), F.S.

¹¹ Section 843.23, F.S.

¹² Florida Department of Corrections, *Probation*, available at <http://www.dc.state.fl.us/cc/index.html> (last visited March 22, 2023).

¹³ Section 790.115, F.S.

¹⁴ Section 790.161, F.S.

¹⁵ Section 790.1615, F.S.

- Threat to throw, project, place, or discharge any destructive device;¹⁶
- False report concerning planting a bomb, an explosive, or a weapon of mass destruction, or concerning the use of firearms in a violent manner;¹⁷
- False reports concerning planting a bomb, explosive, or weapon of mass destruction in, or committing arson against, state-owned property, or concerning the use of firearms in a violent manner;¹⁸
- Planting of “hoax bomb” prohibited;¹⁹
- Manufacture, possession, sale, delivery, display, use, or attempted or threatened use of a weapon of mass destruction or hoax weapon of mass destruction;²⁰
- Trespass on school property with firearm or other weapon;²¹
- Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.²²

The bill creates s. 948.301, F.S., authorizing courts to order electronic monitoring and location restrictions for offenders who commit certain offenses against schools or students if his or her crime was committed on or after October 1, 2023. The court may, in addition to all other standard and special conditions imposed, require mandatory electronic monitoring and prohibit the probationer or controllee from being within 1,000 feet of any public or private school²³ as a condition of probation or community control supervision for a violation of the following offenses committed against a public or private school or a student in such a school:

- Possessing or discharging weapons or firearms at a school-sponsored event or on school property prohibited;²⁴
- Making, possessing, throwing, projecting, placing, or discharging any destructive device or attempt so to do;²⁵
- Unlawful throwing, projecting, or discharging of destructive device or bomb that results in injury to another;²⁶
- Threat to throw, project, place, or discharge any destructive device;²⁷
- False report concerning planting a bomb, an explosive, or a weapon of mass destruction, or concerning the use of firearms in a violent manner;²⁸
- False reports concerning planting a bomb, explosive, or weapon of mass destruction in, or committing arson against, state-owned property, or concerning the use of firearms in a violent manner;²⁹

¹⁶ Section 790.162, F.S.

¹⁷ Section 790.163, F.S.

¹⁸ Section 790.164, F.S.

¹⁹ Section 790.165, F.S.

²⁰ Section 790.166, F.S.

²¹ Section 810.095, F.S.

²² Section 836.10, F.S.

²³ Section 1003.01(2), F.S., defines “School” as an organization of students for instructional purposes on an elementary, middle or junior high school, secondary or high school, or other public school level authorized under rules of the State Board of Education.

²⁴ Section 790.115, F.S.

²⁵ Section 790.161, F.S.

²⁶ Section 790.1615, F.S.

²⁷ Section 790.162, F.S.

²⁸ Section 790.163, F.S.

²⁹ Section 790.164, F.S.

- Planting of “hoax bomb” prohibited;³⁰
- Manufacture, possession, sale, delivery, display, use, or attempted or threatened use of a weapon of mass destruction or hoax weapon of mass destruction;³¹
- Trespass on school property with firearm or other weapon;³²
- Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.³³

The bill defines “school” to mean the grounds or facility of any early learning, prekindergarten, kindergarten, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or private.

This bill is effective October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

³⁰ Section 790.165, F.S.

³¹ Section 790.166, F.S.

³² Section 810.095, F.S.

³³ Section 836.10, F.S.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 907.041 of the Florida Statutes.

This bill creates section 948.301 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 March 27, 2023:

The committee substitute:

- Defines a “school” as the grounds or facility of any early learning, prekindergarten, kindergarten, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or private.
- Revises s. 907.041, F.S., requiring a court to consider EM and location restrictions as conditions of pretrial release for persons charged with certain offenses against schools or students.

B. Amendments:

None.



840234

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsection (4) of section 907.041,
Florida Statutes, is redesignated as subsection (5), a new
subsection (4) is added to that section, and paragraph (a) of
subsection (3) of that section is amended, to read:

907.041 Pretrial detention and release.—

(3) RELEASE ON NONMONETARY CONDITIONS.—



840234

(a) It is the intent of the Legislature to create a presumption in favor of release on nonmonetary conditions for any person who is granted pretrial release unless such person is charged with a dangerous crime as defined in subsection (5) ~~(4)~~. Such person shall be released on monetary conditions if it is determined that such monetary conditions are necessary to assure the presence of the person at trial or at other proceedings, to protect the community from risk of physical harm to persons, to assure the presence of the accused at trial, or to assure the integrity of the judicial process.

(4) SPECIAL CONDITIONS FOR CERTAIN OFFENSES INVOLVING SCHOOLS OR STUDENTS.—

(a) As used in this subsection, the term "school" means the grounds or facility of any early learning, prekindergarten, kindergarten, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or private.

(b) When a person is charged with a crime under s. 790.115, s. 790.161, s. 790.1615, s. 790.162, s. 790.163, s. 790.164, s. 790.165, s. 790.166, s. 810.095, or s. 836.10, alleged to have been committed at or against a school or against a student while he or she is at school, the court must consider whether conditions of electronic monitoring and a prohibition from being within 1,000 feet of any school are appropriate to protect the community from risk of physical harm to persons.

Section 2. Section 948.301, Florida Statutes, is created to read:

948.301 Electronic monitoring as a condition of probation or community control for certain offenders.—



840234

(1) As used in this section, the term "school" means the grounds or facility of any early learning, prekindergarten, kindergarten, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or private.

(2) Effective for any probationer or community controllee whose crime was committed on or after October 1, 2023, and who is placed under supervision for a violation of s. 790.115, s. 790.161, s. 790.1615, s. 790.162, s. 790.163, s. 790.164, s. 790.165, s. 790.166, s. 810.095, or s. 836.10, committed at or against a school or against a student while he or she is at school, the court must consider whether conditions of electronic monitoring and a prohibition from being within 1,000 feet of any school are appropriate for the offender.

Section 3. Paragraph (c) of subsection (2) of section 790.065, Florida Statutes, is amended to read:

790.065 Sale and delivery of firearms.—

(2) Upon receipt of a request for a criminal history record check, the Department of Law Enforcement shall, during the licensee's call or by return call, forthwith:

(c)1. Review any records available to it to determine whether the potential buyer or transferee has been indicted or has had an information filed against her or him for an offense that is a felony under either state or federal law, or, as mandated by federal law, has had an injunction for protection against domestic violence entered against the potential buyer or transferee under s. 741.30, has had an injunction for protection against repeat violence entered against the potential buyer or transferee under s. 784.046, or has been arrested for a



840234

dangerous crime as specified in s. 907.041(5)(a) ~~s.~~
~~907.041(4)(a)~~ or for any of the following enumerated offenses:

- a. Criminal anarchy under ss. 876.01 and 876.02.
- b. Extortion under s. 836.05.
- c. Explosives violations under s. 552.22(1) and (2).
- d. Controlled substances violations under chapter 893.
- e. Resisting an officer with violence under s. 843.01.
- f. Weapons and firearms violations under this chapter.
- g. Treason under s. 876.32.
- h. Assisting self-murder under s. 782.08.
- i. Sabotage under s. 876.38.
- j. Stalking or aggravated stalking under s. 784.048.

If the review indicates any such indictment, information, or arrest, the department shall provide to the licensee a conditional nonapproval number.

2. Within 24 working hours, the department shall determine the disposition of the indictment, information, or arrest and inform the licensee as to whether the potential buyer is prohibited from receiving or possessing a firearm. For purposes of this paragraph, "working hours" means the hours from 8 a.m. to 5 p.m. Monday through Friday, excluding legal holidays.

3. The office of the clerk of court, at no charge to the department, shall respond to any department request for data on the disposition of the indictment, information, or arrest as soon as possible, but in no event later than 8 working hours.

4. The department shall determine as quickly as possible within the allotted time period whether the potential buyer is prohibited from receiving or possessing a firearm.



840234

5. If the potential buyer is not so prohibited, or if the department cannot determine the disposition information within the allotted time period, the department shall provide the licensee with a conditional approval number.

6. If the buyer is so prohibited, the conditional nonapproval number shall become a nonapproval number.

7. The department shall continue its attempts to obtain the disposition information and may retain a record of all approval numbers granted without sufficient disposition information. If the department later obtains disposition information which indicates:

a. That the potential buyer is not prohibited from owning a firearm, it shall treat the record of the transaction in accordance with this section; or

b. That the potential buyer is prohibited from owning a firearm, it shall immediately revoke the conditional approval number and notify local law enforcement.

8. During the time that disposition of the indictment, information, or arrest is pending and until the department is notified by the potential buyer that there has been a final disposition of the indictment, information, or arrest, the conditional nonapproval number shall remain in effect.

Section 4. This act shall take effect October 1, 2023.

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

Delete everything before the enacting clause
and insert:

A bill to be entitled



840234

An act relating to electronic monitoring of persons charged with or convicted of offenses involving schools or students; amending s. 907.041, F.S.; defining the term "school"; requiring a court to consider electronic monitoring and location restrictions as conditions of pretrial release for persons charged with certain offenses against schools or students; creating s. 948.301, F.S.; defining the term "school"; requiring a court to consider electronic monitoring and location restrictions as conditions of probation or community control for persons charged with certain offenses against schools or students; amending s. 790.065, F.S.; conforming a cross-reference; providing an effective date.

By Senator Burgess

23-00523-23

2023496__

A bill to be entitled

An act relating to electronic monitoring of persons charged with or convicted of offenses involving schools or students; creating s. 903.0472, F.S.; authorizing electronic monitoring and location restrictions as conditions of pretrial release of persons charged with certain offenses against schools or students; creating s. 948.301, F.S.; authorizing courts to order electronic monitoring and location restrictions for offenders who commit certain offenses against schools or students; providing an effective date.

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

Section 1. Section 903.0472, Florida Statutes, is created to read:

903.0472 Additional terms and conditions for certain offenses involving schools and students.—In addition to the requirements of s. 903.047, as a condition of pretrial release, whether such release is by surety bail bond or recognizance bond or in some other form, a defendant charged with a violation of s. 790.115, s. 790.161, s. 790.1615, s. 790.162, s. 790.163, s. 790.164, s. 790.165, s. 790.166, s. 810.095, or s. 836.10 committed against a public or private school, as defined in s. 1003.01(2), or a student in such a school, may be required to be electronically monitored as a condition of pretrial release and prohibited from being within 1,000 feet of any public or private school.

Page 1 of 2

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

23-00523-23

2023496__

Section 2. Section 948.301, Florida Statutes, is created to read:

948.301 Additional terms and conditions for certain offenses involving schools and students.—Effective for probationers or community controllees whose crime was committed on or after October 1, 2023, and who are placed under supervision for a violation of s. 790.115, s. 790.161, s. 790.1615, s. 790.162, s. 790.163, s. 790.164, s. 790.165, s. 790.166, s. 810.095, or s. 836.10 committed against a public or private school, as defined in s. 1003.01(2), or a student in such a school, the court may, in addition to all other standard and special conditions imposed, require mandatory electronic monitoring and prohibit the probationer or controllee from being within 1,000 feet of any public or private school as a condition of the probation or community control supervision.

Section 3. This act shall take effect October 1, 2023.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Jonathan Martin, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: February 13, 2023

I respectfully request that **Senate Bill #496**, relating to Electronic Monitoring of Persons Charged with or Convicted of Offenses Involving Schools or Students, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Danny", is written over a horizontal line.

Senator Danny Burgess
Florida Senate, District 23

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/27/23

Meeting Date

Criminal Justice

Committee

SB 496

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Ed Brodsky - president, FPA A

Phone

Address

107 W. Gaines St. Ste L-047

Email

Street

Tallahassee

FL

32309

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 528

INTRODUCER: Criminal Justice Committee and Senators Davis and Book

SUBJECT: Custody and Supervision of Specified Offenders

DATE: March 29, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Parker	Stokes	CJ	Fav/CS
2.			ACJ	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 528 amends s. 794.011, F.S., eliminating the possibility of basic gain-time for persons convicted of committing or attempting, soliciting, or conspiring to commit a sexual battery on or after July 1, 2023.

The bill amends s. 944.275, F.S., eliminating the possibility of incentive gain-time for persons convicted of committing or attempting, soliciting, or conspiring to commit specified offenses on or after July 1, 2023.

The bill amends s. 948.05, F.S., prohibiting the court from granting a reduction in the term of supervision for probationers or offenders in community control who are placed under supervision for committing or attempting, soliciting or conspiring to commit a violation of any offense listed in the sexual offender or sexual predator registration statutes, or who qualify as a violent felony offender of special concern.

The bill amends s. 948.30, F.S., requiring a court to impose additional specified terms and conditions of probation or community control in addition to all other conditions imposed for offenders whose crime was committed on or after July 1, 2023, for attempting, soliciting, or conspiring to commit certain sexual offenses.

Additionally, the bill amends s. 948.30, F.S., requiring a court to impose additional specified terms and conditions of probation and community control for offenders who are placed on sex

offender probation, if such offender's crime was committed on or after July 1, 2023, for attempting, soliciting, or conspiring to commit certain sexual offenses.

The bill also requires the court to impose electronic monitoring for an offender whose crime was committed on or after July 1, 2023, for attempting, soliciting, or conspiring to commit certain sexual offenses, and who is placed on probation or community control.

The bill also requires the court to impose a condition prohibiting an offender whose crime was committed on or after July 1, 2023, and who is placed on probation or community control for attempting, soliciting, or conspiring to commit certain sexual offenses, from viewing, accessing, owning, or possessing any obscene pornographic or sexually stimulating material.

The bill is effective July 1, 2023.

II. Present Situation:

Gain-Time

Section 944.275, F.S., allows the Department of Corrections (DOC) to grant deductions from sentences in the form of gain-time in order to encourage satisfactory prisoner behavior, to provide incentive for prisoners to participate in productive activities, and to reward prisoners who perform outstanding deeds or services. There are currently three types of gain-time prisoners may earn: basic, incentive, and meritorious.¹

Currently, inmates serving sentences for specified convictions committed on or after October 1, 2014, are ineligible to earn incentive gain-time, including inmates serving sentences for attempt to commit, solicitation to commit, or conspiracy to commit one of these underlying offenses. There are currently 791 inmates in DOC custody who are serving a sentence that includes an attempt, conspiracy or solicitation to commit one of the underlying offenses outlined in s. 944.275(4)(e), F.S., (777 inmates for attempt, 5 inmates for conspiracy and 9 inmates for solicitation).²

As discussed below, the types of gain-time that a prisoner may earn, as well as the amount of gain-time a prisoner may earn, varies according to the offense date. Gain-time earned by a prisoner may also be forfeited for violations of state law or department rules.³

Incentive Gain-Time

The DOC may grant incentive gain-time for each month during which a prisoner works diligently, participates in training, uses time constructively, or otherwise engages in positive activities. The rate of incentive gain-time in effect on the date the prisoner committed the offense that resulted in his or her incarceration is the prisoner's rate of eligibility to earn incentive gain-time throughout the period of incarceration and cannot be altered by a subsequent change in

¹ Section 944.275, F.S.

² Department of Corrections, *2023 Agency Legislative Bill Analysis for HB 537*, at 2 (March 13, 2023) (on file with the Senate Committee on Criminal Justice).

³ Section 944.275, F.S.

the severity level of the offense for which the prisoner was sentenced. Section 944.275(4)(b), F.S., specifies that:

- For sentences imposed for offenses committed prior to January 1, 1994, up to 20 days per month of incentive gain-time may be granted;
- For sentences imposed for offenses committed on or after January 1, 1994, and before October 1, 1995:
 - Up to 25 days per month of incentive gain-time may be granted for offenses ranked in offense severity levels 1 through 7 of the former sentencing guidelines;
 - Up to 20 days per month of incentive gain-time may be granted for offenses ranked in offense severity levels 8, 9, and 10 of the former sentencing guidelines; and
- For sentences imposed for offenses committed after October 1, 1995, up to 10 days per month of incentive gain-time may be granted.

The DOC may grant, upon a recommendation of the education program manager, a one-time award of 60 additional days of incentive gain-time to a prisoner who is otherwise eligible and who successfully completes requirements for and is awarded a high school equivalency diploma or vocational certificate. A prisoner may not receive more than 60 days for educational attainment.⁴ The DOC may grant an additional six days of incentive gain-time if a prisoner attends and actively participates in 150 hours of adult basic education to attain basic and functional literacy.⁵

The DOC may not grant incentive gain-time for sentences imposed for the following offenses committed on or after October 1, 2014:

- Homicide occurring in the perpetration of or attempted perpetration of a sexual battery;
- Kidnapping of a child under the age of 13, and in the course of committing the offense, commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;
- False imprisonment of a child under the age of 13, and in the course of committing the offense commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;
- Sexual battery;
- Lewd or lascivious offenses upon or in the presence of persons less than 16 years of age;
- Lewd or lascivious offenses upon or in the presence of an elderly person or disabled person; or
- Transmission of certain images over a computer to a person who is less than 16 years of age.⁶

Basic Gain-Time

The DOC grants basic gain-time at the rate of 10 days for each month of each sentence imposed on a prisoner to encourage satisfactory behavior, subject to the following:

- Portions of any sentences to be served concurrently are treated as a single sentence when determining basic gain-time;

⁴ Section 944.275(4)(d), F.S.

⁵ Section 944.801(3)(i)5., F.S. “Active participation” means at a minimum, that the inmate is attentive, responsive, cooperative, and completes assigned work.

⁶ Section 944.275(4)(e), F.S.

- Basic gain-time for a partial month is prorated on the basis of a 30-day month; and
- When a prisoner receives a new maximum sentence expiration date because of additional sentences imposed, basic gain-time is granted for the amount of time the maximum sentence expiration date was extended.⁷

Basic gain-time is awarded as a lump sum upon receipt into the custody of the DOC. Basic gain-time only applies to sentences imposed or offenses committed on or after July 1, 1978, and before January 1, 1994.⁸

The DOC may not grant basic gain-time to prisoners who are convicted of committing a sexual battery on or after October 1, 1992.⁹

Meritorious Gain-Time

The DOC may grant meritorious gain-time to a prisoner who performs some outstanding deed, such as saving a life or assisting in recapturing an escaped prisoner, or who in some manner performs an outstanding service that would merit the granting of additional deductions from the term of his or her sentence. The grant of meritorious gain-time may be from 1 to 60 days.¹⁰

Limitations on Earning Gain-Time

For sentences imposed for offenses committed on or after October 1, 1995, a prisoner may not earn any type of gain-time in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, prior to serving a minimum of 85 percent of the sentence imposed. Credits awarded by the court for time physically incarcerated are credited toward satisfaction of 85 percent of the sentence imposed. Except as provided by s. 944.275, F.S., a prisoner may not accumulate further gain-time awards at any point when the tentative release date is the same as that date at which the prisoner will have served 85 percent of the sentence imposed.¹¹ If a prisoner is found to have violated state law or department rules, gain-time may be forfeited according to law.¹²

State prisoners sentenced to life imprisonment must be incarcerated for the rest of their natural lives, unless granted pardon or clemency.¹³ Certain offenders are statutorily prohibited from earning gain-time:

- Prison releasee reoffenders must serve 100 percent of the court-imposed sentence and may not earn gain-time to shorten the length of incarceration.¹⁴

⁷ Section 944.275(4)(a), F.S.

⁸ Section 944.275(6), F.S.

⁹ Section 794.011(7), F.S.

¹⁰ Section 944.275(4)(c), F.S.

¹¹ Section 944.275(4)(f), F.S.

¹² Sections 944.275(5) and 944.28, F.S.

¹³ Section 944.2755(4)(f), F.S.

¹⁴ Under s. 775.082(9), F.S., a defendant may be designated a "prison releasee offender" if within three years of being released from incarceration commits or attempts to commit: treason, murder, manslaughter, sexual battery, carjacking, home-invasion robbery, robbery, arson, kidnapping, aggravated assault with a deadly weapon, aggravated battery, aggravated stalking, aircraft piracy, unlawful throwing, placing, or discharging of a destructive device or bomb, any felony that involves the use or threat of physical force or violence against an individual, armed burglary, burglary of a dwelling, or burglary of an occupied structure, or any felony violation of ss. 790.07, 800.04, 827.03, 827.071, or 847.0135(5), F.S. A "prison releasee

- Certain prisoners convicted of offenses involving the fleeing or attempting to elude a law enforcement officer are ineligible for statutory gain-time.¹⁵
- Prisoners convicted of committing or attempting to commit certain felonies while possessing or using a firearm or destructive device.¹⁶
- Prisoners convicted of committing or attempting to commit certain felonies while possessing or using a semiautomatic firearm and its high-capacity box magazine or a machine gun.¹⁷
- Prisoners convicted of battery on a law enforcement officer, firefighter, emergency medical providers, public transit employees or agents, or other specified officers while possessing a firearm or semiautomatic firearm and its high-capacity box magazine.¹⁸
- Prisoners convicted under the dangerous sexual felony offender statute.¹⁹

Forfeiture of Gain-Time

Florida law allows gain-time to be forfeited or withheld if a prisoner is found guilty of an infraction of state law or department rules.²⁰ A prisoner shall, without prior notice or hearing, forfeit all earned gain-time upon:

- Conviction for an escape committed before October 1, 2013;
- Revocation of parole,²¹ conditional release,²² control release,²³ or clemency;²⁴
- Revocation of conditional medical release,²⁵ if the revocation was for any reason other than improvement in medical condition; or

offender” also means any defendant who commits or attempts to commit one of the aforementioned offenses while serving a prison sentence or on escape status from a correctional facility.

¹⁵ Section 316.1935(6), F.S.

¹⁶ Section 775.087(2)(b), F.S.

¹⁷ Section 775.087(3)(b), F.S.

¹⁸ Section 784.07(3), F.S.

¹⁹ Section 794.0115(7), F.S.

²⁰ Section 944.275(5), F.S.

²¹ Parole is the release of a prisoner, prior to the expiration of the prisoner’s court-imposed sentence with a period of supervision to be successfully completed by compliance with the conditions and terms of the release agreement ordered by the Florida Commission on Offender Review. Parole is only available to prisoners whose crimes were committed prior to October 1, 1983, with exceptions. See Florida Commission on Offender Review, *Release Types: Parole*, available at <https://www.fcor.state.fl.us/release-types.shtml> (last visited March 14, 2023).

²² Section 947.1405, F.S., requires certain violent prisoners who have also served a prior felony commitment at a federal or state correctional institution or who are habitual offenders, violent habitual offenders, violent career criminals, or court-designated sexual offenders to be released under supervision subject to specified terms and conditions upon reaching the tentative release date or provisional release date, as established by the DOC. See also Florida Commission on Offender Review, *Release Types: Post Release*, available at <https://www.fcor.state.fl.us/postrelease.shtml#conditionalRelease> (last visited March 14, 2023).

²³ Control release is an administrative function to manage the state’s prison population within total capacity. The program, administered by the Florida Commission on Offender Review, through the Control Release Authority, maintains the prison population between 99 and 100 percent of its total capacity. Section 947.146, F.S.

²⁴ Article IV, Section 8 of the Florida Constitution authorizes a process to provide the means through which convicted individuals may be considered for relief from punishment and seek restoration of their civil rights. The clemency function is an act of mercy that absolves an individual from all, or any part, of the punishment that the law imposes. The power to grant clemency is vested in the Governor with the agreement of two cabinet members. The Governor also has the sole power to deny clemency. Florida Commission on Offender Review, *Clemency*, available at <https://www.fcor.state.fl.us/clemencyOverview.shtml> (last visited March 14, 2023).

²⁵ Section 947.149, F.S., authorizes the Florida Commission on Offender Review to grant a conditional medical release of a prisoner if, because of an existing medical or physical condition, the prisoner is determined by the department to be permanently incapacitated or terminally ill and the prisoner does not constitute a danger to herself or himself or others.

- Revocation of provisional release supervision,²⁶ or the revocation of probation²⁷ or community control²⁸ if such supervision was imposed for a crime committed on or after October 1, 1989.²⁹

To declare a forfeiture, a written charge must be prepared, which specifies each instance of misconduct and the approximate date of each instance.³⁰ The prisoner must be given a copy of the charge, along with a notice of hearing before a disciplinary committee. The prisoner must be present at the hearing.³¹ During the hearing, the prisoner:

- Will be read the charge, asked if he or she understands the charge, and explained the range of penalties that could be imposed if there is a finding of guilt;
- Will be asked if staff assistance is required or desired for the hearing;
- For minor violations, will be advised that he or she may request the charge be referred to the disciplinary team; and
- Will be read the statement of facts and be asked to plea.³²

If the prisoner pleads guilty, no further action is needed. If the prisoner pleads not guilty, evidence, including witness statements, is to be presented. The prisoner may make only an oral closing statement concerning the infraction under consideration at the hearing. If a prisoner refuses to enter a plea, it is treated as a “not guilty” plea.³³

A prisoner may forfeit all or part of gain-time earned if after the hearing, the prisoner is found to have:

- Violated a penal law of this state, or any rule of the DOC or institution;
- Threatened or knowingly endangered the life or physical well-being of another;
- Refused in any way to carry out or obey lawful instructions;
- Neglected to perform the work, duties, and tasks assigned in a faithful, diligent, industrious, orderly, and peaceful manner; or
- Escaped on or after October 1, 2013.³⁴

The DOC has the discretion to restore all or part of any gain-time that was forfeited due to disciplinary action if the prisoner has performed positively over a period of time, and it appears

²⁶ Under the former s. 944.277, F.S., which was repealed by ch. 93-406, s. 32, L.O.F., the Secretary of Corrections was authorized to grant certain inmates with provisional credits when the population of the correctional system reached 98 percent of lawful capacity, which advanced the release date for such inmates.

²⁷ Section 948.001(8), F.S., defines “probation” as a form of community supervision requiring specified contacts with parole and probation officers and other terms and conditions as provided in s. 948.03, F.S.

²⁸ Section 948.001(3), F.S., defines “community control” as a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads. Community control is an individualized program in which the freedom of an offender is restricted within the community, home, or non-institutional residential placement and specific sanctions are imposed and enforced.

²⁹ Rule 33-601.104, F.A.C.

³⁰ Section 944.28(2)(c), F.S.

³¹ Rule 33-601.307(1)(b), F.A.C., provides instances in which the prisoner does not have to attend the hearing and procedures if the prisoner refuses to attend the hearing or is disruptive.

³² Rule 33-601.307(1)(c)-(f), F.A.C.

³³ Rule 33-601.307(g), F.A.C.

³⁴ *Supra* note 29.

that the prisoner will continue to perform positively without further violation of the DOC's rules or state laws.³⁵

Sentence Expiration and Release Dates

The DOC must establish a maximum sentence expiration date for each prisoner who is committed to the DOC to serve a term of years. The maximum sentence expiration date is the date on which the sentence(s) imposed on the prisoner will expire. The DOC must reduce the total time to be served by any time lawfully credited.³⁶

The DOC must also establish a tentative release date for each prisoner sentenced to a term of years. The tentative release date is the date on which the prisoner is projected to be released from custody based on the amount of gain-time earned or forfeited. The initial tentative release date is established by deducting basic gain-time from the maximum sentence expiration date.³⁷ Other gain-time is applied when earned or restored, to make the tentative release date earlier and forfeited gain-time is applied to make the tentative release date later.³⁸

A prisoner who has served his or her time, as reduced by gain-time deductions, must be released and placed under further supervision and control of the DOC.³⁹

Fla. Dept. of Corrections v. Gould

An inmate convicted of attempted sexual battery on a child under the age of 12 filed a writ of mandamus seeking to compel the DOC, to exercise its discretion and consider him as eligible for incentive gain-time, retrospectively and for the remainder of his sentence. Gould alleged that a conviction for criminal attempt was not excluded from the award of gain-time by statute because a conviction for a criminal attempt is a separate and distinct crime than the underlying offense.⁴⁰

The First District Court of Appeal (DCA), receded from previous decisions which held that a conviction for an attempted crime was a conviction for the underlying offense modified by the attempt statute in s. 777.04, F.S., and ruled that a conviction for an attempt was a separate and distinct offense.⁴¹ Thus, a person convicted of attempting to commit a crime that would otherwise be ineligible for the award of incentive gain-time is eligible for the award of gain-time.⁴² The DOC appealed the decision of the DCA, and that matter is pending before the Florida Supreme Court in Supreme Court Case No. SC22-1207.

³⁵ Rule 33-601.105, F.A.C.

³⁶ Section 944.275(2), F.S.

³⁷ Basic gain-time only applies to prisoners serving sentences imposed or for offenses committed on or after July 1, 1978, and before January 1, 1994.

³⁸ Section 944.275(3), F.S.

³⁹ Section 944.291(1), F.S. Prisoners serving sentences imposed for offenses committed on or after October 1, 1995, must serve at minimum 85 percent of the imposed sentence. Section 944.275(4)(f), F.S.

⁴⁰ *Fla. Dept. of Corrections v. Gould*, 344 So.3d 496 (Fla. 1st DCA 2022).

⁴¹ *Id.*

⁴² *Id.*

Probation and Community Control

Probation is a form of community supervision requiring specified contacts with probation officers and compliance with certain terms and conditions.⁴³ Following a conviction for a criminal offense, the court determines the terms and conditions of probation. Standard conditions of probation include, but are not limited to:

- Reporting to the probation officer as directed.
- Permitting the probation officer to visit the probationer at his or her home.
- Working faithfully at suitable employment, when possible.
- Residing at a specified place.
- Living without violating the law.
- Paying restitution to any aggrieved party for the damage or loss caused by a probationer's offense.
- Being prohibited from possessing, carrying, or owning a firearm or weapon, without the probation officer's consent.
- Being prohibited from using intoxicants to excess or possessing any drugs or narcotics.⁴⁴

Community control is a form of intensive supervised custody of an offender who remains in the community, but whose freedom is restricted within the home, community, or noninstitutional residential placement and includes specific sanctions and monitoring by probation officers with restricted caseloads.⁴⁵ In addition to the standard conditions which apply to normal probationers, an offender on community control must:

- Maintain specified contact with his or her parole or probation officer;
- Be confined to an agreed-upon residence during any hours he or she is away from work or public service activities;
- Complete mandatory public service; and
- Be supervised by the DOC by means of an electronic monitoring device or system.⁴⁶

Section 948.05(2), F.S., authorizes the DOC to implement a system of graduated incentives to promote compliance with the terms of supervision. The DOC may, without leave of court, award a compliant probationer or offender in community control specified incentives, including, but not limited to:

- A 60-day reduction of his or her term of supervision for each educational advancement activity completed; or
- A 30-day reduction of his or her term of supervision for each period of workforce achievement completed.

The DOC may also recommend early termination of supervision for a compliant probationer or offender in community control, but the court must approve such early termination.⁴⁷

⁴³ Section 948.001(8), F.S.

⁴⁴ Section 948.03(1), F.S.

⁴⁵ Section 948.001(3), F.S.

⁴⁶ Section 948.101(1), F.S.

⁴⁷ Section 948.05(2)(b)5., F.S.

A “violent felony offender of special concern” (VFOSC) is a person who is on felony supervision:

- Related to a qualifying offense⁴⁸ committed on or after March 12, 2007.
- For any offense committed on or after March 12, 2007, and who has previously been convicted of a qualifying offense.
- For any offense committed on or after March 12, 2007, and who is found to have violated supervision by committing a qualifying offense.
- And has previously been found by a court to be a habitual violent felony offender, three-time violent offender, or sexual predator, and who has committed a qualifying offense on or after March 12, 2007.⁴⁹

Section 948.30, F.S., requires a court to impose additional conditions of supervision on a person who is sentenced to probation or community control after being convicted of one of the following offenses:

- Sexual battery in ch. 794, F.S.;
- Lewd or lascivious battery, molestation, conduct, or exhibition in s. 800.04, F.S.;
- Sexual performance by a child in s. 827.071, F.S.;
- Lewd or lascivious exhibition over the Internet in s. 847.0135(5), F.S.; and
- Selling or buying minors to engage in sexually explicit conduct in s. 847.0145, F.S.

Examples of such conditions include:

- A mandatory 8-hour curfew;
- A prohibition on contact or living within 1,000 feet of a school and other places where children regularly congregate;
- A prohibition on any contact with the victim;
- Active participation in and successful completion of a sexual offender treatment program with certain specifications;
- Submit a specimen of blood or other approved biological specimen to be registered with the DNA data bank;
- Submission to a warrantless search by the community control or probation officer of the probationer’s or community controllee’s person, residence, or vehicle;

⁴⁸ Section 948.06(8)(c), F.S., defines qualifying offense to include any of the following: kidnapping or attempted kidnapping, s. 787.01, F.S.; false imprisonment of a child under the age of 13, s. 787.02(3), F.S.; luring or enticing a child, s. 787.025(2)(b) or (b), F.S.; murder or attempted murder, s. 782.04, F.S.; attempted felony murder, s. 782.051, F.S.; manslaughter, s. 782.07, F.S.; aggravated battery or attempt, s. 784.045, F.S.; sexual battery or attempt, s. 794.011(2), (3), (4), or (8)(b) or (c), F.S.; lewd and lascivious battery or attempt, s. 800.04(4), F.S.; lewd and lascivious molestation, s. 800.04(5)(b) or (c), F.S.; lewd and lascivious conduct, s. 800.04(6)(b), F.S.; lewd and lascivious exhibition, s. 800.04(7)(b), F.S.; lewd and lascivious exhibition on computer, s. 847.0135(5)(b), F.S.; robbery or attempt, s. 812.13, F.S.; carjacking or attempt, s. 812.133, F.S.; home invasion robbery or attempt, s. 812.135, F.S.; lewd and lascivious offense upon or in the presence of an elderly person or attempt, s. 825.1025, F.S.; sexual performance by a child or attempt, s. 827.071, F.S.; computer pornography, s. 847.0135(2) or (3), F.S.; transmission of child pornography, s. 847.0137, F.S.; selling or buying of minors, s. 847.0145, F.S.; poisoning food or water, s. 859.01, F.S.; abuse of a dead human body, s. 872.06, F.S.; any burglary offense that is a first or second degree felony, s. 810.02(2) or (3), F.S.; arson or attempt, s. 806.01(1), F.S.; aggravated assault, s. 784.021, F.S.; aggravated stalking, s. 784.048(3), (4), (5), or (7), F.S.; aircraft piracy, s. 860.16, F.S.; throwing a deadly missile, s. 790.161(2), (3), or (4), F.S.; and treason, s. 876.32, F.S.

⁴⁹ Section 948.06(8)(b), F.S.

- Participation at least annually in polygraph examinations for specified purposes and with specified conditions;
- Maintenance of a driving log and prohibition against driving a motor vehicle alone without prior approval;
- Prohibition against obtaining or using a post office box without prior approval;
- Submission to an HIV test with specified conditions; and
- Electronic monitoring when deemed necessary and ordered by the court.⁵⁰

III. Effect of Proposed Changes:

The bill amends s. 794.011, F.S., eliminating the possibility of basic gain-time for persons convicted of committing or attempting, soliciting, or conspiring to commit a sexual battery on or after July 1, 2023.

The bill amends s. 944.275, F.S., eliminating the possibility of incentive gain-time for persons convicted of committing or attempting, soliciting, or conspiring to commit specified offenses. For sentences imposed for offenses committed on or after July 1, 2023, the department may not grant incentive gain-time if the offense is a violation of an attempted violation of:

- Section 782.04(1)(a)2.c., F.S., Attempted felony murder occurring when a person perpetrates or attempts to perpetrate any felony enumerated in s. 782.04(3), F.S., and who commits, aids, or abets an intentional act that is not an essential element of the felony and that could, but does not, cause the death of another.
- Section 787.01(3)(a)2. or 3., F.S., Kidnapping of a child under the age of 13, and in the course of committing the offense, commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition.
- Section 787.02(3)(a)2. or 3., F.S., False imprisonment of a child under the age of 13, and in the course of committing the offense commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition.
- Section 794.011, F.S., Sexual battery.
- Section 800.04, F.S., Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age occurring when a person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.
- Section 825.1025, F.S., Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person occurring when a person intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of an elderly person or disabled person when the person knows or reasonably should know that the elderly person or disabled person either lacks the capacity to consent or fails to give consent.
- Section 847.0135(5), F.S., Transmission of certain images over a computer to a person who is less than 16 years of age.

⁵⁰ Section 948.30(1) and (2), F.S.

The bill amends s. 948.05, F.S., prohibiting the court from granting a reduction in the term of supervision for probationers or offenders in community control who are placed under supervision for committing or attempting, soliciting or conspiring to commit a violation of any offense listed in the sexual offender or sexual predator registration statutes, or who qualify as a violent felony offender of special concern.

The bill amends s. 948.30, F.S., requiring a court to impose additional specified terms and conditions of probation or community control in addition to all other conditions imposed for offenders whose crime was committed on or after July 1, 2023, for attempting, soliciting, or conspiring to commit certain specified sexual offenses. Convictions for:

Additionally, the bill amends s. 948.30, F.S., requiring a court to impose additional specified terms and conditions of probation and community control for offenders who are placed on sex offender probation for attempting, soliciting, or conspiring to commit certain sexual offenses.

The bill also requires the court to impose electronic monitoring for offenders who are convicted for attempting, soliciting, or conspiring to commit certain sexual offenses, and who are placed on probation or community control.

The bill also requires the court to impose a condition prohibiting an offender who is placed on probation or community control for attempting, soliciting, or conspiring to commit certain sexual offenses, from viewing, accessing, owning, or possessing any obscene pornographic or sexually stimulating material.

Sexual offenses requiring these additional terms and conditions under s. 948.30, F.S., include offenses committed on or after July 1, 2023, for attempting, soliciting, or conspiring to commit violations of any of the following:

- Section 787.06(3)(b), (d), (f), or (g), F.S., Human Trafficking.
- Chapter 794, F.S., Sexual Battery.
- Section 800.04, F.S., Lewd or Lascivious offenses committed upon or in the presence of persons less than 16 years of age.
- Section 827.071, F.S., Sexual Performance by a child; Child Pornography.
- Section 847.0135, F.S., Computer Pornography.
- Section 847.0145, F.S., Selling or Buying of Minors.⁵¹

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁵¹ Section 847.0145, F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There will be no impact on the DOC's inmate and supervision population. However, the Office of Information Technology anticipates minimal technology impact, with the amount being indeterminate.⁵²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 794.011, 944.275, 948.05, and 948.30.

⁵² Department of Corrections, *2023 Agency Legislative Bill Analysis for HB 537*, at 2 (March 13, 2023) (on file with the Senate Committee on Criminal Justice).

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 March 27, 2023:

The committee substitute:

- Eliminates the possibility of basic gain-time for persons convicted of committing, attempting, soliciting, or conspiring to commit certain sexual offenses.
- Eliminates the possibility of incentive gain-time for persons convicted of committing, attempting, soliciting, or conspiring to commit certain sexual offenses.
- Prohibits the court from reducing the supervision term of a person who is on probation or community control for committing, or attempting to commit certain specified sexual offenses.
- Requires a court to impose additional specified terms and conditions of probation or community control in addition to all other conditions imposed for offenders whose crime was committed on or after July 1, 2023, for attempting, soliciting, or conspiring to commit certain specified sexual offenses.

- B. **Amendments:**

None.



852262

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (7) of section 794.011, Florida
Statutes, is amended to read:

794.011 Sexual battery.—

(7) (a) A person who is convicted of committing a sexual
battery on or after October 1, 1992, is not eligible for basic
gain-time under s. 944.275.



852262

(b) Notwithstanding paragraph (a), for sentences imposed for offenses committed on or after July 1, 2023, a person who is convicted of committing or attempting, soliciting, or conspiring to commit a sexual battery in violation of this section is not eligible for basic gain-time under s. 944.275.

(c) This subsection may be cited as the "Junny Rios-Martinez, Jr. Act of 1992."

Section 2. Paragraph (e) of subsection (4) of section 944.275, Florida Statutes, is amended, and paragraph (b) of that subsection is republished, to read:

944.275 Gain-time.—

(4)

(b) For each month in which an inmate works diligently, participates in training, uses time constructively, or otherwise engages in positive activities, the department may grant incentive gain-time in accordance with this paragraph. The rate of incentive gain-time in effect on the date the inmate committed the offense which resulted in his or her incarceration shall be the inmate's rate of eligibility to earn incentive gain-time throughout the period of incarceration and shall not be altered by a subsequent change in the severity level of the offense for which the inmate was sentenced.

1. For sentences imposed for offenses committed prior to January 1, 1994, up to 20 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

2. For sentences imposed for offenses committed on or after January 1, 1994, and before October 1, 1995:

a. For offenses ranked in offense severity levels 1 through



852262

7, under former s. 921.0012 or former s. 921.0013, up to 25 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

b. For offenses ranked in offense severity levels 8, 9, and 10, under former s. 921.0012 or former s. 921.0013, up to 20 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

3. For sentences imposed for offenses committed on or after October 1, 1995, the department may grant up to 10 days per month of incentive gain-time.

(e) 1. Notwithstanding subparagraph (b)3., for sentences imposed for offenses committed on or after October 1, 2014, and before July 1, 2023, the department may not grant incentive gain-time if the offense is a violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s. 800.04; s. 825.1025; or s. 847.0135(5).

2. Notwithstanding subparagraph (b)3., for sentences imposed for offenses committed on or after July 1, 2023, the department may not grant incentive gain-time if the offense is for committing or attempting, soliciting, or conspiring to commit a violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s. 800.04; s. 825.1025; or s. 847.0135(5).

Section 3. Paragraph (e) of subsection (2) of section 948.05, Florida Statutes, is amended, and paragraph (f) is added to that subsection, to read:

948.05 Court to admonish or commend probationer or offender in community control; graduated incentives.—



852262

(2) The department shall implement a system of graduated incentives to promote compliance with the terms of supervision, encourage educational achievement and stable employment, and prioritize the highest levels of supervision for probationers or offenders presenting the greatest risk of recidivism.

(e) A probationer or offender in community control who commits a subsequent violation of probation may forfeit any previously earned probation incentive, as determined appropriate by his or her probation officer.

(f) A probationer or offender in community control who is placed under supervision for committing or attempting, soliciting, or conspiring to commit a violation of any felony offense described in s. 775.21(4)(a)1.a. or b. or s. 943.0435(1)(h)1.a., or who qualifies as a violent felony offender of special concern under s. 948.06(8)(b) is not eligible for any reduction of his or her term of supervision under this section.

Section 4. Section 948.30, Florida Statutes, is amended to read:

948.30 Additional terms and conditions of probation or community control for certain sex offenses.—Conditions imposed pursuant to this section do not require oral pronouncement at the time of sentencing and shall be considered standard conditions of probation or community control for offenders specified in this section.

(1) Effective for probationers or community controllees whose crime was committed on or after October 1, 1995, and who are placed under supervision for a violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, or whose



852262

crime was committed on or after July 1, 2021, and who are placed under supervision for a violation of s. 787.06(3)(b), (d), (f), or (g), or whose crime was committed on or after July 1, 2023, and who are placed under supervision for attempting, soliciting, or conspiring to commit a violation of s. 787.06(3)(b), (d), (f), or (g); chapter 794; s. 800.04; s. 827.071; s. 847.0135(5); or s. 847.0145, the court must impose the following conditions in addition to all other standard and special conditions imposed:

(a) A mandatory curfew from 10 p.m. to 6 a.m. The court may designate another 8-hour period if the offender's employment precludes the above specified time, and the alternative is recommended by the Department of Corrections. If the court determines that imposing a curfew would endanger the victim, the court may consider alternative sanctions.

(b) If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, child care facility, park, playground, or other place where children regularly congregate, as prescribed by the court. The 1,000-foot distance shall be measured in a straight line from the offender's place of residence to the nearest boundary line of the school, child care facility, park, playground, or other place where children congregate. The distance may not be measured by a pedestrian route or automobile route. A probationer or community controllee who is subject to this paragraph may not be forced to relocate and does not violate his or her probation or community control if he or she is living in a residence that meets the requirements of this paragraph and a school, child care facility, park, playground, or other place where children



852262

regularly congregate is subsequently established within 1,000 feet of his or her residence.

(c) Active participation in and successful completion of a sex offender treatment program with qualified practitioners specifically trained to treat sex offenders, at the probationer's or community controllee's own expense. If a qualified practitioner is not available within a 50-mile radius of the probationer's or community controllee's residence, the offender shall participate in other appropriate therapy.

(d) A prohibition on any contact with the victim, directly or indirectly, including through a third person, unless approved by the victim, a qualified practitioner in the sexual offender treatment program, and the sentencing court.

(e) If the victim was under the age of 18, a prohibition on contact with a child under the age of 18 except as provided in this paragraph. The court may approve supervised contact with a child under the age of 18 if the approval is based upon a recommendation for contact issued by a qualified practitioner who is basing the recommendation on a risk assessment. Further, the sex offender must be currently enrolled in or have successfully completed a sex offender therapy program. The court may not grant supervised contact with a child if the contact is not recommended by a qualified practitioner and may deny supervised contact with a child at any time. When considering whether to approve supervised contact with a child, the court must review and consider the following:

1. A risk assessment completed by a qualified practitioner. The qualified practitioner must prepare a written report that must include the findings of the assessment and address each of



852262

the following components:

- a. The sex offender's current legal status;
- b. The sex offender's history of adult charges with apparent sexual motivation;
- c. The sex offender's history of adult charges without apparent sexual motivation;
- d. The sex offender's history of juvenile charges, whenever available;
- e. The sex offender's offender treatment history, including consultations with the sex offender's treating, or most recent treating, therapist;
- f. The sex offender's current mental status;
- g. The sex offender's mental health and substance abuse treatment history as provided by the Department of Corrections;
- h. The sex offender's personal, social, educational, and work history;
- i. The results of current psychological testing of the sex offender if determined necessary by the qualified practitioner;
- j. A description of the proposed contact, including the location, frequency, duration, and supervisory arrangement;
- k. The child's preference and relative comfort level with the proposed contact, when age appropriate;
- l. The parent's or legal guardian's preference regarding the proposed contact; and
- m. The qualified practitioner's opinion, along with the basis for that opinion, as to whether the proposed contact would likely pose significant risk of emotional or physical harm to the child.



852262

The written report of the assessment must be given to the court;

2. A recommendation made as a part of the risk assessment report as to whether supervised contact with the child should be approved;

3. A written consent signed by the child's parent or legal guardian, if the parent or legal guardian is not the sex offender, agreeing to the sex offender having supervised contact with the child after receiving full disclosure of the sex offender's present legal status, past criminal history, and the results of the risk assessment. The court may not approve contact with the child if the parent or legal guardian refuses to give written consent for supervised contact;

4. A safety plan prepared by the qualified practitioner, who provides treatment to the offender, in collaboration with the sex offender, the child's parent or legal guardian, if the parent or legal guardian is not the sex offender, and the child, when age appropriate, which details the acceptable conditions of contact between the sex offender and the child. The safety plan must be reviewed and approved by the court; and

5. Evidence that the child's parent or legal guardian understands the need for and agrees to the safety plan and has agreed to provide, or to designate another adult to provide, constant supervision any time the child is in contact with the offender.

The court may not appoint a person to conduct a risk assessment and may not accept a risk assessment from a person who has not demonstrated to the court that he or she has met the requirements of a qualified practitioner as defined in this



852262

section.

(f) If the victim was under age 18, a prohibition on working for pay or as a volunteer at any place where children regularly congregate, including, but not limited to, schools, child care facilities, parks, playgrounds, pet stores, libraries, zoos, theme parks, and malls.

(g) Unless otherwise indicated in the treatment plan provided by a qualified practitioner in the sexual offender treatment program, a prohibition on viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs, or computer services that are relevant to the offender's deviant behavior pattern.

(h) Effective for probationers and community controllees whose crime is committed on or after July 1, 2005, a prohibition on accessing the Internet or other computer services until a qualified practitioner in the offender's sex offender treatment program, after a risk assessment is completed, approves and implements a safety plan for the offender's accessing or using the Internet or other computer services.

(i) A requirement that the probationer or community controllee must submit a specimen of blood or other approved biological specimen to the Department of Law Enforcement to be registered with the DNA data bank.

(j) A requirement that the probationer or community controllee make restitution to the victim, as ordered by the court under s. 775.089, for all necessary medical and related professional services relating to physical, psychiatric, and psychological care.



852262

(k) Submission to a warrantless search by the community control or probation officer of the probationer's or community controllee's person, residence, or vehicle.

(2) Effective for a probationer or community controllee whose crime was committed on or after October 1, 1997, and who is placed on community control or sex offender probation for a violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, or whose crime was committed on or after July 1, 2021, and who is placed on community control or sex offender probation for a violation of s. 787.06(3)(b), (d), (f), or (g), or whose crime was committed on or after July 1, 2023, and who is placed on community control or sex offender probation for attempting, soliciting, or conspiring to commit a violation of s. 787.06(3)(b), (d), (f), or (g); chapter 794; s. 800.04; s. 827.071; s. 847.0135(5); or s. 847.0145, in addition to any other provision of this section, the court must impose the following conditions of probation or community control:

(a) As part of a treatment program, participation at least annually in polygraph examinations to obtain information necessary for risk management and treatment and to reduce the sex offender's denial mechanisms. A polygraph examination must be conducted by a polygrapher who is a member of a national or state polygraph association and who is certified as a postconviction sex offender polygrapher, where available, and shall be paid for by the probationer or community controllee. The results of the polygraph examination shall be provided to the probationer's or community controllee's probation officer and qualified practitioner and shall not be used as evidence in court to prove that a violation of community supervision has



852262

occurred.

(b) Maintenance of a driving log and a prohibition against driving a motor vehicle alone without the prior approval of the supervising officer.

(c) A prohibition against obtaining or using a post office box without the prior approval of the supervising officer.

(d) If there was sexual contact, a submission to, at the probationer's or community controllee's expense, an HIV test with the results to be released to the victim or the victim's parent or guardian.

(e) Electronic monitoring when deemed necessary by the community control or probation officer and his or her supervisor, and ordered by the court at the recommendation of the Department of Corrections.

(3) Effective for a probationer or community controllee whose crime was committed on or after September 1, 2005, and who:

(a) Is placed on probation or community control for a violation of chapter 794; s. 800.04(4), (5), or (6); s. 827.071; or s. 847.0145, or is placed on probation or community control on or after July 1, 2023, for attempting, soliciting, or conspiring to commit a violation of chapter 794; s. 800.04(4), (5), or (6); s. 827.071; or s. 847.0145, and the unlawful sexual activity involved a victim 15 years of age or younger and the offender is 18 years of age or older;

(b) Is designated a sexual predator pursuant to s. 775.21; or

(c) Has previously been convicted of a violation of chapter 794; s. 800.04(4), (5), or (6); s. 827.071; or s. 847.0145



852262

and the unlawful sexual activity involved a victim 15 years of age or younger and the offender is 18 years of age or older, the court must order, in addition to any other provision of this section, mandatory electronic monitoring as a condition of the probation or community control supervision.

(4) In addition to all other conditions imposed, for a probationer or community controllee who is subject to supervision for a crime that was committed on or after May 26, 2010, and who has been convicted at any time of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses listed in s. 943.0435(1)(h)1.a.(I), or a similar offense in another jurisdiction, against a victim who was under the age of 18 at the time of the offense; if the offender has not received a pardon for any felony or similar law of another jurisdiction necessary for the operation of this subsection, if a conviction of a felony or similar law of another jurisdiction necessary for the operation of this subsection has not been set aside in any postconviction proceeding, or if the offender has not been removed from the requirement to register as a sexual offender or sexual predator pursuant to s. 943.04354, the court must impose the following conditions:

(a) A prohibition on visiting schools, child care facilities, parks, and playgrounds, without prior approval from the offender's supervising officer. The court may also designate additional locations to protect a victim. The prohibition ordered under this paragraph does not prohibit the offender from visiting a school, child care facility, park, or playground for



852262

the sole purpose of attending a religious service as defined in s. 775.0861 or picking up or dropping off the offender's children or grandchildren at a child care facility or school.

(b) A prohibition on distributing candy or other items to children on Halloween; wearing a Santa Claus costume, or other costume to appeal to children, on or preceding Christmas; wearing an Easter Bunny costume, or other costume to appeal to children, on or preceding Easter; entertaining at children's parties; or wearing a clown costume; without prior approval from the court.

(5) Effective for a probationer or community controllee whose crime was committed on or after October 1, 2014, and who is placed on probation or community control for a violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, or whose crime was committed on or after July 1, 2023, and who is placed on probation or community control for attempting, soliciting, or conspiring to commit a violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, in addition to all other conditions imposed, the court must impose a condition prohibiting the probationer or community controllee from viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material unless otherwise indicated in the treatment plan provided by a qualified practitioner in the sexual offender treatment program. Visual or auditory material includes, but is not limited to, telephone, electronic media, computer programs, and computer services.

Section 5. This act shall take effect July 1, 2023.



852262

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

And the title is amended as follows:

 Delete everything before the enacting clause
and insert:

 A bill to be entitled
An act relating to custody and supervision of
specified offenders; amending s. 794.011, F.S.;
excluding certain offenders from eligibility to
receive basic gain-time; amending s. 944.275, F.S.;
excluding certain offenders from eligibility to
receive incentive gain-time; amending s. 948.05, F.S.;
excluding certain offenders from eligibility for
specified reductions to a term of supervision;
amending s. 948.30, F.S.; requiring a court to impose
additional conditions of supervision on specified
offenders; providing an effective date.

By Senator Davis

5-01068-23

2023528__

A bill to be entitled

An act relating to gain-time for attempted sexual offenses; amending s. 944.275, F.S.; eliminating the possibility of gain-time for persons convicted of attempting specified offenses; providing an effective date.

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

Section 1. Paragraph (e) of subsection (4) of section 944.275, Florida Statutes, is amended to read:

944.275 Gain-time.—

(4)

(e) Notwithstanding subparagraph (b)3.,

1. For sentences imposed for offenses committed on or after October 1, 2014, and before July 1, 2023, the department may not grant incentive gain-time if the offense is a violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s. 800.04; s. 825.1025; or s. 847.0135(5).

2. For sentences imposed for offenses committed on or after July 1, 2023, the department may not grant incentive gain-time if the offense is a violation or an attempted violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s. 800.04; s. 825.1025; or s. 847.0135(5).

Section 2. This act shall take effect July 1, 2023.



2023 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Corrections

<u>BILL INFORMATION</u>	
BILL NUMBER:	HB 537
BILL TITLE:	Gain-time for Attempted Sexual Offenses
BILL SPONSOR:	Representative Silvers
EFFECTIVE DATE:	July 1, 2023

<u>COMMITTEES OF REFERENCE</u>
1) Criminal Justice Subcommittee
2) Justice Appropriations Subcommittee
3) Judiciary Committee
4)
5)

<u>CURRENT COMMITTEE</u>

<u>SIMILAR BILLS</u>	
BILL NUMBER:	
SPONSOR:	

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	SB 528
SPONSOR:	Senator Davis

Is this bill part of an agency package?
No.

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	March 13, 2023
LEAD AGENCY ANALYST:	Michelle Palmer
ADDITIONAL ANALYST(S):	Mary Le
LEGAL ANALYST:	Ryan Orbe
FISCAL ANALYST:	Tommy Milito

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill amends section 944.275, Florida Statutes, to eliminate the possibility of incentive gain-time for persons convicted of committing or attempting to commit specified offenses with an offense date on or after July 1, 2023; provides an effective date.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

In 2014, the Legislature made significant changes to the gain-time law for sex offenders by amending, s. 944.275 F.S. to eliminate incentive gain-time for certain sex related offenses. Effective October 1, 2014, s. 944.275(4)(e), F.S., was added, providing for a gain-time prohibition for persons convicted of committing offenses which are violations of: s. 782.04(1)(a)2.c., F.S., (Murder committed during perpetration of Sexual Battery) 787.01(3)(a) 2. or 3., (Kidnapping of a Child under 13 years old with Sexual Battery or Lewd & Lascivious Offenses), s. 787.02 (3)(a) 2. or 3., (False Imprisonment of a Child under 13 years old with Sexual Battery or Lewd & Lascivious Offenses), s. 794.011, F.S., excluding s. 794.011(10), F.S., (Sexual Battery, excluding Falsely Accusing Certain Government Employees of Sexual Battery), s. 800.04, F.S., (Lewd or Lascivious Offenses Committed Upon or in the Presence of Persons Less than 16 years old), s. 825.1025, F.S., (Lewd or Lascivious Offenses Committed Upon or in the Presence of an Elderly or Disabled Person), and s. 847.0135(5), F.S., (Lewd or Lascivious Exhibition via Computer With a Victim Under 16 years old).

Currently, inmates serving sentences for those convictions enumerated in s. 944.275(4)(e), F.S., committed on or after October 1, 2014 are ineligible to earn incentive gain-time, including inmates serving sentences for attempt to commit, solicitation to commit or conspiracy to commit one of these underlying offenses. There are currently 791 inmates in Department custody who are serving a sentence that includes an attempt, conspiracy or solicitation to commit one of the underlying offenses outlined in s. 944.275(4)(e), F.S., (777 inmates for attempt, 5 inmates for conspiracy and 9 inmates for solicitation).

It should be noted there is litigation pending in the Florida Supreme Court, relating to gain-time eligibility (Florida Department of Corrections v. Gould, 344 So.3d 496, 47 Fla. L. Weekly [D1273a](#) & [D1708b](#) (Fla. 1DCA 2022). Supreme Court Case No. SC22-1207 (Florida Department of Corrections v. Gould). This case specifically deals with attempted sexual battery but may have a broader impact on the current application of this statute.

2. EFFECT OF THE BILL:

The bill adds s. 944.275(4)(e)(2), F.S., to specifically prohibit incentive gain-time for violations or attempted violations of the offenses specified under this subsection. This new language would ensure that those persons convicted for attempted violations of the enumerated offenses would not be eligible for incentive gain-time. The bill does not address persons convicted of conspiracy or solicitation.

As previously noted in the present situation, there is litigation pending in the Florida Supreme Court. If the Florida Supreme Court rules in the Department's favor, the bill will have no impact as any inmates received with offense dates on or after July 1, 2023 will not receive incentive gain-time based on the current language of the statute. Should the Florida Supreme Court rule that attempted violations of the enumerated offenses are in fact eligible, the language in this bill would explicitly prohibit incentive gain-time eligibility for attempted enumerated offenses committed on or after July 1, 2023.

As the Department currently does not award incentive gain-time for persons convicted of attempts to commit an enumerated offenses under s. 944.275(4)(e), F.S., this bill would have no impact on the Department.

The bill provides an effective date of July 1, 2023.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☐ N ☒

If yes, explain:

Is the change consistent with the agency's core mission?	Y ☐ N ☐
Rule(s) impacted (provide references to F.A.C., etc.):	

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	
Opponents and summary of position:	

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?Y ☐ N ☒

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?Y ☐ N ☒

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?Y ☒ N ☐

Revenues:	Unknown.
Expenditures:	Unknown
Does the legislation increase local taxes or fees? If yes, explain.	No.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?Y ☒ N ☐

Revenues:	Unknown.
Expenditures:	There will be no impact on the Department's inmate and supervision population. However, the Office of Information Technology anticipates minimal technology impact, with the amount being indeterminate.
Does the legislation contain a State Government appropriation?	No.
If yes, was this appropriated last year?	

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?Y ☒ N ☐

Revenues:	Unknown.
Expenditures:	Unknown.
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?Y ☐ N ☒

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y ☒ N ☐

If yes, describe the anticipated impact to the agency including any fiscal impact.	There will be minimal technology impact, however, the impact is indeterminate.
--	--

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.	
--	--

ADDITIONAL COMMENTS**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

Issues/concerns/comments:	HB 537 will deny gain-time for attempted enumerated offenses committed on or after July 1, 2023. However, not for all the inchoate crimes of the criminal statutes specified in s. 944.275(4)(e), F.S, are covered. This legislation does not provide clarity to Courts throughout the state concerning the gain-time qualifications for an inmate convicted of solicitation or conspiracy to commit sexual battery. This issue will continue to be unresolved until final ruling by the Florida Supreme Court. Further the Supreme Court may interpret this legislative action as being the legislative intent of exactly what specific crimes qualify for gain time and which don't, which would be a negative inference for the Department's position in the <i>Gould</i> case.
---------------------------	--

The Florida Senate

APPEARANCE RECORD

SB 528

Meeting Date

Bill Number or Topic

3/27/23
Criminal Justice
Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Laurette Philipson/Florida Cares Phone 561-855-0833

Address 2048 Ponce De Leon Ave Email laurette@floridacares
West Palm Beach FL 33407
Street City State Zip

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 836

INTRODUCER: Criminal Justice Committee and Senator Powell

SUBJECT: Theft from Nonprofit Organizations

DATE: March 28, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Erickson	Stokes	CJ	Fav/CS
2. _____	_____	ACJ	_____
3. _____	_____	FP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 836 creates s. 812.0146, F.S., to reclassify the crime of theft, whenever a person is charged with committing theft from an organization that person knows or has reason to believe is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code. The crime of theft is reclassified based on the value of the property taken. If the funds, assets, or property involved in the theft from a qualified organization is valued at:

- Fifty thousand dollars or more, the offender commits a first degree felony.
- Ten thousand dollars or more, but less than \$50,000, the offender commits a second degree felony.
- Three hundred dollars or more, but less than \$10,000, the offender commits a third degree felony.

A person who is convicted of theft of more than \$1,000 from an organization that the person knows or has reason to believe is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code must be ordered to make restitution to the victim and to perform up to 500 hours of community service.

The bill may have a positive indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2023.

II. Present Situation:

A nonprofit organization, as defined in 26 U.S.C. s. 501(c)(3), is an organization that is organized and operated exclusively for religious, charitable, scientific, public safety, literary, or educational purposes, or to foster specified national or international amateur sports competition, or for the prevention of cruelty to children or animals. None of such an organizations earnings may benefit any private shareholder or individual. No substantial part of the organizations activities may be directed towards attempting to influence legislation or any political campaign.

Property Theft

Section 812.014, F.S., provides that a person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to, either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or
- Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.¹

Second degree petit theft, a second degree misdemeanor, is theft of property valued at less than \$100.² First degree petit theft, a first degree misdemeanor, is theft of property valued at \$100 or more but less than \$750.³ Second degree petit theft incurs greater penalties if there is a prior theft conviction: it is a first degree misdemeanor if there is one prior conviction,⁴ and a third degree felony if there are two or more prior convictions.⁵

Third degree grand theft, a third degree felony,⁶ is theft of:

- Property valued at \$750 or more, but less than \$20,000;
- Specified property including, but not limited to:
 - A will, codicil, or testamentary instrument;
 - A firearm;
 - Any commercially farmed animal,⁷ a bee colony of a registered beekeeper, or aquaculture species raised at a certified aquaculture facility;⁸
 - Any fire extinguisher;⁹
 - Citrus fruit of 2,000 or more individual pieces;
 - Any stop sign;

¹ Section 812.014(1), F.S.

² Section 812.014(3)(a), F.S. A second degree misdemeanor is punishable by up to 60 days in jail and a fine of up to \$500. Sections 775.082 and 775.083, F.S.

³ Section 812.014(2)(e), F.S. A first degree misdemeanor is punishable by up to one year in jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

⁴ Section 812.014(3)(b), F.S.

⁵ Section 812.014(3)(c), F.S.

⁶ A third degree felony is punishable by up to 5 years' incarceration and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

⁷ This includes any animal of the equine, avian, bovine, or swine class or other grazing animal.

⁸ If the theft is of these types of property, a fine of \$10,000 must be imposed. Section 812.014 (2)(c)7., F.S.

⁹ Section 812.014(2)(c)8., F.S., provides that such fire extinguisher must, at the time of the taking, be installed in any building for the purpose of fire prevention and control.

- Property taken from a designated, posted construction site;¹⁰ and
- Property from a dwelling or its unenclosed curtilage if the property is valued at \$100 or more, but less than \$750.¹¹

Reclassification of Theft Offenses

Certain theft offenses are reclassified to the next higher degree offense if the person committing the offense has previous theft convictions. A petit theft offense is reclassified to a third degree felony, if the person has two previous convictions of any theft.¹² A third degree felony retail theft offense is reclassified to a second degree felony if the person has a previous retail theft in violation of s. 812.015(8), F.S.¹³

There are no time limits between theft convictions related to theft crime level and penalty enhancements.

Reclassification under s. 812.0145, F.S., is similar to the reclassification provided in the bill for theft from a qualified charitable organization. Section 812.0145(2), F.S., reclassifies the degree of theft when the victim of the theft is a person 65 years of age or older.¹⁴ Reclassification is based on the value of the funds, assets, or property involved in the theft:

- First degree felony (value is \$50,000 or more);
- Second degree felony (value is 10,000 or more, but less than \$50,000); or
- Third degree felony (value is \$300 or more, but less than \$10,000).

Criminal Punishment Code

The Criminal Punishment Code¹⁵ (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).¹⁶ Offenses are either ranked in the Offense Severity Ranking Chart (OSRC), or are ranked by default based on a ranking assigned to the felony degree of the offense. The Default ranking is as follows:

- A first degree felony is ranked as a level 7 offense.
- A second degree felony is ranked as a level 4 offense.
- A third degree felony is ranked as a level 1 offense.¹⁷

Points are assigned and accrue based upon the offense severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses. The lowest permissible sentence is any nonstate prison

¹⁰ Section 812.014(2)(c), F.S.

¹¹ Section 812.014(2)(d), F.S.

¹² Section 812.014(3)(c), F.S.

¹³ Section 812.015(9)(a), F.S.

¹⁴ The perpetrator must know or have reason to believe that the victim was 65 years of age or older. Section 812.0145(2), F.S.

¹⁵ Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

¹⁶ Section 921.0022, F.S.

¹⁷ Section 921.0023, F.S.

sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.¹⁸ Absent mitigation,¹⁹ the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.²⁰

III. Effect of Proposed Changes:

The bill creates s. 812.0146, F.S., to reclassify the crime of theft, whenever a person is charged with committing theft from an organization that person knows or has reason to believe is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code. The crime of theft is reclassified based on the value of the property taken. If the funds, assets, or property involved in the theft from a qualified organization is valued at:

- Fifty thousand dollars or more, the offender commits a first degree felony.
- Ten thousand dollars or more, but less than \$50,000, the offender commits a second degree felony.
- Three hundred dollars or more, but less than \$10,000, the offender commits a third degree felony.

A person who is convicted of theft of more than \$1,000 from an organization that the person knows or has reason to believe is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code must be ordered to make restitution to the victim and to perform up to 500 hours of community service. Such restitution and community service hours are in addition to any fine or sentence which may be imposed by the court.

The bill does not rank the reclassified offenses on the OSRC, and therefore will default to the statutorily assigned ranking levels, pursuant to s. 921.0023, F.S.

- The first degree felony is ranked as a level 7 offense.
- The second degree felony is ranked as a level 4 offense.
- The third degree felony is ranked as a level 1 offense.

The bill is effective October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁸ Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

¹⁹ The court may “mitigate” or “depart downward” from the scored lowest permissible sentence, if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

²⁰ If the scored lowest permissible sentence exceeds the maximum penalty in s. 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment. Section 921.0024(2), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. The Legislature's Office of Economic and Demographic Research (EDR) preliminary estimates that the bill will have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds).²¹

While these felonies are newly created, other felonies currently exist where theft from nonprofit organizations might be prosecuted, such as retail theft, grand theft, and petit theft. Per DOC, there were 40 new commitments to prison in FY 18-19 for retail theft offenses, and 23 new commitments in FY 19-20. There were 22 new commitments in FY 20-21, and 14 new commitments in FY 21-22. For grand theft, there were 1,511 new commitments in FY 18-19, and 1,069 new commitments in FY 19-20. In FY 20-21, there were 698 new commitments, and in FY 21-22, there were 785 new commitments. While a large proportion of the grand theft commitments include a third conviction for petit theft, there are also a large number of 1st degree misdemeanor petit theft convictions each year for those on their first or second conviction. Per FDLE, in FY 21-22, there were 5,335 guilty/convicted charges and 1,454 adjudication withheld charges. These misdemeanors could be elevated to felonies under this new language, though it is not

²¹ SB 836- *Theft from Nonprofit Organizations*, Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice).

known how many of these involved theft from a nonprofit organization, nor is it known how many of these fall between \$300 and \$750, since the minimum threshold for a 1st degree misdemeanor is \$100. The same can be said for the other theft felonies where theft from nonprofit organizations might currently fall, and which also have differing monetary thresholds from the current language. Therefore, the impact of this new language on the prison population cannot be quantified.²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 812.0146.

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 March 27, 2023:

The committee substitute specifies that the offender must know or have reason to believe that the organization is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code to receive the enhanced penalties.

- B. **Amendments:**

None.

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

²² *Id.*



443382

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2023	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 16 - 36
and insert:
an organization that he or she knows or has reason to believe is
qualified as charitable under s. 501(c)(3) of the Internal
Revenue Code, the offense for which the person is charged shall
be reclassified as follows:

(a) If the funds, assets, or property involved in the theft
from an organization qualified as charitable under s. 501(c)(3)



443382

11 of the Internal Revenue Code is valued at \$50,000 or more, the
12 offender commits a felony of the first degree, punishable as
13 provided in s. 775.082, s. 775.083, or s. 775.084.

14 (b) If the funds, assets, or property involved in the theft
15 from an organization qualified as charitable under s. 501(c)(3)
16 of the Internal Revenue Code is valued at \$10,000 or more, but
17 less than \$50,000, the offender commits a felony of the second
18 degree, punishable as provided in s. 775.082, s. 775.083, or s.
19 775.084.

20 (c) If the funds, assets, or property involved in the theft
21 from an organization qualified as charitable under s. 501(c)(3)
22 of the Internal Revenue Code is valued at \$300 or more, but less
23 than \$10,000, the offender commits a felony of the third degree,
24 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

25 (2) A person who is convicted of theft of more than \$1,000
26 from an organization that he or she knows or has reason to
27 believe is qualified as charitable under s. 501(c)(3)

By Senator Powell

24-01444-23

2023836__

A bill to be entitled

An act relating to theft from nonprofit organizations; creating s. 812.0146, F.S.; providing for the reclassification of certain theft offenses of specified amounts from nonprofit organizations; requiring restitution and community service for certain violations; providing an effective date.

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

Section 1. Section 812.0146, Florida Statutes, is created to read:

812.0146 Theft from a nonprofit organization; reclassification of offenses.-

(1) Whenever a person is charged with committing theft from an organization qualified as charitable under s. 501(c)(3) of the Internal Revenue Code, the offense for which the person is charged shall be reclassified as follows:

(a) If the funds, assets, or property involved in the theft from an organization qualified as charitable under s. 501(c)(3) of the Internal Revenue Code is valued at \$50,000 or more, the offender commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the funds, assets, or property involved in the theft from an organization qualified as charitable under s. 501(c)(3) of the Internal Revenue Code is valued at \$10,000 or more, but less than \$50,000, the offender commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Page 1 of 2

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

24-01444-23

2023836__

(c) If the funds, assets, or property involved in the theft from an organization qualified as charitable under s. 501(c)(3) of the Internal Revenue Code is valued at \$300 or more, but less than \$10,000, the offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A person who is convicted of theft of more than \$1,000 from an organization qualified as charitable under s. 501(c)(3) of the Internal Revenue Code shall be ordered by the sentencing judge to make restitution to the victim of such offense and to perform up to 500 hours of community service work. Such restitution and community service work shall be in addition to any fine or sentence which may be imposed and shall not be in lieu thereof.

Section 2. This act shall take effect October 1, 2023.

Page 2 of 2

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

SB 836 – Theft from Nonprofit Organizations

This bill creates s. 812.0146, F.S., adding multiple felonies for the act of theft from a nonprofit organization, defined as “charitable under s. 501(c)(3) of the Internal Revenue Code.” The felony degree depends on the value of “the funds, assets, or property involved in the theft from an organization.” Monetary thresholds and the associated felonies for them are listed below:

- \$50,000 or more – Level 7, 1st degree felony
- \$10,000 or more, less than \$50,000 – Level 4, 2nd degree felony
- \$300 or more, less than \$10,000 – Level 1, 3rd degree felony

In FY 18-19, the incarceration rate for a Level 1, 3rd degree felony was 9.1%, and in FY 19-20 the incarceration rate was 8.2%. In FY 20-21, the incarceration rate for a Level 1, 3rd degree felony was 7.5%, and in FY 21-22 the incarceration rate was 8.6%. In FY 18-19, the incarceration rate for a Level 4, 2nd degree felony was 28.7%, and in FY 19-20 the incarceration rate was 27.3%. In FY 20-21, the incarceration rate for a Level 4, 2nd degree felony was 23.8%, and in FY 21-22 the incarceration rate was 29.7%. In FY 18-19, the incarceration rate for a Level 7, 1st degree felony was 67.1%, and in FY 19-20 the incarceration rate was 66.5%. In FY 20-21, the incarceration rate for a Level 7, 1st degree felony was 65.5%, and in FY 21-22 the incarceration rate was 63.1%.

While these felonies are newly created, other felonies currently exist where theft from nonprofit organizations might be prosecuted, such as retail theft, grand theft, and petit theft. Per DOC, there were 40 new commitments to prison in FY 18-19 for retail theft offenses, and 23 new commitments in FY 19-20. There were 22 new commitments in FY 20-21, and 14 new commitments in FY 21-22. For grand theft, there were 1,511 new commitments in FY 18-19, and 1,069 new commitments in FY 19-20. In FY 20-21, there were 698 new commitments, and in FY 21-22, there were 785 new commitments. While a large proportion of the grand theft commitments include a third conviction for petit theft, there are also a large number of 1st degree misdemeanor petit theft convictions each year for those on their first or second conviction. Per FDLE, in FY 21-22, there were 5,335 guilty/convicted charges and 1,454 adjudication withheld charges. These misdemeanors could be elevated to felonies under this new language, though it is not known how many of these involved theft from a nonprofit organization, nor is it known how many of these fall between \$300 and \$750, since the minimum threshold for a 1st degree misdemeanor is \$100. The same can be said for the other theft felonies where theft from nonprofit organizations might currently fall, and which also have differing monetary thresholds from the current language. Therefore, the impact of this new language on the prison population cannot be quantified.

EDR PROPOSED ESTIMATE: Positive Indeterminate

Requested by: Senate



The Florida Senate

Committee Agenda Request

To: Senator Jonathan Martin, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: February 24, 2023

I respectfully request that **Senate Bill #836**, relating to **Theft from Nonprofit Organizations**, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Bobby Powell", is written over a horizontal line.

Senator Bobby Powell
Florida Senate, District 24

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 994

INTRODUCER: Criminal Justice Committee and Senator Calatayud and others

SUBJECT: Public Nuisances

DATE: March 28, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Stokes	CJ	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 994 makes several changes relating to public nuisances, especially regarding certain acts that evidence religious or ethnic animus, by:

- Providing that it is a third degree felony to intentionally dump onto private property litter that evidences religious or ethnic animus toward an owner or invitee of such property.
- Providing that it is a third degree felony to willfully and maliciously harass, threaten, or intimidate another person based on the person's wearing or displaying of any indicia relating to any religious or ethnic heritage.
- Providing that it is a third degree felony to willfully and maliciously deface, injure, or damage by any means any cemetery, grave, or memorial or any school or community center which the person knows, or reasonably should have known, is associated with a particular religious or ethnic heritage.
- Providing that it is a first degree misdemeanor to knowingly and intentionally display or project, using any medium, an image onto a building, structure, or other property without the written consent of the owner of the building, structure, or property. If a person displays or projects an image that evidences religious or ethnic animus during commission of the offense, it is prima facie evidence the person has evidenced prejudice in the commission of the offense for the purpose of hate-crime reclassification.
- Providing that is a first degree misdemeanor for a person, without being authorized, licensed, or invited, to willfully enter the campus of a state university or Florida College System institution for the purpose of threatening or intimidating another person, and is warned by the state university or Florida College System institution to depart and refuses to do so. If a

person evidences religious or ethnic animus during commission of the offense, it is prima facie evidence the person has evidenced prejudice in the commission of the offense for the purpose of hate-crimes reclassification.

- Revising a current offense in s. 871.01, F.S., relating to disturbing a school or place of worship, to increase the degree of the offense from a second degree misdemeanor to a first degree misdemeanor. If a person evidences religious or ethnic animus during commission of the offense, it is prima facie evidence the person has evidenced prejudice in the commission of the offense for the purpose of hate-crime classification.

The bill also requires hate crime-reporting for the described offenses and defines key terms.

The Legislature's Office of Economic and Demographic Research preliminary estimates that the bill will have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds). See Section V. Fiscal Impact Statement.

The bill takes effect upon becoming a law.

II. Present Situation:

Noncriminal Infraction of Florida Litter Law

Section 403.413, F.S., is the Florida Litter Law. Section 403.413(4), F.S., provides that, unless otherwise authorized by law or permit, it is unlawful for any person to dump litter in any manner or amount:

- In or on any public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, or any other public lands, except in containers or areas lawfully provided therefor. When any litter is thrown or discarded from a motor vehicle, the operator or owner of the motor vehicle, or both, shall be deemed in violation of this section;
- In or on any freshwater lake, river, canal, or stream or tidal or coastal water of the state, including canals. When any litter is thrown or discarded from a boat, the operator or owner of the boat, or both, shall be deemed in violation of this section; or
- In or on any private property, unless prior consent of the owner has been given and unless the dumping of such litter by such person will not cause a public nuisance or otherwise be in violation of any other state or local law, rule, or regulation.

Section 403.413(6)(a), F.S., provides that any person who dumps litter in violation of s. 403.413(4), F.S., in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes commits a noncriminal infraction, punishable by a civil penalty of \$150, from which \$50 is deposited into the Solid Waste Management Trust Fund to be used for the solid waste management grant program pursuant to s. 403.7095, F.S. In addition, the court may require the violator to pick up litter or perform other labor commensurate with the offense committed.

Stalking and Aggravated Stalking

Section 784.048(2), F.S., provides that it is a first degree misdemeanor¹ to willfully, maliciously, and repeatedly follow, harass,² or cyberstalk³ another person.

A person commits aggravated stalking, a third degree felony,⁴ if the person willfully, maliciously, and repeatedly follows, harasses, or cyberstalks:

- Another person, and makes a credible threat⁵ to that person;
- A child under 16 years of age;
- Another person who has been granted an injunction for protection against repeat violence, sexual violence, or dating violence pursuant to s. 784.046, F.S., or an injunction for protection against domestic violence pursuant to s. 741.30, F.S., or after any other court-imposed prohibition of conduct toward the subject person or that person's property; or
- A person who, after having been sentenced for a violation of s. 794.011, F.S. (sexual battery), s. 800.04, F.S. (lewd or lascivious offenses), or s. 847.0135(5), F.S. (computer pornography offenses), is prohibited from contacting the victim of the offense under s. 921.244, F.S.⁶

Criminal Mischief

Section 806.13, F.S., provides that a person commits criminal mischief by willfully and maliciously injuring or damaging by any means any real or personal property belonging to another, including by placement of graffiti or other acts of vandalism. The penalty for criminal mischief generally corresponds to the cost of the damage. It is a:

- Second degree misdemeanor⁷ if the damage is \$200 or less;
- First degree misdemeanor if the damage is greater than \$200 but less than \$1,000; and
- Third degree felony if the damage is \$1,000 or greater or there is interruption or impairment of a business operation or public communication, transportation, supply of water, gas or power, or other public service which costs \$1,000 or more in labor and supplies to restore.⁸

¹ A first degree misdemeanor is punishable by not more than 1 year in county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

² "Harass" means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose. Section 784.048(1)(a), F.S.

³ "Cyberstalk" means: (1) to engage in a course of conduct to communicate, or to cause to be communicated, directly or indirectly, words, images, or language by or through the use of electronic mail or electronic communication, directed at or pertaining to a specific person; or (2) to access, or attempt to access, the online accounts or Internet-connected home electronic systems of another person without that person's permission, causing substantial emotional distress to that person and serving no legitimate purpose. Section. 784.048(1)(d), F.S.

⁴ A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

⁵ "Credible threat" means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat.

⁶ Section 784.048(3)-(5) and (7), F.S.

⁷ A second degree misdemeanor is punishable by not more than 60 days in county jail and a fine not exceeding \$500. Sections 775.082 and 775.083, F.S.

⁸ Section 806.13(1)(a) and (b)1.-3., F.S.

Criminal mischief may also be enhanced to a third degree felony based on a prior criminal mischief conviction or the nature of the property damaged, including when a person damages a:

- Church, synagogue, mosque, or other place of worship, or any religious article contained therein, if the damage to the property is greater than \$200;
- Memorial or historic property, if the damage is greater than \$200;
- Public telephone and other communication apparatuses, regardless of the value of the damage; or
- Sexually violent predator detention or commitment facility or any property contained therein, if the damage is valued greater than \$200.⁹

A person who commits criminal mischief by placement of graffiti must also pay a fine, which increases based on the number of convictions, and perform community service.¹⁰ A minor who commits a delinquent act of criminal mischief is also subject to additional penalties.¹¹

Disturbing Schools and Religious and Other Assemblies

Section 871.01(1), F.S., provides that it is second degree misdemeanor to willfully interrupt or disturb any school or any assembly of people met for the worship of God or for any lawful purpose.

Unlawful Protests

Section 871.015, F.S., provides that it is a first degree misdemeanor to knowingly engage in protest activities or knowingly cause protest activities to occur within 500 feet of the property line of a residence, cemetery, funeral home, house of worship, or other location during or within 1 hour before or 1 hour after the conducting of a funeral or burial at that place. This section does not prohibit protest activities that occur adjacent to that portion of a funeral procession which extends beyond 500 feet of the property line of the location of the funeral or burial.¹²

Hate-Crime Reporting

Section 877.19, F.S., Florida's Hate Crimes Reporting Act, requires the Governor, through the Florida Department of Law Enforcement (FDLE), to collect and disseminate data on incidents of criminal acts that evidence prejudice based on race, religion, ethnicity, color, ancestry, sexual orientation, or national origin. All law enforcement agencies must report monthly to the FDLE concerning such offenses in such form and in such manner as prescribed by rules adopted by the department. This information is compiled by the FDLE and disseminated upon request to any local law enforcement agency, unit of local government, or state agency.¹³

⁹ Section 806.13(1)(b) 4. and (2)-(5), F.S.

¹⁰ Section 806.13(7)(a) and (b), F.S.

¹¹ Section 806.13(7)(c), (8), and (9), F.S.

¹² Section 871.015(2) and (3), F.S.

¹³ Section 877.19(2), F.S. This information is confidential and exempt from public disclosure. Data required pursuant to this section is used only for research or statistical purposes and does not include any information that may reveal the identity of an individual victim of a crime. Section 877.19(3), F.S.

III. Effect of Proposed Changes:

The bill makes several changes relating to public nuisances, especially regarding certain acts that evidence religious or ethnic animus.

Littering

The bill amends s. 403.413, F.S., the Florida Litter Law, to provide that it is a third degree felony to intentionally dump onto private property litter that evidences religious or ethnic animus toward an owner or invitee of such property.

Harassment or Intimidation

The bill creates s. 784.0493, F.S., which provides that it is a third degree felony to willfully and maliciously harass, threaten, or intimidate another person based on the person's wearing or displaying of any indicia relating to any religious or ethnic heritage.

Criminal Mischief

The bill amends s. 806.13, F.S., to provide that it is a third degree felony to willfully and maliciously deface, injure, or damage by any means any cemetery, grave, or memorial as defined in s. 806.135, F.S., or any school or community center as defined in s. 893.13(1)(c), F.S., which the person knows, or reasonably should have known, is associated with a particular religious or ethnic heritage.

The bill also amends this section to provide that it is a first degree misdemeanor to knowingly and intentionally display or project, using any medium, an image onto a building, structure, or other property without the written consent of the owner of the building, structure, or property. If a person displays or projects an image that evidences religious or ethnic animus during commission of the offense, it is prima facie evidence the person has evidenced prejudice in the commission of the offense for the purpose of hate-crime reclassification.

Trespass

The bill creates s. 810.098, F.S., which provides that it is a first degree misdemeanor for a person, without being authorized, licensed, or invited, to willfully enter the campus of a state university or Florida College System institution for the purpose of threatening or intimidating another person, and is warned by the state university or Florida College System institution to depart and refuses to do so. If a person evidences religious or ethnic animus during commission of the offense, it is prima facie evidence the person has evidenced prejudice in the commission of the offense for the purpose of hate-crimes reclassification.

Disturbing Schools and Places of Worship

The bill amends s. 871.01, F.S., which punishes disturbing a school or place of worship. Currently, the offense requires willfulness. The bill adds malice. The bill also increases the degree of the offense from a second degree misdemeanor to a first degree misdemeanor. If a person evidences religious or ethnic animus during commission the offense, it is prima facie

evidence the person has evidenced prejudice in the commission of the offense for the purpose of hate-crime reclassification.

Hate-Crime Reporting

The previously described offenses are subjected to hate-crime reporting.

Terminology

The bill defines the following terms where they appear in the bill:

- “Animus” includes intent to intimidate or threaten or intent to do harm.
- “Florida College System institution” has the same meaning as in s. 1000.21(3), F.S.
- “Harass” has the same meaning as in s. 784.048, F.S., which defines the term as engaging in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.
- “Image” means a visual representation or likeness of a person or object, including text, graphics, logos, other artwork, or any combination thereof.
- “School” means the grounds or facility of any early learning center, prekindergarten, kindergarten, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or private.
- “State university” has the same meaning as in s. 1000.21(6), F.S.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

If a question arises about whether the bias-evidencing crimes created by the bill implicate the First Amendment, the Florida Supreme Court’s opinion in *State v. Stadler*¹⁴ may provide some guidance in answering that question.

In *State v. Stadler*, the Florida Supreme Court held that s. 775.085, F.S., Florida’s hate crimes law,¹⁵ did not violate the First Amendment. In its analysis of s. 775.085, F.S., the Court determined that s. 775.085, F.S., is a bias-evidencing law and explained that a bias-evidencing crime is “any crime wherein the perpetrator ‘evidences prejudice’ based on one or more of the enumerated characteristics of the victim ‘while committing [the] offense.’”¹⁶ The court further explained that a bias-evidencing crime “has been viewed as embracing two broad classes of offenses.”¹⁷ The first class consists of “offenses committed because of prejudice. For instance, A beats B because B is a member of a particular racial group.”¹⁸ For this class, “[t]he targeted activity—the selection of a victim—is an integral part of the underlying crime. As such, the conduct is not protected speech at all, but rather falls outside the First Amendment and may be banned.”¹⁹ The Court construed Florida’s hate crimes law as embracing only bias-motivated crimes, and therefore, falling within this class.

The second class consists of “those offenses committed for some reason other than prejudice but that nevertheless show bias in their commission. For example, A beats B because of jealousy, but in the course of the battery calls B a racially derogatory term.”²⁰ For this class, expression of bias is targeted and this expression is “related to the underlying crime in only the most tangential way: The expression and crime share the same temporal framework, nothing more.”²¹ Bias-evidencing crimes in this class violate the First Amendment.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

¹⁴ 630 So.2d 1072 (Fla. 1974).

¹⁵ Subsequent to *Stadler*, the Legislature created a second hate crimes law, s. 775.0863, F.S., which reclassifies the misdemeanor or felony degree of an offense if the commission of that offense evidences prejudice based on mental or physical disability of the victim.

¹⁶ *Stadler*, *supra*, at 1076, quoting s. 775.085, F.S.

¹⁷ *Stadler*, *supra*, at 1076 (citations omitted).

¹⁸ *Stadler*, *supra*, at 1076.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. The Legislature's Office of Economic and Demographic Research preliminary estimates that the bill will have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds).²² The EDR provides the following additional information regarding its estimate:

In FY 18-19, the incarceration rate for a Level 1, 3rd degree felony was 9.1%, and in FY 19-20 the incarceration rate was 8.2%. In FY 20-21, the incarceration rate for a Level 1, 3rd degree felony was 7.5%, and in FY 21-22 the incarceration rate was 8.6%.

Per data obtained from the Department of Environmental Protection's Schedule I found on the Florida Fiscal Portal, there are estimated to be a maximum of 800 people who receive citations under s. 403.413, F.S.,] for littering less than 15 pounds each fiscal year. It is not known how many of these people would fit the criteria listed for the new misdemeanor and felony created for this statute.

Per [Florida Department of Law Enforcement or] FDLE, there were 638 misdemeanor stalking arrests (s. 784.048(2), F.S.) in FY 21- 22, with 280 guilty/convicted charges and 80 adjudication withheld charges. Per [Department of Corrections or] DOC, in FY 18-19, there were 74 new commitments for aggravated stalking, and in FY 19-20, there were 62 new commitments. In FY 20-21, there were 67 new commitments, and in FY 21-22, there were 68 new commitments. It should be noted that over half of these involved violating court orders. Furthermore, it is not known if offenders fitting the bill's criteria are already included in these numbers.

Per FDLE, there were 2,978 misdemeanor criminal mischief arrests (s. 806.13(1)(b)1., F.S.) in FY 21-22, with 1,587 guilty/convicted charges and 430 adjudication withheld charges. Per DOC, there have been no new commitments to prison in the last four fiscal years under the current version of the Level 1, 3rd degree felony for "any person who willfully and maliciously defaces, injures, or damages by any means...any church, synagogue, mosque, or other place of worship, or any religious article contained therein." Furthermore, there is no data available regarding image projections that evidence "religious or ethnic intimidation, threat, or intent to harm."

Per FDLE, in FY 21-22, there were 35 arrests under the current 2nd degree misdemeanor language for disturbance of a school, church, or other assembly. There were also 4 guilty/convicted charges and 9 adjudication withheld charges.

²² SB 994 – *Public Nuisances*, Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice).

Per Uniform Crime Reports, in CY 2021, there were 5 arrests for crimes evidencing prejudice with a religious bias. Of those arrests, 4 were Anti-Jewish and one was Anti-Catholic. While this new language does create multiple felonies, the number of potential offenders is not known, so the impact on the prison population cannot be quantified.²³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 403.413, 784.048, 806.13, and 871.01.

This bill creates the following sections of the Florida Statutes: 784.0493 and 810.098.

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 March 27, 2023:

The committee substitute:

- Revises elements of new offenses relating to littering, harassment, and criminal mischief, including damaging any cemetery, grave, or memorial or any school or community center, unlawfully projecting images on buildings. It also revises the current offense relating to disturbing a school or place of worship to increase the penalty from a second degree misdemeanor to a first degree misdemeanor. Some offenses require evidence of religious or ethnic animus.
- Creates s. 810.098, F.S., which provides it is a first degree misdemeanor for a person to trespass on the campus of a state university or Florida College System institution for the purpose of threatening or intimidating another person, and the person is warned to depart and refuses to do so.
- Specifies what constitutes prima facie evidence for purpose of hate crimes penalty reclassification.
- Defines terminology.
- Requires hate-crime reporting.
- Changes effective date from October 1, 2023 to upon becoming a law.

²³ *Id.*

B. Amendments:

None.

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



529702

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (6) of section
403.413, Florida Statutes, is amended to read:

403.413 Florida Litter Law.—

(6) PENALTIES; ENFORCEMENT.—

(a) 1. Except as provided in subparagraph 2., any person who
dumps litter in violation of subsection (4) in an amount not



529702

exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes commits a noncriminal infraction, punishable by a civil penalty of \$150, from which \$50 shall be deposited into the Solid Waste Management Trust Fund to be used for the solid waste management grant program pursuant to s. 403.7095. In addition, the court may require the violator to pick up litter or perform other labor commensurate with the offense committed.

2. If a person violates subparagraph 1. by intentionally dumping onto private property litter that evidences religious or ethnic animus toward an owner or invitee of such property, the person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this subparagraph, the term "animus" includes intent to intimidate or threaten or intent to do harm. A violation of this subparagraph shall be reported pursuant to s. 877.19.

Section 2. Section 784.0493, Florida Statutes, is created to read:

784.0493 Harassment or intimidation based on religious or ethnic heritage.—

(1) As used in this section, the term "harass" has the same meaning as in s. 784.048.

(2) A person may not willfully and maliciously harass, threaten, or intimidate another person based on the person's wearing or displaying of any indicia relating to any religious or ethnic heritage.

(3) A person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.



529702

40 (4) A violation of this section shall be reported pursuant
41 to s. 877.19.

42 Section 3. Present subsections (6) through (10) of section
43 806.13, Florida Statutes, are redesignated as subsections (7)
44 through (11), respectively, a new subsection (6) is added to
45 that section, and subsection (2) and present subsection (9) of
46 that section are amended, to read:

47 806.13 Criminal mischief; penalties; penalty for minor.—

48 (2) (a) Any person who willfully and maliciously defaces,
49 injures, or damages by any means:

50 1. Any church, synagogue, mosque, or other place of
51 worship, or any religious article contained therein;

52 2. Any cemetery, grave, or memorial as defined in s.
53 806.135 which the person knows, or reasonably should have known,
54 is associated with a particular religious or ethnic heritage; or

55 3. Any school or community center as defined in s.
56 893.13(1)(c) which the person knows, or reasonably should have
57 known, is associated with a particular religious or ethnic
58 heritage,

59
60 commits a felony of the third degree, punishable as provided in
61 s. 775.082, s. 775.083, or s. 775.084, ~~if the damage to the~~
62 ~~property is greater than \$200.~~

63 (b) A violation of this subsection shall be reported
64 pursuant to s. 877.19.

65 (c) For purposes of this subsection, the term "school"
66 means the grounds or facility of any early learning center,
67 prekindergarten, kindergarten, elementary school, middle school,
68 junior high school, secondary school, career center, or



529702

postsecondary school, whether public or private.

(6) A person may not knowingly and intentionally display or project, using any medium, an image onto a building, structure, or other property without the written consent of the owner of the building, structure, or property. For purposes of this subsection, the term "image" means a visual representation or likeness of a person or object, including text, graphics, logos, other artwork, or any combination thereof.

(a) A person who violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If a person displays or projects an image that evidences religious or ethnic animus during the commission of an offense under this subsection, it is prima facie evidence that such person has evidenced prejudice in the commission of the offense for the purpose of reclassifying the penalty under s. 775.085. As used in this paragraph, the term "animus" includes intent to intimidate or threaten or intent to do harm.

(c) If the penalty for a violation of this subsection is reclassified under s. 775.085, such a violation shall be reported pursuant to s. 877.19.

(10) ~~(9)~~ A minor whose driver license or driving privilege is revoked, suspended, or withheld under subsection ~~(9)~~ ~~(8)~~ may elect to reduce the period of revocation, suspension, or withholding by performing community service at the rate of 1 day for each hour of community service performed. In addition, if the court determines that due to a family hardship, the minor's driver license or driving privilege is necessary for employment or medical purposes of the minor or a member of the minor's



529702

family, the court shall order the minor to perform community service and reduce the period of revocation, suspension, or withholding at the rate of 1 day for each hour of community service performed. As used in this subsection, the term "community service" means cleaning graffiti from public property.

Section 4. Section 810.098, Florida Statutes, is created to read:

810.098 Trespass for the purpose of threatening or intimidating another person.—

(1)(a) Whoever, without being authorized, licensed, or invited, willfully enters the campus of a state university or Florida College System institution for the purpose of threatening or intimidating another person, and is warned by the state university or Florida College System institution to depart and refuses to do so, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If a person evidences religious or ethnic animus during the commission of an offense under this subsection, it is prima facie evidence that such person has evidenced prejudice in the commission of the offense for the purpose of reclassifying the penalty under s. 775.085.

(c) If the penalty for a violation of this subsection is reclassified under s. 775.085, such a violation shall be reported pursuant to s. 877.19.

(2) As used in this section, the term:

(a) "Animus" includes intent to intimidate or threaten or intent to do harm.

(b) "Florida College System institution" has the same



529702

meaning as in s. 1000.21(3).

(c) "State university" has the same meaning as in s. 1000.21(6).

Section 5. Subsection (1) of section 871.01, Florida Statutes, is amended to read:

871.01 Disturbing schools and religious and other assemblies.—

(1)(a) Whoever willfully and maliciously interrupts or disturbs any school or any assembly of people met for the worship of God, any assembly of people met for the purpose of acknowledging the death of an individual, or any assembly of people met for any other lawful purpose commits a misdemeanor of the first ~~second~~ degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If a person evidences religious or ethnic animus during the commission of an offense under this subsection, it is prima facie evidence that such person has evidenced prejudice in the commission of the offense for the purpose of reclassifying the penalty under s. 775.085. As used in this paragraph, the term "animus" includes intent to intimidate or threaten or intent to do harm.

(c) If the penalty for a violation of this subsection is reclassified under s. 775.085, such a violation shall be reported pursuant to s. 877.19.

Section 6. This act shall take effect upon becoming a law.

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

And the title is amended as follows:

Delete everything before the enacting clause



529702

and insert:

A bill to be entitled
An act relating to public nuisances; amending s.
403.413, F.S.; prohibiting a person from intentionally
dumping onto private property litter that evidences
religious or ethnic animus toward an owner or invitee
of such property; defining the term "animus";
providing criminal penalties; requiring that certain
violations be reported pursuant to specified
provisions; creating s. 784.0493, F.S.; defining the
term "harass"; prohibiting a person from willfully and
maliciously harassing, threatening, or intimidating
another person based on the person's wearing or
displaying of any indicia relating to any religious or
ethnic heritage; providing criminal penalties;
requiring that certain violations be reported pursuant
to specified provisions; amending s. 806.13, F.S.;
prohibiting willful and malicious defacement, injury,
or damage to certain property; providing criminal
penalties; removing a minimum damage requirement for a
violation; requiring that certain violations be
reported pursuant to specified provisions; defining
the term "school"; prohibiting the knowing and
intentional display or projection of certain images
onto a building, structure, or property without
permission; defining the term "image"; providing
criminal penalties; providing construction; defining
the term "animus"; requiring that certain violations
be reported pursuant to specified provisions; creating



529702

s. 810.098, F.S.; prohibiting a person who willfully enters the campus of a state university or Florida College System institution for the purpose of threatening or intimidating another person from remaining on such campus after being warned to depart; providing criminal penalties; providing construction; requiring that certain violations be reported pursuant to specified provisions; defining terms; amending s. 871.01, F.S.; prohibiting the willful and malicious interruption or disruption of certain assemblies; providing criminal penalties; providing construction; defining the term "animus"; requiring that certain violations be reported pursuant to specified provisions; providing an effective date.

By Senator Calatayud

38-00915A-23

2023994__

A bill to be entitled

An act relating to public nuisances; amending s. 403.413, F.S.; prohibiting the distribution of certain materials which leads to littering; providing for reclassification of certain offenses; providing criminal penalties; requiring that certain violations be reported as hate crimes; amending s. 784.048, F.S.; prohibiting the stalking of certain individuals based on their wearing of certain garments; providing criminal penalties; requiring that violations be reported as hate crimes; amending s. 806.13, F.S.; prohibiting willful and malicious defacement of or injury or damage to certain religious property; removing a minimum damage requirement for a violation; providing construction; prohibiting the projection of certain images onto buildings or other property without the written consent of the owner; providing criminal penalties; requiring that certain violations be reported as hate crimes; amending s. 871.01, F.S.; prohibiting the willful interference with assemblies of people meeting for the purpose of acknowledging the death of an individual; providing enhanced criminal penalties for persons who commit violations while evidencing religious or ethnic intimidation, threat, or intent to harm; requiring that certain violations be reported as hate crimes; providing an effective date.

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

Page 1 of 6

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

38-00915A-23

2023994__

Section 1. Paragraph (a) of subsection (6) of section 403.413, Florida Statutes, is amended to read:

403.413 Florida Litter Law.—

(6) PENALTIES; ENFORCEMENT.—

(a) 1. Except as provided in subparagraph 2., any person who dumps litter in violation of subsection (4) in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes commits a noncriminal infraction, punishable by a civil penalty of \$150, from which \$50 shall be deposited into the Solid Waste Management Trust Fund to be used for the solid waste management grant program pursuant to s. 403.7095.

2.a. Except as provided in sub-subparagraph b., a person who distributes pamphlets, flyers, or other materials, whether for commercial or noncommercial purposes, in a public place, including outside a private residence, and such materials discarded by recipients, leads to littering, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

b. If a violation of sub-subparagraph a. involves material that evidences religious or ethnic intimidation, threat, or intent to harm, including content described in s. 806.13(2)(b), the offense is reclassified as a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A violation of this sub-subparagraph shall be considered a hate crime for purposes of the reporting requirements of s. 877.19.

In addition, the court may require a person who violates this

Page 2 of 6

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

38-00915A-23

2023994

subsection ~~the violator~~ to pick up litter or perform other labor commensurate with the offense committed.

Section 2. Present subsection (9) of section 784.048, Florida Statutes, is redesignated as subsection (10), and a new subsection (9) is added to that section, to read:

784.048 Stalking; definitions; penalties.—

(9) A person who willfully follows, harasses, or interferes with another person's quiet enjoyment based on the person's wearing of religious-based garments or garments commonly associated with a particular religious or ethnic group or any other indicia of any religious or ethnic heritage commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A violation of this subsection shall be considered a hate crime for purposes of the reporting requirements of s. 877.19.

Section 3. Present subsections (6) through (10) of section 806.13, Florida Statutes, are redesignated as subsections (7) through (11), respectively, a new subsection (6) is added to that section, and subsection (2) and present subsection (9) of that section are amended, to read:

806.13 Criminal mischief; penalties; penalty for minor.—

(2) (a) Any person who willfully and maliciously defaces, injures, or damages by any means:

1. Any church, synagogue, mosque, or other place of worship, or any religious article contained therein;

2. Any religious cemetery, gravesite, or grave marker, including, but not limited to, any Holocaust memorial or any plaque, statue, or museum with any indication of religious or ethnic heritage;

38-00915A-23

2023994

3. Any school or community center with any indicia of any religious or ethnic heritage; or

4. Any public or private property in a manner that evidences religious or ethnic intimidation, threat, or intent to harm,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, ~~if the damage to the property is greater than \$200.~~

(b) A violation of this subsection includes any physical manifestations of anti-Semitism directed toward a Jewish or non-Jewish individual or his or her property or toward Jewish community institutions or religious facilities, Jewish cemeteries, or Jewish gravesites. Such expression includes the use of a Nazi symbol, such as a swastika.

(c) A violation of this subsection shall be considered a hate crime for purposes of the reporting requirements of s. 877.19.

(6) A person who projects an image outdoors onto a publicly or privately owned building or other property without the written consent of the owner of the building or other property commits:

(a) Except as provided in paragraph (b), a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the image projected evidences religious or ethnic intimidation, threat, or intent to harm, including content described in paragraph (2) (b), a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

38-00915A-23

2023994

A violation of this paragraph shall be considered a hate crime for purposes of the reporting requirements of s. 877.19.

~~(10)(9)~~ A minor whose driver license or driving privilege is revoked, suspended, or withheld under subsection ~~(9)~~ ~~(8)~~ may elect to reduce the period of revocation, suspension, or withholding by performing community service at the rate of 1 day for each hour of community service performed. In addition, if the court determines that due to a family hardship, the minor's driver license or driving privilege is necessary for employment or medical purposes of the minor or a member of the minor's family, the court shall order the minor to perform community service and reduce the period of revocation, suspension, or withholding at the rate of 1 day for each hour of community service performed. As used in this subsection, the term "community service" means cleaning graffiti from public property.

Section 4. Subsection (1) of section 871.01, Florida Statutes, is amended to read:

871.01 Disturbing schools and religious and other assemblies.—

(1) Whoever willfully interrupts or disturbs any school or any assembly of people meeting to met for the worship, meeting for the purpose of acknowledging the death of an individual, of ~~God~~ or meeting for any other lawful purpose commits:

(a) Except as provided in paragraph (b), a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If a person who violates this subsection evidences religious or ethnic intimidation, threat, or intent to harm,

38-00915A-23

2023994

including content described in s. 806.13(2)(b), during the commission of the offense, the offense is reclassified as a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A violation of this paragraph shall be considered a hate crime for purposes of the reporting requirements of s. 877.19.

Section 5. This act shall take effect October 1, 2023.

SB 994 – Public Nuisances

This bill amends multiple statutes. First, it amends s. 404.413, F.S., adding a **1st degree misdemeanor** for the following: “a person who distributes pamphlets, flyers, or other materials, whether for commercial or noncommercial purposes, in a public place, including outside a private residence, and such materials discarded by recipients, leads to littering.” It is reclassified as an **unranked, 3rd degree felony (Level 1 by default)** for this violation if it “involves material that evidences religious or ethnic intimidation, threat, or intent to harm, including content described in s. 806.13(2)(b), F.S.” Furthermore, it “shall be considered a hate crime for purposes of the reporting requirements of s. 877.19, F.S.”

This bill also amends s. 784.048, F.S., stating that “a person who willfully follows, harasses, or interferes with another person’s quiet enjoyment based on the person’s wearing of religious-based garments or garments commonly associated with a particular religious or ethnic group or any other indicia of any religious or ethnic heritage commits the offense of aggravated stalking” and “a violation of this subsection shall be considered a hate crime for purposes of the reporting requirements of s. 877.19, F.S. An **unranked, 3rd degree felony (Level 1 by default)** is also created for one who commits this offense.

This bill also amends s. 806.13, F.S., adding the following to the Level 1, 3rd degree felony (new language in bold): “Any person who willfully and maliciously defaces, injures, or damages by any means...**any religious cemetery, gravesite, or grave marker, including, but not limited to, any Holocaust memorial or any plaque, statue, or museum with any indication of religious or ethnic heritage...any school or community center with any indicia of any religious or ethnic heritage....or...any public or private property in a manner that evidences religious or ethnic intimidation, threat, or intent to harm.**”

It also removes the language that this felony only applies “if the damage to the property is greater than \$200.” It also adds s. 806.13(2)(b), F.S., stating that “a violation of this subsection includes any physical manifestations of anti-Semitism directed toward a Jewish or non-Jewish individual or his or her property or toward Jewish community institutions or religious facilities, Jewish cemeteries, or Jewish gravesites. Such expression includes the use of a Nazi symbol, such as a swastika.” Also, such a violation will also be “considered a hate crime for purposes of the reporting requirements of s. 877.19, F.S.

This bill continues amending s. 806.13, F.S., by adding a **1st degree misdemeanor** for “a person who projects an image outdoors onto a publicly or privately owned building or other property without the written consent of the owner of the building or other property.” Furthermore, an **unranked, 3rd degree felony (Level 1 by default)** is added “if the image projected evidences religious or ethnic intimidation, threat, or intent to harm,” which would include the anti-Semitism described in the prior paragraph. Also, such a

violation will also be “considered a hate crime for purposes of the reporting requirements of s. 877.19, F.S.

Finally, this bill amends s. 871.01, F.S., including additional language for the current 2nd degree misdemeanor (new language in bold): “Whoever willfully interrupts or disturbs any school or any assembly of people **meeting to worship, meeting for the purpose of acknowledging the death of an individual, or meeting** for any **other** lawful purpose.” The original language included “assembly of people met for the worship of God or for any lawful purpose.” It also reclassifies the misdemeanor as an **unranked, 3rd degree felony (Level 1 by default)** for this violation “if a person who violates this subsection evidences religious or ethnic intimidation, threat, or intent to harm, including content described in s. 806.13(2)(b), F.S., during the commission of the offense.” As with the prior offenses, “a violation of this paragraph shall be considered a hate crime for purposes of the reporting requirements of s. 877.19, F.S.

In FY 18-19, the incarceration rate for a Level 1, 3rd degree felony was 9.1%, and in FY 19-20 the incarceration rate was 8.2%. In FY 20-21, the incarceration rate for a Level 1, 3rd degree felony was 7.5%, and in FY 21-22 the incarceration rate was 8.6%.

Per data obtained from the Department of Environmental Protection’s Schedule I found on the Florida Fiscal Portal, there are estimated to be a maximum of 800 people who receive citations under s. 403.413, F.S. for littering less than 15 pounds each fiscal year. It is not known how many of these people would fit the criteria listed for the new misdemeanor and felony created for this statute.

Per FDLE, there were 638 misdemeanor stalking arrests (s. 784.048(2), F.S.) in FY 21-22, with 280 guilty/convicted charges and 80 adjudication withheld charges. Per DOC, in FY 18-19, there were 74 new commitments for aggravated stalking, and in FY 19-20, there were 62 new commitments. In FY 20-21, there were 67 new commitments, and in FY 21-22, there were 68 new commitments. It should be noted that over half of these involved violating court orders. Furthermore, it is not known if offenders fitting the bill’s criteria are already included in these numbers.

Per FDLE, there were 2,978 misdemeanor criminal mischief arrests (s. 806.13(1)(b)1, F.S.) in FY 21-22, with 1,587 guilty/convicted charges and 430 adjudication withheld charges. Per DOC, there have been no new commitments to prison in the last four fiscal years under the current version of the Level 1, 3rd degree felony for “any person who willfully and maliciously defaces, injures, or damages by any means...any church, synagogue, mosque, or other place of worship, or any religious article contained therein.” Furthermore, there is no data available regarding image projections that evidence “religious or ethnic intimidation, threat, or intent to harm.”

Per FDLE, in FY 21-22, there were 35 arrests under the current 2nd degree misdemeanor language for disturbance of a school, church, or other assembly. There were also 4 guilty/convicted charges and 9 adjudication withheld charges.

Per Uniform Crime Reports, in CY 2021, there were 5 arrests for crimes evidencing prejudice with a religious bias. Of those arrests, 4 were Anti-Jewish and one was Anti-Catholic.

While this new language does create multiple felonies, the number of potential offenders is not known, so the impact on the prison population cannot be quantified.

EDR PROPOSED ESTIMATE: Positive Indeterminate

Requested by: Senate



SENATOR Alexis M. Calatayud
38th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Community Affairs, Chair
Appropriations Committee on Education
Appropriations Committee of Health and Human
Services
Education Pre-K 12
Fiscal Policy
Health Policy
Military and Veterans Affairs, Space and Domestic
Security
Select Committee on Resiliency

March 3rd, 2023

Honorable Senator Jonathan Martin
Chair
Committee on Criminal Justice

Honorable Chair Martin,

I respectfully request SB 994 Public Nuisances be placed on the next committee agenda.

Prohibiting the distribution of certain materials which leads to littering; providing for reclassification of certain offenses; providing criminal penalties; prohibiting the stalking of certain individuals based on their wearing of certain garments; providing criminal penalties; prohibiting willful and malicious defacement of or injury or damage to certain religious property; requiring that certain violations be reported as hate crimes.

Sincerely,

Alexis M. Calatayud

Senator Alexis M. Calatayud
Florida Senate, District 39

CC: Amanda Stokes, Staff Director
Sue Arnold, Committee Administrative Assistant

REPLY TO:

- 11011 SW 101st St, STE 5101, Miami Florida 33176 (305) 596-3002
- 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5038

Senate's Website: www.flsenate.gov

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/27/23

Meeting Date

Criminal Justice

Committee

Name Cody Rogers

Phone 954-591-6437

Address 1 E Broward Blvd.

Email crogers@buckerlawyers.com

Street

Fort Lauderdale

City

State

FL

Zip

33324

SB 994

Bill Number or Topic

Amendment Barcode (if applicable)

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

FL Association of
Jewish Federations

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Amendment Barcode (if applicable)

3/27/23
Meeting Date

Crim Justice
Committee

Name NR Hines

Phone 786-363-1104

Address _____
Street

Email nhines@acluf1.org

City _____ State _____ Zip _____

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

ACLU FL

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3-27-23

Meeting Date

Criminal Justice

Committee

SB 994

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Avrohom Luban

Phone

347.623.7984

Address

7650 Solimar Circle

Email

lubanavs@gmail.com

Street

Boca Raton

FL

33433

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 998

INTRODUCER: Criminal Justice Committee and Senator Burgess

SUBJECT: Chiefs of Police

DATE: March 28, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Stokes	CJ	Fav/CS
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 998 provides for notice, hearing, and other requirements relevant to terminating a police chief's employment. The bill:

- Provides findings in support of the procedural requirements and other requirements relevant to terminating a police chief's employment.
- Prohibits a person employed or appointed as police chief from being terminated without providing written notice, including just cause for the termination, and the opportunity to defend himself or herself against termination at a public meeting or hearing. This provision does not supersede a written employment contract or agreement that provides employment, discipline, or termination standards or procedures.
- Authorizes the police chief to be represented by counsel, including at the public meeting or hearing, at his or her request.
- Prohibits a police chief from being discharged; disciplined; demoted; denied a promotion, transfer, or reassignment; or otherwise discriminated against in regard to his or her employment or appointment, or be threatened with any such treatment, for exercising any rights provided by the bill.
- Requires a police chief who is aggrieved by an alleged violation of his or her rights as provided in the new section to provide written notice to his or her employing agency, and requires the employing agency to cure the alleged violation.
- Defines "chief of police," and "employing agency."

If the provisions of the bill have any fiscal impact on municipal governments, the impact is indeterminate. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

II. Present Situation:

A police chief is appointed or hired by a city official or officials (mayor, city manager, city commission, etc.) and “charged with the responsibility to provide leadership and management of police department resources to protect and serve citizens of and visitors to those municipalities.”¹

According to the Florida Police Chiefs Association, Florida police chiefs are at will employees.² Police chiefs are not covered under s. 112.532, F.S., commonly referred to as the Officers’ Bill of Rights, which provides procedural protections to a law enforcement officer or correctional officer under investigation or subject to interrogation by the officer’s employing agency for any reason that could lead to disciplinary action, suspension, demotion, or dismissal. There does not appear to be any statutory right to notice and hearing for a police chief prior to his or her termination.³

III. Effect of Proposed Changes:

The bill creates s. 112.5321, F.S., which provides for notice, hearing, and other requirements relevant to terminating a police chief’s employment. The bill:

- Provides findings in support of the procedural requirements and other requirements relevant to terminating a police chief’s employment.
- Prohibits a person employed or appointed as police chief from being terminated without providing written notice, including just cause for the termination, and the opportunity to defend himself or herself against termination at a public meeting or hearing.⁴
- Authorizes the police chief to be represented by counsel, including at the public meeting or hearing, at his or her request.
- Prohibits a police chief from being discharged; disciplined; demoted; denied a promotion, transfer, or reassignment; or otherwise discriminated against in regard to his or her employment or appointment, or be threatened with any such treatment, for exercising any rights provided in the new section.
- Requires a police chief who is aggrieved by an alleged violation of his or her rights as provided in the new section to provide written notice to his or her employing agency within 3 days after the alleged violation which must contain specific information relating to the alleged violation.

¹ James T. Murdaugh, *Succession and the Police Chief: An Examination of the Nature of Turnover Among Police Chiefs* (2005), (Florida State University dissertation), p. 52, available at <https://diginole.lib.fsu.edu/islandora/object/fsu:180415/datastream/PDF/view> (last visited on March 22, 2023).

² E-mail from Jennifer Pritt, Executive Director, Florida Police Chiefs Association, dated March 22, 2023 (on file with Committee on Criminal Justice).

³ According to a 2005 study of Florida police chiefs, being fired ranked fifth on the reasons cited by surveyed police chiefs for their predecessor leaving office. *Supra*, at n. 2, p. 72. There do not appear to be any more recent findings on the reasons for police chiefs leaving office.

⁴ However, these requirements do not supersede any written employment contract or agreement that provides employment, discipline, or termination standards or procedures.

- Requires the employing agency to cure the alleged violation within 5 days after receipt of the written notification unless a longer time period is agreed to in writing by both parties or is necessary to satisfy notice requirements for notice of a public meeting or hearing pursuant to s. 286.011, F.S.

The bill amends s. 112.531, F.S., to provide that “chief of police” means a person, other than an elected official, who is appointed or employed full time by the state or any political subdivision thereof to be the chief law enforcement officer of a law enforcement agency and who is not covered by the protections under s. 112.532, F.S. The term does not include state law enforcement agency executives whose appointment or employment is governed by other provisions of law.

Additionally, the bill provides that “employing agency” has the same meaning as in s. 943.10(4), F.S., which defines the term as any agency or unit of government or any municipality or the state or any political subdivision thereof, or any agent thereof, which has constitutional or statutory authority to employ or appoint persons as officers. The term also includes any private entity which has contracted with the state or county for the operation and maintenance of a nonjuvenile detention facility. Most of this definition will not actually apply to a police chief’s employing agency.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill contains procedural requirements, including notice and hearing, which may have some fiscal impact on municipal governments, but that cost, if any, is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 112.531 of the Florida Statutes.

This bill creates section 112.5321 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 March 27, 2023:

The committee substitute:

- Clarifies the intent to prohibit arbitrary termination of a police chief without the chief being provided written notice and opportunity to present a defense to the termination at a public meeting or hearing;
- Removes a provision in the bill that authorized a civil suit for damages; and
- Provides two means for extending the time for an employing agency to cure a violation of procedural requirements: by written agreement of both parties; or if necessary to satisfy notice requirements for notice of a public meeting or hearing.

B. Amendments:

None.



741470

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 55 - 85
and insert:
prohibit the arbitrary termination of a chief of police without
the chief being provided written notice and an opportunity to
defend himself or herself against termination at a public
meeting or hearing.

(2) A person employed or appointed as a chief of police:

(a) May not be terminated by his or her employing agency



741470

without being provided written notice, including just cause for the termination, and the opportunity to defend himself or herself against the termination at a public meeting or hearing. This paragraph does not supersede any written employment contract or agreement that provides employment, discipline, or termination standards or procedures.

(b) May be represented by counsel, including at the public meeting or hearing under paragraph (a), at his or her request.

(c) May not be discharged; disciplined; demoted; denied a promotion, transfer, or reassignment; or otherwise discriminated against in regard to his or her employment or appointment, or be threatened with any such treatment, for exercising any of the rights provided in this subsection.

(3) A chief of police who is aggrieved by an alleged violation of subsection (2) shall provide written notice to his or her employing agency within 3 days after the alleged violation which must contain specific information relating to the alleged violation. The employing agency shall cure the alleged violation within 5 days after receipt of the written notification unless a longer time period is agreed to in writing by both parties or is necessary to satisfy notice requirements for notice of a public meeting or hearing pursuant to s. 286.011.

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

And the title is amended as follows:

Delete line 10

and insert:

timeframe; providing exceptions; providing an

By Senator Burgess

23-00845A-23

2023998__

A bill to be entitled

An act relating to chiefs of police; amending s. 112.531, F.S.; defining terms; creating s. 112.5321, F.S.; providing legislative findings and intent; providing rights of chiefs of police; requiring an aggrieved chief of police to provide his or her employing agency with a certain written notice within a specified timeframe; requiring an employing agency to cure an alleged violation within a specified timeframe; providing an exception; providing an effective date.

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

Section 1. Present subsections (1) and (2) of section 112.531, Florida Statutes, are redesignated as subsections (2) and (4), respectively, and new subsections (1) and (3) are added to that section, to read:

112.531 Definitions.—As used in this part, the term:

(1) “Chief of police” means a person, other than an elected official, who is appointed or employed full time by the state or any political subdivision thereof to be the chief law enforcement officer of a law enforcement agency and who is not covered by the protections under s. 112.532. The term does not include state law enforcement agency executives whose appointment or employment is governed by other provisions of law.

(3) “Employing agency” has the same meaning as in s. 943.10(4).

Page 1 of 3

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

23-00845A-23

2023998__

Section 2. Section 112.5321, Florida Statutes, is created to read:

112.5321 Rights of chiefs of police.—

(1) The Legislature recognizes that a chief of police is accountable for the direction and actions of the law enforcement agency he or she leads. The Legislature also recognizes the critical importance of allowing the chief of police to communicate directly with the public, including the press, and allowing the chief of police to manage his or her law enforcement agency without political influence or interference in order to increase and maintain the public trust and exercise the authority of the chief of police. The Legislature finds that communities deserve the opportunity to participate in any hearing in which the termination of the community’s chief of police is being discussed, and the reasons for which a chief of police is being terminated should be a matter of public record. The Legislature also finds that law enforcement agencies that terminate the chief of police without public transparency often have problems with agency morale, recruitment and retention of law enforcement officers, and the stability of the relationship between law enforcement officers and the community. Additionally, the Legislature recognizes the importance of protecting public safety, community stability, government transparency, and accountability and confidence within law enforcement agencies. Therefore, the Legislature intends to prohibit the arbitrary termination of a chief of police.

(2) A person employed or appointed as a chief of police:

(a) May not be terminated by his or her employing agency without being provided written notice, including just cause for

Page 2 of 3

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

23-00845A-23

2023998__

the termination, and the opportunity to defend himself or herself against the termination at a public meeting or hearing. This paragraph does not supersede any written employment contract or agreement that provides employment, discipline, or termination standards or procedures.

(b) May be represented by counsel, including at the public meeting or hearing under paragraph (a), at his or her request.

(c) May not be discharged; disciplined; demoted; denied a promotion, transfer, or reassignment; or otherwise discriminated against in regard to his or her employment or appointment, or be threatened with any such treatment, for exercising any of the rights provided in this subsection.

(d) May bring a civil action against any person, group of persons, organization, or corporation, or the head of such organization or corporation, for damages, pecuniary or otherwise, suffered during the performance of official duties, for abridgment of civil rights arising out of the performance of official duties, or for a false complaint when the complainant knew it was false.

(3) A chief of police who is aggrieved by an alleged violation of subsection (2) shall provide written notice to his or her employing agency within 3 days after the alleged violation which must contain specific information relating to the alleged violation. The employing agency shall cure the alleged violation within 5 days after receipt of the written notification unless a longer time period is agreed to in writing by both parties.

Section 3. This act shall take effect July 1, 2023.

From: [Erickson, Mike](#) Text in email is for Analysis Footnote reference
To: [Arnold, Sue](#) for SB 998
Subject: FW: Time-Sensitive Request, re: SB 1332
Date: Wednesday, March 22, 2023 12:14:33 PM

-----Original Message-----

From: Jennifer Pritt <jpritt@fpca.com>
Sent: Wednesday, March 22, 2023 9:06 AM
To: Erickson, Mike <ERICKSON.MIKE@flsenate.gov>
Subject: RE: Time-Sensitive Request, re: SB 1332

All chiefs are at will employees and nothing in the proposed legislation changes that. The right to be noticed of said termination and the election of a public hearing is what is being requested in this bill. To my knowledge these rights do not need to be spelled out in a contract or a city charter. A vast majority of police chiefs do not have contracts. They are not covered under the police officers bill of rights in any way.

We have chiefs ready to testify on what is currently happening to them or what happened to them in the past. To include a chief whose job was saved because of a public hearing because it was the only way in which the nefarious actions of a city manager could come into the sunshine. The city paid for an investigation of this manager because she was literally writing anonymous letters to herself alleging unethical behavior by the chief and presenting them as "evidence" to the city commission.

Many chiefs with whom their city governance has asked them to engage in unethical or illegal conduct have been forced to sign NDA to get their severance.

Let me know if you have any additional questions.

Thank you.
Cookie



The Florida Senate

Committee Agenda Request

To: Senator Jonathan Martin, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: February 28, 2023

I respectfully request that **Senate Bill #998**, relating to Chiefs of Police, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Danny", is written above a horizontal line.

Senator Danny Burgess
Florida Senate, District 23

The Florida Senate

March 27, 2023

APPEARANCE RECORD

998 as amended

Meeting Date

Criminal Justice

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **Shawn Chamberlain FPCA member**

Phone **850-219-3631**

Address **2636 Mitcham Drive FPCA HQ**

Email **jpriitt@fpca.com**

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☒ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

FPCA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/27/2023

998

Meeting Date

Bill Number or Topic

Criminal Justice

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name Sheriff Bob Gualtieri

Phone 727-582-6200

Address 10750 Ulmerton Road

Email _____

Street

Largo

FL

33779

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

Florida Sheriffs Association

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

March 27, 2023

APPEARANCE RECORD

998

Meeting Date

Bill Number or Topic

Criminal Justice

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name **Jennifer Cook Pritt**

Phone **850-219-3631**

Address **2636 Mitcham Drive**

Email **jpritt@fpca.com**

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

FL Police Chiefs Assoc

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

March 27, 2023

Meeting Date

Criminal Justice

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

998 as amended

Bill Number or Topic

Amendment Barcode (if applicable)

Name Chief John Barkley FPCA member

Phone 850-219-3631

Address 2636 Mitcham Drive FPCA HQ

Email jpritt@fpca.com

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☒ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

FPCA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 1104

INTRODUCER: Senator Wright

SUBJECT: Victim Compensation Claims

DATE: March 24, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Stokes	CJ	Favorable
2.			ACJ	
3.			FP	

I. Summary:

SB 1104 amends s. 960.07, F.S., to extend the time a victim may file a claim for compensation under the Florida Crimes Compensation Act. Specifically, the bill provides that upon a showing that a delay in filing a claim occurred because of a delay in the testing of, or delay in the DNA profile matching from, a sexual assault forensic examination kit or biological material collected as evidence related to a sexual offense, a person who is eligible for compensation may receive a waiver from the Department of Legal Affairs (DLA) of any claim filing deadline.

The bill may have an indeterminate positive financial impact on the DLA. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Florida Crimes Compensation Act

The Florida Crimes Compensation Act¹ authorizes the Florida Attorney General's Division of Victim Services to administer a compensation program to ensure financial assistance for victims of crime. Injured victims of crime may file for compensation for financial assistance such as treatment costs, economic loss, disability, or loss of support.²

Section 960.065, F.S., provides that the following persons are eligible for compensation under ch. 960, F.S.:

- A victim.

¹ Sections 960.01-960.28, F.S.

² Attorney General, *Victim Compensation Brochure*, available at: [http://myfloridalegal.com/webfiles.nsf/WF/MRAY-8CVP5T/\\$file/BVCVictimCompensationBrochure.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MRAY-8CVP5T/$file/BVCVictimCompensationBrochure.pdf) (last visited March 20, 2023).

- An intervenor.
- A surviving spouse, parent or guardian, sibling, or child of a deceased victim or intervenor.
- Any other person who is dependent for his or her principal support upon a deceased victim or intervenor.³

Claims will generally be denied if filed for or on behalf of a person who:

- Committed or aided in the commission of the crime upon which the claim for compensation was based;
- Was engaged in an unlawful activity at the time of the crime upon which the claim for compensation is based, unless the victim was engaged in prostitution as a result of being a victim of human trafficking;
- Was in custody or confined, regardless of conviction, in a county or municipal detention facility, a state or federal correctional facility, or a juvenile detention or commitment facility at the time of the crime upon which the compensation is based;
- Has been adjudicated as a habitual felony offender (HFO), habitual violent offender, or violent career criminal; or
- Has been adjudicated guilty of a forcible felony offense.⁴

Claims filed by or on behalf of a person who was in custody or confined, who are adjudicated as a HFO or found guilty of a forcible felony may be eligible upon a finding by the Crime Victim's Service Office of mitigating or special circumstances that would render a disqualification unjust.⁵

Any award granted, must be granted on an "actual need" basis. An award is provided only after all benefits provided by primary insurance carriers, including, but not limited to, health and accident insurers, workers' compensation, and automobile accident coverage.⁶ Payments under ch. 960, F.S., are considered payments "of last resort," that follow all other payments.⁷

Payment of claims are made from the Crimes Compensation Trust Fund (Trust Fund). The Trust Fund was created for the purpose of providing, in part, for the payment of claims. The funds placed in the Trust Fund consist of moneys:

- Appropriated by the Legislature;
- Recovered on behalf of the DLA by subrogation or other action, recovered through restitution;
- Received from additional court costs, or fines;
- Received from the Federal Government; or
- Received from any other public or private source.⁸

³ Section 960.065(1), F.S.

⁴ Section 960.065(2), F.S.

⁵ Section 960.065(3), F.S.

⁶ Section 960.13(2), F.S.

⁷ Section 960.13(3), F.S.

⁸ Section 960.21, F.S.

Filing of Claims for Compensation

A claim for compensation may be filed by an eligible person. If such person is a minor, or is mentally incompetent, a claim may be filed by the person's parent, or guardian, as appropriate.

Claims arising from a crime occurring before October 1, 2019, must be filed within 1 year after:

- The occurrence of the crime upon which the claim is based.
- The death of the victim or intervenor.
- The death of the victim or intervenor is determined to be the result of a crime, and the crime occurred after June 30, 1994.

The DLA may extend the time for filing a claim for a crime occurring before October 1, 2019, by up to 2 years, upon a showing of good cause.⁹

Claims arising from a crime occurring on or after October 1, 2019, must be filed within 3 years after the later of:

- The occurrence of the crime upon which the claim is based;
- The death of the victim or intervenor; or
- The death of the victim or intervenor is determined to be the result of the crime.

The DLA may extend the time for filing a claim for a crime occurring on or after October 1, 2019, by up to 5 years, upon a showing of good cause.¹⁰

There are exceptions to the time limitations mentioned above for a victim or intervenor who was under the age of 18 at the time the crime upon which the claim is based occurred.¹¹ These exceptions include:

- The victim's or intervenor's parent or guardian may file a claim on behalf of the victim or intervenor while the victim or intervenor is less than 18 years of age;
- For a claim arising from a crime that occurred before October 1, 2019, when a victim or intervenor who was under the age of 18 at the time of the crime occurred reaches the age of 18, the victim or intervenor has 1 year to file a claim; or
- For a claim arising from a crime occurring on or after October 1, 2019, when a victim or intervenor who was under the age of 18 at the time the crime occurred reaches the age of 18, the victim or intervenor has 3 years to file a claim.¹²

Upon a showing of good cause, the DLA may extend the time for filing a claim for an additional period up to 1 year for a crime occurring before October 1, 2019, if the victim or intervenor was less than 18 years of age. Additionally, upon a showing of good cause, the DLA may extend the time for filing a claim for an additional 2 years for a crime occurring on or after October 1, 2019, if the victim or intervenor was less than 18 years of age.¹³

⁹ Section 960.07(2)(a), F.S.

¹⁰ Section 960.07(2)(b), F.S.

¹¹ Section 960.07(3), F.S.

¹² Section 960.07(3)(a)-(c), F.S.

¹³ *Id.*

Additionally, there are exceptions to the time limitations mentioned above for victims of sexually violent offenses.¹⁴ Such victims may file a claim for compensation for counseling or other mental health services within:

- One year after the filing of a petition to involuntarily civilly commit the individual who perpetrated the sexually violent offense, if the claim arises from a crime committed before October 1, 2019; or
- Three years after the filing of a petition to involuntarily civilly commit the individual who perpetrated the sexually violent offense, if the claim arises from a crime committed on or after October 1, 2019.¹⁵

III. Effect of Proposed Changes:

The bill amends s. 960.07, F.S., to extend the time a victim may file a claim for compensation under the Florida Crimes Compensation Act. Specifically, the bill provides that upon a showing that a delay in filing a claim occurred because of a delay in the testing of, or delay in the DNA profile matching from, a sexual assault forensic examination kit or biological material collected as evidence related to a sexual offense, a person who is eligible for compensation may receive a waiver from the DLA of any claim filing deadline.

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁴ Section 394.912, F.S., provides that a “sexually violent offense” means: murder of a human being while engaged in sexual battery in violation of s. 782.04(1)(a)2, F.S.; kidnapping of a child under the age of 13 and, in the course of that offense, committing sexual battery or a lewd, lascivious, or indecent assault or act upon or in the presence of the child; committing the offense of false imprisonment upon a child under the age of 13 and, in the course of that offense, committing sexual battery or a lewd, lascivious, or indecent assault or act upon or in the presence of the child; sexual battery in violation of s. 794.011, F.S.; lewd, lascivious, or indecent assault or act upon or in presence of the child in violation of s. 800.04 or s. 847.0135(5), F.S.; an attempt, criminal solicitation, or conspiracy, in violation of s. 777.04, F.S., of a sexually violent offense; any conviction for a felony offense in effect at any time before October 1, 1998, which is comparable to a sexually violent offense under paragraphs (a)-(f) or any federal conviction or conviction in another state for a felony offense that in this state would be a sexually violent offense; any criminal act that, either at the time of sentencing for the offense or subsequently during civil commitment proceedings under this part, has been determined beyond a reasonable doubt to have been sexually motivated; or a criminal offense in which the state attorney refers a person to the DOC for civil commitment proceedings.

¹⁵ Section 960.07(4), F.S.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DLA may have an indeterminate positive fiscal impact due to the expansion of eligibility to file claims. It is uncertain how many individuals may be eligible due to the expansion under the bill, or how many of the newly eligible individuals will file claims.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 960.07 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 Wright

8-01231-23

20231104__

A bill to be entitled

An act relating to victim compensation claims; amending s. 960.07, F.S.; authorizing the Department of Legal Affairs to issue waivers of any claim filing deadlines for specified victim claims for compensation upon a showing that a delay in filing the application occurred because of a delay in the testing of, or delay in the DNA profile matching from, a sexual assault forensic examination kit or biological material collected as evidence related to a sexual offense; conforming provisions to changes made by the act; making technical changes; providing an effective date.

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

Section 1. Subsections (2), (3), and (4) of section 960.07, Florida Statutes, are amended to read:

960.07 Filing of claims for compensation.—

(2) Except as provided in subsections (3) and (4), a claim must be filed in accordance with this subsection.

(a)1. A claim arising from a crime occurring before October 1, 2019, must be filed within 1 year after:

a. The occurrence of the crime upon which the claim is based.

b. The death of the victim or intervenor.

c. The death of the victim or intervenor is determined to be the result of a crime, and the crime occurred after June 30, 1994.

8-01231-23

20231104__

2. Upon a showing that a delay in filing a claim occurred because of a delay in the testing of, or delay in the DNA profile matching from, a sexual assault forensic examination kit or biological material collected as evidence related to a sexual offense, a person who is eligible for compensation under subparagraph 1. may receive a waiver from the department of any claim filing deadline.

3. For good cause based on a reason other than a delay as described in subparagraph 2., the department may extend the time for filing a claim under subparagraph 1. for a period not exceeding 2 years after such occurrence.

(b)1. A claim arising from a crime occurring on or after October 1, 2019, must be filed within 3 years after the later of:

a. The occurrence of the crime upon which the claim is based;

b. The death of the victim or intervenor; or

c. The death of the victim or intervenor is determined to be the result of the crime.

2. Upon a showing that a delay in filing a claim occurred because of a delay in the testing of, or delay in the DNA profile matching from, a sexual assault forensic examination kit or biological material collected as evidence related to a sexual offense, a person who is eligible for compensation under subparagraph 1. may receive a waiver from the department of any claim filing deadline.

3. For good cause based on a reason other than a delay as described in subparagraph 2., the department may extend the time for filing a claim under subparagraph 1. for a period not to

8-01231-23

20231104__

59 exceed 5 years after such occurrence.

60 (3) ~~(a)~~ Notwithstanding ~~the provisions of~~ subsection (2), if
61 the victim or intervenor was under the age of 18 at the time the
62 crime upon which the claim is based occurred, a claim may be
63 filed in accordance with this subsection.

64 ~~1.(a)~~ The victim's or intervenor's parent or guardian may
65 file a claim on behalf of the victim or intervenor while the
66 victim or intervenor is less than 18 years of age;

67 ~~2.(b)~~ For a claim arising from a crime that occurred before
68 October 1, 2019, when a victim or intervenor who was under the
69 age of 18 at the time the crime occurred reaches the age of 18,
70 the victim or intervenor has 1 year to file a claim; or

71 ~~3.(c)~~ For a claim arising from a crime occurring on or
72 after October 1, 2019, when a victim or intervenor who was under
73 the age of 18 at the time the crime occurred reaches the age of
74 18, the victim or intervenor has 3 years to file a claim.

75 (b) Upon a showing that a delay in filing a claim occurred
76 because of a delay in the testing of, or delay in the DNA
77 profile matching from, a sexual assault forensic examination kit
78 or biological material collected as evidence related to a sexual
79 offense, a person who is eligible for compensation under
80 paragraph (a) may receive a waiver from the department of any
81 claim filing deadline.

82 (c) For good cause, based on a reason other than a delay as
83 described in paragraph (b), the department may extend the time
84 period allowed for filing a claim under subparagraph (a)2.
85 ~~paragraph (b)~~ for an additional period not to exceed 1 year or
86 under subparagraph (a)3. ~~paragraph (c)~~ for an additional period
87 not to exceed 2 years.

Page 3 of 4

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

8-01231-23

20231104__

88 (4) ~~Notwithstanding The provisions of~~ subsection (2)
89 ~~notwithstanding~~, a victim of a sexually violent offense as
90 defined in s. 394.912, may file a claim for compensation for
91 counseling or other mental health services within:

92 (a) One year after the filing of a petition under s.
93 394.914, to involuntarily civilly commit the individual who
94 perpetrated the sexually violent offense, if the claim arises
95 from a crime committed before October 1, 2019; or

96 (b) Three years after the filing of a petition under s.
97 394.914, to involuntarily civilly commit the individual who
98 perpetrated the sexually violent offense, if the claim arises
99 from a crime committed on or after October 1, 2019.

100
101 Upon a showing that a delay in filing a claim occurred because
102 of a delay in the testing of, or delay in the DNA profile
103 matching from, a sexual assault forensic examination kit or
104 biological material collected as evidence related to a sexual
105 offense, a person who is eligible for compensation under this
106 subsection may receive a waiver from the department of any claim
107 filing deadline.

108 Section 2. This act shall take effect July 1, 2023.

Page 4 of 4

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



The Florida Senate

Committee Agenda Request

To: Senator Jonathan Martin, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: March 13, 2023

I respectfully request that **Senate Bill 1104**, relating to Victims Compensation Claims, be placed on the:

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

Thank you for your consideration.

A handwritten signature in black ink that reads "Tom A. Wright". The signature is written in a cursive style with a large, looping "T" and "W".

Senator Tom A. Wright
Florida Senate, District 8

The Florida Senate

APPEARANCE RECORD

3/27/23

Meeting Date

SB 1104

Bill Number or Topic

Criminal Justice

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Laurette Philipsen/Florida Care

Phone 561-855-0833

Address 2048 Ponce De Leon Ave

Email laurette@floridacarescharity.org

Street
West Palm Beach FL 33407

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

APPEARANCE RECORD

3/27/23

Meeting Date

1104

Bill Number or Topic

CRIMINAL JUSTICE

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

LIBBY Guzzo

Phone

080 2450155

Address

PL-01 CAPITOL

Street

Email

LIBBY.GUZZO@myFLORIDA
LEGISLATOR.COM

Tallahassee

City

FL

State

32379

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☐I am appearing without
compensation or sponsorship.☒I am a registered lobbyist,
representing:OFFICE OF ATTORNEY
GENERAL☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. § 11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](https://www.flcourts.gov/2020-2022JointRules.pdf)

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

S-001 (08/10/2021)

3/27
Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

7104
Bill Number or Topic

Committee

Name

Katie Bohnett

Phone

850 339 9599

Address

1173 Seminole Dr

Email

kbohnett@stateandjust.10-9

Street

City

Alt

State

Zip

FL 32307

Speaking:

☐ For

☐ Against

☐ Information

OR

Waive Speaking:

☒ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

ALLIANCE for
Safety & Justice



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 1126

INTRODUCER: Criminal Justice Committee and Senator Avila

SUBJECT: Impeding, Provoking, or Harassing First Responders

DATE: March 28, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Stokes	CJ	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1126 provides that it is a first degree misdemeanor for a person, after receiving a warning not to approach from a first responder who is engaged in the lawful performance of a legal duty, to violate such warning and approach or remain within 20 feet of the first responder with the intent to:

- Interrupt, disrupt, hinder, impede, or interfere with the first responder's ability to perform such duty;
- Threaten the first responder with physical harm; or
- Harass the first responder or make so much noise that a first responder is prevented from performing their official duties or providing medical aid.

A "first responder" means a law enforcement officer, firefighter, or emergency medical care provider. "Harass" means to engage in a course of conduct directed at a first responder which causes substantial emotional distress in the first responder and serves no legitimate purpose.

The bill does not have an impact on the state prison system but may have an indeterminate impact on county jails. See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2023.

II. Present Situation:

Currently, depending upon the facts of the case, interfering with a law enforcement officer in the performance of his or her official duties can be punished as resisting an officer without violence (s. 843.02, F.S.) or resisting an officer with violence (s. 843.01, F.S.).

Section 843.02, F.S., provides that it is a first degree misdemeanor¹ to resist, obstruct, or oppose any of the following persons in the execution of legal process or in the lawful execution of any legal duty, without offering or doing violence to that person:

- A law enforcement officer;
- A correctional officer;
- A correctional probation officer;
- A part-time law enforcement officer;
- A part-time correctional officer;
- An auxiliary law enforcement officer;
- An auxiliary correctional officer;
- A member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission;
- A parole and probation supervisor;
- A county probation officer;
- Personnel or representative of the Department of Law Enforcement; or
- Other person legally authorized to execute process in the execution of legal process or in the lawful execution of any legal duty.

The Florida Supreme Court has found that to support a conviction of s. 843.02, F.S., the state must prove:

- The officer was engaged in the lawful execution of a legal duty; and
- The defendant's action, by his words, conduct, or combination thereof, constituted obstruction or resistance of that lawful duty.²

Additionally, in the context of obstruction of an officer without violence, it has been held that “a person’s exercise of free speech, without more, in an open public place while an officer is engaged in the execution of a legal duty must do more than merely irritate, annoy, or distract the officer to constitute a crime.”³ Reviewing Florida cases on obstruction of an officer, one court opined that these cases

seem to support the following general proposition: If a police officer is not engaged in executing process on a person, is not legally detaining that person, or has not asked the person for assistance with an ongoing emergency that presents a serious threat of imminent harm to person or property, the person’s words alone can rarely, if ever, rise to the level of

¹ A first degree misdemeanor is punishable by not more than 1 year in county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

² *C.E.L. v. State*, 24 So. 3d 1181 (Fla. 2009) (citations omitted).

³ *D.A.W v. State*, 945 So.2d 624, 627 (Fla. 2d DCA 2006).

an obstruction. This obstructive conduct rather than offensive words are normally required to support a conviction under this statute.⁴

Section 843.01, F.S., provides that it is a third degree felony⁵ to knowingly and willfully resist, obstruct, or oppose any of the persons previously described in the lawful execution of any legal duty, by offering or doing violence to that person.

III. Effect of Proposed Changes:

The bill creates s. 843.31, F.S., which provides that it is a first degree misdemeanor for a person, after receiving a warning not to approach from a first responder who is engaged in the lawful performance of a legal duty, to violate such warning and approach or remain within 20 feet of the first responder with the intent to:

- Interrupt, disrupt, hinder, impede, or interfere with the first responder's ability to perform such duty;
- Threaten the first responder with physical harm; or
- Harass the first responder or make so much noise that a first responder is prevented from performing their official duties or providing medical aid.

A "first responder" means a law enforcement officer, firefighter, or emergency medical care provider.⁶ "Harass" means to engage in a course of conduct directed at a first responder which causes substantial emotional distress in the first responder and serves no legitimate purpose.⁷

The criminal offense does not appear to be violated if the person to whom the warning is issued is within the 20-foot zone but the person does not have the required intent (e.g. impeding the first responder's ability to perform his or legal duty).

The bill takes effect October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁴ *D.G. v. State*, 661 So.2d 75, 76 (Fla. 2d DCA 1995).

⁵ A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

⁶ An "emergency medical care provider" is an ambulance driver, emergency medical technician, paramedic, registered nurse, physician as defined in s. 401.23, F.S., medical director as defined in s. 401.23, F.S., or any person authorized by an emergency medical service licensed under ch. 401, F.S., who is engaged in the performance of his or her duties. The term also includes physicians, employees, agents, or volunteers of hospitals as defined in ch. 395, F.S., who are employed, under contract, or otherwise authorized by a hospital to perform duties directly associated with the care and treatment rendered by the hospital's emergency department or the security thereof. Section 784.07(1)(a), F.S.

⁷ This definition is similar to the definition of "harass" in s. 843.20, F.S., which prohibits harassment of a participant in a neighborhood crime watch program.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:**Due Process**

Due process requires that a penal statute use “language sufficiently definite to apprise those to whom it applies what conduct on their part is prohibited. It is constitutionally impermissible for the Legislature to use such vague and broad language that a person of common intelligence must speculate about its meaning and be subjected to arrest and punishment if the guess is wrong.”⁸

A vague statute, “because of its imprecision, may also invite arbitrary and discriminatory enforcement.”⁹

Questions may arise when determining how the warning requirement and 20-foot requirement are to be applied, including, but not limited to, whether the distance is to be measured from the first responders position when he or she issued the warning, or whether such “halo” around the officer moves with the officer who issued the warning.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill creates a first degree misdemeanor. The bill does not have impact on the state prison system but may have an indeterminate impact on county jails.

⁸ *State v. Wershow*, 343 So.2d 605, 608 (Fla. 1977).

⁹ *Southeastern Fisheries Ass’n, Inc. v. Department of Natural Resources*, 453 So.2d 1351, 1353 (Fla. 1984).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 843.31 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 March 27, 2023:

The committee substitute reduces the distance requirement in the bill from 30 feet to 20 feet, changes terminology used in regard to intent, and defines the term ‘harass.’”

- B. **Amendments:**

None.



155538

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 17 - 29
and insert:

(1) As used in this section, the term:

(a) "First responder" includes a law enforcement officer as defined in s. 943.10(1), a firefighter as defined in s. 784.07, and an emergency medical care provider as defined in s. 784.07.

(b) "Harass" means to engage in a course of conduct directed at a first responder which causes substantial emotional



155538

distress in that first responder and serves no legitimate purpose.

(2)(a) It is unlawful for a person, after receiving a warning not to approach from a first responder who is engaged in the lawful performance of a legal duty, to violate such warning and approach or remain within 20 feet of the first responder with the intent to:

1. Interrupt, disrupt, hinder, impede, or interfere with the first responder's ability to perform such duty;

2. Threaten the first responder with physical harm;

3. Harass the first responder or

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

And the title is amended as follows:

Delete lines 2 - 8

and insert:

An act relating to impeding, threatening, or harassing first responders; creating s. 843.31, F.S.; defining the terms "first responder" and "harass"; prohibiting a person, after receiving a warning not to approach from a first responder who is engaged in the lawful performance of a legal duty, to violate such warning and approach or remain within 20 feet of the first responder with specified intent; providing criminal penalties; providing an

By Senator Avila

39-00575A-23

20231126__

A bill to be entitled

An act relating to impeding, provoking, or harassing first responders; creating s. 843.31, F.S.; defining the term "first responder"; prohibiting any person from approaching a first responder or remaining within a specified distance of such first responder, with specified intent, after receiving a warning not to approach; providing criminal penalties; providing an effective date.

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

Section 1. Section 843.31, Florida Statutes, is created to read:

843.31 Approaching a first responder after a warning with intent to impede, provoke, or harass.—

(1) As used in this section, the term "first responder" includes a law enforcement officer as defined in s. 943.10(1), a firefighter as defined in s. 784.07, and an emergency medical care provider as defined in s. 784.07.

(2)(a) It is unlawful for any person, after receiving a warning from a first responder not to approach, to violate such warning and approach or remain within 30 feet of a first responder who is engaged in the lawful performance of any legal or emergent duty, with the intent to:

1. Interrupt, disrupt, hinder, impede, or interfere with the first responder's ability to perform such duty;
2. Provoke a physical response from the first responder; or
3. Directly or indirectly harass the first responder or

Page 1 of 2

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

39-00575A-23

20231126__

make so much noise that a first responder is prevented from performing their official duties or providing medical aid.

(b) A person who violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. This act shall take effect October 1, 2023.

Page 2 of 2

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

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/27/23

Meeting Date

Crim Justice

Committee

1126

Bill Number or Topic

Amendment Barcode (if applicable)

Name

NR Hines

Phone

786-363-1104

Address

Street

Email

nhines@acluf.org

City

State

Zip

Speaking:

☐

For



Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

ACLU FL

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022JointRules.pdf)

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

3/27/23

Meeting Date

CRIMINAL JUSTICE

Committee

SB 1126

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name JONATHAN WEBBER

Phone 954-593-4449

Address 400 Washington Ave
Street

Email JONATHAN.WEBBER@SPLCActionFund.org

Montgomery AL 36107
City State Zip

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

SPLC Action Fund

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

3/27/23

Meeting Date

CRIM JUSTICE

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1126

Bill Number or Topic

Amendment Barcode (if applicable)

Name

AARON WAYT

FL ASSN OF CRIMINAL
DEFENSE LAWYERS

Phone

(407) 435-3194

Address

553 E TENN ST

Street

TLH

City

FL

State

32308

Zip

Email

AARON@DONPUMPHREY.COM

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/23/2023

Meeting Date

Criminal Justice

Committee

SB 1126

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Steven B. SLADE

Phone

850. 322. 5760

Address

300 E. BELVARD ST

Street

TALLAHASSEE, FL 32311

City

State

Zip

Email

steven.slade@flpba.org

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

FL PBA

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1, [2020-2022 Joint Rules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022JointRules.pdf)

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

S-001 (08/10/2021)

03/27/2023

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1126

Bill Number or Topic

Committee

Name

JOSE L. GUTERREZ

MIAMI
FOP

Phone

(305) 310-4081

Address

710 SW 12 AVE

Email

Street

MIAMI, FL

33130

City

State

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/27/23

Meeting Date

SB 1126

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Francisco Almonte MIAMI FOP

Phone

(305) 310-4081

Address

710 SW 12 AV

Email

VPFO P20@FOPmiami.com

Street

Miami

City

FL

State

33130

Zip

Speaking:

☒ For

☐ Against

☐ Information

☐ OR

☐ Waive Speaking:

☒ In Support

☐ Against

☐

☐

☐

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/27/2023

Meeting Date

SB 1126

Bill Number (if applicable)

Topic Impending, Provoking, or Harassing

Amendment Barcode (if applicable)

Name Felix Del Rosario

Job Title President Miami FOP Lodge #20

Address 710 SW 12 Ave

Phone 305-310-4081

Street

Miami

FL

33130

City

State

Zip

Email VPFOP20@FOPMiami.COM

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Miami FOP

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)

3/27/2023

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1126

Bill Number or Topic

Committee

Name

WALTER LEWIS

MIAMI
FOP

Phone

(305) 310-4081

Amendment Barcode (if applicable)

Address

710 SW 12 AVE

Email

Mr.Lewis245@gmail.com

Street

MIAMI

FL

33130

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

3-27-2023

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1126

Bill Number or Topic

Committee

MIAMI

Amendment Barcode (if applicable)

Name

Madelin Garcia Fof

Phone

786-200-4832

Address

710 SW 12 Ave

Email

mgarcia205000@yahoo.com

Street

Miami

FL

33130

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1126

Meeting Date

Bill Number or Topic

Criminal Justice

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Lisa Henning

Phone

850-766-8808

Address

242 Office Plaza Dr

Email

lphlegislative@aol.com

Street

Tallahassee FL

32301

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Fraternal Order of Police

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 1140

INTRODUCER: Senator Ingoglia

SUBJECT: Rapid DNA Grant Program

DATE: March 24, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Stokes	CJ	Favorable
2.			ACJ	
3.			FP	

I. Summary:

SB 1140 creates s. 943.324, F.S., to establish the Rapid DNA Grant Program within the Florida Department of Law Enforcement (FDLE) to award grants to county jails or sheriffs' offices to procure Rapid DNA machines and other necessary supplies required to rapidly process DNA samples in support of the statewide DNA database under s. 943.325, F.S.

The bill requires the FDLE to annually award funds received from the federal government and any appropriations specific to the grant program to county jails and sheriffs' offices. The FDLE may establish criteria and set specific time periods for the acceptance of applications and for the selection process for awarding grant funds.

The total amount of grants awarded may not exceed funding appropriated for the grant program.

The bill appropriates a non-recurring sum of \$200,000 for the 2023-2024 fiscal year from the General Revenue Fund to the FDLE to implement the Rapid DNA Grant Program. The cost associated with procuring the technology varies. See Section V. Fiscal Impact Statement.

The bill provides an effective date of July 1, 2023.

II. Present Situation:

The FDLE is the administrator of Florida's statewide DNA database.¹ The database is an automated personal identification system capable of, but not limited to classifying, matching, and storing analyses of DNA and other biological molecules and related data.² All accredited local

¹ Section 943.325(4), F.S.

² *Id.*

government crime laboratories within the state have access through CODIS to the statewide DNA database in accordance with the rules and agreements established by FDLE.³

“CODIS” means the Federal Bureau of Investigation’s (FBI) Combined DNA Index System that allows the storage and exchange of DNA records submitted by federal, state, and local forensic DNA laboratories.⁴ CODIS blends forensic science and computer technology into a tool that enables federal, state, and local forensic laboratories to exchange and compare DNA profiles electronically, thereby linking serial violent crimes to each other and to known offenders.⁵

Rapid DNA is the fully automated (hands free) process of generating a DNA profile from a person’s cheek swab in less than two hours.⁶ States with laws that allow DNA analysis upon arrest will be able to submit a qualifying arrestee DNA profile to the CODIS database from the booking station at a county jail.⁷ Florida law requires all persons arrested for a felony or attempted felony in this state to submit a DNA sample at the time they are booked into a jail.⁸

The qualifying arrestee DNA profile will be immediately enrolled and searched in CODIS against DNA profiles from unsolved crimes of special concern.⁹ The “Wants and Warrants” system will immediately send a message involving any exact DNA matches to the booking and investigating agencies.¹⁰ The Rapid DNA system has the ability to provide information on any “hits” on the arrestee’s DNA sample, likely while the arrestee is still in the booking station.¹¹

The FDLE and the Leon County Sheriff’s Office implemented the country’s first fully-automated Rapid DNA collection process in 2020.¹² Florida is one of five states selected by the FBI to participate in the Rapid DNA project and the only one to use a fully automated process.¹³ The FDLE’s technology was approved by the FBI in March 2020.¹⁴ The FBI will use data from the pilots to establish national standards for Rapid DNA.¹⁵

³ *Id.*

⁴ Section 943.325(2)(b), F.S.

⁵ FBI Law Enforcement Resources, Biometrics and Fingerprints, Combined DNA Index System (CODIS), available at <https://le.fbi.gov/science-and-lab-resources/biometrics-and-fingerprints/codis>, (last visited March 21, 2023).

⁶ FBI’s Vision of Rapid DNA, September 20, 2017, available at <http://www.fbi.gov/services/laboratory/biometric-analysis/codis/rapid-dna-analysis>, (last visited March 21, 2023).

⁷ *Id.*

⁸ Section 943.325(7)(b), F.S.

⁹ Unsolved crimes of special concern are crimes involving a significant public safety threat and are determined by state-wide policies. *Id.*

¹⁰ *Id.*

¹¹ FDLE News, FDLE, LCSO unveil nation’s first automated rapid DNA collection, February 26, 2020, available at <https://www.fdle.state.fl.us/News/2020/February/FDLE,-LCSO-unveils-nation%E2%80%99s-first-automated-rapid>, (last visited March 21, 2023).

¹² *Id.*

¹³ Forensic, Nation’s First Automated Rapid DNA Collection, March 18, 2023, available at <https://www.forensicmag.com/561947-Nation-s-First-Automated-Rapid-DNA-Collection/>, (last visited March 21, 2023).

¹⁴ *Id.*

¹⁵ *Id.*

III. Effect of Proposed Changes:

The bill creates s. 943.324, F.S., to establish the Rapid DNA Grant Program within FDLE to award grants to county jails or sheriffs' offices to cover all expenses, including the procurement of Rapid DNA testing machines and other necessary supplies required to rapidly process DNA samples in support of the statewide DNA database under s. 943.325, F.S.

The bill requires FDLE to annually award funds received from the federal government and any appropriations specific to the grant program to county jails and sheriffs' offices. The total amount of grants awarded may not exceed funding appropriated for the grant program. The FDLE may establish criteria and set specific time periods for the acceptance of applications and for the selection process for awarding grant funds.

The bill appropriates a non-recurring sum of \$200,000 for the 2023-2024 fiscal year from the General Revenue Fund to FDLE to implement the Rapid DNA Grant Program.

The bill provides an effective date of July 1, 2023.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Florida Sheriffs Association, the cost of the new technology varies by the vendor as well as the number of samples an agency collects. In short, the cost of a Rapid DNA machine can range from \$150,000 to \$250,000 and the cost per sample can range from approximately \$140 per sample to \$250 per sample. There are also additional one time expenses such as installation, IT integration, training, and shipping, and the on-going expense of a service contract. These vary considerably depending on the vendor.

While there may be some opportunities available for federal grant money for the Rapid DNA roll-out, the opportunities tend to vary each year, and so are unpredictable.¹⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 943.324 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.

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

¹⁶ E-mail from the Florida Sheriffs Association, received March 22, 2023, on file with the Senate Criminal Justice Committee.

By Senator Ingoglia

11-00657C-23

20231140__

A bill to be entitled

An act relating to the Rapid DNA Grant Program; creating s. 943.324, F.S.; creating the Rapid DNA Grant Program within the Department of Law Enforcement for county jails or sheriffs' offices; requiring the department to annually award grant funds to county jails or sheriffs' offices; providing funding requirements; authorizing the department to establish criteria and set specific time periods for the acceptance of applications and the selection process for awarding grant funds; providing an appropriation; providing an effective date.

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

Section 1. Section 943.324, Florida Statutes, is created to read:

943.324 Rapid DNA Grant Program for county jails or sheriffs' offices.—

(1) There is created within the department the Rapid DNA Grant Program to award grants to county jails or sheriffs' offices to support local law enforcement agencies in the processing and expediting of DNA samples as defined in, and in support of the statewide DNA database under, s. 943.325.

(2) The department shall annually award to county jails or sheriffs' offices funds received from the Federal Government and any funds specifically appropriated for the grant program to cover all expenses, including for the purchasing of DNA testing machines and other necessary supplies. Grants must be provided

Page 1 of 2

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

11-00657C-23

20231140__

to county jails or sheriffs' offices if funds are appropriated for that purpose by law. The total amount of grants awarded may not exceed funding appropriated for the grant program.

(3) The department may establish criteria and set specific time periods for the acceptance of applications and for the selection process for awarding grant funds.

Section 2. For the 2023-2024 fiscal year, the sum of \$200,000 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Law Enforcement for the purpose of implementing the Rapid DNA Grant Program under s. 943.324, Florida Statutes.

Section 3. This act shall take effect July 1, 2023.

Page 2 of 2

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

Cellon, Connie

From: Allie McNair <amcnair@flsheriffs.org>
Sent: Wednesday, March 22, 2023 11:23 AM
To: Matt Dunagan; Cellon, Connie
Subject: RE: FSA bill 1140 \$\$\$ questions
Attachments: Vendor Cost Breakdown.xlsx

Morning Connie –

In terms of the expenses, the cost of the new technology varies by the vendor as well as the number of samples an agency collects. In short, the cost of a Rapid DNA machine can range from \$150,000 to \$250,000 and the cost per sample can range from approximately \$140 per sample to \$250 per sample. There are also additional one time expenses such as installation, IT integration, training and shipping, but these vary considerably depending on which vendor you are looking at (ANDE and Thermo Fisher). I have attached a chart that shows you a breakdown of expenses by vendor. Please note, these are just estimates.

Also, in terms of grants, there are currently a few opportunities available however these do vary each year as the feds do tend to alter the scope of the project each year and they are all somewhat limited on some level. FDLE already uses [CEBR](#) to cover a lot of their operational costs, so it is hard to say what portion of that might be available for our purposes. **I think the overall takeaway is that as this technology expands and the benefits to public safety continue to realize we will likely see more funding opportunities at the federal level over time. As such, I cannot really give you an actual dollar amount but I do think we will see either new funding opportunities or existing grant opportunities where the scope is expanded to provide funding to support Rapid DNA.**

Hope that is helpful, let me know if I can assist in any other way.

Allie (Pass) McNair, Government Affairs Coordinator
(850) 877-2165 x. 5841 (office)
(850) 566-1979 (cell)

FLORIDA SHERIFFS ASSOCIATION | Protecting, Leading & Uniting Since 1893.



From: Matt Dunagan <mdunagan@flsheriffs.org>
Sent: Wednesday, March 22, 2023 10:36 AM
To: Cellon, Connie <CELLON.CONNIE@flsenate.gov>



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Finance and Tax, *Chair*
Appropriations
Appropriations Committee on Criminal
and Civil Justice
Banking and Insurance
Children, Families, and Elder Affairs
Criminal Justice
Ethics and Elections

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Administrative Procedures Committee, *Alternating
Chair*

SENATOR BLAISE INGOGLIA

11th District

March 8, 2023

The Honorable Jonathan Martin, Chair
Criminal Justice Committee
Senate Office Building
402 South Monroe Street
Tallahassee, FL 32399

Re: SB 1140 Rapid DNA Grant Fund

Chair Martin,

SB 1140 has been referred to Criminal Justice as its first committee of reference. I respectfully request that it be placed on agenda at your earliest convenience.

If I may answer questions or be of assistance, please do not hesitate to contact me. Thank you for your leadership and consideration.

Regards,

A handwritten signature in blue ink, appearing to read "Blaise Ingoglia". The signature is stylized with a large, sweeping loop at the end.

Blaise Ingoglia
State Senator, District 11

Cc: Amanda Stokes, Staff Director
Sue Arnold, Deputy Staff Director

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/27/2023

Meeting Date

Criminal Justice

Committee

1140

Bill Number or Topic

Amendment Barcode (if applicable)

Name Sheriff Bob Gualtieri

Phone 727-582-6200

Address 10750 Ulmerton Road

Email _____

Street

Largo

FL

33779

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

Florida Sheriffs Association



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 1208

INTRODUCER: Criminal Justice Committee and Senator Burgess

SUBJECT: Depositions of Witnesses in Criminal Proceedings

DATE: March 28, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Stokes	CJ	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1208 amends s. 92.55, F.S., to prohibit defense depositions of any victim of a sexual offense who is under the age of 18, or any person who has an intellectual disability, unless good cause is shown.

The bill provides considerations for the court to determine whether to allow depositions of the specified witnesses in the listed cases.

The bill has an indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill becomes effective July 1, 2023.

II. Present Situation:

Section 92.55, F.S., contains protections for certain crime victims or witnesses during the criminal case process. Specifically, this section of law provides varying types of protection for vulnerable victims and witnesses who are either underage or intellectually disabled. Section 92.55(1), F.S., contains the following definitions:

- “Sexual offense victim or witness” means a person who was under the age of 18 when he or she was the victim of or a witness to a sexual offense; and
- “Sexual offense” means any offense specified in s. 775.21(4)(a)1. or s. 943.0435(1)(h)1.a.(I), F.S.

A conviction of the offenses specified in s. 775.21(4)(a)1., F.S., and s. 943.0435(1)(h)1.a.(I), F.S., results in the person being designated as a sexual predator or sexual offender, respectively, under the criteria set forth in those sections of law.

Section 92.55, F.S., provides that a parent, guardian, attorney, guardian ad litem, or other advocate appointed by the court under s. 914.17, F.S., for a victim or witness under the age of 18, a person who has an intellectual disability, or a sexual offense victim or witness, may file a motion with the court for an order to protect the victim or witness in any judicial proceeding or other official proceeding from severe emotional or mental harm due to the presence of the defendant if the victim or witness is required to testify in open court.¹

Such court orders must relate to the taking of testimony and include, but are not limited to interviewing or the taking of depositions as part of a civil or criminal proceeding.²

In ruling upon the motion, the court must consider:

- The age of the child, the nature of the offense or act, the relationship of the child to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the child as a consequence of the defendant's presence, and any other fact that the court deems relevant;
- The age of the person who has an intellectual disability, the functional capacity of such person, the nature of the offenses or act, the relationship of the person to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the person as a consequence of the defendant's presence, and any other fact that the court deems relevant; or
- The age of the sexual offense victim or witness when the sexual offense occurred, the relationship of the sexual offense victim or witness to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the sexual offense victim or witness as a consequence of the defendant's presence, and any other fact that the court deems relevant.³

Additionally, the court may enter orders:

- Limiting the number of times that a child, a person who has an intellectual disability, or a sexual offense victim or witness may be interviewed;
- Prohibiting depositions of the victim or witness;
- Requiring the submission of questions before the examination of the victim or witness;
- Setting the place and conditions for interviewing the victim or witness; or for conducting any other proceeding; or
- Permitting or prohibiting the attendance of any person at any proceeding.

The court shall enter any order necessary to protect the rights of all parties, including the defendant in any criminal action.⁴

¹ Section 92.55(2), F.S.

² Section 92.55(2)(a), F.S.

³ Section 92.55(3), F.S.

⁴ Section 92.55(4), F.S.

Section 92.55(5), F.S., provides that the court may set other conditions it finds just or appropriate, including the use and assistance of a therapy or facility dog.

III. Effect of Proposed Changes:

The bill amends s. 92.55, F.S., to prohibit criminal defense depositions of any victim of a sexual offense who is under the age of 18, or any person who has an intellectual disability, unless good cause is shown.

The court may authorize the taking of a deposition and may order protections deemed necessary upon the filing of a written motion and the court finding that:

- A deposition is necessary to assist at trial;
- The evidence sought is not reasonably available by any other means; and
- The probative value of the testimony outweighs the potential harm to the person to be deposed.

In ruling upon the motion the court may consider:

- The mental and physical age and maturity of the victim or witness.
- The nature and duration of the offense.
- The relationship of the victim or witness to the defendant.
- The complexity of the issues involved.
- Whether the victim or witness would suffer moderate psychological harm as a consequence of being compelled to testify at a deposition.
- The functional capacity of the victim or witness if he or she has an intellectual disability.
- The willingness of the victim or witness to be deposed.
- Any other fact that the court deems relevant.

The court must make specific written findings of fact, on the record, as to the basis for its ruling.

The bill becomes effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

It is possible that the time spent by the courts holding hearings on whether to grant depositions in the circumstances specified in the bill will have an impact on judicial resources. However, it is also possible that if fewer depositions are taken in the criminal cases specified in the bill, related costs such as court reporting and transcribing, as well as prosecutor and public defender time spent in depositions will off-set some of the expense of the motion hearings.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 92.55 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 March 27, 2023:

The committee substitute narrows the bill by providing that defense depositions may not be taken of a victim in a sexual offense case who is under the age of 18, or any person who has an intellectual disability.

Additionally, the committee substitute removes provisions that prohibited criminal defense depositions of any victim or any witness younger than the age of 18, or any person who is a victim or witness of specified crimes. The list of criminal offenses for which depositions could be prohibited absent a showing of good cause was also removed.

- B. **Amendments:**

None.



466338

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (6) is added to section 92.55,
Florida Statutes, to read:

92.55 Judicial or other proceedings involving victim or
witness under the age of 18, a person who has an intellectual
disability, or a sexual offense victim or witness; special
protections; use of therapy animals or facility dogs.-



466338

(6) (a) Absent a showing of good cause, the defendant in a criminal action, or his or her representative, may not take the deposition of:

1. A victim in a sexual offense case who is under the age of 18.

2. Any person who has an intellectual disability.

(b) Upon written motion by a defendant in a criminal action, or his or her representative, that a deposition is necessary to assist at a criminal trial, that the evidence sought is not reasonably available by any other means, and that the probative value of the testimony outweighs any potential harm to the person to be deposed, the court may authorize the taking of a deposition and may order any protections deemed necessary, including those provided in this section.

(c) In ruling upon a motion filed under paragraph (b), the court may consider:

1. The mental and physical age and maturity of the victim or witness.

2. The nature and duration of the offense.

3. The relationship of the victim or witness to the defendant.

4. The complexity of the issues involved.

5. Whether the victim or witness would suffer moderate psychological harm as a consequence of being compelled to testify at a deposition.

6. The functional capacity of the victim or witness if he or she has an intellectual disability.

7. The willingness of the victim or witness to be deposed.

8. Any other fact that the court deems relevant.



466338

40 (d) The court shall make specific written findings of fact,
41 on the record, as to the basis for its ruling under this
42 subsection.

43 Section 2. This act shall take effect July 1, 2023.

44
45 ===== T I T L E A M E N D M E N T =====

46 And the title is amended as follows:

47 Delete everything before the enacting clause
48 and insert:

49 A bill to be entitled
50 An act relating to depositions of witnesses in
51 criminal proceedings; amending s. 92.55, F.S.;
52 prohibiting the deposition of specified victims and
53 witnesses in a criminal proceeding without a showing
54 of good cause; providing for motions to depose
55 witnesses; providing for factors to be considered
56 concerning such motions; requiring written findings on
57 such motions; providing an effective date.

By Senator Burgess

23-00233B-23

20231208__

A bill to be entitled

An act relating to depositions of witnesses in criminal proceedings; amending s. 92.55, F.S.; prohibiting the deposition of victims and certain witnesses in certain proceedings without a showing of good cause; providing for motions to depose witnesses; providing for factors to be considered in granting such motions; requiring written findings of fact in rulings on such motions; providing an effective date.

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

Section 1. Subsection (6) is added to section 92.55, Florida Statutes, to read:

92.55 Judicial or other proceedings involving victim or witness under the age of 18, a person who has an intellectual disability, or a sexual offense victim or witness; special protections; use of therapy animals or facility dogs.—

(6) (a) In any criminal action in which the defendant is charged with an offense described in this paragraph, or with any attempt, solicitation, or conspiracy to commit such offense, depositions are not allowed, absent a showing of good cause, of any victim or any witness younger than the age of 18, any person who has intellectual disabilities, or any person who is a victim or witness. The offenses are:

1. Any offense constituting domestic violence as defined in s. 741.28.

2. Aggravated cyberstalking under s. 784.048.

3. Custody offenses under chapter 787.

Page 1 of 3

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

23-00233B-23

20231208__

4. Human trafficking under s. 787.06.

5. Human smuggling under s. 787.07.

6. Sexual battery under s. 794.011.

7. Lewd or lascivious offenses under s. 800.04.

8. Child abuse or neglect of a child under s. 827.03.

9. Promotion of or use of a child in a sexual performance under s. 827.071.

10. Computer pornography, prohibited computer usage, or traveling to meet a minor under s. 847.0135, transmission of pornography by electronic device or equipment under s. 847.0137, or transmission of material harmful to a minor under s. 847.0138.

(b) Upon written motion that a deposition is necessary to assist at trial, that the evidence sought is not reasonably available by any other means, and that the probative value of the testimony outweighs the potential harm to the person to be deposed, the court may authorize the taking of a deposition and may order protections deemed necessary, including those provided in this subsection.

(c) In ruling upon a motion filed under this subsection, the court may consider:

1. The mental and physical age and maturity of the victim or witness.

2. The nature and duration of the offense.

3. The relationship of the victim or witness to the defendant.

4. The complexity of the issues involved.

5. Whether the victim or witness would suffer moderate psychological harm as a consequence of being compelled to

Page 2 of 3

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

23-00233B-23

20231208__

59 testify at a deposition.

60 6. The functional capacity of the victim or witness if he
61 or she has an intellectual disability.

62 7. The willingness of the victim or witness to testify at
63 an examination, an interview, or a hearing.

64 8. Any other fact that the court deems relevant.

65 (d) A motion under this subsection may be filed by the
66 victim, the witness, or the victim's or witness's attorney,
67 parent, legal guardian, or guardian ad litem; the defendant or
68 the defendant's counsel in a criminal proceeding; or the
69 prosecuting authority.

70 (e) The court shall make specific written findings of fact,
71 on the record, as to the basis for its ruling under this
72 subsection.

73 Section 2. This act shall take effect October 1, 2023.



The Florida Senate

Committee Agenda Request

To: Senator Jonathan Martin, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: March 6, 2023

I respectfully request that **Senate Bill #1208**, relating to Depositions of Witnesses in Criminal Proceedings, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Danny", is written over a horizontal line.

Senator Danny Burgess
Florida Senate, District 23

The Florida Senate

APPEARANCE RECORD

3/27/23

Meeting Date

Senate Criminal Justice

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB1208

Bill Number or Topic

466338

Amendment Barcode (if applicable)

Name Honorable Carlos J. Martinez
for Florida Public Defender Association

Phone 850-488-6850

Address 103 N. Gadsden St.
Street

Email ARichardson@flpda.org

Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/24/23

Meeting Date

SB 1208

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name

Ed Brodsky 12th Circuit State Atty

Phone

941-720-3556

Address

Pres. Fla. Prosecuting Attys Assoc.

Email

Street

Sarasota

City

FL

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/27/23

Meeting Date

Criminal Justice

Committee

1208

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Natalie Kato

Phone

763 221 3151

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without compensation or sponsorship.

☒

I am a registered lobbyist, representing:

Criminal Law Section
of the Florida Bar

☐

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/27/23

Meeting Date

Criminal Justice

Committee

1208

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

LIBBY GUZZO

Phone

850 2450155

Address

PL 01 CAPITOL

Email

LIBBY.GUZZO@MYFLORIDALEGAL.COM

Street

TUH

City

FL

State

32399

Zip

Speaking:

☐ For

☐ Against

☐ Information

OR

Waive Speaking:

☒ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

OFF. OF ATTORNEY GENERAL

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](https://www.flcourts.gov/2020-2022JointRules.pdf)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/27/23

Meeting Date

CRIM JUSTICE

Committee

1208

Bill Number or Topic

Amendment Barcode (if applicable)

Name

AARON WAYT

FL ASSN OF CRIMINAL
DEFENSE LAWYERS

Phone

(407) 435-3194

Address

553 E TENN ST

Street

Email

AARON@DONPUMPHREY.COM

TLH

City

FL

State

32308

Zip

Speaking:

☐ For



Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/27/23

Meeting Date

Senate Criminal Justice

Committee

SB1208

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Honorable Carlos J. Martinez
for Florida Public Defender Association

Phone 850-488-6850

Address 103 N. Gadsden St.

Email ARichardson@flpda.org

Street

Tallahassee

City

FL

State

32301

Zip

Speaking:

☐ For



Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

3/27/23

Meeting Date

Criminal Justice

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB-1208

Bill Number or Topic

—

Amendment Barcode (if applicable)

Name

Anthony Verdugo - CFC Florida
(Christian Family Coalition)

Phone

786-447-6431

Address

P.O. Box 650216

Email

—

Street

Miami

City

FL

State

33265

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

3/27/23

Meeting Date

Criminal Justice

Committee

SB-1208

Bill Number or Topic

—

Amendment Barcode (if applicable)

Name

Armando Pomer - Hispanic American Diabetes Foundation

Phone

786-447-6431

Address

7710 Abbott Ave.

Email

—

Street

Miami Beach

City

FL

State

33141

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 1300

INTRODUCER: Senator Burton

SUBJECT: Animals Working with Law Enforcement Officers

DATE: March 24, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Stokes	CJ	Favorable
2.			JU	
3.			RC	

I. Summary:

SB 1300 increases the penalty for violations of s. 843.19(3), F.S., from a first degree misdemeanor to a third degree felony for any person who actually and intentionally maliciously touches, strikes, or causes bodily harm to a police canine, fire canine, SAR canine, or police horse.¹

The penalty for a person who intentionally or knowingly maliciously harasses, teases, interferes with, or attempts to interfere with a police canine, fire canine, SAR canine, or police horse while the animal is in the performance of its duties, a violation of s. 843.19(4), F.S., is increased from a second degree misdemeanor to a first degree misdemeanor.²

Additionally, the bill revises s. 843.01, F.S., the “Resisting with Violence” statute,³ and includes a police canine or police horse,⁴ working at the direction of or in tandem with an officer or an authorized person, as among those who may be the victim of the crime of “Resisting with Violence.”

A preliminary estimate obtained from the Office of Economic and Demographic Research is that the bill may have a “positive indeterminate” prison bed impact. See Section V. Fiscal Impact.

The bill is effective July 1, 2023.

¹ A third degree felony is punishable by up to 5 years incarceration and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

² Section 843.19(4), F.S. A first degree misdemeanor is punishable by up to 1 year in the county jail and a \$1,000 fine. Sections 775.082, and 775.083, F.S.

³ Section 843.01, F.S.

⁴ See s. 843.19, F.S.

II. Present Situation:

Special K-9 and Mounted Units

Specially-trained dogs are used by various agencies and departments throughout the state in their K-9 units. These departments employ dogs to assist with tracking and apprehending offenders, narcotics and bomb detection,⁵ and building and article searches.⁶ Additionally, some fire departments use dogs as part of arson detection programs.⁷

Though not as frequently used as K-9 units, select law enforcement agencies throughout the state have mounted units,⁸ whereby specially-trained horses are used to assist with crowd control, special events, and additional patrol functions, among other tasks.⁹

Offenses Against Police Animals

Intentional offenses against police animals most often occur while the animals are on duty. Because of this, offenses against police horses are infrequent because mounted units are most commonly used for non-crime related purposes. However, one instance of intentional harm occurred several years ago when an attendee at the Gasparilla parade in Tampa punched a horse that was used to patrol the event.¹⁰

In contrast, police canines are frequently used in conjunction with high-intensity, criminal situations and are often deployed by their handlers to chase after fleeing felons. As a result, the canines can be caught in the line of fire while on the job. Two recent incidents resulted in the death of a police canine while the canine was on duty. In September 2018, 3-year old Fang, a member of Jacksonville Sheriff's Office canine unit, was shot and killed by a teenager who was fleeing a scene after carjacking two women at a gas station minutes earlier.¹¹ Similarly, in

⁵ City of Orlando, *K-9 Unit*, available at <http://www.cityoforlando.net/police/k-9-unit/> (last visited March 23, 2023).

⁶ St. Petersburg Police Department, *K-9 Unit*, available at <https://police.stpete.org/k-9/index.html#gsc.tab=0>, (last visited March 23, 2023).

⁷ City of Orlando, Fire Department, Special Investigative Services Division, available at <https://www.orlando.gov/Our-Government/Departments-Offices/Orlando-Fire-Department>, (last visited March 23, 2023).

⁸ The following agencies have mounted units: Escambia County Sheriff's Office see <http://www.escambiaso.com/mounted-unit/>; Marion County Sheriff's Office see <http://www.marionso.com/mounted-unit/>; Orlando Police Department see <http://www.cityoforlando.net/police/mounted-patrol/>; Palm Beach County Sheriff's Office see <https://www.pbso.org/services/countywide-operations/mounted-unit/>; and Pinellas Park Police Department <https://www.pinellas-park.com/642/Mounted-Patrol>; <http://police.stpete.org/usb/mounted-unit.html> (last visited March 23, 2023).

⁹ City of Orlando, *Mounted Patrol*, available at <http://www.cityoforlando.net/police/mounted-patrol/> (last visited March 23, 2023).

¹⁰ Ashley Yore, *Chad the police horse retires after 13 years of service in Tampa*, ABC ACTION NEWS (May 11, 2018), available at <https://www.abcactionnews.com/news/region-tampa/chad-the-police-horse-retires-after-13-years-of-service-in-tampa> (last visited March 23, 2023).

¹¹ Colette DuChanois and Tarik Minor, *Audio, video evidence released in case of teen held in K-9's death*, NEWS4JAX (Nov. 12, 2018), available at <https://www.news4jax.com/news/local/jacksonville/new-evidence-details-case-against-teen-accused-of-killing-jso-k-9>. (last visited March 23, 2023).

December 2018, Palm Beach County Sheriff's Office's canine, 3-year-old Cigo, was shot and killed by an attempted murder suspect outside of a shopping mall.¹²

The Polk County Sheriff's Office reports that in March 2020, K-9 Vise suffered 9 stab wounds and an arterial bleed when he went into a closet after a suspect who had broken into an occupied home. Fortunately, the responding officers were able to pull the suspect away from the dog and he was rushed to the emergency veterinarian. K-9 Vise was expected to make a full recovery after undergoing emergency surgery.¹³

These particular service animals have specific definitions in law and are defined in the following manner:

- "Police canine" and "police horse" means any canine or horse, respectively, that is owned, or the service of which is employed, by a law enforcement agency or a correctional agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders;
- "Fire canine" means any dog that is owned, or the service of which is employed, by a fire department, a special fire district, or the State Fire Marshal for the principal purpose of aiding in the detection of flammable materials or the investigation of fires; and
- "SAR canine" means any search and rescue dog that is owned, or the service of which is employed, by a fire department, a law enforcement agency, a correctional agency, a special fire district, or the State Fire Marshal for the principal purpose of aiding in the detection of missing persons, including, but not limited to, persons who are lost, who are trapped under debris as the result of a natural, manmade, or technological disaster, or who are drowning victims.¹⁴

Currently, Florida law provides that:

- It is a second degree felony to intentionally and knowingly, without lawful cause or justification, cause great bodily harm, permanent disability, or death to, or use a deadly weapon upon a police canine, police horse, fire canine, or SAR canine.¹⁵
- Any person who actually and intentionally maliciously touches, strikes, or causes bodily harm to a police canine, fire canine, SAR canine, or police horse commits a misdemeanor of the first degree.¹⁶
- Any person who intentionally or knowingly maliciously harasses, teases, interferes with, or attempts to interfere with a police canine, fire canine, SAR canine, or police horse while the animal is in the performance of its duties commits a misdemeanor of the second degree.¹⁷

¹² Mark Osborne and Jason M. Volack, *Suspect kills police dog in shootout outside mall on Christmas eve, police say*, ABC NEWS (Dec. 25, 2018), available at <https://abcnews.go.com/US/suspect-kills-police-dog-shootout-mall-christmas-eve/story?id=60007552>, (last visited March 23, 2023).

¹³ E-mail from Polk County Sheriff's Office, March 9, 2023, on file with the Senate Criminal Justice Committee.

¹⁴ Section 843.19(1)(a)-(c), F.S.

¹⁵ Section 843.19(2), F.S. A second degree felony is punishable by a state prison term not exceeding 15 years, a fine not exceeding \$10,000, or both. Sections 775.082, and 775.083, F.S.

¹⁶ Section 843.19(3), F.S. A first degree misdemeanor is punishable by up to 1 year in the county jail and a \$1,000 fine. Sections 775.082, and 775.083, F.S.

¹⁷ Section 843.19(4), F.S. A second degree misdemeanor is punishable by up to 60 days in the county jail and a \$500 fine. Sections 775.082, and 775.083, F.S.

- A person convicted of an offense under s. 843.19, F.S., must make restitution for injuries caused to the police canine, fire canine, SAR canine, or police horse and pay the replacement cost of the animal if, as a result of the offense, the animal can no longer perform its duties.¹⁸

Section 843.01, F.S., prohibits a person from knowingly and willfully resisting, obstructing, or opposing any officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission; parole and probation supervisor; county probation officer; personnel or representative of the Department of Law Enforcement; or other person legally authorized to execute process in the execution of legal process or in the lawful execution of any legal duty, by offering or doing violence to the person of such officer or legally authorized person.¹⁹

III. Effect of Proposed Changes:

The bill increases the penalty for violations of s. 843.19(3), F.S., from a first degree misdemeanor to a third degree felony for any person who actually and intentionally maliciously touches, strikes, or causes bodily harm to a police canine, fire canine, SAR canine, or police horse.²⁰

The penalty for a person who intentionally or knowingly maliciously harasses, teases, interferes with, or attempts to interfere with a police canine, fire canine, SAR canine, or police horse while the animal is in the performance of its duties, a violation of s. 843.19(4), F.S., is increased from a second degree misdemeanor to a first degree misdemeanor.²¹

Additionally, the bill revises s. 843.01, F.S., the “Resisting with Violence” statute,²² and includes a police canine or police horse,²³ working at the direction of or in tandem with an officer or an authorized person, as among those who may be the victim of the crime of “Resisting with Violence.”

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁸ Section 843.19(5), F.S.

¹⁹ “Resisting with Violence” is a third degree felony, punishable by up to 5 years incarceration and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

²⁰ A third degree felony is punishable by up to 5 years incarceration and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

²¹ Section 843.19(4), F.S. A first degree misdemeanor is punishable by up to 1 year in the county jail and a \$1,000 fine. Sections 775.082, and 775.083, F.S.

²² Section 843.01, F.S.

²³ See s. 843.19, F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official prison bed impact, if any, of legislation has not yet considered this bill. However, a preliminary estimate obtained from the Office of Economic and Demographic Research is that the bill may have a “positive indeterminate” prison bed impact (“positive indeterminate” means that there is an unquantifiable prison bed impact).²⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 843.19 and 921.0022.

²⁴ Office of Economic & Demographic Research, e-mail dated March 21, 2023, on file with the Senate Criminal Justice Committee.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Burton

12-01458A-23

20231300__

A bill to be entitled

An act relating to animals working with law enforcement officers; amending s. 843.01, F.S.; prohibiting the knowing and willful resistance to, obstruction of, or opposition to a police canine or police horse under certain circumstances; providing criminal penalties; making technical changes; amending s. 843.19, F.S.; increasing criminal penalties for persons who actually and intentionally maliciously touch, strike, or cause bodily harm to a police canine, fire canine, SAR canine, or police horse; increasing criminal penalties for persons who intentionally or knowingly maliciously harass, tease, interfere with, or attempt to interfere with a police canine, fire canine, SAR canine, or police horse while the animal is in the performance of its duties; providing an effective date.

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

Section 1. Section 843.01, Florida Statutes, is amended to read:

843.01 Resisting officers, other persons, or police animals ~~officer with violence to his or her person.~~ A person who ~~Whoever~~ knowingly and willfully resists, obstructs, or opposes any of the following officers, persons, or police animals by offering or doing violence to any such officers, persons, or animals ~~commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:~~

Page 1 of 3

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

12-01458A-23

20231300__

(1) An officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9).~~+~~

(2) A member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission.~~+~~

(3) A parole and probation supervisor.~~+~~

(4) A county probation officer.~~+~~

(5) Any personnel or representative of the Department of Law Enforcement.~~+~~~~or~~

(6) Any other person legally authorized to execute process in the execution of legal process or in the lawful execution of any legal duty.

(7) A police canine or police horse as those terms are defined in s. 843.19 working at the direction of or in tandem with an officer or a legally authorized person, ~~by offering or doing violence to the person of such officer or legally authorized person, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

Section 2. Subsections (3) and (4) of section 843.19, Florida Statutes, are amended to read:

843.19 Offenses against police canines, fire canines, SAR canines, or police horses.—

(3) Any person who actually and intentionally maliciously touches, strikes, or causes bodily harm to a police canine, fire canine, SAR canine, or police horse commits a felony of the third misdemeanor of the first ~~felony of the third~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

(4) Any person who intentionally or knowingly maliciously harasses, teases, interferes with, or attempts to interfere with

Page 2 of 3

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

12-01458A-23

20231300__

59 a police canine, fire canine, SAR canine, or police horse while
60 the animal is in the performance of its duties commits a
61 misdemeanor of the first ~~second~~ degree, punishable as provided
62 in s. 775.082 or s. 775.083.

63 Section 3. This act shall take effect July 1, 2023.

Violent felon with extensive criminal history commits occupied armed burglary, then stabs

PCSO K-9 Vise

Media Contact: [Carrie Horstman, PIO](#)

On Saturday evening, March 28, 2020, PCSO deputies responded to an armed burglary in progress on Grand Pines Blvd in Lakeland, during which the suspect broke into an occupied home armed with a tire lug wrench.

Around 8:30 p.m., the two victims were startled by the suspect banging on their door, yelling, "Let me in!" and "They are after me!" The suspect appeared frantic, however, the victims didn't see anyone else outside. After refusing to let him in, the suspect broke the glass on the door with the tire lug wrench, and forced his way inside. The victims ran outside and dialed 911.

[Click here to see video of the suspect at the front door.](#)

Deputies arrived on-scene, including a PCSO canine team - Deputy Sheriff Scott Cronin and his K-9 partner, Vise. The suspect - **31-year-old Carl McHargh, Jr.** - was inside the master bathroom closet, refusing to come out. Three deputies went in and found McHargh barricaded inside the closet adjacent to the master bath. At that time, deputies knew him only to be armed with the lug wrench.

Deputies pried the closet door open as McHargh refused to surrender, and K-9 Vise went into the closet to apprehend McHargh. Deputy Cronin observed McHargh punching K-9 Vise about his head and neck. Cronin grabbed the suspect's hand, and realized he was actually stabbing the dog with a kitchen knife that McHargh grabbed from the victims' kitchen. Cronin wrenched the knife out of McHargh's hand as he continued to violently resist the deputy's efforts to take him into custody, and Cronin was cut in the process.

The three deputies were able to pull McHargh away from the dog and place him in handcuffs. Deputy Cronin then ran Vise out to his patrol car and transported him in emergency mode due to his significant injuries to Parkway Veterinary Emergency Clinic in Lakeland, where he underwent surgery for his 9 stab wounds and arterial bleed, and received numerous stitches. Vise was admitted to the emergency vet hospital overnight. He is expected to make a full recovery. Deputy Cronin received a laceration to his hand from wrestling the knife out of the suspect's hand. He was treated and released from LRHMC.

"These deputies and the canine risked their lives to get an armed and dangerous, drug-induced suspect out of the victims' house. We are grateful that Vise will make a full recovery and that Deputy Cronin and the other two deputies weren't more seriously injured in this violent attack. This felon was clearly in some sort of drug-induced rage, and preliminarily it appears he was suffering from excited delirium." - **Grady Judd, Sheriff**

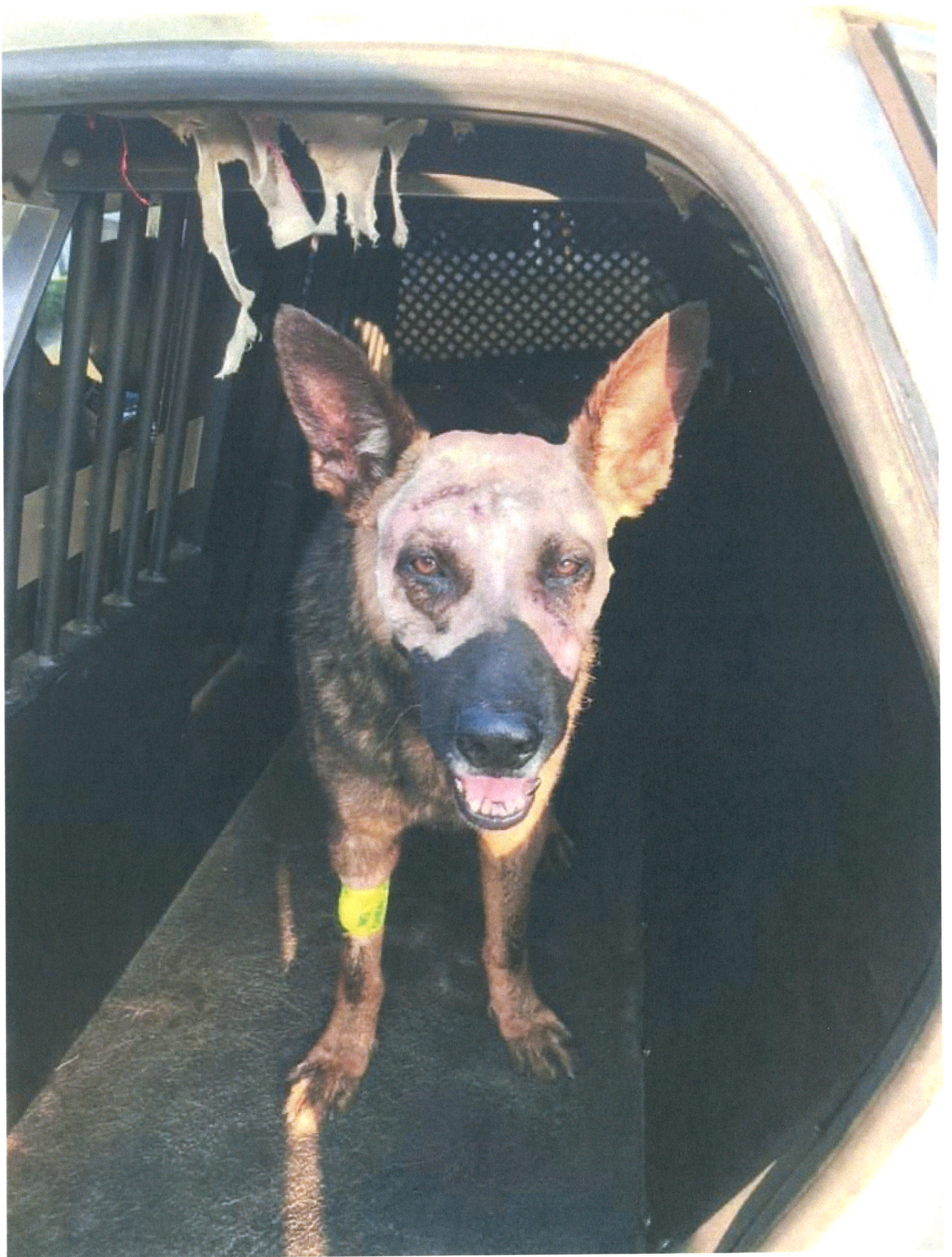
After McHargh was taken into custody, he suffered a significant medical event suspected to be excited delirium from his cocaine-induced state, and he was treated at the scene by EMS, including the administration of Narcan and CPR. They revived him and transported him to a local hospital, where he tested positive for cocaine, and was intubated.

He was declared deceased at the hospital on Monday evening, March 30, 2020. An autopsy was completed, and his cause of death was ruled cocaine intoxication; his manner of death was ruled accidental.

If McHargh had survived this drug-intoxicated event, he would have been charged with:

- Armed occupied burglary
- Offense against a police dog with great bodily harm
- 3 counts resisting arrest with violence
- 3 counts battery on a law enforcement officer
- Petit theft

His extensive criminal history included 15 felonies, 11 misdemeanors, and one trip to state prison for attempted armed robbery. His 36 previous arrests in Polk and Hillsborough counties were for robbery, battery, battery domestic violence, burglary, grand theft of a motor vehicle, resisting arrest, assault, cocaine possession, marijuana possession, keeping a structure for drug use, possession of paraphernalia, failure to appear, and VOP. His most recent arrest in Polk was for battery domestic violence in January 2019 (his mugshot above is from that arrest).





SB 1300 – Animals Working with Law Enforcement Officers

This bill amends s. 843.01, F.S., changing the language for resisting officers with violence to the following (new language in bold): “**A person who** knowingly and willfully resists, obstructs, or opposes any **of the following officers, persons, or police animals by offering or doing violence to any such officers, persons, or animals** commits” a Level 5, 3rd degree felony. This new language would expand the violent acts to “a police canine or police horse as those terms are defined in s. 843.19, F.S. working at the direction of or in tandem with an officer or a legally authorized person.”

This bill also amends s. 843.19(3), F.S., elevating the 1st degree misdemeanor to an **unranked, 3rd degree felony (Level 1 by default)** for “any person who actually and intentionally maliciously touches, strikes, or causes bodily harm to a police canine, fire canine, SAR canine, or police horse.” It also elevates the 2nd degree misdemeanor to a **1st degree misdemeanor** for “any person who intentionally or knowingly maliciously harasses, teases, interferes with, or attempts to interfere with a police canine, fire canine, SAR canine, or police horse while the animal is in the performance of its duties.”

In FY 18-19, the incarceration rate for a Level 1, 3rd degree felony was 9.1%, and in FY 19-20 the incarceration rate was 8.2%. In FY 20-21, the incarceration rate for a Level 1, 3rd degree felony was 7.5%, and in FY 21-22 the incarceration rate was 8.6%.

Per DOC, in FY 18-19, there were 206 new commitments to prison for resisting officers with violence under s. 843.01, F.S. In FY 19-20, there were 167 new commitments, and there were 134 new commitments in FY 20-21. There were 153 new commitments in FY 21-22. It is not known how many offenders would be added with the expanded language.

A Level 3, 2nd degree felony currently exists under s. 843.19(2), F.S. for “any person who intentionally and knowingly, without lawful cause or justification, causes great bodily harm, permanent disability, or death to, or uses a deadly weapon upon, a police canine, fire canine, SAR canine, or police horse.” Per DOC, there have been no new commitments in the last four fiscal years. Per FDLE, for the current 1st misdemeanor under s. 843.19(3), F.S., there were 65 arrests, with 45 guilty/convicted charges and 4 adjudication withheld charges in FY 19-20. In FY 20-21, there were 46 arrests, with 23 guilty/convicted charges and 6 adjudication withheld charges. And there were 35 arrests, with 32 guilty/convicted charges and 2 adjudication withheld charges in FY 21-22.

Without enough information on how many offenders could be affected by the expanded definition of resisting an officer with violence, the impact on the prison population cannot be quantified.

EDR PROPOSED ESTIMATE: Positive Indeterminate

Requested by: Senate



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy, *Chair*
Judiciary, *Vice Chair*
Appropriations Committee on Education
Appropriations Committee on Health
and Human Services
Banking and Insurance
Fiscal Policy
Rules
Transportation

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR COLLEEN BURTON

12th District

March 6th, 2023

The Honorable Jonathan Martin
Committee on Criminal Justice
510 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Martin,

I respectfully request SB 1300: Animals Working with Law Enforcement Officers be placed on the Committee on Criminal Justice agenda at your earliest convenience.

Thank you for your consideration.

Regards,

A handwritten signature in blue ink that reads "Colleen Burton".

Colleen Burton
State Senator, District 12

CC: Amanda Stokes, Staff Director
Sue Arnold, Administrative Assistant

REPLY TO:

- ☐ 100 South Kentucky Avenue, Suite 260, Lakeland, Florida 33801 (863) 413-1529
- ☐ 318 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/27/23

Meeting Date

1300

Bill Number (if applicable)

Topic Animals walking w/ L.E.

Amendment Barcode (if applicable)

Name Kate MacFall

Job Title state director

Address 1206 W. 8th Dr.
Street

Phone 850 508-6001

Tallahassee FL 32312
City State Zip

Email kmacfall@hsus.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Humane Society of the United States

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
Senate professional staff conducting the meeting

SB 1300

Bill Number or Topic

Amendment Barcode (if applicable)

3/27/23

Meeting Date

Criminal Justice

Committee

Name

David Shepp

Phone

863 581-4250

Address

123 South Adams Street

Email

shepp@thesoutherngroup.com

Street

Tallahassee FL

32302

City

State

Zip

Speaking:

☒ For

☐ Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Polk County Sheriffs Office

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 1402

INTRODUCER: Senator Martin

SUBJECT: Public Records/Investigative Genetic Genealogy Materials

DATE: March 24, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Cella	Stokes	CJ	Favorable
2. _____	_____	GO	_____
3. _____	_____	RC	_____

I. Summary:

SB 1402 amends s. 119.071, F.S., to make investigative genetic genealogy materials, including a single nucleotide polymorphism or a whole genome sequencing profile, confidential and exempt from public records requirements.

The exemption must be given retroactive application and must apply to all investigative genetic genealogy materials, including a single nucleotide polymorphism or whole genome sequencing profile, or a portion thereof, held in the possession of an agency before, on, or after July 1, 2023, the effective date of the bill.

Investigative genetic genealogy materials and other technical terms are defined in the bill.

The bill provides Legislative findings that are the basis of the public necessity for investigative genetic genealogy materials to be made confidential and exempt from public records requirements and that such exemption be applied retroactively.

The exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and will stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill provides a statement of public necessity as required by the State Constitution.

The bill creates a new public records exemption and, therefore, requires a two-thirds vote of the members present and voting for final passage.

The bill becomes effective July 1, 2023.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵ Section 119.011(12), F.S., defines “public records” to include:

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 connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020).

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “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.”

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.⁹ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act¹⁶ (the Act), prescribe a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹¹ *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹² *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S.

¹⁷ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁸ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁹ Section 119.15(3), F.S.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²⁰ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁶

Agency Investigations

Section 119.071(2), F.S., contains general exemptions from the public records law for agency investigations. For purposes of ch. 119, F.S., the definition of "agency" is 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

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

²⁴ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means?
If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

entity acting on behalf of any public agency.²⁷ Active criminal intelligence information and active criminal investigative information are exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.²⁸

“Criminal intelligence information” means information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity.²⁹ “Criminal investigative information” means information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or any type of surveillance.³⁰

In this context, the word “active” means:

- Criminal intelligence information shall be considered “active” as long as it is related to intelligence gathering conducted with a reasonable, good faith belief that it will lead to detection of ongoing or reasonably anticipated criminal activities.
- Criminal investigative information shall be considered “active” as long as it is related to an ongoing investigation which is continuing with a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future.

In addition, criminal intelligence and criminal investigative information shall be considered “active” while such information is directly related to pending prosecutions or appeals. The word “active” shall not apply to information in cases which are barred from prosecution under the provisions of statutes of limitation.³¹

Genetics

Genetics is the scientific study of genes and heredity, of how certain qualities or traits are passed from parents to offspring as a result of changes in DNA sequence.³² A gene is a segment of DNA that contains instructions for building one or more molecules that help the body work. DNA is shaped like a corkscrew-twisted ladder, called a double helix. The two ladder rails are called backbones, and the rungs are pairs of four building blocks (adenine, thymine, guanine, and cytosine) called bases. The sequences of these bases provide the instructions for building molecules, most of which are proteins. Researchers estimate that humans have about 20,000 genes. All of an organism’s genetic material, including its genes and other elements that control the activity of those genes, is its genome. An organism’s entire genome is found in nearly all of its cells.³³

²⁷ Section 119.011(2), F.S.

²⁸ Section 119.071(2)(c)1, F.S.

²⁹ Section 119.011(3)(a), F.S.

³⁰ Section 119.011(3)(b), F.S.

³¹ Sections 119.011(3)(d) and 775.15, F.S.

³² National Institute of Health, General Medicine Sciences, Genetics, *What is Genetics?*, available at <https://nigms.nih.gov/education/fact-sheets/Pages/genetics.aspx#:~:text=Genetics%20is%20the%20scientific%20study,that%20help%20the%20body%20work>, (last visited March 18, 2023).

³³ *Id.*

Our DNA, including all of our genes, is stored in chromosomes, structures where proteins wind up DNA tightly so that it fits in the nucleus. Humans typically have 23 pairs of chromosomes in our cells. The two chromosomes in each pair contain the same genes, but they may have different versions of those genes because we inherit one chromosome in each pair from our mother and the other from our father.³⁴

Genetic variations can influence how people respond to certain medicines or a person's likelihood of developing a disease. Because parents pass their genes on to their children, some diseases tend to cluster in families, similar to other inherited traits. In most cases, multiple genes are involved. Researchers can use DNA sequencing to identify variations in a person's genome.³⁵

Genealogy Research by the Public

Advances in DNA testing have allowed people to uncover information about their genetic ancestry and find out where some of their ancestors came from. A person swipes the inside of his or her cheek for a saliva sample, which is sent to a lab. There, the DNA is extracted, amplified, and analyzed. It is then compared to and matched with DNA samples from a reference database of a set of closely linked genes or DNA polymorphisms that have been identified in specific populations. If a person's DNA sequences match certain sequences in the database, the information can be used to determine the populations with which that person shares maternal or paternal ancestry.³⁶

The number of people who have had their DNA analyzed with direct-to-consumer genetic genealogy tests more than doubled during 2017 and exceeds 12 million, according to industry estimates. Most of those tested are in the U.S., suggesting that around 1 in 25 American adults now have access to personal genetic data, a figure that could spur a range of new genetic analysis services.³⁷

Investigative Genetic Genealogy Materials

As explained by the International Society of Genetic Genealogy, investigative (or forensic) genetic genealogy is the science of using genetic and genealogical methods to generate leads for law enforcement entities investigating crimes and identifying human remains.

Genetic genealogists use DNA profiles from a crime scene or from unidentified human remains to identify close genetic DNA profiles or matches. By comparing the known genealogy of those close familial matches, this constrains the number of possible close relatives of the perpetrator or victim. Such efforts enable investigators or researchers to more closely focus their investigation in cold or stale criminal cases providing new leads.³⁸

³⁴ *Id.*

³⁵ *Id.*

³⁶ MIT Technology Review, Biotechnology, Leslie Hanlon, "*Tracing Your Ancestry*," available at <https://www.technologyreview.com/2006/02/24/229598/tracing-your-ancestry/>, (last visited March 18, 2023).

³⁷ MIT Technology Review, Biotechnology, Antonio Regalado, "*2017 was the year consumer DNA testing blew up*," February 12, 2018, available at <https://www.technologyreview.com/2018/02/12/145676/2017-was-the-year-consumer-dna-testing-blew-up/>, (last visited March 18, 2023).

³⁸ International Society of Genetic Genealogy, *Investigative genetic genealogy FAQs*, available at https://isogg.org/wiki/Investigative_genetic_genealogy_FAQs#cite_note-1, (last visited March 19, 2023); *see also* The

The Florida Department of Law Enforcement Forensic/Investigative Genetic Genealogy Program

The Florida Department of Law Enforcement (FDLE) Genetic Genealogy team provides investigative leads to investigators based on DNA matches to relatives found in public genealogy databases.³⁹ The team includes experts in genetic genealogy, analytical research, forensics and investigations who work with local law enforcement agencies.⁴⁰ In its first year, the program helped identify four suspects, solving cases that were more than a decade old.⁴¹

Catching the Golden State Killer Using Consumer DNA Testing Database

A Florida-based genealogy website called GEDmatch that allows users to voluntarily share their genetic profiles for free provided information that led investigators to the “Golden State Killer” who had eluded law enforcement since 1976.⁴² The website revealed a distant relative and that information helped lead authorities to the man suspected of conducting a reign of terror up and down California, including 12 homicides, 45 rapes and more than 100 residential burglaries between 1976 and 1986.⁴³ The man subsequently pleaded guilty to 13 counts of first-degree murder and special circumstances (including murder committed during burglaries and rapes), as well as 13 counts of kidnapping.⁴⁴ GEDmatch allows people to upload their DNA analysis to the site and opt-in for law enforcement matching. There are more than 140,000 people who have opted-in.⁴⁵

III. Effect of Proposed Changes:

The bill creates a public records exemption in s. 119.071(2)(r)2., F.S., for investigative genetic genealogy materials, including a single nucleotide polymorphism or a whole genome sequencing profile. The exemption must be given retroactive application and must apply to all investigative

Florida Department of Law Enforcement, Forensics Disciplines, Genetic Genealogy, *Resource & Historical Information FDLE Forensic/Investigative Genetic Genealogy*, available at <https://www.fdle.state.fl.us/Forensics/Disciplines/Genetic-Genealogy/Resource-Historical-Information.aspx>, (last visited March 19, 2023).

³⁹ Florida Department of Law Enforcement, News, *FDLE Genetic Genealogy Investigations program solves cold cases in first year*, available at <https://www.fdle.state.fl.us/News/2019/October/FDLE-Genetic-Genealogy-Investigations-program-solv>, (last visited March 18, 2023).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² East Bay Times, “Here’s the ‘open-source’ genealogy DNA website that helped crack the Golden State Killer case,” Matthias Gafni, Lisa M. Krieger, September 21, 2018, available at <https://www.eastbaytimes.com/2018/04/26/ancestry-23andme-deny-assisting-law-enforcement-in-east-area-rapist-case/>, (last visited March 18, 2023); see also Los Angeles Times, *The untold story of how the Golden State Killer was found: A covert operation and private DNA*, Paige St. John, December 8, 2020, available at <https://www.latimes.com/california/story/2020-12-08/man-in-the-window>, (last visited March 19, 2023).

⁴³ *Id.*

⁴⁴ CNN News, “Hearing details ghastly crimes of Golden State Killer as he pleads guilty to killings,” Elliott C. McLaughlin, Stella Chan, June 29, 2020, available at <https://www.cnn.com/2020/06/29/us/golden-state-killer-plea-expected/index.html#:~:text=DeAngelo%20pleaded%20guilty%20to%2013,as%2013%20counts%20of%20kidnapping>, (last visited March 18, 2023).

⁴⁵ Florida Department of Law Enforcement, News, *FDLE Genetic Genealogy Investigations program solves cold cases in first year*, available at <https://www.fdle.state.fl.us/News/2019/October/FDLE-Genetic-Genealogy-Investigations-program-solv>, (last visited March 18, 2023).

genetic genealogy materials, including a single nucleotide polymorphism or whole genome sequencing profile, or a portion thereof, held in the possession of an agency before, on, or after July 1, 2023.

As defined in the bill:

- “Investigative genetic genealogy materials” means the information, records, and genetic profiles created or collected by or on behalf of a law enforcement agency conducting investigative genetic genealogy research. This includes any names and personal identifying information or identifiers of individuals determined through the use of genealogy databases, traditional genealogical methods, or other investigative means.⁴⁶
- The term “investigative genetic genealogical materials” does not include:
 - The identity or personal identifying information of the donor of a biological sample attributable to a perpetrator, with the exception of the single nucleotide polymorphism or whole genome sequencing DNA profile developed from the crime scene evidence; or
 - Any individual identified through investigative genetic genealogy who is a witness to or has personal knowledge related to the crime under investigation, with the exception of the individual’s single nucleotide polymorphism or whole genome sequencing DNA profile.
- “Single nucleotide polymorphism” is a variation in a single unit in a DNA sequence. Profiles consisting of single nucleotide polymorphism data from various locations in a genome are made up of letters representing the building blocks of DNA (A, T, G, and C). However, depending on the locations tested, single nucleotide polymorphism data may also reveal information on physical characteristics, disease predisposition, and susceptibility to environmental factors such as toxins or drugs.
- “Whole genome sequencing” means the attempt to determine the genetic code using A, T, G, and C for an individual throughout the entire complement of DNA, including all genes. Whole genome sequencing data represents the entirety of an individual’s DNA and the traits, health, and ancestry information it contains.

Investigative genetic genealogy materials, including a single nucleotide polymorphism or a whole genome sequencing profile, are made confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution by the bill.

The bill creates an exception to the public records exemption, and provides that a law enforcement agency may disclose investigative genetic genealogy materials:

- In furtherance of its official duties and responsibilities; or
- To another governmental agency in the furtherance of its official duties and responsibilities.

Investigative genetic genealogy materials, including a single nucleotide polymorphism or whole genome sequencing profile, or a portion thereof must be disclosed pursuant to a court order in furtherance of a criminal prosecution. If a court orders that investigative genetic genealogy materials be disclosed, the recipient of the records or information must maintain the confidentiality of those records or information and may only disclose them publicly as needed for purposes of a criminal prosecution, as determined by the court.

⁴⁶ “Traditional genealogical methods” means the use of genealogical databases and historical records to trace the family lineage of an individual. “Genealogy databases” are used to detect possible genetic relationships with distant relatives.

The bill provides a statement of public necessity for the public records exemption created by the bill and for its retroactive application. The bill states that:

- Investigative genetic genealogy is an advanced investigative tool that uses law enforcement agency investigative resources and traditional genealogical research in collaboration with crime laboratories, private vendor laboratories, and companies or organizations that provide genealogy services and information to the public.
- Investigative genetic genealogy allows law enforcement agencies to generate an investigative lead on an unknown perpetrator. The investigative lead aids law enforcement agencies in determining potential donors of crime scene samples, which can be confirmed or refuted by a crime laboratory for use in legal proceedings.
- Convictions and exonerations have been aided by the use of investigative genetic genealogy.
- The same techniques are also used in missing persons and unidentified human remains cases.
- Investigative genetic genealogy is a valuable tool to solve violent crimes and to hold accountable perpetrators who may otherwise roam freely and undetected in society.
- Traditional forensic DNA testing attempts to identify the possible donor of a crime scene sample through matches in law enforcement agencies' DNA databases that consist of short tandem repeat DNA databases.
- The use of investigative genetic genealogy differs from traditional law enforcement agency investigative techniques because it uses advanced DNA testing to develop a single nucleotide polymorphism or a whole genome sequencing profile from the unknown crime scene DNA, which is then uploaded into a public genealogy database and used to locate personal identifying information for possible relatives and ancestors who participate in the databases.
- Individuals whose names, contact information, or other family associations are available in these databases may, and routinely, have no association with or knowledge of the perpetrator or the crime that a law enforcement agency is investigating.
- The first publicized use of investigative genetic genealogy involved the Golden State Killer cases in California. The publicity surrounding law enforcement agencies' use of genetic genealogy led individuals, genealogy service providers, genealogical testing companies, and privacy advocates and ethicists to express privacy concerns.
- Private companies have since strictly limited or precluded law enforcement agency access to genetic genealogy databases due to fear that individuals who are biologically related to a perpetrator but unassociated with the crime may be identified, harassed, and even victimized.
- Law enforcement agency use of investigative genetic genealogy materials has been restricted to violent crimes and unidentified human remains, and companies employ opt-in features for customers.
- Failure to properly protect and limit the disclosure of investigative genetic genealogy materials will hinder law enforcement agencies' ability to use this valuable method to solve violent crimes and provide closure to the family members of victims of these heinous acts.
- Often, unidentified human remains are homicide victims, so protection of investigative genetic genealogy tools and information is equally important in giving names to these decedents as well as to their perpetrators.

For the foregoing reasons, the Legislature finds that it is a public necessity that investigative genetic genealogy materials be made confidential and exempt from public records requirements and that such exemption be applied retroactively.

The public records exemption created by the bill is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill takes effect on July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for investigative genetic genealogy materials, thus, the bill requires a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemption.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect investigative genetic genealogy materials. This bill exempts only investigative genetic genealogy materials from the public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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 substantially amends section 119.071 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 Martin

33-01108-23

20231402__

A bill to be entitled

An act relating to public records; amending s.

119.071, F.S.; defining terms; providing an exemption

from public records requirements for investigative

genetic genealogy materials; authorizing the

disclosure of investigative genetic genealogy

materials under specified circumstances; providing for

retroactive application; providing for future

legislative review and repeal of the exemption;

providing a statement of public necessity; providing

an effective date.

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

Section 1. Paragraph (r) is added to subsection (2) of section 119.071, Florida Statutes, to read:

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(r)1. As used in this paragraph, the term:

a. "Genetic genealogy" is the application of genetics to genealogy wherein DNA testing is combined with traditional genealogical methods to infer relationships between individuals and determine ancestry.

b. "Investigative genetic genealogy" means the application of genetic genealogy and law enforcement investigative techniques to develop investigative leads in unsolved violent crimes and provide investigative leads as to the identity of unidentified human remains and living unidentified missing

33-01108-23

20231402__

persons. A single nucleotide polymorphism or whole genome sequencing DNA profile is developed from an unknown DNA profile from a crime scene or unidentified human remains and then uploaded into a web-based genealogy database. Genealogy databases are used to detect possible genetic relationships with distant relatives.

c. "Investigative genetic genealogy materials" means the information, records, and genetic profiles created or collected by or on behalf of a law enforcement agency conducting investigative genetic genealogy research. This includes any names and personal identifying information or identifiers of individuals determined through the use of genealogy databases, traditional genealogical methods, or other investigative means. The term does not include:

(I) The identity or personal identifying information of the donor of a biological sample attributable to a perpetrator, with the exception of the single nucleotide polymorphism or whole genome sequencing DNA profile developed from the crime scene evidence; or

(II) Any individual identified through investigative genetic genealogy who is a witness to or has personal knowledge related to the crime under investigation, with the exception of the individual's single nucleotide polymorphism or whole genome sequencing DNA profile.

d. "Single nucleotide polymorphism" is a variation in a single unit in a DNA sequence. Profiles consisting of single nucleotide polymorphism data from various locations in a genome are made up of letters representing the building blocks of DNA (A, T, G, and C). However, depending on the locations tested,

33-01108-23 20231402

single nucleotide polymorphism data may also reveal information on physical characteristics, disease predisposition, and susceptibility to environmental factors such as toxins or drugs.

e. "Traditional genealogical methods" means the use of genealogical databases and historical records to trace the family lineage of an individual.

f. "Whole genome sequencing" means the attempt to determine the genetic code using A, T, G, and C for an individual throughout the entire complement of DNA, including all genes. Whole genome sequencing data represents the entirety of an individual's DNA and the traits, health, and ancestry information it contains.

2. Investigative genetic genealogy materials, including a single nucleotide polymorphism or a whole genome sequencing profile, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

3. Notwithstanding subparagraph 2., investigative genetic genealogy materials, including a single nucleotide polymorphism or whole genome sequencing profile, or a portion thereof, may be disclosed by a law enforcement agency:

a. In furtherance of its official duties and responsibilities; or

b. To another governmental agency in the furtherance of its official duties and responsibilities.

4. Notwithstanding subparagraph 2., investigative genetic genealogy materials, including a single nucleotide polymorphism or whole genome sequencing profile, or a portion thereof, must be disclosed pursuant to a court order in furtherance of a criminal prosecution. If a court orders that investigative

33-01108-23 20231402

genetic genealogy materials be disclosed, the recipient of the records or information must maintain the confidentiality of those records or information and may only disclose them publicly as needed for purposes of a criminal prosecution, as determined by the court.

5. The exemption in subparagraph 2. must be given retroactive application and must apply to all investigative genetic genealogy materials, including a single nucleotide polymorphism or whole genome sequencing profile, or a portion thereof, held in the possession of an agency before, on, or after July 1, 2023.

6. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that investigative genetic genealogy materials be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Investigative genetic genealogy is an advanced investigative tool that uses law enforcement agency investigative resources and traditional genealogical research in collaboration with crime laboratories, private vendor laboratories, and companies or organizations that provide genealogy services and information to the public. Investigative genetic genealogy allows law enforcement agencies to generate an investigative lead on an unknown perpetrator. The investigative lead aids law enforcement agencies in determining potential donors of crime scene samples, which can be confirmed or refuted by a crime laboratory for use in legal proceedings.

33-01108-23

20231402

117 Convictions and exonerations have been aided by the use of
 118 investigative genetic genealogy. The same techniques are also
 119 used in missing persons and unidentified human remains cases.
 120 Investigative genetic genealogy is a valuable tool to solve
 121 violent crimes and to hold accountable perpetrators who may
 122 otherwise roam freely and undetected in society. Traditional
 123 forensic DNA testing attempts to identify the possible donor of
 124 a crime scene sample through matches in law enforcement
 125 agencies' DNA databases that consist of short tandem repeat DNA
 126 databases. The use of investigative genetic genealogy differs
 127 from traditional law enforcement agency investigative techniques
 128 because it uses advanced DNA testing to develop a single
 129 nucleotide polymorphism or a whole genome sequencing profile
 130 from the unknown crime scene DNA, which is then uploaded into a
 131 public genealogy database and used to locate personal
 132 identifying information for possible relatives and ancestors who
 133 participate in the databases. Individuals whose names, contact
 134 information, or other family associations are available in these
 135 databases may, and routinely, have no association with or
 136 knowledge of the perpetrator or the crime that a law enforcement
 137 agency is investigating. The first publicized use of
 138 investigative genetic genealogy involved the Golden State Killer
 139 cases in California. The publicity surrounding law enforcement
 140 agencies' use of genetic genealogy led individuals, genealogy
 141 service providers, genealogical testing companies, and privacy
 142 advocates and ethicists to express privacy concerns. Private
 143 companies have since strictly limited or precluded law
 144 enforcement agency access to genetic genealogy databases due to
 145 fear that individuals who are biologically related to a

Page 5 of 6

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

33-01108-23

20231402

146 perpetrator but unassociated with the crime may be identified,
 147 harassed, and even victimized. Law enforcement agency use of
 148 investigative genetic genealogy materials has been restricted to
 149 violent crimes and unidentified human remains, and companies
 150 employ opt-in features for customers. Failure to properly
 151 protect and limit the disclosure of investigative genetic
 152 genealogy materials will hinder law enforcement agencies'
 153 ability to use this valuable method to solve violent crimes and
 154 provide closure to the family members of victims of these
 155 heinous acts. Often, unidentified human remains are homicide
 156 victims, so protection of investigative genetic genealogy tools
 157 and information is equally important in giving names to these
 158 decedents as well as to their perpetrators. For the foregoing
 159 reasons, the Legislature finds that it is a public necessity
 160 that investigative genetic genealogy materials be made
 161 confidential and exempt from public records requirements and
 162 that such exemption be applied retroactively.

163 Section 3. This act shall take effect July 1, 2023.

Page 6 of 6

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

‘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 1442

INTRODUCER: Senator Collins and others

SUBJECT: Terrorism

DATE: March 24, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	Favorable
2.	Cellon	Stokes	CJ	Favorable
3.			RC	

I. Summary:

SB 1442 expands the fugitive disentitlement doctrine to collection activities related to a private civil action related to terrorism. The bill provides that a fugitive from justice who is a judgment debtor in a civil action relating to an act of terrorism may not use the resources of the state in defending against collection proceedings related to the judgment. Additionally, in such collection proceedings no party may demand a jury trial.

The bill takes effect upon becoming law, and its provisions apply to pending cases.

II. Present Situation:

It may seem that the court’s entry of a final judgment is the culmination of a civil case. It often is not. A final civil judgment awarding money damages does not automatically put money in the hands of the prevailing party, referred to as the judgment creditor. A final judgment merely gives the judgment creditor the legal right to seek out assets of the judgment debtor and forcibly sell or transfer those assets to or for the judgment creditor. This is commonly referred to as the collections process.

Civil Judgment Collections Process

There are several means for a judgment debtor to forcibly attempt to collect the judgment. The primary means of collection are:

- Execution – An “execution” is the lawful seizure of property owned by the judgment debtor to be sold at public auction. The net proceeds of an execution on property are paid to the judgment creditor to be applied against the debt. Execution applies to real property and personal property. Execution and sale are conducted by the sheriff.¹

¹ The civil execution process is governed by ch. 56, F.S.

- Garnishment – A “garnishment” is the seizure of monies owed to the judgment debtor, which money is then paid to the judgment creditor to be applied against the debt. Common targets of a garnishment are bank accounts and wages.²
- Proceedings Supplementary – Proceedings supplementary is a collections tool created by statute. When any judgment creditor holds an unsatisfied judgment or judgment lien, the judgment creditor may file a motion asking for proceedings supplementary. In the proceeding, the court may issue a Notice to Appear to the judgment debtor or to any person alleged to be holding property of the judgment debtor, or to any person who may have property that was fraudulently transferred by the judgment debtor to that third party. After hearing, the court may order the sheriff to execute on property found to be owned by the judgment debtor, or found to have been fraudulently conveyed by the judgment debtor, for sale for the benefit of the judgment creditor.³

While collection actions are primarily focused on assets of the judgment debtor, there may be occasions where property titled or held in the name of another may be seized in payment of the judgment. This occurs where the judgment debtor has fraudulently transferred the property to a third party in an attempt to thwart collection of the judgment. Florida has adopted the Uniform Fraudulent Transfer Act to address these situations.⁴

In some post-judgment proceedings, any party may demand a jury trial. Section 56.18, F.S., provides that the portion of a proceedings supplementary process that determines whether property is subject to execution, and the value of the property, is to be tried by jury, unless waived by the parties. Section 77.08, F.S., allows either party in a garnishment action the right to demand a jury trial. The statutory right to a jury trial applies to a civil action attempting to collect a judgment related to an act of terrorism.⁵

“Terrorism” or “terrorist activity” as defined in s. 775.30, F.S., mean an activity that:

- Involves:
 - A violent act or an act dangerous to human life which is a violation of the criminal laws of this state or of the United States; or
 - A violation of s. 815.06, F.S. (offenses against computer users); and
- Is intended to:
 - Intimidate, injure, or coerce a civilian population;
 - Influence the policy of a government by intimidation or coercion; or
 - Affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.

A person who commits the offenses specified in s. 775.30(2), F.S., in furtherance of intimidating or coercing the policy of a government, or in furtherance of affecting the conduct of a government by mass destruction, assassination, or kidnapping, commits the crime of terrorism, a first degree felony.⁶

² The garnishment process is generally governed by ch. 77, F.S.

³ Section 56.29, F.S.

⁴ Chapter 726, F.S.

⁵ *Stansell v. Revolutionary Armed Forces of Columbia*, 45 F.4th 1340 (11th Cir. 2022).

⁶ A first degree felony is punishable by up to 30 years’ imprisonment and a \$10,000 fine.

A person who commits a violation of s. s. 775.30(2), F.S., which results in death or serious bodily injury commits a life felony.⁷

Civil Remedy for Victims of Acts of Terrorism

Section 772.13, F.S., creates a civil remedy for victims of acts of terrorism or facilitating or furthering terrorism. A person who is injured by an act of terrorism, or by an act facilitating or furthering terrorism, has a cause of action for threefold the actual damages sustained and, in any such action, is entitled to minimum damages in the amount of \$1,000 and reasonable attorney fees and court costs in the trial and appellate courts. A similar civil cause of action for acts of terrorism is created in federal law at 18 U.S.C. s. 2333.

Fugitive Disentitlement Doctrine

The fugitive disentitlement doctrine initially arose in the criminal context, contemplating the dismissal of an absconding criminal appellant's appeal. It reflects the inherent authority of the courts to place conditions on the exercise of their jurisdiction. In one sense, the doctrine is a tool of case management, justifying the dismissal of certain cases from a court docket. Over time it has been extended to civil cases.⁸ The doctrine generally prohibits a person from using the resources of the courts in furtherance of a legal claim upon a finding that such person, evading prosecution for crime, purposely leaves the jurisdiction of the court or otherwise evades the jurisdiction of the court in which a criminal case is pending against the person.

The doctrine currently applies to civil forfeiture actions related to a criminal action, in both federal and state law.⁹ The doctrine prohibits a fugitive from proceeding as a plaintiff in a civil action.¹⁰ It is unclear whether the doctrine applies to civil collection actions where a fugitive is a judgment debtor.

III. Effect of Proposed Changes:

The bill expands the fugitive disentitlement doctrine to collection activities related to a private civil action related to an act of terrorism. Specifically, the bill provides that in any postjudgment execution proceedings to enforce a judgment entered under state or federal laws creating a civil cause of action for a victim of terrorism:

- There is no right to a jury trial under s. 56.18 or s. 77.08; F.S., and
- A defendant or a person may not use the resources of the courts of this state in furtherance of a defense or objection to postjudgment collection proceedings if the defendant or person purposely leaves the jurisdiction of this state or the United States, declines to enter or reenter this state or the United States to submit to its jurisdiction, or otherwise evades the jurisdiction of the court in which a criminal case is pending against the defendant or person.

⁷ A life felony is punishable by up to life imprisonment or a term of years not exceeding life and a \$15,000 fine. Sections 775.082 and 775.083, F.S.

⁸ https://www.justice.gov/sites/default/files/civil/legacy/2014/10/17/March_2013.pdf.

⁹ 28 U.S.C s. 2466; s. 896.106, F.S.

¹⁰ *Jaffe v. Snow*, 610 So. 2d 482 (Fla. 5th DCA 1992).

Additionally, this provision applies to any entity that is owned or controlled by a person to whom this applies.

The bill is effective upon becoming law, and it applies to any judgment collectible under state law and to any civil action pending or filed on or after the effective date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The right to a jury trial is at Art. I, s. 22 of the State Constitution. In civil law, the right only applies to an action at law, not an action for equity. Post-judgment collections activities are equitable in nature, and thus the constitutional right to a jury does not apply.¹¹

Bills related to the fugitive disentitlement doctrine relate only to remedies or procedure, and thus may constitutionally affect pending civil proceedings.¹²

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

¹¹ 381651 *Alberta, Ltd.*, v. 279298 *Alberta, Ltd.*, 675 So.2d 1385 (Fla. 4th DCA 1996).

¹² *Tejada v. In re Forfeiture of The Following Described Prop.*, \$406,626.11 In U.S. Currency, 820 So. 2d 385, 390 (Fla. 3rd DCA 2002).

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 772.13 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 Collins

14-01146C-23

20231442__

A bill to be entitled

An act relating to terrorism; amending s. 772.13, F.S.; specifying that there is no right to a jury trial under specified provisions and that neither defendants nor certain persons may use the resources of the courts of this state in furtherance of a defense or objection to postjudgment collection proceedings in any postjudgment execution proceedings to enforce certain judgments; providing applicability; providing a directive to the Division of Law Revision; providing an effective date.

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

Section 1. Subsection (6) is added to section 772.13, Florida Statutes, to read:

772.13 Civil remedy for terrorism or facilitating or furthering terrorism.—

(6) (a) In any postjudgment execution proceedings to enforce a judgment entered under this section or under 18 U.S.C. s. 2333 or a substantially similar law of the United States or of any state or territory of the United States:

1. There is no right to a jury trial under s. 56.18 or s. 77.08; and

2. A defendant or a person may not use the resources of the courts of this state in furtherance of a defense or objection to postjudgment collection proceedings if the defendant or person purposely leaves the jurisdiction of this state or the United States, declines to enter or reenter this state or the United

Page 1 of 2

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

14-01146C-23

20231442__

States to submit to its jurisdiction, or otherwise evades the jurisdiction of the court in which a criminal case is pending against the defendant or person. This subparagraph applies to any entity that is owned or controlled by a person to whom this paragraph applies.

(b) Paragraph (a) applies to any judgment collectible under state law and to any civil action pending or filed on or after the effective date of this act.

Section 2. The Division of Law Revision is directed to replace the phrase "the effective date of this act" wherever it appears in this act with the date this act becomes a law.

Section 3. This act shall take effect upon becoming a law.

Page 2 of 2

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

The Florida Senate

APPEARANCE RECORD

27 MAR 23

Meeting Date

CRIM JUSTICE

Committee

SB 1442

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name NEWT POTTER

Phone _____

Address 9655 S. DIXIE HWY #200
Street

Email _____

MIAMI
City

FL
State

33156
Zip

Speaking: ☒ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3-27-23

Meeting Date

SB 1442

Bill Number or Topic

CS

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Keith Sfarrell

Phone

941-320-6017

Address

21416 WILSON ROAD DR.

Email

Keith.Sfarrell@rocket
mail.com

Street

Sarasota

FL

34243

City

State

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 1456

INTRODUCER: Senator Avila

SUBJECT: Firearm Offenses

DATE: March 24, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Stokes	CJ	Favorable
2.			FP	

I. Summary:

SB 1456 expands the scope of the “10-20-Life” statute (s. 775.087, F.S.) to provide for mandatory minimum terms of imprisonment for firearm-related human trafficking, enhances punishment for theft and repeat theft of a firearm, and enhances the detention assessment process and secure detention period for juveniles who unlawfully possess or use firearms. Specifically, the bill:

- Amends the “10-20-Life” statute to provide for mandatory minimum terms of imprisonment for committing human trafficking while possessing or discharging a firearm or other specified weapon;
- Increases the Criminal Punishment Code offense severity level ranking (from level 4 to level 6) for theft of a firearm;
- Creates a level 7 second degree felony for repeat theft of a firearm;
- Increases from 3 days to 5 days the period of secure detention available for a juvenile who unlawfully possesses a firearm, and also increases the secure detention period from 15 days to 21 days for a repeat violation;
- Requires that a juvenile’s unlawful use of a firearm be considered in all determinations and court orders regarding the use of detention care;
- Requires the juvenile risk assessment instrument to consider a juvenile’s unlawful use of a firearm; and
- Requires that a juvenile charged with any offense involving possession or use of a firearm be placed in secure detention until the juvenile’s detention hearing.

The Legislature’s Office of Economic and Demographic Research preliminary estimates that the bill will have a “positive indeterminate” prison bed impact (an unquantifiable increase in prison beds). See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2023.

II. Present Situation:

“10-20-Life” Statute

Section 775.087, F.S., the “10-20-Life” statute, in part, requires a judge to sentence a person convicted of a specified offense to a mandatory minimum term of imprisonment if, while committing the offense, the person possesses or discharges a firearm or destructive device¹ or if the discharge results in death or great bodily harm. Specified offenses include such offenses as murder, sexual battery, robbery, and burglary.²

Under s. 775.087, F.S., a person convicted of a specified offense, or the attempt to commit such offense, must be sentenced to the following mandatory minimum term of imprisonment:

- 10 years for possession of a firearm;
- 15 years for possession of a semi-automatic/machine gun;
- 20 years for discharge of a firearm (any type); and
- 25 years to life imprisonment for discharge with great bodily injury or death.³

However, s. 775.087(2)(a)1., F.S., provides for a minimum mandatory sentence of 3 years, instead of 10 years, for the possession of a firearm by a felon or burglary of a conveyance if the possession occurred during the commission of the offense.

Currently, the crime of human trafficking is not a specified offense that would require a mandatory minimum term of imprisonment under the “10-20-Life” statute. Florida law defines “human trafficking” as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, purchasing, patronizing, procuring, or obtaining another person for the purpose of exploitation of that person.⁴

Possession of a Firearm by a Minor

Section 790.22(3), F.S., prohibits a minor under 18 years of age from possessing a firearm, other than an unloaded firearm at his or her home, unless:

- The minor is engaged in a lawful hunting activity and is:
 - At least 16 years of age; or
 - Under 16 years of age and supervised by an adult; or
- The minor is engaged in a lawful marksmanship competition or practice or other lawful recreational shooting activity and is:
 - At least 16 years of age; or
 - Under 16 years of age and supervised by an adult who is acting with the consent of the minor’s parent or guardian; or
- The firearm is unloaded and is being transported by the minor directly to or from an event previously described.⁵

¹ The terms “firearm” and “destructive device” are defined in s. 790.001, F.S.

² For a complete list of offenses, see s. 775.087(3)(a)1., F.S.

³ Section 775.087(2)(a)1.-3. and (3)(a)1.-3., F.S.

⁴ Section 787.06(2)(d), F.S.

⁵ Section 790.22(3), F.S.

A minor who violates subsection (3) commits a first degree misdemeanor,⁶ and may serve a period of detention up to 3 days in a secure detention facility for a first offense.⁷ For a second or subsequent offense, the minor commits a third degree felony and must serve a period of detention of up to 15 days in a secure detention facility.⁸

Theft of a Firearm

Section 812.014, F.S., provides that a person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to, either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or
- Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.⁹

Third degree grand theft, a third degree felony,¹⁰ includes theft of a firearm, regardless of its value.¹¹

Detention of Children in Florida - Intake and Assessment

Every child under the age of 18 charged with a crime in Florida is referred to the Department of Juvenile Justice (DJJ).¹² The DJJ serves as the primary case manager responsible for managing, coordinating, and monitoring services provided to the child.¹³ Intake and screening services for a child referred to the DJJ are performed at a Juvenile Assessment Center.¹⁴ The purpose of the intake process is to assess the child's needs and risks and to determine the most appropriate treatment plan and setting for the child's programmatic need and risks.¹⁵ Once a child is in the custody of the DJJ, the DJJ determines whether detention care is appropriate.¹⁶

The DJJ makes an initial decision regarding detention care placement using the "Detention Risk Assessment Instrument."¹⁷ This instrument takes into consideration, but need not be limited to, the following:

⁶ A first degree misdemeanor is punishable by not more than 1 year in county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

⁷ Section 790.22(5)(a), F.S.

⁸ Section 790.22(5)(b), F.S.

⁹ Section 812.014(1), F.S.

¹⁰ A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

¹¹ Section 812.014(2)(c)5., F.S. The offense is ranked in level 4 of the Criminal Punishment Code offense severity ranking level chart. Section 921.0022(3)(d), F.S.

¹² A referral is similar to an arrest in the adult criminal justice system. See *Probation and Community Intervention, Overview*, Department of Juvenile Justice, available at <http://www.djj.state.fl.us/services/probation> (last visited on March 20, 2023).

¹³ Section 985.145(1), F.S.

¹⁴ Section 985.135(4), F.S.

¹⁵ Section 985.14(2), F.S. The intake process consists of a preliminary screening and may be followed by a comprehensive assessment, consisting of a full mental health, cognitive impairment, substance abuse, or psychosexual evaluation.

¹⁶ Section 985.25(1), F.S.

¹⁷ Sections 985.25(1) and 985.245, F.S. Section 985.245, F.S., outlines with whom the Detention Risk Assessment Instrument must be developed, when and how it must be updated, and what factors the assessment instrument should identify when evaluating a child to determine whether detention placement is appropriate. "The [DJJ] ... utilizes the Detention Risk

- Pending felony and misdemeanor offenses;
- Offenses committed pending adjudication;
- Prior offenses;
- Unlawful possession of a firearm;
- Prior history of failure to appear;
- Supervision violations;
- Supervision status at the time the child is taken into custody;
- All statutory mandates for detention care; and
- Any information on the child’s history of abuse and neglect.¹⁸

A child taken into custody and placed in detention care is entitled to a detention hearing within 24 hours of being taken into custody. At the hearing, the court may order continued detention care under certain circumstances, including but not limited to, the result of the risk assessment instrument indicates secure or supervised release detention.¹⁹ However, a child must be placed in secure detention care until the child’s detention hearing if the child is a prolific juvenile offender²⁰ or is charged with possessing or discharging a firearm on school property in violation of s. 790.115, F.S.²¹

“Detention care” means “the temporary care of a child in secure or supervised release detention, pending a court adjudication or disposition or execution of a court order.”²² There are two types of detention care, including:

- “Secure detention,” which is the temporary custody of a child while he or she is under the physical restriction of a secure detention center or facility pending adjudication, disposition, or placement.
- “Supervised release detention,” which is the temporary, nonsecure custody of a child while the child is released to the custody of the parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of the DJJ staff pending adjudication or

Assessment Instrument (DRAI) to determine the most appropriate placement for youth upon arrest. The DRAI was developed by the department in partnership with representatives appointed by the Conference of Circuit Judges, the Prosecuting Attorneys Association, the Public Defenders Association, the Florida Sheriff’s Association, and the Florida Association of Chiefs of Police. Initially, the DRAI was conducted manually.” *2023 Agency Legislative Analysis (SB 1456)* (March 23, 2023), Department of Juvenile Justice (on file with the Senate Committee on Criminal Justice).

¹⁸ Section 985.245(2)(b), F.S. “Youth taken into custody (arrested) by law enforcement are screened by the department’s detention screening staff using the DRAI to determine whether a youth, prior to their detention hearing, should be detained in a secure detention facility, placed on supervised release (community-based detention status), or released without any additional supervision. The DRAI uses a criteria-based point system. Youth are held in secure detention if they score 13 points or more. In accordance with the DRAI, youth charged with “any offense involving the use or possession of firearm” score 20 points and are therefore held in secure detention until their detention hearing. Youth with a detention status appear before the court within 24 hours of being taken into custody, at which time the juvenile judge determines whether there is a need for continued detention supervision.” *Supra*, at n. 16.

¹⁹ Section 985.255(1), F.S.

²⁰ A “prolific juvenile offender” is a child that is charged with a delinquent act that would be a felony if committed by an adult, has a prior adjudication or adjudication withheld for a delinquent act that would be a felony if committed by an adult, and has 5 or more arrests, adjudications, or adjudications withheld, 3 of which must have been felony offenses. Sections 985.255(1)(f), F.S.

²¹ Section 985.25(1)(b), F.S.

²² Section 985.03(18), F.S.

disposition, through programs that include, but are not limited to, electronic monitoring, day reporting centers, and nonsecure shelters, in addition to other court-imposed requirements.²³

The use of detention care must be based primarily on findings that the child:

- Presents a substantial risk of not appearing at a subsequent hearing;
- Presents a substantial risk of inflicting bodily harm on others as evidenced by recent behavior, including the illegal possession of a firearm;
- Presents a history of committing a property offense prior to adjudication, disposition, or placement;
- Has committed contempt of court by:
 - Intentionally disrupting the administration of the court;
 - Intentionally disobeying a court order; or
 - Engaging in a punishable act or speech in the court's presence which shows disrespect for the authority and dignity of the court; or
- Requests protection from imminent bodily harm.²⁴

Additionally, the use of detention care may not be used for the following reasons:

- To allow a parent to avoid his or her legal responsibility;
- To permit more convenient administrative access to the child;
- To facilitate further interrogation or investigation; or
- Due to a lack of more appropriate facilities.²⁵

Further, a child who is alleged to be dependent under ch. 39, F.S., but who is not alleged to have committed a delinquent act or violation of law, may not, under any circumstances, be placed into secure detention care.²⁶

Generally, a child may not be held in secure detention care under a special detention order for more than 21 days, unless an adjudicatory hearing for the case has been commenced in good faith by the court. The court may extend the length of detention for an additional 21 days if there is good cause shown that the nature of the charge requires additional time for the prosecution or defense of the case or that the totality of the circumstances, including the preservation of public safety, warrants an extension, and the child is charged with one of the following offenses:

- Capital felony;
- Life felony;
- First degree felony;
- Second degree felony; or
- Third degree felony involving violence against any individual.²⁷

²³ *Id.*

²⁴ Section 985.24(1), F.S.

²⁵ Section 985.24(3), F.S.

²⁶ Section 985.24(4), F.S.

²⁷ Section 985.26, F.S.

The court may continue to extend the period of secure detention care in increments of up to 21 days each by conducting a hearing before the expiration of the current period to determine the need for continued secure detention of the child.²⁸

A prolific juvenile offender must be placed on supervised release detention care with electronic monitoring or in secure detention care under a special detention order until disposition.²⁹ If secure detention care is ordered by the court for a prolific juvenile offender, such secure detention care must not exceed 21 days unless an adjudicatory hearing for the case has been commenced in good faith, or 15 days after the entry of an order of adjudication.³⁰

Except as previously described, a child may not be held in detention care for more than 15 days after the entry of an order of adjudication.³¹

Time limitations on detention care do not include periods of delay resulting from a continuance granted by the court. Upon an order granting a continuance, the court must conduct a hearing at the end of each 72-hour period to determine the need for continued detention and for further continuance of proceedings for the child or for the state.³²

III. Effect of Proposed Changes:

The bill expands the scope of the “10-20-Life” statute (s. 775.087, F.S.) to provide for mandatory minimum terms of imprisonment for firearm-related human trafficking, enhances punishment for theft and repeat theft of a firearm, and enhances the detention assessment process and secure detention period for juveniles who unlawfully possess or use firearms.

The bill amends s. 775.087, F.S., to provide for the following mandatory minimum terms of imprisonment for committing human trafficking while possessing or discharging a firearm or other specified weapon:

- 10 years for possession of a firearm;
- 15 years for possession of a semi-automatic/machine gun;
- 20 years for discharge of a firearm (any type); and
- 25 years to life imprisonment for discharge with great bodily injury or death.

The bill amends s. 921.0022, F.S., to increase the Criminal Punishment Code offense severity level ranking (from level 4 to level 6) for theft of a firearm.

The bill amends ss. 812.014 and 921.0022, F.S., to create a level 7 second degree felony³³ for repeat theft of a firearm.

²⁸ *Id.*

²⁹ Section 985.26, F.S.

³⁰ Section 985.26(2)(c), F.S.

³¹ Section 985.26(3), F.S.

³² Section 985.26(4), F.S.

³³ A second degree felony is punishable by not more than 15 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

The bill amends s. 790.22, F.S., to increase from 3 days to 5 days the period of secure detention available for a juvenile who unlawfully possesses a firearm, and also increases the secure detention period from 15 days to 21 days for a repeat violation.

The bill amends s. 985.24, F.S., to require that a juvenile's unlawful use of a firearm be considered in all determinations and court orders regarding the use of detention care.

The bill amends s. 985.245, F.S., to require the juvenile risk assessment instrument to consider a juvenile's unlawful use of a firearm.

Finally, the bill amends s. 985.25, F.S., to require that a juvenile charged with any offense involving possession or use of a firearm be placed in secure detention until the juvenile's detention hearing.

The bill takes effect October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Office of Economic and Demographic Research

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. The Legislature's Office of Economic and Demographic Research (EDR) preliminary estimated that the original would have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds).³⁴

The EDR provided the following information relevant to its estimate:

In FY 18-19, the incarceration rate for a Level 6, 3rd degree felony was 26.6%, and in FY 19-20 the incarceration rate was 24.4%. In FY 20-21, the incarceration rate for a Level 6, 3rd degree felony was 23.5%, and in FY 21-22 the incarceration rate was 23.8%. In FY 18-19, the incarceration rate for a Level 7, 2nd degree felony was 47.7%, and in FY 19-20 the incarceration rate was 44.5%. In FY 20-21, the incarceration rate for a Level 7, 2nd degree felony was 43.3%, and in FY 21-22 the incarceration rate was 43.8%.

Per [Department of Corrections or] DOC, there were 20 new commitments to prison for human trafficking violations in FY 18-19, and there were 8 new commitments in FY 19-20. There were 8 new commitments in FY 20-21, and there were 28 new commitments in FY 21-22. Additionally, of the human trafficking offenders committed to prison over the last three fiscal years, there were 2 offenders who also had a firearm charge.

Per DOC, in FY 18-19, there were 18 new commitments to prison for grand theft of a firearm. In FY 19-20, there were 18 new commitments, and there were 14 new commitments in FY 20-21. There were 16 new commitments in FY 21-22. Incarceration rates for these offenses varied considerably, with 17.3% going to prison in FY 18-19, 14.0% going to prison in FY 19-20, 15.2% going to prison in FY 20-21, and 25.6% going to prison in FY 21-22. It is not known how many of these offenders were committing grand theft of a firearm for a second time.³⁵

Department of Juvenile Justice

The DJJ did not indicate that the bill would have a fiscal impact on the department that could not be absorbed within existing resources.³⁶

VI. Technical Deficiencies:

None.

³⁴ *HB 1465 – Firearm and Destructive Device Offenses (Identical SB 1456)*, Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice).

³⁵ *Id.*

³⁶ *Supra*, at n. 16.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 775.087, 790.22, 812.014, 985.24, 985.245, 985.25, and 921.0022.

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.

By Senator Avila

39-01872A-23

20231456__

1 A bill to be entitled
 2 An act relating to firearm offenses; amending s.
 3 775.087, F.S.; adding the conviction for committing or
 4 the attempt to commit a felony offense of human
 5 trafficking to the list of offenses during the
 6 commission of which if a person possesses a firearm,
 7 destructive device, a semiautomatic firearm and its
 8 high-capacity detachable box magazine, or a machine
 9 gun, such person is subject to a specified mandatory
 10 minimum term of imprisonment; conforming provisions to
 11 changes made by the act; amending s. 790.22, F.S.;
 12 increasing the maximum number of days of detention
 13 that a minor who violates specified provisions for a
 14 first, second, or subsequent offense may serve in a
 15 secure detention facility; amending s. 812.014, F.S.;
 16 increasing the criminal penalties and providing that
 17 it is grand theft of the second degree if the property
 18 stolen is a firearm and the offender has previously
 19 been convicted for grand theft of a firearm under a
 20 specified provision; conforming a provision to changes
 21 made by the act; amending s. 985.24, F.S.; requiring
 22 consideration of a juvenile's use of a firearm when
 23 determining detention; amending s. 985.245, F.S.;
 24 requiring the juvenile risk assessment instrument to
 25 consider a juvenile's unlawful use of a firearm;
 26 amending s. 985.25, F.S.; requiring a juvenile charged
 27 with an offense involving the possession or use of a
 28 firearm to be placed in secure detention care at a
 29 specified hearing; amending s. 921.0022, F.S.; ranking

Page 1 of 59

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

39-01872A-23

20231456__

30 offenses on the offense severity ranking chart of the
 31 Criminal Punishment Code; providing an effective date.
 32
 33 Be It Enacted by the Legislature of the State of Florida:
 34
 35 Section 1. Paragraph (a) of subsection (2) and paragraph
 36 (a) of subsection (3) of section 775.087, Florida Statutes, are
 37 amended to read:
 38 775.087 Possession or use of weapon; aggravated battery;
 39 felony reclassification; minimum sentence.—
 40 (2)(a)1. Any person who is convicted of a felony or an
 41 attempt to commit a felony, regardless of whether the use of a
 42 weapon is an element of the felony, and the conviction was for:
 43 a. Murder;
 44 b. Sexual battery;
 45 c. Robbery;
 46 d. Burglary;
 47 e. Arson;
 48 f. Aggravated battery;
 49 g. Kidnapping;
 50 h. Escape;
 51 i. Aircraft piracy;
 52 j. Aggravated child abuse;
 53 k. Aggravated abuse of an elderly person or disabled adult;
 54 l. Unlawful throwing, placing, or discharging of a
 55 destructive device or bomb;
 56 m. Carjacking;
 57 n. Home-invasion robbery;
 58 o. Aggravated stalking;

Page 2 of 59

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

39-01872A-23

20231456__

p. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1); ~~or~~

q. Human trafficking; or

r. Possession of a firearm by a felon;

and during the commission of the offense, such person actually possessed a "firearm" or "destructive device" as those terms are defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 10 years, except that a person who is convicted for possession of a firearm by a felon or burglary of a conveyance shall be sentenced to a minimum term of imprisonment of 3 years if such person possessed a "firearm" or "destructive device" during the commission of the offense. However, if an offender who is convicted of the offense of possession of a firearm by a felon has a previous conviction of committing or attempting to commit a felony listed in s. 775.084(1)(b)1. and actually possessed a firearm or destructive device during the commission of the prior felony, the offender shall be sentenced to a minimum term of imprisonment of 10 years.

2. Any person who is convicted of a felony or an attempt to commit a felony listed in sub-subparagraphs 1.a.-g. ~~sub-subparagraphs (a)1.a.-p.~~, regardless of whether the use of a

Page 3 of 59

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

39-01872A-23

20231456__

weapon is an element of the felony, and during the course of the commission of the felony such person discharged a "firearm" or "destructive device" as defined in s. 790.001 shall be sentenced to a minimum term of imprisonment of 20 years.

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

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

a. Murder;

b. Sexual battery;

c. Robbery;

d. Burglary;

e. Arson;

f. Aggravated battery;

g. Kidnapping;

h. Escape;

i. Sale, manufacture, delivery, or intent to sell, manufacture, or deliver any controlled substance;

j. Aircraft piracy;

k. Aggravated child abuse;

Page 4 of 59

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

39-01872A-23

20231456__

117 1. Aggravated abuse of an elderly person or disabled adult;
 118 m. Unlawful throwing, placing, or discharging of a
 119 destructive device or bomb;
 120 n. Carjacking;
 121 o. Home-invasion robbery;
 122 p. Aggravated stalking; ~~or~~
 123 q. Trafficking in cannabis, trafficking in cocaine, capital
 124 importation of cocaine, trafficking in illegal drugs, capital
 125 importation of illegal drugs, trafficking in phencyclidine,
 126 capital importation of phencyclidine, trafficking in
 127 methaqualone, capital importation of methaqualone, trafficking
 128 in amphetamine, capital importation of amphetamine, trafficking
 129 in flunitrazepam, trafficking in gamma-hydroxybutyric acid
 130 (GHB), trafficking in 1,4-Butanediol, trafficking in
 131 Phenethylamines, or other violation of s. 893.135(1); or
 132 r. Human trafficking;
 133
 134 and during the commission of the offense, such person possessed
 135 a semiautomatic firearm and its high-capacity detachable box
 136 magazine or a machine gun as defined in s. 790.001, shall be
 137 sentenced to a minimum term of imprisonment of 15 years.
 138 2. Any person who is convicted of a felony or an attempt to
 139 commit a felony listed in subparagraph 1. ~~subparagraph (a)1.~~,
 140 regardless of whether the use of a weapon is an element of the
 141 felony, and during the course of the commission of the felony
 142 such person discharged a semiautomatic firearm and its high-
 143 capacity box magazine or a "machine gun" as defined in s.
 144 790.001 shall be sentenced to a minimum term of imprisonment of
 145 20 years.

Page 5 of 59

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

39-01872A-23

20231456__

146 3. Any person who is convicted of a felony or an attempt to
 147 commit a felony listed in subparagraph 1. ~~subparagraph (a)1.~~,
 148 regardless of whether the use of a weapon is an element of the
 149 felony, and during the course of the commission of the felony
 150 such person discharged a semiautomatic firearm and its high-
 151 capacity box magazine or a "machine gun" as defined in s.
 152 790.001 and, as the result of the discharge, death or great
 153 bodily harm was inflicted upon any person, the convicted person
 154 shall be sentenced to a minimum term of imprisonment of not less
 155 than 25 years and not more than a term of imprisonment of life
 156 in prison.
 157 Section 2. Subsection (5) of section 790.22, Florida
 158 Statutes, is amended, and subsection (3) of that section is
 159 republished, to read:
 160 790.22 Use of BB guns, air or gas-operated guns, or
 161 electric weapons or devices by minor under 16; limitation;
 162 possession of firearms by minor under 18 prohibited; penalties.-
 163 (3) A minor under 18 years of age may not possess a
 164 firearm, other than an unloaded firearm at his or her home,
 165 unless:
 166 (a) The minor is engaged in a lawful hunting activity and
 167 is:
 168 1. At least 16 years of age; or
 169 2. Under 16 years of age and supervised by an adult.
 170 (b) The minor is engaged in a lawful marksmanship
 171 competition or practice or other lawful recreational shooting
 172 activity and is:
 173 1. At least 16 years of age; or
 174 2. Under 16 years of age and supervised by an adult who is

Page 6 of 59

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

39-01872A-23

20231456__

175 acting with the consent of the minor's parent or guardian.

176 (c) The firearm is unloaded and is being transported by the
177 minor directly to or from an event authorized in paragraph (a)
178 or paragraph (b).

179 (5) (a) A minor who violates subsection (3) commits a
180 misdemeanor of the first degree; for a first offense, may serve
181 a period of detention of up to 5 ~~3~~ days in a secure detention
182 facility; and, in addition to any other penalty provided by law,
183 shall be required to perform 100 hours of community service;
184 and:

185 1. If the minor is eligible by reason of age for a driver
186 license or driving privilege, the court may direct the
187 Department of Highway Safety and Motor Vehicles to revoke or to
188 withhold issuance of the minor's driver license or driving
189 privilege for up to 1 year.

190 2. If the minor's driver license or driving privilege is
191 under suspension or revocation for any reason, the court may
192 direct the Department of Highway Safety and Motor Vehicles to
193 extend the period of suspension or revocation by an additional
194 period of up to 1 year.

195 3. If the minor is ineligible by reason of age for a driver
196 license or driving privilege, the court may direct the
197 Department of Highway Safety and Motor Vehicles to withhold
198 issuance of the minor's driver license or driving privilege for
199 up to 1 year after the date on which the minor would otherwise
200 have become eligible.

201 (b) For a second or subsequent offense, a minor who
202 violates subsection (3) commits a felony of the third degree and
203 shall serve a period of detention of up to 21 ~~15~~ days in a

39-01872A-23

20231456__

204 secure detention facility and shall be required to perform not
205 less than 100 nor more than 250 hours of community service, and:

206 1. If the minor is eligible by reason of age for a driver
207 license or driving privilege, the court may direct the
208 Department of Highway Safety and Motor Vehicles to revoke or to
209 withhold issuance of the minor's driver license or driving
210 privilege for up to 2 years.

211 2. If the minor's driver license or driving privilege is
212 under suspension or revocation for any reason, the court may
213 direct the Department of Highway Safety and Motor Vehicles to
214 extend the period of suspension or revocation by an additional
215 period of up to 2 years.

216 3. If the minor is ineligible by reason of age for a driver
217 license or driving privilege, the court may direct the
218 Department of Highway Safety and Motor Vehicles to withhold
219 issuance of the minor's driver license or driving privilege for
220 up to 2 years after the date on which the minor would otherwise
221 have become eligible.

222
223 For the purposes of this subsection, community service shall be
224 performed, if possible, in a manner involving a hospital
225 emergency room or other medical environment that deals on a
226 regular basis with trauma patients and gunshot wounds.

227 Section 3. Subsection (2) of section 812.014, Florida
228 Statutes, is amended to read:

229 812.014 Theft.—

230 (2) (a) 1. If the property stolen is valued at \$100,000 or
231 more or is a semitrailer that was deployed by a law enforcement
232 officer; or

39-01872A-23

20231456__

2. If the property stolen is cargo valued at \$50,000 or more that has entered the stream of interstate or intrastate commerce from the shipper's loading platform to the consignee's receiving dock; or

3. If the offender commits any grand theft and:

a. In the course of committing the offense the offender uses a motor vehicle as an instrumentality, other than merely as a getaway vehicle, to assist in committing the offense and thereby damages the real property of another; or

b. In the course of committing the offense the offender causes damage to the real or personal property of another in excess of \$1,000,

the offender commits grand theft in the first degree, punishable as a felony of the first degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

(b)1. If the property stolen is valued at \$20,000 or more, but less than \$100,000;

2. If the property stolen is cargo valued at less than \$50,000 that has entered the stream of interstate or intrastate commerce from the shipper's loading platform to the consignee's receiving dock;

3. If the property stolen is emergency medical equipment, valued at \$300 or more, that is taken from a facility licensed under chapter 395 or from an aircraft or vehicle permitted under chapter 401; or

4. If the property stolen is law enforcement equipment, valued at \$300 or more, that is taken from an authorized emergency vehicle, as defined in s. 316.003,

39-01872A-23

20231456__

the offender commits grand theft in the second degree, punishable as a felony of the second degree, as provided in s. 775.082, s. 775.083, or s. 775.084. Emergency medical equipment means mechanical or electronic apparatus used to provide emergency services and care as defined in s. 395.002(9) or to treat medical emergencies. Law enforcement equipment means any property, device, or apparatus used by any law enforcement officer as defined in s. 943.10 in the officer's official business. However, if the property is stolen during a riot or an aggravated riot prohibited under s. 870.01 and the perpetration of the theft is facilitated by conditions arising from the riot; or within a county that is subject to a state of emergency declared by the Governor under chapter 252, the theft is committed after the declaration of emergency is made, and the perpetration of the theft is facilitated by conditions arising from the emergency, the theft is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this paragraph, the term "conditions arising from the riot" means civil unrest, power outages, curfews, or a reduction in the presence of or response time for first responders or homeland security personnel and the term "conditions arising from the emergency" means civil unrest, power outages, curfews, voluntary or mandatory evacuations, or a reduction in the presence of or response time for first responders or homeland security personnel. A person arrested for committing a theft during a riot or an aggravated riot or within a county that is subject to a state of emergency may not be released until the person appears before a committing magistrate at a first

39-01872A-23 20231456__

291 appearance hearing. For purposes of sentencing under chapter
 292 921, a felony offense that is reclassified under this paragraph
 293 is ranked one level above the ranking under s. 921.0022 or s.
 294 921.0023 of the offense committed.

295 (c) It is grand theft of the third degree and a felony of
 296 the third degree, punishable as provided in s. 775.082, s.
 297 775.083, or s. 775.084, if the property stolen is:

- 298 1. Valued at \$750 or more, but less than \$5,000.
- 299 2. Valued at \$5,000 or more, but less than \$10,000.
- 300 3. Valued at \$10,000 or more, but less than \$20,000.
- 301 4. A will, codicil, or other testamentary instrument.
- 302 5. A firearm, except as provided in paragraph (f).
- 303 6. A motor vehicle, except as provided in paragraph (a).
- 304 7. Any commercially farmed animal, including any animal of
 305 the equine, avian, bovine, or swine class or other grazing
 306 animal; a bee colony of a registered beekeeper; and aquaculture
 307 species raised at a certified aquaculture facility. If the
 308 property stolen is a commercially farmed animal, including an
 309 animal of the equine, avian, bovine, or swine class or other
 310 grazing animal; a bee colony of a registered beekeeper; or an
 311 aquaculture species raised at a certified aquaculture facility,
 312 a \$10,000 fine shall be imposed.

313 8. Any fire extinguisher that, at the time of the taking,
 314 was installed in any building for the purpose of fire prevention
 315 and control. This subparagraph does not apply to a fire
 316 extinguisher taken from the inventory at a point-of-sale
 317 business.

318 9. Any amount of citrus fruit consisting of 2,000 or more
 319 individual pieces of fruit.

39-01872A-23 20231456__

320 10. Taken from a designated construction site identified by
 321 the posting of a sign as provided for in s. 810.09(2) (d).

322 11. Any stop sign.

323 12. Anhydrous ammonia.

324 13. Any amount of a controlled substance as defined in s.
 325 893.02. Notwithstanding any other law, separate judgments and
 326 sentences for theft of a controlled substance under this
 327 subparagraph and for any applicable possession of controlled
 328 substance offense under s. 893.13 or trafficking in controlled
 329 substance offense under s. 893.135 may be imposed when all such
 330 offenses involve the same amount or amounts of a controlled
 331 substance.

332
 333 However, if the property is stolen during a riot or an
 334 aggravated riot prohibited under s. 870.01 and the perpetration
 335 of the theft is facilitated by conditions arising from the riot;
 336 or within a county that is subject to a state of emergency
 337 declared by the Governor under chapter 252, the property is
 338 stolen after the declaration of emergency is made, and the
 339 perpetration of the theft is facilitated by conditions arising
 340 from the emergency, the offender commits a felony of the second
 341 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 342 775.084, if the property is valued at \$5,000 or more, but less
 343 than \$10,000, as provided under subparagraph 2., or if the
 344 property is valued at \$10,000 or more, but less than \$20,000, as
 345 provided under subparagraph 3. As used in this paragraph, the
 346 terms "conditions arising from a riot" and "conditions arising
 347 from the emergency" have the same meanings as provided in
 348 paragraph (b). A person arrested for committing a theft during a

39-01872A-23 20231456__

riot or an aggravated riot or within a county that is subject to a state of emergency may not be released until the person appears before a committing magistrate at a first appearance hearing. For purposes of sentencing under chapter 921, a felony offense that is reclassified under this paragraph is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

(d) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is valued at \$100 or more, but less than \$750, and is taken from a dwelling as defined in s. 810.011(2) or from the unenclosed curtilage of a dwelling pursuant to s. 810.09(1).

(e) Except as provided in paragraph (d), if the property stolen is valued at \$100 or more, but less than \$750, the offender commits petit theft of the first degree, punishable as a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(f) It is grand theft of the second degree and a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is a firearm and the offender has previously been convicted of grand theft of a firearm under subparagraph (c)5.

Section 4. Paragraph (b) of subsection (1) of section 985.24, Florida Statutes, is amended to read:

985.24 Use of detention; prohibitions.—

(1) All determinations and court orders regarding the use of detention care shall be based primarily upon findings that the child:

39-01872A-23 20231456__

(b) Presents a substantial risk of inflicting bodily harm on others as evidenced by recent behavior, including the illegal possession or use of a firearm;

Section 5. Paragraph (b) of subsection (2) of section 985.245, Florida Statutes, is amended to read:

985.245 Risk assessment instrument.—

(2)

(b) The risk assessment instrument shall take into consideration, but need not be limited to, pending felony and misdemeanor offenses, offenses committed pending adjudication, prior offenses, unlawful possession or use of a firearm, prior history of failure to appear, violations of supervision, and supervision status at the time the child is taken into custody. The risk assessment instrument shall also take into consideration all statutory mandates for detention care. The risk assessment instrument shall also include any information concerning the child's history of abuse and neglect. The risk assessment shall indicate whether detention care is warranted, and, if detention care is warranted, whether the child should be placed into secure or supervised release detention care.

Section 6. Paragraph (b) of subsection (1) of section 985.25, Florida Statutes, is amended to read:

985.25 Detention intake.—

(1) The department shall receive custody of a child who has been taken into custody from the law enforcement agency or court and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be necessary to determine whether detention care is appropriate.

(b) The department shall base the decision whether to place

39-01872A-23 20231456__

the child into detention care on an assessment of risk in accordance with the risk assessment instrument and procedures developed by the department under s. 985.245, except that a child shall be placed in secure detention care until the child's detention hearing if the child meets the criteria specified in s. 985.255(1)(f), ~~or~~ is charged with possessing or discharging a firearm on school property in violation of s. 790.115, or is charged with any other offense involving the possession or use of a firearm.

Under no circumstances shall the department or the state attorney or law enforcement officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults, without an order of the court.

Section 7. Paragraphs (d), (f), and (g) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(d) LEVEL 4

Florida Statute	Felony Degree	Description
316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law

Page 15 of 59

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

39-01872A-23 20231456__

enforcement officer who is in a patrol vehicle with siren and lights activated.

499.0051(1) 3rd Failure to maintain or deliver transaction history, transaction information, or transaction statements.

499.0051(5) 2nd Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.

517.07(1) 3rd Failure to register securities.

517.12(1) 3rd Failure of dealer, associated person, or issuer of securities to register.

784.07(2)(b) 3rd Battery of law enforcement officer, firefighter, etc.

Page 16 of 59

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

	39-01872A-23		20231456__
435	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
	784.075	3rd	Battery on detention or commitment facility staff.
436	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
437	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
438	784.081 (3)	3rd	Battery on specified official or employee.
439	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
440	784.083 (3)	3rd	Battery on code inspector.
441	784.085	3rd	Battery of child by throwing, tossing,

	39-01872A-23		20231456__
			projecting, or expelling certain fluids or materials.
442	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
443	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
444	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
445	787.07	3rd	Human smuggling.
446	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
447			

	39-01872A-23		20231456__
448	790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
449	790.115(2)(c)	3rd	Possessing firearm on school property.
450	794.051(1)	3rd	Indecent, lewd, or lascivious touching of certain minors.
451	800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
452	806.135	2nd	Destroying or demolishing a memorial or historic property.
453	810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
	810.02(4)(b)	3rd	Burglary, or attempted burglary, of an

	39-01872A-23		20231456__
			unoccupied conveyance; unarmed; no assault or battery.
454	810.06	3rd	Burglary; possession of tools.
455	810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
456	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
457	<u>812.014</u>	3rd	Grand theft, 3rd degree; specified items.
	<u>(2)(c)4. & 6.-10.</u>		
	812.014		
	-(2)(e)4.-10.		
458	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
459	817.505(4)(a)	3rd	Patient brokering.
460	817.563(1)	3rd	Sell or deliver substance other than

	39-01872A-23		20231456	
			controlled substance	
			agreed upon, excluding	
461			s. 893.03(5) drugs.	
	817.568(2) (a)	3rd	Fraudulent use of	
			personal identification	
462			information.	
	817.625(2) (a)	3rd	Fraudulent use of	
			scanning device,	
			skimming device, or	
463			reencoder.	
	817.625(2) (c)	3rd	Possess, sell, or	
			deliver skimming	
464			device.	
	828.125(1)	2nd	Kill, maim, or cause	
			great bodily harm or	
			permanent breeding	
			disability to any	
			registered horse or	
465			cattle.	
	836.14(2)	3rd	Person who commits	
			theft of a sexually	
			explicit image with	
466			intent to promote it.	

	39-01872A-23		20231456	
	836.14(3)	3rd	Person who willfully	
			possesses a sexually	
			explicit image with	
467			certain knowledge,	
			intent, and purpose.	
	837.02(1)	3rd	Perjury in official	
468			proceedings.	
	837.021(1)	3rd	Make contradictory	
			statements in official	
469			proceedings.	
	838.022	3rd	Official misconduct.	
470				
	839.13(2) (a)	3rd	Falsifying records of	
			an individual in the	
			care and custody of a	
471			state agency.	
	839.13(2) (c)	3rd	Falsifying records of	
			the Department of	
			Children and Families.	
472				
	843.021	3rd	Possession of a	
			concealed handcuff key	
			by a person in custody.	
473				
	843.025	3rd	Deprive law	

	39-01872A-23		20231456__	
			enforcement,	
			correctional, or	
			correctional probation	
			officer of means of	
			protection or	
			communication.	
474	843.15(1)(a)	3rd	Failure to appear while	
			on bail for felony	
			(bond estreature or	
			bond jumping).	
475	847.0135(5)(c)	3rd	Lewd or lascivious	
			exhibition using	
			computer; offender less	
			than 18 years.	
476	870.01(3)	2nd	Aggravated rioting.	
477	870.01(5)	2nd	Aggravated inciting a	
			riot.	
478	874.05(1)(a)	3rd	Encouraging or	
			recruiting another to	
			join a criminal gang.	
479	893.13(2)(a)1.	2nd	Purchase of cocaine (or	
			other s. 893.03(1)(a),	
			(b), or (d), (2)(a),	

Page 23 of 59

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

	39-01872A-23		20231456__	
			(2)(b), or (2)(c)5.	
			drugs).	
480	914.14(2)	3rd	Witnesses accepting	
			bribes.	
481	914.22(1)	3rd	Force, threaten, etc.,	
			witness, victim, or	
			informant.	
482	914.23(2)	3rd	Retaliation against a	
			witness, victim, or	
			informant, no bodily	
			injury.	
483	916.1085	3rd	Introduction of	
	(2)(c)1.		specified contraband	
			into certain DCF	
			facilities.	
484	918.12	3rd	Tampering with jurors.	
485	934.215	3rd	Use of two-way	
			communications device	
			to facilitate	
			commission of a crime.	
486	944.47(1)(a)6.	3rd	Introduction of	
			contraband (cellular	

Page 24 of 59

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

39-01872A-23

20231456__

telephone or other
portable communication
device) into
correctional
institution.

487

951.22(1)(h),
(j) & (k)

3rd

Intoxicating drug,
instrumentality or
other device to aid
escape, or cellular
telephone or other
portable communication
device introduced into
county detention
facility.

488

489

490

(f) LEVEL 6

Florida
Statute

Felony
Degree

Description

491

316.027(2)(b)

2nd

Leaving the scene of a
crash involving
serious bodily injury.

492

316.193(2)(b)

3rd

Felony DUI, 4th or
subsequent conviction.

493

400.9935(4)(c)

2nd

Operating a clinic, or

Page 25 of 59

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

39-01872A-23

20231456__

offering services
requiring licensure,
without a license.

494

499.0051(2)

2nd

Knowing forgery of
transaction history,
transaction
information, or
transaction statement.

495

499.0051(3)

2nd

Knowing purchase or
receipt of
prescription drug from
unauthorized person.

496

499.0051(4)

2nd

Knowing sale or
transfer of
prescription drug to
unauthorized person.

497

775.0875(1)

3rd

Taking firearm from
law enforcement
officer.

498

784.021(1)(a)

3rd

Aggravated assault;
deadly weapon without
intent to kill.

499

784.021(1)(b)

3rd

Aggravated assault;

Page 26 of 59

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

	39-01872A-23		20231456__	
			intent to commit	
			felony.	
500	784.041	3rd	Felony battery;	
			domestic battery by	
			strangulation.	
501	784.048(3)	3rd	Aggravated stalking;	
			credible threat.	
502	784.048(5)	3rd	Aggravated stalking of	
			person under 16.	
503	784.07(2)(c)	2nd	Aggravated assault on	
			law enforcement	
			officer.	
504	784.074(1)(b)	2nd	Aggravated assault on	
			sexually violent	
			predators facility	
			staff.	
505	784.08(2)(b)	2nd	Aggravated assault on	
			a person 65 years of	
			age or older.	
506	784.081(2)	2nd	Aggravated assault on	
			specified official or	
			employee.	

Page 27 of 59

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

	39-01872A-23		20231456__	
507	784.082(2)	2nd	Aggravated assault by	
			detained person on	
			visitor or other	
			detainee.	
508	784.083(2)	2nd	Aggravated assault on	
			code inspector.	
509	787.02(2)	3rd	False imprisonment;	
			restraining with	
			purpose other than	
			those in s. 787.01.	
510	790.115(2)(d)	2nd	Discharging firearm or	
			weapon on school	
			property.	
511	790.161(2)	2nd	Make, possess, or	
			throw destructive	
			device with intent to	
			do bodily harm or	
			damage property.	
512	790.164(1)	2nd	False report	
			concerning bomb,	
			explosive, weapon of	
			mass destruction, act	
			of arson or violence	

Page 28 of 59

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

	39-01872A-23		20231456__	
			to state property, or	
			use of firearms in	
513			violent manner.	
	790.19	2nd	Shooting or throwing	
			deadly missiles into	
			dwellings, vessels, or	
			vehicles.	
514				
	794.011(8)(a)	3rd	Solicitation of minor	
			to participate in	
			sexual activity by	
			custodial adult.	
515				
	794.05(1)	2nd	Unlawful sexual	
			activity with	
			specified minor.	
516				
	800.04(5)(d)	3rd	Lewd or lascivious	
			molestation; victim 12	
			years of age or older	
			but less than 16 years	
			of age; offender less	
			than 18 years.	
517				
	800.04(6)(b)	2nd	Lewd or lascivious	
			conduct; offender 18	
			years of age or older.	
518				

	39-01872A-23		20231456__	
	806.031(2)	2nd	Arson resulting in	
			great bodily harm to	
			firefighter or any	
			other person.	
519				
	810.02(3)(c)	2nd	Burglary of occupied	
			structure; unarmed; no	
			assault or battery.	
520				
	810.145(8)(b)	2nd	Video voyeurism;	
			certain minor victims;	
			2nd or subsequent	
			offense.	
521				
	812.014(2)(b)1.	2nd	Property stolen	
			\$20,000 or more, but	
			less than \$100,000,	
			grand theft in 2nd	
			degree.	
522				
	<u>812.014(2)(c)5.</u>	<u>3rd</u>	<u>Grand theft; third</u>	
			<u>degree; firearm.</u>	
523				
	812.014(6)	2nd	Theft; property stolen	
			\$3,000 or more;	
			coordination of	
			others.	
524				
	812.015(9)(a)	2nd	Retail theft; property	

	39-01872A-23		20231456__	stolen \$750 or more; second or subsequent conviction.
525	812.015(9)(b)	2nd		Retail theft; aggregated property stolen within 30 days is \$3,000 or more; coordination of others.
526	812.015(9)(d)	2nd		Retail theft; multiple thefts within specified period.
527	812.13(2)(c)	2nd		Robbery, no firearm or other weapon (strong- arm robbery).
528	817.4821(5)	2nd		Possess cloning paraphernalia with intent to create cloned cellular telephones.
529	817.49(2)(b)2.	2nd		Willful making of a false report of a crime resulting in death.

	39-01872A-23		20231456__	
530	817.505(4)(b)	2nd		Patient brokering; 10 or more patients.
531	825.102(1)	3rd		Abuse of an elderly person or disabled adult.
532	825.102(3)(c)	3rd		Neglect of an elderly person or disabled adult.
533	825.1025(3)	3rd		Lewd or lascivious molestation of an elderly person or disabled adult.
534	825.103(3)(c)	3rd		Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
535	827.03(2)(c)	3rd		Abuse of a child.
536	827.03(2)(d)	3rd		Neglect of a child.
537	827.071(2) & (3)	2nd		Use or induce a child in a sexual

	39-01872A-23		20231456__	
			performance, or	
			promote or direct such	
			performance.	
538				
	828.126(3)	3rd	Sexual activities	
			involving animals.	
539				
	836.05	2nd	Threats; extortion.	
540				
	836.10	2nd	Written or electronic	
			threats to kill, do	
			bodily injury, or	
			conduct a mass	
			shooting or an act of	
			terrorism.	
541				
	843.12	3rd	Aids or assists person	
			to escape.	
542				
	847.011	3rd	Distributing, offering	
			to distribute, or	
			possessing with intent	
			to distribute obscene	
			materials depicting	
			minors.	
543				
	847.012	3rd	Knowingly using a	
			minor in the	
			production of	

	39-01872A-23		20231456__	
			materials harmful to	
			minors.	
544				
	847.0135(2)	3rd	Facilitates sexual	
			conduct of or with a	
			minor or the visual	
			depiction of such	
			conduct.	
545				
	914.23	2nd	Retaliation against a	
			witness, victim, or	
			informant, with bodily	
			injury.	
546				
	918.13(2)(b)	2nd	Tampering with or	
			fabricating physical	
			evidence relating to a	
			capital felony.	
547				
	944.35(3)(a)2.	3rd	Committing malicious	
			battery upon or	
			inflicting cruel or	
			inhuman treatment on	
			an inmate or offender	
			on community	
			supervision, resulting	
			in great bodily harm.	
548				
	944.40	2nd	Escapes.	

549	39-01872A-23	20231456__	
	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
550	944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
551	951.22(1)(i)	3rd	Firearm or weapon introduced into county detention facility.
552	(g) LEVEL 7		
553	Florida	Felony	
554	Statute	Degree	Description
555	316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
556	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
557	316.1935(3)(b)	1st	Causing serious bodily injury or death to

Page 35 of 59

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

	39-01872A-23	20231456__	
			another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
558	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
559	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
560	409.920	3rd	Medicaid provider fraud; \$10,000 or less.
561	(2)(b)1.a.		
	409.920	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
562	(2)(b)1.b.		
	456.065(2)	3rd	Practicing a health care

Page 36 of 59

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

	39-01872A-23		20231456__	
			profession without a	
563			license.	
	456.065 (2)	2nd	Practicing a health care	
			profession without a	
			license which results in	
564			serious bodily injury.	
	458.327 (1)	3rd	Practicing medicine	
			without a license.	
565				
	459.013 (1)	3rd	Practicing osteopathic	
			medicine without a	
			license.	
566				
	460.411 (1)	3rd	Practicing chiropractic	
			medicine without a	
			license.	
567				
	461.012 (1)	3rd	Practicing podiatric	
			medicine without a	
			license.	
568				
	462.17	3rd	Practicing naturopathy	
			without a license.	
569				
	463.015 (1)	3rd	Practicing optometry	
			without a license.	
570				

	39-01872A-23		20231456__	
	464.016 (1)	3rd	Practicing nursing	
			without a license.	
571				
	465.015 (2)	3rd	Practicing pharmacy	
			without a license.	
572				
	466.026 (1)	3rd	Practicing dentistry or	
			dental hygiene without a	
			license.	
573				
	467.201	3rd	Practicing midwifery	
			without a license.	
574				
	468.366	3rd	Delivering respiratory	
			care services without a	
			license.	
575				
	483.828 (1)	3rd	Practicing as clinical	
			laboratory personnel	
			without a license.	
576				
	483.901 (7)	3rd	Practicing medical	
			physics without a	
			license.	
577				
	484.013 (1) (c)	3rd	Preparing or dispensing	
			optical devices without	
			a prescription.	
578				

	39-01872A-23		20231456__
579	484.053	3rd	Dispensing hearing aids without a license.
	494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
580	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
581	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
582	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by

	39-01872A-23		20231456__
583			financial institution.
	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
584	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
585	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
586	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
587	782.07(1)	2nd	Killing of a human being by the act, procurement,

	39-01872A-23		20231456	or culpable negligence of another (manslaughter).
588	782.071	2nd		Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
589	782.072	2nd		Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
590	784.045(1) (a) 1.	2nd		Aggravated battery; intentionally causing great bodily harm or disfigurement.
591	784.045(1) (a) 2.	2nd		Aggravated battery; using deadly weapon.
592	784.045(1) (b)	2nd		Aggravated battery; perpetrator aware victim pregnant.
593				

	39-01872A-23		20231456	
	784.048(4)	3rd		Aggravated stalking; violation of injunction or court order.
594	784.048(7)	3rd		Aggravated stalking; violation of court order.
595	784.07(2) (d)	1st		Aggravated battery on law enforcement officer.
596	784.074(1) (a)	1st		Aggravated battery on sexually violent predators facility staff.
597	784.08(2) (a)	1st		Aggravated battery on a person 65 years of age or older.
598	784.081(1)	1st		Aggravated battery on specified official or employee.
599	784.082(1)	1st		Aggravated battery by detained person on visitor or other detainee.
600				

	39-01872A-23		20231456__
601	784.083(1)	1st	Aggravated battery on code inspector.
	787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
602	787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
603	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
604	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
605	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
606	790.165(3)	2nd	Possessing, displaying, or threatening to use

Page 43 of 59

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

	39-01872A-23		20231456__
			any hoax bomb while committing or attempting to commit a felony.
607	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
608	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
609	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
610	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of

Page 44 of 59

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

	39-01872A-23		20231456__	age.
611				
	796.05(1)	1st		Live on earnings of a prostitute; 2nd offense.
612				
	796.05(1)	1st		Live on earnings of a prostitute; 3rd and subsequent offense.
613				
	800.04(5)(c)1.	2nd		Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
614				
	800.04(5)(c)2.	2nd		Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
615				
	800.04(5)(e)	1st		Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior

Page 45 of 59

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

	39-01872A-23		20231456__	conviction for specified sex offense.
616				
	806.01(2)	2nd		Maliciously damage structure by fire or explosive.
617				
	810.02(3)(a)	2nd		Burglary of occupied dwelling; unarmed; no assault or battery.
618				
	810.02(3)(b)	2nd		Burglary of unoccupied dwelling; unarmed; no assault or battery.
619				
	810.02(3)(d)	2nd		Burglary of occupied conveyance; unarmed; no assault or battery.
620				
	810.02(3)(e)	2nd		Burglary of authorized emergency vehicle.
621				
	812.014(2)(a)1.	1st		Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st

Page 46 of 59

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

	39-01872A-23		20231456__	
			degree grand theft.	
622	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.	
623	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.	
624	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.	
625	<u>812.014 (2) (f)</u>	<u>2nd</u>	<u>Grand theft; second degree; firearm with previous conviction of s. 812.014 (2) (c) 5.</u>	
626	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.	
627	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft	

	39-01872A-23		20231456__	
			of property and traffics in stolen property.	
628	812.131 (2) (a)	2nd	Robbery by sudden snatching.	
629	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.	
630	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.	
631	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.	
632	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.	
633	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.	
634	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false	

	39-01872A-23		20231456__	statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
635	817.418(2)(a)	3rd		Offering for sale or advertising personal protective equipment with intent to defraud.
636	817.504(1)(a)	3rd		Offering or advertising a vaccine with intent to defraud.
637	817.535(2)(a)	3rd		Filing false lien or other unauthorized document.
638	817.611(2)(b)	2nd		Traffic in or possess 15 to 49 counterfeit credit cards or related documents.
639	825.102(3)(b)	2nd		Neglecting an elderly person or disabled adult causing great bodily

Page 49 of 59

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

	39-01872A-23		20231456__	harm, disability, or disfigurement.
640	825.103(3)(b)	2nd		Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.
641	827.03(2)(b)	2nd		Neglect of a child causing great bodily harm, disability, or disfigurement.
642	827.04(3)	3rd		Impregnation of a child under 16 years of age by person 21 years of age or older.
643	837.05(2)	3rd		Giving false information about alleged capital felony to a law enforcement officer.
644	838.015	2nd		Bribery.
645	838.016	2nd		Unlawful compensation or reward for official behavior.

Page 50 of 59

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

	39-01872A-23		20231456__
646			
	838.021(3)(a)	2nd	Unlawful harm to a public servant.
647			
	838.22	2nd	Bid tampering.
648			
	843.0855(2)	3rd	Impersonation of a public officer or employee.
649			
	843.0855(3)	3rd	Unlawful simulation of legal process.
650			
	843.0855(4)	3rd	Intimidation of a public officer or employee.
651			
	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
652			
	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
653			
	872.06	2nd	Abuse of a dead human body.
654			
	874.05(2)(b)	1st	Encouraging or

Page 51 of 59

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

	39-01872A-23		20231456__
			recruiting person under 13 to join a criminal gang; second or subsequent offense.
655			
	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
656			
	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
657			
	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s.

Page 52 of 59

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

	39-01872A-23		20231456__
			893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5., within 1,000 feet of property used for religious services or a specified business site.
658	893.13(4)(a)	1st	Use or hire of minor; deliver to minor other controlled substance.
659	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
660	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
661	893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
662	893.135 (1)(c)2.a.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.

Page 53 of 59

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

	39-01872A-23		20231456__
663	893.135 (1)(c)2.b.	1st	Trafficking in hydrocodone, 50 grams or more, less than 100 grams.
664	893.135 (1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
665	893.135 (1)(c)3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
666	893.135 (1)(c)4.b.(I)	1st	Trafficking in fentanyl, 4 grams or more, less than 14 grams.
667	893.135 (1)(d)1.a.	1st	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.
668	893.135(1)(e)1.	1st	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.

Page 54 of 59

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

669	39-01872A-23	20231456__	
	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, 14 grams or more, less than 28 grams.
670	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
671	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
672	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
673	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
674	893.135 (1) (m) 2.a.	1st	Trafficking in synthetic cannabinoids, 280 grams

	39-01872A-23	20231456__	or more, less than 500 grams.
675	893.135 (1) (m) 2.b.	1st	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.
676	893.135 (1) (n) 2.a.	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.
677	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
678	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
679	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than

	39-01872A-23		20231456__
			\$20,000.
680	943.0435 (4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
681	943.0435 (8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
682	943.0435 (9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
683	943.0435 (13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
684	943.0435 (14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address

Page 57 of 59

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

	39-01872A-23		20231456__
			verification; providing false registration information.
685	944.607 (9)	3rd	Sexual offender; failure to comply with reporting requirements.
686	944.607 (10) (a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
687	944.607 (12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
688	944.607 (13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
689	985.4815 (10)	3rd	Sexual offender; failure

Page 58 of 59

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

39-01872A-23

20231456__

to submit to the taking
of a digitized
photograph.

690

985.4815(12)

3rd

Failure to report or
providing false
information about a
sexual offender; harbor
or conceal a sexual
offender.

691

985.4815(13)

3rd

Sexual offender; failure
to report and
reregister; failure to
respond to address
verification; providing
false registration
information.

692

693

Section 8. This act shall take effect October 1, 2023.



2023 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Juvenile Justice

BILL INFORMATION

BILL NUMBER:	<u>SB 1456</u>
BILL TITLE:	<u>Firearm Offenses</u>
BILL SPONSOR:	<u>Senator Avila</u>
EFFECTIVE DATE:	<u>10/1/2023</u>

COMMITTEES OF REFERENCE

1) Criminal Justice Committee
2) Fiscal Policy Committee
3)
4)
5)

CURRENT COMMITTEE

Criminal Justice Committee

SIMILAR BILLS

BILL NUMBER:	SB 1465
SPONSOR:	Rep. Garrison

PREVIOUS LEGISLATION

BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

IDENTICAL BILLS

BILL NUMBER:	
SPONSOR:	

Is this bill part of an agency package?

No.

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	March 21, 2023
LEAD AGENCY ANALYST:	Sam Kerce, Legislative Affairs Director, 850-717-2716
ADDITIONAL ANALYST(S):	Chancer Teel, Deputy Legislative Affairs Director
LEGAL ANALYST:	John Mila, Asst. General Counsel
FISCAL ANALYST:	



2023 AGENCY LEGISLATIVE BILL ANALYSIS

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Establishes mandatory minimum sentencing structure for felony acts where a firearm was in possession and causes a repeat grand theft firearm offense to be a 2nd degree felony. Regarding juvenile detention, the bill increases the maximum length of time to hold a juvenile in secure detention for unlawful firearm possession from 3 to 5 days for first time offenders, and from 15 to 21 days for repeat offenders, in addition to requiring secure detention in the Detention Risk Assessment Instrument (DRAI) for any unlawful possession or use of a firearm by a minor.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The department utilizes the Detention Risk Assessment Instrument (DRAI) to determine the most appropriate placement for youth upon arrest. The DRAI was developed by the department in partnership with representatives appointed by the Conference of Circuit Judges, the Prosecuting Attorneys Association, the Public Defenders Association, the Florida Sheriff's Association, and the Florida Association of Chiefs of Police. Initially, the DRAI was conducted manually.

Youth taken into custody (arrested) by law enforcement are screened by the department's detention screening staff using the DRAI to determine whether a youth, prior to their detention hearing, should be detained in a secure detention facility, placed on supervised release (community-based detention status), or released without any additional supervision. The DRAI uses a criteria-based point system. Youth are held in secure detention if they score 13 points or more. In accordance with the DRAI, youth charged with "any offense involving the use or possession of firearm" score 20 points and are therefore held in secure detention until their detention hearing. Youth with a detention status appear before the court within 24 hours of being taken into custody, at which time the juvenile judge determines whether there is a need for continued detention supervision.

Additional information on the present situation can be found in section two of this analysis "Effect of the Bill."

2. EFFECT OF THE BILL:

This analysis is focused only on the sections of the bill that impact DJJ.

Section 2:

Amends s. 790.22, F.S. by lengthening the time a court may hold a youth in secure detention for a violation of "illegal possession of a firearm by a minor" from 3 to 5 days for a first offense and from 15 to 21 days for a second or subsequent offense.

This change would have minimal impact to the department. Section 985.26, F.S., lays out the length and use of pre-adjudicatory detention and detention pending placement. Section 790.22, F.S., lays out timeframes for the use of secure detention as a sanction (after disposition). These marginal increases will not impact any other sanctions imposed at disposition.

Sections 4 & 5:

Amends s. 985.24, F.S., and s. 985.245, F.S., to revise the DRAI to have it consider the juvenile's use of a firearm in addition to their possession when determining detention placement.

This change will codify current practice as outlined in the DRAI and have no impact on current operations.

Section 6:

Amends s. 985.25, F.S., to require a youth be held in secure detention until their detention hearing if that youth is charged with any offense involving the possession or use of a firearm. In statute, this is only required for charges of possessing or discharging a firearm on school property.



2023 AGENCY LEGISLATIVE BILL ANALYSIS

This change will codify current practice as outlined in the DRAI and have no impact on current operations.

Section 8:

Provides an effective date of October 1, 2023.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☐ N ☒

If yes, explain:	
Is the change consistent with the agency's core mission?	Y ☐ N ☐
Rule(s) impacted (provide references to F.A.C., etc.):	

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	unknown
Opponents and summary of position:	unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

Y ☐ N ☒

If yes, provide a description:		
Date Due:		
Bill Section Number(s):		

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?

Y ☐ N ☒

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	



2023 AGENCY LEGISLATIVE BILL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y ☐ N ☒

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees? If yes, explain.	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y ☐ N ☒

Revenues:	
Expenditures:	
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y ☐ N ☒

Revenues:	
Expenditures:	
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y ☐ N ☒

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?

Y ☐ N ☒



2023 AGENCY LEGISLATIVE BILL ANALYSIS

If yes, describe the anticipated impact to the agency including any fiscal impact.	
--	--

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.	
--	--

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments Lines 184 and 203-07	Because the phrase " <i>in addition to any other penalty provided by law</i> " only appears in (5)(a) and is not repeated in (5)(b), it is only logical to conclude that it carries over to paragraph (b) through its inclusion in subsection (5), as opposed to being restricted to paragraph (a). Otherwise, these minimal punitive items would be mere enhancements to the lesser crime in (a), but they would constitute the entirety of the sanction for the greater crime in paragraph (b).
--	---

HB 1465 – Firearm and Destructive Device Offenses (Identical SB 1456)

This bill amends s. 775.087, F.S., adding “human trafficking” to the list of offenses where mandatory minimum sentences will occur if the use of a firearm is an essential element,” with increasing mandatory minimums, depending on the firearm type and how it was used, or if someone was injured from its use, while committing the felony.

This bill also amends s. 812.014, F.S., increasing the current Level 4, 3rd degree felony for grand theft of a firearm to a **Level 6, 3rd degree felony**. Furthermore, it adds a **Level 7, 2nd degree felony** for grand theft of a firearm if “the offender has previously been convicted of grand theft of a firearm.”

In FY 18-19, the incarceration rate for a Level 6, 3rd degree felony was 26.6%, and in FY 19-20 the incarceration rate was 24.4%. In FY 20-21, the incarceration rate for a Level 6, 3rd degree felony was 23.5%, and in FY 21-22 the incarceration rate was 23.8%. In FY 18-19, the incarceration rate for a Level 7, 2nd degree felony was 47.7%, and in FY 19-20 the incarceration rate was 44.5%. In FY 20-21, the incarceration rate for a Level 7, 2nd degree felony was 43.3%, and in FY 21-22 the incarceration rate was 43.8%.

Per DOC, there were 20 new commitments to prison for human trafficking violations in FY 18-19, and there were 8 new commitments in FY 19-20. There were 8 new commitments in FY 20-21, and there were 28 new commitments in FY 21-22. Additionally, of the human trafficking offenders committed to prison over the last three fiscal years, there were 2 offenders who also had a firearm charge.

Per DOC, in FY 18-19, there were 18 new commitments to prison for grand theft of a firearm. In FY 19-20, there were 18 new commitments, and there were 14 new commitments in FY 20-21. There were 16 new commitments in FY 21-22. Incarceration rates for these offenses varied considerably, with 17.3% going to prison in FY 18-19, 14.0% going to prison in FY 19-20, 15.2% going to prison in FY 20-21, and 25.6% going to prison in FY 21-22. It is not known how many of these offenders were committing grand theft of a firearm for a second time.

EDR PROPOSED ESTIMATE: Positive Indeterminate

Requested by: Senate

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/27/23

Meeting Date

1456

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Sheriff Bob Gualtieri

Phone 727-582-6200

Address 10750 Ulmerton Road

Street

Largo

City

FL

State

33779

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

Florida Sheriffs Association

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 1510

INTRODUCER: Criminal Justice Committee and Senator Pizzo

SUBJECT: Visiting County and Municipal Detention Facilities

DATE: March 29, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Parker	Stokes	CJ	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1510 authorizes the following individuals who are elected or appointed to serve the county or municipality in which the county or municipal detention facility is located, to visit such detention facilities at their pleasure:

- Members of the governing body of the county or municipality.
- Members of the Legislature.
- The state attorney.
- The public defender.
- The regional counsel.

The bill is effective July 1, 2023.

II. Present Situation:

County and Municipal Detention Facilities

A county detention facility is any county jail, stockade, work camp, residential probation center, or any other place except a municipal detention facility used by a county or county officer for the detention of persons charged with or convicted of either a felony or misdemeanor.¹ Sheriffs

¹ Section 951.23(1)(a), F.S.

operate the majority of county detention facilities, with counties operating the remainder.² County detention facilities house inmates who have been arrested and are awaiting trial, as well as inmates who have been convicted and sentenced to less than one year of incarceration.

The Department of Corrections (DOC) reports that approximately 53, 571 inmates were incarcerated in the state's county detention facilities during the month of October 2022.³

A municipal detention facility is a city jail, stockade, prison camp, or any other place except a county detention facility used by a municipality or municipal officer for the detention of persons charged with or convicted of a violation of municipal laws or ordinances.⁴

Visitation of County and Municipal Detention Facilities

Each county sheriff's office or board of county commissioners establish the visitation rules for its detention facilities. Such rules may establish visitation hours, dress codes, and admission requirements. Some facilities include exceptions to the visitation rules for private attorneys and public defenders.⁵

Visitation of State Correctional Institutions

The following persons are authorized to visit state correctional institutions at their pleasure:

- The Governor;
- All Cabinet members;
- Members of the Legislature;
- Judges of state courts;
- State attorneys;
- Public defenders; and
- Authorized representatives of the Florida Commission on Offender Review.⁶

Additionally, permission to visit state correctional institutions may not be unreasonably withheld from those who provide the DOC sufficient evidence that they are bona fide reporters or writers.⁷

² For example, the county commissions operate the county detention facilities in Escambia, Gulf, Jackson, Miami-Dade, Okaloosa, Orange, Osceola, and Volusia counties (see <https://myescambia.com/our-services/corrections/community-detention>; http://www.gulfcounty-fl.gov/county_government/detention_facility; <https://jacksoncountyfl.gov/services/correctional-facility/>; <https://www.miamidade.gov/global/corrections/home.page>; http://www.ocfl.net/tabid/367/default.aspx#.X_MzJthKiUl; <https://www.osceola.org/agencies-departments/corrections/about/>; and <https://www.volusia.org/services/public-protection/corrections/>; respectively (last visited March 22, 2023)).

³ Department of Corrections, *Florida County Detention Facilities Average Inmate Population*, October 2022, p. 2, available at <http://fdc.myflorida.com/pub/jails/2022/jails-2022-10.pdf> (last visited March 22, 2023).

⁴ Section 951.23(1)(d), F.S.

⁵ For example, see Nassau County Sheriff's Office, *Jail Visitation*, available at <https://nassauso.com/corrections/jail-visitation/> (last visited March 22, 2023); and Broward County Sheriff's Office, *Attorney Information*, available at <https://www.sheriff.org/DOD/Pages/Attorney-Info.aspx> (last visited March 22, 2023). Also, many facilities have adjusted their in-person visitation policies to mitigate risks associated with the coronavirus.

⁶ Section 944.23, F.S.

⁷ *Id.*

Any other persons seeking to enter a state correctional institution may only do so in accordance with the rules prescribed by the DOC.

Visitation of State Juvenile Facilities

In 2018, the Legislature authorized the following individuals to visit all facilities housing juveniles that are operated or overseen by the Department of Juvenile Justice (DJJ) or a county, at their pleasure, between the hours of 6 a.m. and 11 p.m.:

- The Governor;
- A Cabinet member;
- A member of the Legislature;
- A judge of a state court;
- A state attorney;
- A public defender; and
- A person authorized by the secretary of the DJJ.⁸

If one of the individuals listed above seeks to visit a state juvenile facility before 6:00 a.m. or after 11:00 p.m., a request for an after-hours tour must be submitted to and be approved by the Assistant Secretary for Detention at least 14 days prior to the tour.⁹ Such individuals on an after-hours tour may not access areas in which youth are sleeping.¹⁰

The DJJ may not unreasonably withhold permission to visit a state facility housing juveniles from a person who provides sufficient evidence that he or she is a bona fide reporter or writer.

III. Effect of Proposed Changes:

This bill authorizes the following individuals who are elected or appointed to serve the county or municipality in which the county or municipal detention facility is located, to visit such detention facilities at their pleasure:

- Members of the governing body of the county or municipality.
- Members of the Legislature.
- The state attorney.
- The public defender.
- The regional counsel.

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁸ Chapter 2018-47, s. 1, L.O.F. (creating s. 985.6885, F.S., effective July 1, 2018).

⁹ Rule 63G-2.023(9)(k), F.A.C.

¹⁰ *Id.*

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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 951.225 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 March 27, 2023:

The committee substitute:

- Specifies that only persons who are elected or appointed to serve the county or municipality in which a county or municipal detention facility is located may visit such facility at their pleasure.
- Revises the list of individuals who may visit a county or municipal detention facility.

- B. **Amendments:**

None.



410686

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 951.225, Florida Statutes, is created to
read:

951.225 Persons authorized to visit county and municipal
detention facilities.—The following persons who are elected or
appointed to serve the county or municipality in which the
county or municipal detention facility is located may visit such



410686

facility at their pleasure:

(1) Members of the governing body of the county or
municipality.

(2) Members of the Legislature.

(3) State court judges.

(4) The state attorney.

(5) The public defender.

(6) The regional counsel.

Section 2. This act shall take effect July 1, 2023.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to visiting county and municipal
detention facilities; creating s. 951.225, F.S.;
authorizing specified persons to visit at their
pleasure county and municipal detention facilities;
providing an effective date.

By Senator Pizzo

37-00629-23

20231510__

1 A bill to be entitled
 2 An act relating to visiting county and municipal
 3 detention facilities; creating s. 951.225, F.S.;
 4 authorizing specified persons to visit at their
 5 pleasure any county or municipal detention facility;
 6 prohibiting persons not otherwise authorized by law
 7 from entering such facilities; providing exceptions;
 8 prohibiting the unreasonable withholding of permission
 9 for professional journalists or writers to enter such
 10 facilities; providing an effective date.
 11
 12 Be It Enacted by the Legislature of the State of Florida:
 13
 14 Section 1. Section 951.225, Florida Statutes, is created to
 15 read:
 16 951.225 Persons authorized to visit county and municipal
 17 detention facilities.—
 18 (1) All of the following persons are authorized to visit at
 19 their pleasure any county or municipal detention facility:
 20 (a) The Governor.
 21 (b) Cabinet members.
 22 (c) Members of the Legislature.
 23 (d) State court judges.
 24 (e) State attorneys.
 25 (f) Public defenders.
 26 (2) A person not otherwise authorized by law may not enter
 27 a county or municipal detention facility except under such rules
 28 or regulations as the county and municipal detention facilities
 29 may prescribe. Permission may not be unreasonably withheld from

Page 1 of 2

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

37-00629-23

20231510__

30 a person who gives sufficient evidence to such facility that he
 31 or she is a professional journalist as defined in s. 90.5015 or
 32 a writer.
 33 Section 2. This act shall take effect July 1, 2023.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

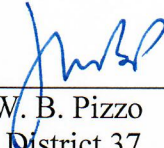
To: Senator Jonathan Martin, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: March 13, 2023

I respectfully request that **Senate Bill #1510**, relating to Visiting County and Municipal Detention Facilities, be placed on the:

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



Senator Jason W. B. Pizzo
Florida Senate, District 37

3/27/23

Meeting Date

CRIM JUSTICE

Committee

FL ASSN OF CRIMINAL
DEFENSE LAWYERS

Name

AARON WAYT

Phone

(407) 435-3194

Address

553 E TENN ST

Street

TLH

City

FL

State

32308

Zip

Email

AARON@OONPVMPHAREY.COM

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1510

Bill Number or Topic

Amendment Barcode (if applicable)

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-Joint-Rules.pdf)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/27/23
Meeting Date
Criminal Justice
Committee

SB1510
Bill Number or Topic

Amendment Barcode (if applicable)

Name Laurette Philipson/Florida cares Phone 561-855-0833

Address 2048 Ponce De Leon Ave Email laurette@floridacares
Street Charity-org
West Palm Beach, FL 33407
City State Zip

Speaking: ☒ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 1520

INTRODUCER: Senator Pizzo

SUBJECT: Controlled Substances

DATE: March 24, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Stokes	CJ	Favorable
2.			JU	
3.			RC	

I. Summary:

SB 1520 amends provisions of s. 893.13, F.S., which provide for enhanced punishment for committing various controlled substance offenses within 1,000 feet of schools and other specified places or facilities (“drug-free zones”). Specifically, the bill

- Revises hours of operation applicable to a drug-free zone around a K-12 school;
- Limits a drug-free zone around a state, county, or municipal park, a community center, or publicly owned recreational facility.
- Limits a drug-free zone around a place of worship to when the church or religious organization is conducting service or other activities; and
- Removes drug-free zones around convenience businesses and public housing facilities.

The bill should reduce prison bed impact. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

II. Present Situation:

Drug-free Zones

Florida law enhances the penalty for certain controlled substances offenses when those offenses are committed within 1,000 feet of certain places or facilities.¹ These protected areas are sometimes referred to as “drug-free zones.”²

¹ *Thomas v. State*, 61 So. 3d 1157, 1159 (Fla. 1st DCA 2011). Some of the information reported in this section of the analysis was obtained from *Review Penalties for Drug-free Zone Violations*, Interim Report 2012-166 (Oct. 2011), Senate Criminal Justice Committee, The Florida Senate, available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-116cj.pdf> (last visited on March 22, 2023).

² The drug-free zone provisions discussed in this analysis differ from similarly-named provisions enacted by local ordinance that punish with trespassing penalties those who engage in drug activity in designated zones.

Section 893.13(1)(a), F.S., punishes the sale, manufacture, or delivery, or possession with intent to sell, manufacture, or deliver, a controlled substance as a first degree misdemeanor,³ third degree felony,⁴ or second degree felony,⁵ depending upon the type of controlled substance involved in the drug activity.⁶ For example, selling cocaine (a Schedule (2)(a) controlled substance)⁷ is a second degree felony⁸ but selling cannabis (a Schedule (1)(c) controlled substance)⁹ is a third degree felony.¹⁰

Generally, this described drug activity is punished under s. 893.13(1)(a), F.S.¹¹ However, when this drug activity is committed in, on, or within 1,000 feet¹² of certain places and facilities, the degree of the offense is increased by one degree and the penalty is enhanced. For example, it is a first degree felony to sell cocaine within 1,000 feet of the real property of a K-12 school.¹³ In contrast, if this sale occurs outside of a K-12 school drug-free zone, the offense is a second degree felony.¹⁴

³ A first degree misdemeanor is punishable by up to one year in county jail, a fine of up to \$1,000, or both. Sections 775.082 and 775.083, F.S.

⁴ A third degree felony is punishable by up to 5 years in state prison, a fine of up to \$5,000, or both. Sections 775.082 and 775.083, F.S.

⁵ A second degree felony is punishable by up to 15 years in state prison, a fine of up to \$10,000, or both. Sections 775.082 and 775.083, F.S.

⁶ Controlled substances appear in one of five schedules under s. 893.03, F.S. Penalties are generally greatest for drug activity (like drug sales) that involves Schedule 1 and 2 controlled substances. Scheduling is determined by specific criteria set forth in s. 893.03, F.S. For example, a Schedule 1 substance is a substance which has a high potential for abuse and has no currently accepted medical use in treatment in the United States and its use under medical supervision does not meet accepted safety standards. Section 893.03(1), F.S.

⁷ Section 893.03(2)(a)4., F.S.

⁸ Section 893.13(1)(a)1., F.S.

⁹ Section 893.03(1)(c)7., F.S.

¹⁰ Section 893.13(1)(a)2., F.S.

¹¹ However, s. 893.13(1)(b), F.S., provides that it is a first degree felony to unlawfully sell or deliver more than 10 grams of any Schedule (1)(a) or (1)(b) controlled substance. Further, some controlled substances when possessed, sold, etc., in a specified quantity can be punished as drug trafficking under s. 893.135, F.S., which is generally a first degree felony. A first degree felony is generally punishable by up to 30 years in state prison, a fine of up to \$10,000, or both. Sections 775.082 and 775.083, F.S.

¹² Distance is measured “as the crow flies, not as the car drives.” *Howard v. State*, 591 So. 2d 1067, 1068 (Fla. 4th DCA 1991). For example, with the K-12 school drug-free zone, distance is measured in a straight line from the boundary of the school’s real property.

¹³ Section 893.13(1)(c)1., F.S.

¹⁴ Section 893.13(1)(a)1., F.S.

Florida's current drug-free zones are created in, on, or within 1,000 feet of:

- The real property comprising a child care facility¹⁵ between the hours of 6 a.m. and 12 midnight, if the owner or operator of the facility posts a sign according to specifications set forth in s. 893.13, F.S.;¹⁶
- The real property comprising a public or private elementary, middle, or secondary school between the hours of 6 a.m. and 12 midnight;¹⁷
- The real property comprising a state, county, or municipal park (no time restriction);¹⁸
- The real property comprising a community center (no time restriction);¹⁹
- The real property comprising a publicly owned recreational facility (no time restriction);²⁰
- The real property comprising a public or private college, university, or other postsecondary educational institution (no time restriction);²¹
- A physical place of worship at which a church or religious organization regularly conducts religious services (no time restriction);²²
- A convenience business (between the hours of 11 p.m. and 5 a.m.);²³
- The real property comprising a public housing facility (no time restriction);²⁴ and
- The real property comprising:
 - A mental health facility, as that term is used in ch. 394; F.S.;
 - A health care facility licensed under ch. 395, F.S., which provides substance abuse treatment;
 - A licensed service provider as defined in s. 397.311, F.S.;
 - A facility providing services that include clinical treatment, intervention, or prevention as described in s. 397.311(26), F.S.;
 - A recovery residence as defined in s. 397.311, F.S.;
 - An assisted living facility as defined in ch. 429, F.S.; or

¹⁵ Section 402.302(2), F.S., provides that a “child care facility” includes any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. “Child care facility” does not include: public schools and nonpublic schools and their integral programs, except as provided in s. 402.3025, F.S.; summer camps having children in full-time residence; summer day camps; bible schools normally conducted during vacation periods; and operators of transient establishments, as defined in ch. 509, F.S., which provide child care services solely for the guests of their establishment or resort, provided that all child care personnel of the establishment are screened according to the level 2 screening requirements of ch. 435, F.S. *Id.*

¹⁶ Section 893.13(1)(c), F.S.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* “Community center” means a facility operated by a nonprofit community-based organization for the provision of recreational, social, or educational services to the public. *Id.*

²⁰ *Id.*

²¹ Section 893.13(1)(d), F.S.

²² Section 893.13(1)(e), F.S.

²³ *Id.* Section 812.171, F.S., defines a “convenience business” as any place of business that is primarily engaged in the retail sale of groceries, or both groceries and gasoline, and that is open for business at any time between the hours of 11 p.m. and 5 a.m. The term “convenience business” does not include: a business that is solely or primarily a restaurant; a business that always has at least five employees on the premises after 11 p.m. and before 5 a.m.; and a business that has at least 10,000 square feet of retail floor space.

²⁴ Section 893.13(1)(f), F.S. “Real property comprising a public housing facility” means real property, as defined in s. 421.03(12), F.S., of a public corporation created as a housing authority pursuant to part I of ch. 421, F.S. *Id.*

- A pain management clinic as defined in s. 458.3265(1)(a)1.c., F.S., or s. 459.0137(1)(a)1.c., F.S. (no time restriction).²⁵

The drug-free zone provisions do not require either intent to commit a drug offense in a drug-free zone²⁶ or knowledge that the offense is being committed within a drug-free zone.²⁷ Like the penalties for violations of s. 893.13(1)(a), F.S., the enhanced penalties for drug-free zone violations depend on the type of controlled substance involved. For example, selling cocaine in a K-12 school drug-free zone is a first degree felony²⁸ but selling cannabis in the same drug-free zone is a second degree felony.²⁹

Controlled substance acts committed in a drug-free zone are sometimes ranked higher in the offense severity ranking chart of the Criminal Punishment Code than those same acts when committed outside a drug-free zone.³⁰ This impacts the scoring of the lowest permissible sentence, which is based on sentence points accrued. Higher-ranked offenses score more sentence points than lower-ranked offenses.³¹ Further, a three-year mandatory minimum term of imprisonment must be imposed for some controlled substance offenses when committed in any of the following drug-free zones: K-12 school; park; community center; and publicly owned recreational facility.³²

III. Effect of Proposed Changes:

The bill amends provisions of s. 893.13, F.S., which provide for enhanced punishment for committing various controlled substance offenses within 1,000 feet of schools and other specified places or facilities (“drug-free zone”).

The bill revises hours of operation applicable to a drug-free zone around a K-12 school. The bill deletes “between the hours of 6 a.m. and 12 midnight” and substitutes “during the school’s hours of operation,” and limits such drug-free zone to the school’s hours of operation, including when the school is providing services to students outside of normal hours of operation.

The bill limits a drug-free zone around a state, county, or municipal park, a community center, or a publicly owned recreational facility to the hours of operation. Currently, such a drug-free zone applies without any time restriction.

The bill also limits a drug-free zone around a place of worship to when the church or religious organization is conducting service or other activities. Currently the drug-free zone for a place of worship applies without any time restriction.

²⁵ Section 893.13(1)(h), F.S.

²⁶ *Spry v. State*, 912 So. 2d 384, 386 (Fla. 2d DCA 2005).

²⁷ *Dickerson v. State*, 783 So. 2d 1144, 1148 (Fla. 5th DCA 2001), *review denied*, 819 So. 2d 134 (Fla. 2002).

²⁸ Section 893.13(1)(c)1., F.S.

²⁹ Section 893.13(1)(c)2., F.S.

³⁰ For example, selling cannabis in violation of s. 893.13(1)(a)2., F.S., is a level 3 offense; selling cannabis within 1,000 feet of a K-12 school is a level 5 offense. Section 921.0022(3)(c) and (e), F.S.

³¹ Section 921.0024(1)(a), F.S. For example, in the example cited, *supra*, at n. 33, a level 3 primary offense scores 16 sentence points and a level 5 primary offense scores 28 sentence points.

³² Section 893.13(1)(c)1., F.S.

The bill deletes the drug-free zone applicable to a public housing facility and a convenience business. Therefore, while drug activity around these places may be punished, it won't be subject to drug-free zone enhanced punishment.

The bill amends s. 893.149, F.S., to make a conforming change to correct a cross-reference.

The bill amends s. 921.0022, F.S., to remove rankings for drug-free zone offenses involving a public housing facility and convenience business. These changes are also conforming since the bill is eliminating these offenses.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. However, the bill should reduce prison bed impact because it is narrowing the application of drug-free zone offenses involving a K-12 school and place of worship and eliminating drug-free zone offenses involving a public housing facility and a convenience business.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 893.13, 893.149, and 921.0022.

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 Pizzo

37-01175A-23

20231520__

A bill to be entitled

An act relating to controlled substances; amending s. 893.13, F.S.; revising specified prohibited activities involving controlled substances within 1,000 feet of certain schools during their hours of operation; revising specified prohibited activities involving controlled substances during the hours of operation within 1,000 feet of certain parks, community centers, or publicly owned recreational facilities; revising specified prohibited activities involving controlled substances within 1,000 feet of specified places of worship when churches or religious organizations are conducting services or other activities; deleting specified prohibited activities involving controlled substances within 1,000 feet of convenience businesses; deleting specified prohibited activities involving controlled substances within 1,000 feet of public housing facilities; deleting criminal and noncriminal penalties; amending s. 893.149, F.S.; conforming a cross-reference; amending s. 921.0022, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Paragraphs (c), (e), and (f) of subsection (1) of section 893.13, Florida Statutes, are amended to read:

893.13 Prohibited acts; penalties.—

(1)

Page 1 of 28

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

37-01175A-23

20231520__

(c) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a child care facility as defined in s. 402.302 or a public or private elementary, middle, or secondary school during the school's hours of operation, including when the school is providing services to students outside of normal hours of operation ~~between the hours of 6 a.m. and 12 midnight~~, or during the hours of operation ~~at any time~~ in, on, or within 1,000 feet of real property comprising a state, county, or municipal park, a community center, or a publicly owned recreational facility. As used in this paragraph, the term "community center" means a facility operated by a nonprofit community-based organization for the provision of recreational, social, or educational services to the public. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The defendant must be sentenced to a minimum term of imprisonment of 3 calendar years unless the offense was committed within 1,000 feet of the real property comprising a child care facility as defined in s. 402.302.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s.

Page 2 of 28

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

37-01175A-23

20231520__

775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a \$500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

This paragraph does not apply to a child care facility unless the owner or operator of the facility posts a sign that is not less than 2 square feet in size with a word legend identifying the facility as a licensed child care facility and that is posted on the property of the child care facility in a conspicuous place where the sign is reasonably visible to the public.

(e) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance not authorized by law in, on, or within 1,000 feet of a physical place for worship at which a church or religious organization regularly conducts religious services when such church or religious organization is conducting services or other activities ~~or within 1,000 feet of a convenience business as defined in s. 812.171~~. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of

37-01175A-23

20231520__

the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a \$500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

~~(f) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a public housing facility at any time. As used in this section, the term "real property comprising a public housing facility" means real property, as defined in s. 421.03(12), of a public corporation created as a housing authority pursuant to part I of chapter 421. A person who violates this paragraph with respect to:~~

~~1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a \$500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.~~

Section 2. Subsection (3) of section 893.149, Florida

37-01175A-23

20231520__

Statutes, is amended to read:

893.149 Unlawful possession of listed chemical.—

(3) This section does not apply to a public employee or private contractor authorized to clean up or dispose of hazardous waste or toxic substances resulting from the prohibited activities listed in s. 893.13(1)(f) ~~s. 893.13(1)(g)~~.

Section 3. Paragraphs (c) and (e) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:
921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(c) LEVEL 3

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle

Page 5 of 28

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

37-01175A-23

20231520__

with siren and lights
activated.

319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
327.35(2)(b)	3rd	Felony BUI.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.

Page 6 of 28

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

140	37-01175A-23	20231520__	
	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
141			
	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
142			
	379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
143			
	379.2431 (1)(e)6.	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine

Page 7 of 28

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

	37-01175A-23	20231520__	
			Turtle Protection Act.
144			
	379.2431 (1)(e)7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
145			
	400.9935(4)(a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
146			
	400.9935(4)(e)	3rd	Filing a false license application or other required information or failing to report information.
147			
	440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
148			
	501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
149			

Page 8 of 28

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

	37-01175A-23		20231520__
150	624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
	624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
151	626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
152	697.08	3rd	Equity skimming.
153	790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
154	806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
155	806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
156	810.09(2)(c)	3rd	Trespass on property other

Page 9 of 28

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

	37-01175A-23		20231520__
			than structure or conveyance armed with firearm or dangerous weapon.
157	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
158	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
159	812.015(8)(b)	3rd	Retail theft with intent to sell; conspires with others.
160	812.081(2)	3rd	Theft of a trade secret.
161	815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
162	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
163	817.233	3rd	Burning to defraud insurer.
164			

Page 10 of 28

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

	37-01175A-23		20231520	
	817.234	3rd	Unlawful solicitation of	
	(8) (b) & (c)		persons involved in motor	
			vehicle accidents.	
165				
	817.234 (11) (a)	3rd	Insurance fraud; property	
			value less than \$20,000.	
166				
	817.236	3rd	Filing a false motor	
			vehicle insurance	
			application.	
167				
	817.2361	3rd	Creating, marketing, or	
			presenting a false or	
			fraudulent motor vehicle	
			insurance card.	
168				
	817.413 (2)	3rd	Sale of used goods of	
			\$1,000 or more as new.	
169				
	817.49 (2) (b) 1.	3rd	Willful making of a false	
			report of a crime causing	
			great bodily harm,	
			permanent disfigurement, or	
			permanent disability.	
170				
	831.28 (2) (a)	3rd	Counterfeiting a payment	
			instrument with intent to	
			defraud or possessing a	
			counterfeit payment	

Page 11 of 28

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

	37-01175A-23		20231520	
			instrument with intent to	
			defraud.	
171				
	831.29	2nd	Possession of instruments	
			for counterfeiting driver	
			licenses or identification	
			cards.	
172				
	836.13 (2)	3rd	Person who promotes an	
			altered sexual depiction of	
			an identifiable person	
			without consent.	
173				
	838.021 (3) (b)	3rd	Threatens unlawful harm to	
			public servant.	
174				
	843.19	2nd	Injure, disable, or kill	
			police, fire, or SAR canine	
			or police horse.	
175				
	860.15 (3)	3rd	Overcharging for repairs	
			and parts.	
176				
	870.01 (2)	3rd	Riot.	
177				
	870.01 (4)	3rd	Inciting a riot.	
178				
	893.13 (1) (a) 2.	3rd	Sell, manufacture, or	
			deliver cannabis (or other	

Page 12 of 28

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

37-01175A-23		20231520__	
			s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs).
179	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of university.
180	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of public housing facility.
181	893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other controlled substances.

Page 13 of 28

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

37-01175A-23		20231520__	
182	893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
183	893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
184	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
185	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
186	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
187	893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a

Page 14 of 28

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

	37-01175A-23	20231520__	controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
188	893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
189	893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
190	893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
191	918.13(1)	3rd	Tampering with or

	37-01175A-23	20231520__	fabricating physical evidence.
192	944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
193	944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
194	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
195	(e) LEVEL 5		
196	Florida Statute	Felony Degree	Description
197			
198	316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
199	316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
200			

	37-01175A-23		20231520__
	316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
201			
	322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
202			
	327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
203			
	379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering,

	37-01175A-23		20231520__
			forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.
204			
	379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
205			
	379.407(5)(b)3.	3rd	Possession of 100 or more undersized spiny lobsters.
206			
	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
207			
	440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
208			

	37-01175A-23		20231520__
	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
209	440.381(2)	3rd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
210	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
211	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
212	790.01(2)	3rd	Carrying a concealed firearm.
213	790.162	2nd	Threat to throw or discharge destructive

	37-01175A-23		20231520__
			device.
214	790.163(1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
215	790.221(1)	2nd	Possession of short- barreled shotgun or machine gun.
216	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
217	796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.
218	800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
219	800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
220	806.111(1)	3rd	Possess, manufacture, or

	37-01175A-23		20231520__	
				dispense fire bomb with intent to damage any structure or property.
221	812.0145(2)(b)	2nd		Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
222	812.015 (8)(a) & (c)-(e)	3rd		Retail theft; property stolen is valued at \$750 or more and one or more specified acts.
223	812.015(8)(f)	3rd		Retail theft; multiple thefts within specified period.
224	812.019(1)	2nd		Stolen property; dealing in or trafficking in.
225	812.081(3)	2nd		Trafficking in trade secrets.
226	812.131(2)(b)	3rd		Robbery by sudden snatching.
227	812.16(2)	3rd		Owning, operating, or conducting a chop shop.

	37-01175A-23		20231520__	
228	817.034(4)(a)2.	2nd		Communications fraud, value \$20,000 to \$50,000.
229	817.234(11)(b)	2nd		Insurance fraud; property value \$20,000 or more but less than \$100,000.
230	817.2341(1), (2)(a) & (3)(a)	3rd		Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
231	817.568(2)(b)	2nd		Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or

	37-01175A-23		20231520__
			more persons.
232	817.611(2)(a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards or related documents.
233	817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.
234	825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
235	827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes child pornography.
236	827.071(5)	3rd	Possess, control, or intentionally view any photographic material,

Page 23 of 28

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

	37-01175A-23		20231520__
			motion picture, etc., which includes child pornography.
237	828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
238	836.14(4)	2nd	Person who willfully promotes for financial gain a sexually explicit image of an identifiable person without consent.
239	839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
240	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
241	847.0135(5)(b)	2nd	Lewd or lascivious exhibition using

Page 24 of 28

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

	37-01175A-23		20231520__	computer; offender 18 years or older.
242	847.0137 (2) & (3)	3rd		Transmission of pornography by electronic device or equipment.
243	847.0138 (2) & (3)	3rd		Transmission of material harmful to minors to a minor by electronic device or equipment.
244	874.05(1)(b)	2nd		Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
245	874.05(2)(a)	2nd		Encouraging or recruiting person under 13 years of age to join a criminal gang.
246	893.13(1)(a)1.	2nd		Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.

Page 25 of 28

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

	37-01175A-23		20231520__	drugs).
247	893.13(1)(c)2.	2nd		Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
248	893.13(1)(d)1.	1st		Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of university.
249	893.13(1)(e)2.	2nd		Sell, manufacture, or deliver cannabis or other drug prohibited

Page 26 of 28

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

37-01175A-23

20231520__

under s. 893.03(1)(c),
 (2)(c)1., (2)(c)2.,
 (2)(c)3., (2)(c)6.,
 (2)(c)7., (2)(c)8.,
 (2)(c)9., (2)(c)10.,
 (3), or (4) within 1,000
 feet of property used
 for religious services
 or a specified business
 site.

250

893.13(1)(f)1.

1st

~~Sell, manufacture, or
 deliver cocaine (or
 other s. 893.03(1)(a),
 (1)(b), (1)(d), or
 (2)(a), (2)(b), or
 (2)(c)5. drugs) within
 1,000 feet of public
 housing facility.~~

251

893.13(4)(b)

2nd

Use or hire of minor;
 deliver to minor other
 controlled substance.

252

893.1351(1)

3rd

Ownership, lease, or
 rental for trafficking
 in or manufacturing of
 controlled substance.

253

Page 27 of 28

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

37-01175A-23

20231520__

254

Section 4. This act shall take effect July 1, 2023.

Page 28 of 28

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



The Florida Senate

Committee Agenda Request

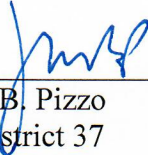
To: Senator Jonathan Martin, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: March 13, 2023

I respectfully request that **Senate Bill #1520**, relating to Controlled Substances, be placed on the:

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



Senator Jason W. B. Pizzo
Florida Senate, District 37

APPEARANCE RECORD

3/27/23

Meeting Date

1520

Bill Number or Topic

CRIM JUSTICE

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

AARON WAYT

FL ASSN OF CRIMINAL
DEFENCE LAWYERS

Phone

(407) 435-3194

Address

553 E TENN ST

Street

Email

AARON@DONPUMPHREY.COM

TLH

City

FL

State

32308

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☒I am appearing without
compensation or sponsorship.☐I am a registered lobbyist,
representing:☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

March 27, 2023

Meeting Date

Criminal Justice

Committee

Name Jonathan Webber

Phone 954-593-4449

Address 400 Washington Ave

Street

Montgomery

AL

36104

City

State

Zip

Email jonathan.webber@splcactionfund.org

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1520 - Controlled Substances

Bill Number or Topic

Amendment Barcode (if applicable)

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

SPLC Action Fund

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

APPEARANCE RECORD

1520

Meeting Date

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

NR

Hines

Phone

Address

4343

W Flagler St

Email

nhines@aclufl.org

Street

Coral Gables FL

32303

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☐I am appearing without
compensation or sponsorship.☒I am a registered lobbyist,
representing:

ACLU FL

☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 1534

INTRODUCER: Senator Martin

SUBJECT: Pretrial Release and Detention

DATE: March 24, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Parker	Stokes	CJ	Favorable
2.			FP	

I. Summary:

SB 1534 amends several statutes related to bail, pretrial detention, and pretrial release.

The bill amends s. 903.011, F.S., to:

- Specify that only a judge may set, reduce, or otherwise alter a defendant's bail.
- Require the Florida Supreme Court (FSC) to adopt a uniform statewide bond schedule by January 1, 2024, and provides for when an inferior court may establish a countywide or circuitwide bond schedule.
- Prohibit a person from being released before his or her first appearance hearing for committing specified crimes or meets other specified criteria.

The bill amends s. 903.047, F.S., to permit the court to consider imposing nonmonetary conditions in addition to or in lieu of monetary bond subject to specified limitations, and to specify examples of nonmonetary conditions of pretrial release that a court may impose.

The bill amends s. 903.0471, F.S., to authorize the court to revoke pretrial release and order pretrial detention if the court finds probable cause to believe that the defendant committed a new crime while on pretrial release or violated any other condition of pretrial release in a material respect.

The bill amends s. 907.041, F.S., to:

- Revise the term “dangerous crime” to include DUI manslaughter and BUI manslaughter and trafficking in any controlled substance.
- Require the court to hold a detention hearing during, or within 5 days after the defendant's first appearance or arraignment.
- Authorize the state attorney to move for pretrial detention of a defendant who is not charged with a dangerous crime.
- Require the court to order pretrial detention if it finds a substantial probability that no conditions of release or bail will reasonably protect the community from risk of physical

harm from the defendant, assure the presence of the defendant at trial, or assure the integrity of the judicial process because of specified circumstances.

- Establish criteria for the pretrial detention hearing.

The bill may have a positive indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill is effective January 1, 2024.

II. Present Situation:

The Florida Constitution provides that every person charged with a crime is entitled to pretrial release with reasonable conditions.¹ There are three types of pretrial release for a person who is awaiting trial: the posting of a bail or surety bond, pretrial release conditions, or the release on his or her own recognizance.²

Bail and Surety Bond

The purpose of a bail determination in criminal proceedings is to ensure the appearance of a defendant at subsequent proceedings and to protect the community against unreasonable danger from the defendant.³ For the defendant to be released from jail, a court may require bail by a defendant to provide security, such as cash or a bond to ensure that he or she will return for trial and any other required court appearances.⁴

As an alternative to posting the entire bail amount, a defendant may provide a criminal surety bail bond⁵ executed by a bail bond agent. A cash bond is paid directly to the court for the total amount of the bond, in cash. If the arrestee does not appear after posting a cash bond, the money will be forfeited. After the final disposition of the case, bond money will be refunded, minus any unpaid court fees, costs, and criminal penalties.⁶

Bail Determination

When determining whether to release a defendant on bail or other conditions and what that bail or those conditions may be, the court shall consider:

- The nature and circumstances of the offense charged.
- The weight of the evidence against the defendant.
- The defendant's family ties, length of residence in the community, employment history, financial resources, and mental condition.

¹ Article I, s. 14, Fla. Const. This right does not apply to persons charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great. *Id.*

² See art. I, s. 14, Fla. Const.; See also ss. 903.046 and 907.041, F.S.

³ Section 903.046(1), F.S.

⁴ *Universal Bail Bonds v. State*, 929 So.2d 697, 699 (Fla. 3d DCA 2006).

⁵ Sections 903.011 and 903.105, F.S.

⁶ Office of Program Policy Analysis and Government Accountability, County Pretrial Release Programs: Calendar Year 2021, Report No. 22-09 at 2 (December 2022) available at <https://oppaga.fl.gov/Documents/Reports/22-09.pdf> (last visited March 21, 2023).

- The defendant's past and present conduct, including any record of convictions, previous flight to avoid prosecution or failure to appear at court proceedings.
- The nature and probability of danger which the defendant's release poses to the community.
- The source of funds used to post bail or procure an appearance bond, particularly whether the proffered funds, real property, property, or any proposed collateral or bond premium may be linked to or derived from the crime alleged to have been committed or from any other criminal or illicit activities. The burden of establishing the noninvolvement in or nonderivative from criminal or other illicit activity of such proffered funds, real property, property, or any proposed collateral or bond premium falls upon the defendant or other person proffering them to obtain the defendant's release.
- Whether the defendant is already on release pending resolution of another criminal proceeding or on probation, parole, or other release pending completion of a sentence.
- The street value of any drug or controlled substance connected to or involved in the criminal charge.
- The nature and probability of intimidation and danger to victims.
- Whether there is probable cause to believe that the defendant committed a new crime while on pretrial release.
- Whether the crime charged is a violation of ch. 874, F.S., or alleged to be subject to enhanced punishment under ch. 874, F.S., or reclassification under s. 843.22, F.S.⁷
- Whether the defendant, other than a defendant whose only criminal charge is a misdemeanor offense under ch. 316, F.S., is required to register as a sexual offender or a sexual predator.⁸
- Any other facts that the court considers relevant.⁹

Pretrial Release

Prior to an indictment, affidavit, or information being filed in a criminal case the court having jurisdiction over the case has jurisdiction to hear and rule on all preliminary motions regarding bail.¹⁰ If a court determines pretrial release is appropriate, it must impose certain conditions on the defendant while on release, including refraining from criminal activity of any kind¹¹ and complying with all conditions of pretrial release ordered by the court.¹²

⁷ Section 903.046(2)(l), F.S., If any such violation is charged against a defendant or if the defendant is charged with a crime that is alleged to be subject to such enhancement or reclassification, he or she is not eligible for release on bail or surety bond until the first appearance on the case in order to ensure the full participation of the prosecutor and the protection of the public.

⁸ Section 903.046(2)(m), F.S. Such offender is not eligible for release on bail or surety bond until the first appearance on the case in order to ensure the full participation of the prosecutor and the protection of the public.

⁹ Section 903.046(2)(a)-(m), F.S.

¹⁰ Section 903.03(1), F.S.; "Bail" includes any and all forms of pretrial release. Section 903.011(1), F.S.

¹¹ Section 903.047(1)(a), F.S.

¹² Section 903.047(1)(c), F.S.

While there is a presumption in favor of release on nonmonetary conditions for any person granted pretrial release, monetary conditions may be imposed for a person charged with a dangerous crime or if it is determined that such monetary conditions are necessary to assure the presence of the person at trial or at other proceedings, to protect the community from risk of physical harm to persons, or to assure the integrity of the judicial process.¹³ A dangerous crime means any of the following:

- Arson;
- Aggravated assault;
- Aggravated battery;
- Illegal use of explosives;
- Child abuse or aggravated child abuse;
- Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult;
- Aircraft piracy;
- Kidnapping;
- Homicide;
- Manslaughter;
- Sexual battery;
- Robbery;
- Carjacking;
- Lewd, lascivious or indecent assault or act upon or in presence of a child under the age of 16 years;
- Sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority;¹⁴
- Burglary of a dwelling;
- Stalking and aggravated stalking;
- Act of domestic violence as defined in s. 741.28, F.S.;
- Home invasion robbery;
- Act of terrorism as defined in s. 775.30, F.S.;
- Manufacturing any substances in violation of ch. 893, F.S.;
- Attempting or conspiring to commit any such crime; and
- Human trafficking.¹⁵

Pretrial Detention

No person charged with a dangerous crime shall be granted nonmonetary pretrial release at a first appearance hearing; however, the court shall retain the discretion to release an accused on electronic monitoring or on recognizance bond if the findings on the record of facts and circumstances warrant such a release.¹⁶ The state attorney has the burden of showing the need of pretrial detention.¹⁷

¹³ Section 907.041(3)(a), F.S.

¹⁴ Section 907.041(4)(a)15., F.S.

¹⁵ Section 907.041(4)(a)1.-23., F.S.

¹⁶ Section 907.041(4)(b), F.S.

¹⁷ Section 907.041(4)(g), F.S.

A judge may order pretrial detention if he or she finds a substantial probability, based on a defendant's past and present patterns of behavior, consideration of the criteria used for determining bail, and any other relevant facts, that any of the following circumstances exist:

- The defendant has previously violated conditions of release and that no further conditions of release are reasonably likely to assure the defendant's appearance at subsequent proceedings;
- The defendant, with the intent to obstruct the judicial process, has threatened, intimidated, or injured any victim, potential witness, juror, or judicial officer, or has attempted or conspired to do so, and that no condition of release will reasonably prevent the obstruction of the judicial process;
- The defendant is charged with trafficking in controlled substances,¹⁸ that there is a substantial probability that the defendant has committed the offense and that no conditions of release will reasonably assure the defendant's appearance at subsequent criminal proceedings;¹⁹
- The defendant is charged with DUI manslaughter,²⁰ and that there is a substantial probability that the defendant committed the crime and that the defendant poses a threat of harm to the community; conditions that would support a finding by the court pursuant to this subparagraph that the defendant poses a threat of harm to the community include, but are not limited to, any of the following:
 - The defendant has previously been convicted of any crime under s. 316.193, F.S., or of any crime in any other state or territory of the United States that is substantially similar to any crime under s. 316.193;
 - The defendant was driving with a suspended driver license when the charged crime was committed; or
 - The defendant has previously been found guilty of or has had adjudication of guilt withheld for, driving while the defendant's driver license was suspended or revoked in violation of s. 322.34, F.S.;
- The defendant poses the threat of harm to the community.²¹

¹⁸ Section 893.02(4), F.S., a "controlled substance" means any substance named or described in Schedules I-V of s. 893.03, F.S. Laws controlling the manufacture, distribution, preparation, dispensing, or administration of such substances are drug abuse laws. Section 893.03, F.S., Schedule I-and II substances are substances that have a high potential for abuse and no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards. Schedule III substances have a potential for abuse less than the substances contained in Schedules I and II and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to moderate or low physical dependence or high psychological dependence or, in the case of anabolic steroids, may lead to physical damage. Schedule IV substances have a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to limited physical or psychological dependence relative to the substances in Schedule III. Schedule V substances have a low potential for abuse relative to the substances in Schedule IV and has a currently accepted medical use in treatment in the United States, and abuse of such compound, mixture, or preparation may lead to limited physical or psychological dependence relative to the substances in Schedule IV.

¹⁹ Section 907.041(4)(c)3., F.S.

²⁰ DUI Manslaughter occurs when a person operates a vehicle and by reason of such operation, causes the death of a person, and at the time of such operation he or she was under the influence of alcoholic beverages, a chemical substance, or a controlled substance to the extent the his or her normal faculties were impaired and he or she had a blood alcohol level of 0.10 percent or higher. [Standard Jury Instructions in Criminal Cases \(97-2\), 723 So.2d 123, 146-48 \(Fla.1998\)](#).

²¹ The court may so conclude if it finds that the defendant is presently charged with a dangerous crime, that there is a substantial probability that the defendant committed such crime, that the factual circumstances of the crime indicate a disregard for the safety of the community, and that there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons.

- The defendant was on probation, parole, or other release pending completion of sentence or on pretrial release for a dangerous crime at the time the current offense was committed;²²
- The defendant has violated one or more conditions of pretrial release or bond for the offense currently before the court and the violation, in the discretion of the court, supports a finding that no conditions of release can reasonably protect the community from risk of physical harm to persons or assure the presence of the accused at trial; or
- The defendant has ever been sentenced as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal,²³ or the state attorney files a notice seeking that the defendant be sentenced as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal:²⁴
 - There is a substantial probability that the defendant committed the offense;²⁵ and
 - There are no conditions of release that can reasonably protect the community from risk of physical harm or ensure the presence of the accused at trial.²⁶

Standard Bond Schedule

Currently judicial circuits may establish their own uniform bond schedule. Such schedules are established so that persons arrested for certain criminal offenses may be released on a bail bond prior to the person's first appearance hearing. When determining the amount of bail, judges should consider the criteria set out in s. 903.046, F.S., and Fla. R. Crim. P. 3.131.²⁷

To improve efficiency and ensure consistency in determining a defendant's bail amount, the Chief Judge of a judicial circuit may issue an administrative order promulgating a "bond schedule." Generally, a bond schedule provides the bail amount required to bond out of jail for a specified crime prior to first appearance.²⁸ A bond schedule also prohibits certain defendants from being released before first appearance due to the severity of the offense committed or the status of the defendant. If a defendant is prohibited from being released before first appearance, his or her bond is set by a judge at a first appearance.

A court is authorized on its own motion to revoke pretrial release and order pretrial detention if a court finds probable cause to believe that a defendant committed a new crime while on pretrial release.

III. Effect of Proposed Changes:

This bill amends several statutes related to bail, pretrial detention, and pretrial release. Specifically, the bill:

- Amends s. 903.011, F.S., to:

²² Section 907.041(4)(c)6., F.S.

²³ Section 775.082(9), F.S., and Section 775.084, F.S.

²⁴ Section 907.041(4)(c)1.-8.a., F.S.

²⁵ Section 907.041(4)(c)8.b., F.S.

²⁶ Section 907.041(4)(c)8.c., F.S.

²⁷ Twelfth Judicial Circuit, *Bond Schedule for Criminal Proceedings*,

https://www.jud12.flcourts.org/Portals/0/AdminOrders/Section03/13-11.3.pdf?ver=JvXXR9P2G_o2gySEJ1qhsA%3D%3D (last visited March 21, 2023).

²⁸ *Id.*

- Specify that only a judge may set, reduce, or otherwise alter a defendant's bail. Upon motion by a defendant, or on the court's own motion, a court may reconsider the monetary component of a defendant's bail if he or she is unable to post a monetary bond.
- Require the FSC to adopt a uniform statewide bond schedule by January 1, 2024, and annually thereafter. The FSC shall make the revised uniform statewide bond schedule available to each judicial circuit. Additionally, the FSC must evaluate the amount of monetary bond necessary to protect the community from risk of physical harm, to assume the presence of the accused at trial, and to protect the integrity of the judicial process.
- Prohibit a judge of an inferior court from establishing a countywide or circuitwide bond schedule that sets a lower bond amount than that required by the uniform statewide bond schedule. If the FSC reviews and approves such countywide or circuitwide bond schedule, such schedule may be used for the purpose of setting a defendant's bail before a first appearance hearing or bail determination pending the adoption of a new or revised uniform statewide bond schedule.
- Provides the chief judge of a judicial circuit may petition the FSC for approval of a countywide or circuitwide bond schedule that sets a lower bond amount than required by the uniform statewide bond schedule.
- Authorize the chief judge of a judicial circuit to establish a bond schedule that:
 - Requires additional nonmonetary conditions to be imposed upon a defendant who is charged with specified offenses or who has a specified criminal history; or
 - Increase the monetary bond applicable to an offense that is included in the uniform statewide bond schedule adopted by the FSC.
- Provide that a person may not be released before his or her first appearance hearing, and a judge must determine the appropriate bail, if any, based on an individualized consideration of the criteria in s. 903.046(2), F.S., if the person meets any of the following criteria:
 - The person was, at the time of arrest for any felony, on pretrial release, probation, or community control in this state or any other state.
 - The person was, at the time of arrest, designated as a sexual offender or sexual predator in this state or any other state.
 - The person was arrested for violating a protective injunction.
 - The person was, at the time of arrest, on release from supervision under s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731, F.S.
 - The person has, at any time before the current arrest, been sentenced pursuant to s. 775.082(9) or s. 775.084, F.S., as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal.
 - The person was previously arrested or issued a summons for a criminal violation within the immediately preceding 6 months.
 - The offense for which he or she is currently arrested is for committing one or more of specified crimes.²⁹

²⁹ Specified crimes include A capital felony, life felony, felony of the first degree, or felony of the second degree; A homicide, or any attempt, solicitation, or conspiracy to commit a homicide, under ch. 782, F.S.; Assault in furtherance of a riot or an aggravated riot; felony battery; domestic battery by strangulation; an act of domestic violence as defined in s. 741.28, F.S.; stalking; mob intimidation; assault or battery on a law enforcement officer; assault or battery on a juvenile probation officer, a staff member of a detention center, a staff member of a commitment facility, or a health care services personnel; assault or battery on a person 65 years of age or older; robbery; burglary; carjacking; or resisting an officer with

- Amends s. 903.047, F.S., to:
 - Provide the court may consider imposing nonmonetary conditions in addition to or in lieu of monetary bond subject to the limitation of conditions in ss. 903.046 and 903.0471, F.S. Such nonmonetary conditions may include, but are not limited to, requiring a defendant to:
 - Maintain employment or, if unemployed, actively seek employment;
 - Maintain or commence an educational program;
 - Abide by specified restrictions on personal associations, place of residence, or travel;
 - Report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency;
 - Comply with a specified curfew;
 - Refrain from possessing a firearm, destructive device, or other dangerous weapon;
 - Refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance without a prescription from a licensed medical practitioner;
 - Undergo available medical, psychological, psychiatric, mental health, or substance abuse evaluation and follow all recommendations, including treatment for drug or alcohol dependency, and remain in a specified institution, if required for that purpose;
 - Return to custody for specified hours following release for employment, school, or other limited purposes; and
 - Comply with any other condition that is reasonably necessary to assure his or her appearance at subsequent proceedings and to protect the community against unreasonable danger of harm.
- Amends s. 903.0471, F.S., to:
 - Authorize the court to revoke pretrial release and order pretrial detention if the court finds probable cause to believe that the defendant committed a new crime while on pretrial release or violated any other condition of pretrial release in a material respect.
- Amends 907.041, F.S., to:
 - Revises the term “dangerous crime” by adding DUI manslaughter and BUI manslaughter and trafficking in any controlled substance.
 - Require the court to hold a detention hearing during, or within 5 days after the defendant’s:
 - First appearance or arraignment hearing, if the defendant has been arrested for a dangerous crime; or
 - Arraignment, if the defendant is charged at any time subsequent to his or her arrest with a dangerous crime, has failed to appear at any court proceeding at which his or her appearance was required, or violated the conditions of his or her pretrial release for the current offense two or more times.

violence; Kidnapping, false imprisonment, human trafficking, or human smuggling; Possession of a firearm or any ammunition by a felon, violent career criminal, or person subject to an injunction against committing acts of domestic violence, stalking, or cyberstalking; Sexual battery; indecent, lewd, or lascivious touching; exposure of sexual organs; incest; luring or enticing a child; or child pornography; Abuse, neglect, or exploitation of an elderly person or disabled adult; Child abuse or aggravated child abuse; Arson; riot, aggravated riot, inciting a riot, or aggravated inciting a riot; or burglary or theft during a riot; Escape; tampering or retaliating against a witness, victim, or informant; destruction of evidence; or tampering with a jury; Any offense committed for the purpose of benefiting, promoting, or furthering the interests of a criminal gang; Trafficking in a controlled substance, including conspiracy to engage in trafficking in a controlled substance; Racketeering; or Failure to appear at a required court proceeding while on bail.

- Provide the state attorney may move for pretrial detention of a defendant who is not charged with a dangerous crime, but for whom the state attorney otherwise believes that pretrial detention is necessary to protect the community from unreasonable danger of harm or to assure the defendant's appearance at court proceedings.
- Require the court to order pretrial detention if it finds a substantial probability, based on a defendant's past and present patterns of behavior, the criteria in s. 903.046, F.S., and any other relevant facts, that no conditions of release or bail will reasonably protect the community from risk of physical harm from the defendant, assure the presence of the defendant at trial, or assure the integrity of the judicial process because any specified circumstances exist, including but not limited to:
 - There is a substantial probability that the defendant committed a dangerous crime;
 - The defendant has previously violated conditions of release and that no further conditions of release are reasonably likely to assure the defendant's appearance at subsequent proceedings;
 - There is a substantial probability that the defendant, with the intent to obstruct the judicial process, has threatened, intimidated, or injured any victim, potential witness, juror, or judicial officer or has tampered with evidence, or with regard to any such action, has attempted or conspired to do so or has previously been convicted of doing so;
 - The defendant poses a threat of harm to the community, which may include his or her past or current involvement in a criminal gang or in the manufacturing or trafficking of substances in violation of ch. 893, F.S.;
 - The defendant has been convicted on more than five occasions of a misdemeanor of the first degree or a felony and at least one of his or her prior convictions was for a dangerous crime; including any attempt or conspiracy to commit a dangerous crime; and
 - There is a substantial probability that the defendant committed the current offense for which he or she was arrested.
- Require the court to order pretrial detention if it finds a substantial probability that no conditions of release or bail will reasonably protect the community from risk of physical harm from the defendant, assure the presence of the defendant at trial, or assure the integrity of the judicial process because specified circumstances exist.
- Require the state attorney to show the need for pretrial detention by clear and convincing evidence.
- Afford the defendant the opportunity to testify, present witnesses, and cross-examine witnesses who appear at the pretrial detention hearing. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the pretrial detention hearing.
- Authorize a party to move that a pretrial detention order be reconsidered at any time before a defendant's trial if the judge finds that information exists that was not known to the party moving for reconsideration at the time of the pretrial detention hearing.

The bill is effective January 1, 2024.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may add an administrative burden, on an annual basis, on the FSC and on petitioning chief judges who seek to deviate from the FSC's uniform bond schedule.

The bill may also significantly increase judicial workload in the trial courts as there will likely be a marked increase in the number of:

- Cases on first appearance dockets;
- Pretrial detention hearings; and
- Pretrial release revocation hearings.

The degree to which judicial workload will increase is difficult to quantify because it is not known how many additional first appearance and bond-related hearings will be required. The bill may also result in increased litigation.³⁰

³⁰ Office of the State Courts Administrator, *2023 Judicial Impact Statement* on HB 1627, pg. 8 (on file with the Senate Committee on Criminal Justice).

The fiscal impact of this legislation is indeterminate due to the unavailability of data needed to quantifiably establish the anticipated increase in judicial workload as discussed above.

Trial court judicial workload is measured using a case weighting system that calculates the amount of time that it takes for a judge to dispose of a case. Passage of this bill may impact the case weighting system. The number of case filings using the case weighting system is used to determine the needs for additional judicial resources each year. Any judicial workload increases in the future as a result of this bill will be reflected in the Supreme Court's annual opinion In re: *Certification of Need for Additional Judges*.³¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 903.011, 903.047, 903.0471, and 907.041.

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.

³¹ *Id.*

By Senator Martin

33-00880B-23

20231534__

1 A bill to be entitled
 2 An act relating to pretrial release and detention;
 3 amending s. 903.011, F.S.; specifying that only a
 4 judge is authorized to set, reduce, or alter a
 5 defendant's bail; authorizing a court to reconsider
 6 the monetary component imposed as part of bail under a
 7 certain circumstance; requiring the Florida Supreme
 8 Court to adopt by a specified date, and annually
 9 thereafter, a uniform statewide bond schedule for
 10 specified offenses; prohibiting judges of inferior
 11 courts from establishing a bond schedule that is less
 12 restrictive; authorizing the chief judge of a judicial
 13 circuit to petition the Florida Supreme Court for
 14 approval of a countywide or circuitwide bond schedule
 15 that sets a lower bond amount than required by the
 16 uniform statewide bond schedule; authorizing the chief
 17 judge of a judicial circuit to establish a countywide
 18 or circuitwide bond schedule that meets certain
 19 criteria; prohibiting a person who meets specified
 20 criteria from being released before his or her first
 21 appearance hearing; amending s. 903.047, F.S.;
 22 revising the requirements with which a defendant must
 23 comply as conditions of pretrial release imposed by
 24 the court; authorizing a court to consider specified
 25 nonmonetary conditions in determining appropriate
 26 conditions of release; amending s. 903.0471, F.S.;
 27 authorizing a court to revoke pretrial release and
 28 order pretrial detention if the court finds probable
 29 cause to believe that the defendant materially

Page 1 of 17

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

33-00880B-23

20231534__

30 violated any condition of his or her pretrial release;
 31 amending s. 907.041, F.S.; revising the definition of
 32 the term "dangerous crime"; prohibiting persons
 33 arrested for, rather than charged with, a dangerous
 34 crime from being granted nonmonetary pretrial release
 35 at a first appearance hearing; deleting a provision
 36 granting a court discretion to release an accused
 37 person on electronic monitoring or recognizance bond;
 38 requiring a court to hold a detention hearing under
 39 specified circumstances; authorizing a state attorney
 40 to move for the pretrial detention of a defendant not
 41 charged with a dangerous crime under certain
 42 circumstances; requiring, rather than authorizing, a
 43 court to order pretrial detention if it finds, because
 44 of specified circumstances, that no conditions of
 45 release or bail will reasonably protect the community
 46 from risk of physical harm, assure the presence of the
 47 accused at trial, or assure the integrity of the
 48 judicial process; authorizing the arresting agency to
 49 detain a defendant before his or her first appearance
 50 hearing for a certain period of time when a person is
 51 arrested in connection with a crime for which pretrial
 52 detention could be ordered; revising the circumstances
 53 and requirements of a pretrial detention hearing;
 54 authorizing the detention of the defendant pending
 55 completion of the hearing; specifying that the state
 56 attorney has the burden of showing the need for
 57 pretrial detention by clear and convincing evidence;
 58 requiring that the defendant be afforded specified

Page 2 of 17

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

33-00880B-23

20231534__

rights during the pretrial detention hearing;
providing and revising requirements related to the
pretrial detention hearing and the pretrial detention
order; making technical changes; providing an
effective date.

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

Section 1. Section 903.011, Florida Statutes, is amended to
read:

903.011 Pretrial release ~~"Bail" and "bond"~~ defined; general
terms; statewide uniform bond schedule.—

(1) As used in this chapter, the terms "bail" and "bond"
include any and all forms of pretrial release.

(2) Any monetary or cash component of any form of pretrial
release may be met by a surety bond.

(3) Differing monetary amounts may not be set for cash,
surety, or other forms of pretrial release.

(4) Except as authorized in subsection (5), only a judge
may set, reduce, or otherwise alter a defendant's bail. Upon
motion by a defendant, or on the court's own motion, a court may
reconsider the monetary component of a defendant's bail if he or
she is unable to post a monetary bond.

(5) (a) Beginning January 1, 2024, and annually thereafter,
the Florida Supreme Court shall adopt a uniform statewide bond
schedule for criminal offenses not described in subsection (6)
for which a person may be released on bail before and in lieu of
his or her first appearance hearing or bail determination. The
Florida Supreme Court shall make the revised uniform statewide

33-00880B-23

20231534__

bond schedule available to each judicial circuit.

(b) Except as provided in paragraph (c), a judge of an
inferior court may not establish a countywide or circuitwide
bond schedule that sets a lower bond amount than that required
by the uniform statewide bond schedule for the purpose of
setting a defendant's bail before a first appearance hearing or
bail determination.

(c) The chief judge of a judicial circuit may petition the
Florida Supreme Court for approval of a countywide or
circuitwide bond schedule that sets a lower bond amount than
required by the uniform statewide bond schedule. If the Florida
Supreme Court reviews and approves such countywide or
circuitwide bond schedule, such schedule may be used for the
purpose of setting a defendant's bail before a first appearance
hearing or bail determination pending the adoption of a new or
revised uniform statewide bond schedule pursuant to paragraph
(a).

(d) The chief judge of a judicial circuit may establish a
countywide or circuitwide bond schedule that:

1. Requires additional nonmonetary conditions to be imposed
upon a defendant who is charged with specified offenses or who
has a specified criminal history; or

2. Increases the monetary bond applicable to an offense
that is included in the uniform statewide bond schedule adopted
by the Florida Supreme Court.

(e) In adopting the uniform statewide bond schedule or
reviewing a petition for a countywide or circuitwide bond
schedule that deviates from the uniform statewide bond schedule,
the Florida Supreme Court shall evaluate the amount of monetary

33-00880B-23

20231534

bond necessary to protect the community from risk of physical harm, to assure the presence of the accused at trial, and to protect the integrity of the judicial process.

(f) The uniform statewide bond schedule may not bind a judge in an individual case who is conducting a first appearance hearing or bail determination.

(6) A person may not be released before his or her first appearance hearing, and a judge must determine the appropriate bail, if any, based on an individualized consideration of the criteria in s. 903.046(2), if the person meets any of the following criteria:

(a) The person was, at the time of arrest for any felony, on pretrial release, probation, or community control in this state or any other state.

(b) The person was, at the time of arrest, designated as a sexual offender or sexual predator in this state or any other state.

(c) The person was arrested for violating a protective injunction.

(d) The person was, at the time of arrest, on release from supervision under s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731.

(e) The person has, at any time before the current arrest, been sentenced pursuant to s. 775.082(9) or s. 775.084 as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal.

(f) The person was previously arrested or issued a summons for a criminal violation within the immediately preceding 6 months.

33-00880B-23

20231534

(g) The offense for which he or she is currently arrested is for committing one or more of the following crimes:

1. A capital felony, life felony, felony of the first degree, or felony of the second degree;

2. A homicide, or any attempt, solicitation, or conspiracy to commit a homicide, under chapter 782;

3. Assault in furtherance of a riot or an aggravated riot; felony battery; domestic battery by strangulation; an act of domestic violence as defined in s. 741.28; stalking; mob intimidation; assault or battery on a law enforcement officer; assault or battery on a juvenile probation officer, a staff member of a detention center, a staff member of a commitment facility, or a health care services personnel; assault or battery on a person 65 years of age or older; robbery; burglary; carjacking; or resisting an officer with violence;

4. Kidnapping, false imprisonment, human trafficking, or human smuggling;

5. Possession of a firearm or any ammunition by a felon, violent career criminal, or person subject to an injunction against committing acts of domestic violence, stalking, or cyberstalking;

6. Sexual battery; indecent, lewd, or lascivious touching; exposure of sexual organs; incest; luring or enticing a child; or child pornography;

7. Abuse, neglect, or exploitation of an elderly person or disabled adult;

8. Child abuse or aggravated child abuse;

9. Arson; riot, aggravated riot, inciting a riot, or aggravated inciting a riot; or burglary or theft during a riot;

33-00880B-23

20231534

10. Escape; tampering or retaliating against a witness, victim, or informant; destruction of evidence; or tampering with a jury;

11. Any offense committed for the purpose of benefiting, promoting, or furthering the interests of a criminal gang;

12. Trafficking in a controlled substance, including conspiracy to engage in trafficking in a controlled substance;

13. Racketeering; or

14. Failure to appear at a required court proceeding while on bail.

Section 2. Paragraph (c) of subsection (1) of section 903.047, Florida Statutes, is amended to read:

903.047 Conditions of pretrial release.—

(1) As a condition of pretrial release, whether such release is by surety bail bond or recognizance bond or in some other form, the defendant must:

(c) Comply with all conditions of pretrial release imposed by the court. In determining appropriate conditions of release, a court may consider imposing nonmonetary conditions in addition to or in lieu of monetary bond subject to the limitations contained in ss. 903.046 and 903.0471. Such nonmonetary conditions may include, but are not limited to, requiring a defendant to:

1. Maintain employment or, if unemployed, actively seek employment;

2. Maintain or commence an educational program;

3. Abide by specified restrictions on personal associations, place of residence, or travel;

4. Report on a regular basis to a designated law

33-00880B-23

20231534

enforcement agency, pretrial services agency, or other agency;

5. Comply with a specified curfew;

6. Refrain from possessing a firearm, destructive device, or other dangerous weapon;

7. Refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance without a prescription from a licensed medical practitioner;

8. Undergo available medical, psychological, psychiatric, mental health, or substance abuse evaluation and follow all recommendations, including treatment for drug or alcohol dependency, and remain in a specified institution, if required for that purpose;

9. Return to custody for specified hours following release for employment, school, or other limited purposes; and

10. Comply with any other condition that is reasonably necessary to assure his or her appearance at subsequent proceedings and to protect the community against unreasonable danger of harm.

Section 3. Section 903.0471, Florida Statutes, is amended to read:

903.0471 Violation of condition of pretrial release.— Notwithstanding s. 907.041, a court may, on its own motion, revoke pretrial release and order pretrial detention if the court finds probable cause to believe that the defendant committed a new crime while on pretrial release or violated any other condition of pretrial release in a material respect.

Section 4. Subsection (4) of section 907.041, Florida Statutes, is amended to read:

907.041 Pretrial detention and release.—

33-00880B-23

20231534__

- 233 (4) PRETRIAL DETENTION.—
- 234 (a) As used in this subsection, the term "dangerous crime"
- 235 includes all means any of the following:
- 236 1. Arson;
- 237 2. Aggravated assault;
- 238 3. Aggravated battery;
- 239 4. Illegal use of explosives;
- 240 5. Child abuse or aggravated child abuse;
- 241 6. Abuse of an elderly person or disabled adult, or
- 242 aggravated abuse of an elderly person or disabled adult;
- 243 7. Aircraft piracy;
- 244 8. Kidnapping;
- 245 9. Homicide;
- 246 10. Manslaughter, including DUI manslaughter and BUI
- 247 manslaughter;
- 248 11. Sexual battery;
- 249 12. Robbery;
- 250 13. Carjacking;
- 251 14. Lewd, lascivious, or indecent assault or act upon or in
- 252 presence of a child under the age of 16 years;
- 253 15. Sexual activity with a child, who is 12 years of age or
- 254 older but less than 18 years of age, by or at solicitation of
- 255 person in familial or custodial authority;
- 256 16. Burglary of a dwelling;
- 257 17. Stalking and aggravated stalking;
- 258 18. Act of domestic violence as defined in s. 741.28;
- 259 19. Home invasion robbery;
- 260 20. Act of terrorism as defined in s. 775.30;
- 261 21. Manufacturing any substances in violation of chapter

33-00880B-23

20231534__

- 262 893;
- 263 22. Attempting or conspiring to commit any such crime; ~~and~~
- 264 23. Human trafficking; and
- 265 24. Trafficking in any controlled substance described in s.
- 266 893.135(1)(c)4.
- 267 (b) A ~~No~~ person arrested for charged with a dangerous crime
- 268 may not shall be granted nonmonetary pretrial release at a first
- 269 appearance hearing; ~~however, the court shall retain the~~
- 270 ~~discretion to release an accused on electronic monitoring or on~~
- 271 ~~recognizance bond if the findings on the record of facts and~~
- 272 ~~circumstances warrant such a release.~~
- 273 (c) The court must hold a detention hearing during, or
- 274 within 5 days after, the defendant's:
- 275 1. First appearance hearing, if the defendant has been
- 276 arrested for a dangerous crime; or
- 277 2. Arraignment, if the defendant is charged at any time
- 278 subsequent to his or her arrest with a dangerous crime, has
- 279 failed to appear at any court proceeding at which his or her
- 280 appearance was required, or has violated the conditions of his
- 281 or her pretrial release for the current offense two or more
- 282 times.
- 283 (d) The state attorney may move for pretrial detention of a
- 284 defendant who is not charged with a dangerous crime, but for
- 285 whom the state attorney otherwise believes that pretrial
- 286 detention is necessary to protect the community from
- 287 unreasonable danger of harm or to assure the defendant's
- 288 appearance at court proceedings.
- 289 (e) (e) The court must may order pretrial detention if it
- 290 finds a substantial probability, based on a defendant's past and

33-00880B-23

20231534

present patterns of behavior, the criteria in s. 903.046, and any other relevant facts, that no conditions of release or bail will reasonably protect the community from risk of physical harm from the defendant, assure the presence of the defendant at trial, or assure the integrity of the judicial process because any of the following circumstances exist:

1. There is a substantial probability that the defendant committed a dangerous crime;

2. The defendant has previously violated conditions of release and that no further conditions of release are reasonably likely to assure the defendant's appearance at subsequent proceedings;

3.2. There is a substantial probability that the defendant, with the intent to obstruct the judicial process, has threatened, intimidated, or injured any victim, potential witness, juror, or judicial officer or has tampered with evidence, or, with regard to any such action, has attempted or conspired to do so or has previously been convicted of doing so, and that no condition of release will reasonably prevent the obstruction of the judicial process;

3. The defendant is charged with trafficking in controlled substances as defined by s. 893.135, that there is a substantial probability that the defendant has committed the offense, and that no conditions of release will reasonably assure the defendant's appearance at subsequent criminal proceedings;

4. ~~The defendant is charged with DUI manslaughter, as defined by s. 316.193, and that there is a substantial probability that the defendant committed the crime and that the defendant poses a threat of harm to the community; conditions~~

33-00880B-23

20231534

that would support a finding by the court pursuant to this subparagraph that the defendant poses a threat of harm to the community include, but are not limited to, any of the following:

a. ~~The defendant has previously been convicted of any crime under s. 316.193, or of any crime in any other state or territory of the United States that is substantially similar to any crime under s. 316.193;~~

b. ~~The defendant was driving with a suspended driver license when the charged crime was committed; or~~

c. ~~The defendant has previously been found guilty of, or has had adjudication of guilt withheld for, driving while the defendant's driver license was suspended or revoked in violation of s. 322.34;~~

4.5. ~~The defendant poses a the threat of harm to the community, which may include his or her past or current involvement in a criminal gang or in the manufacturing or trafficking of substances in violation of chapter 893. The court may so conclude, if it finds that the defendant is presently charged with a dangerous crime, that there is a substantial probability that the defendant committed such crime, that the factual circumstances of the crime indicate a disregard for the safety of the community, and that there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons;~~

5.6. ~~The defendant was on probation, parole, or other release pending completion of sentence or on pretrial release for a dangerous crime at the time the current offense was committed;~~

6.7. ~~The defendant has violated one or more conditions of~~

33-00880B-23

20231534

pretrial release or bond for the offense currently before the court ~~and the violation, in the discretion of the court, supports a finding that no conditions of release can reasonably protect the community from risk of physical harm to persons or assure the presence of the accused at trial; or~~

7.a.8.a- The defendant has ever been sentenced pursuant to s. 775.082(9) or s. 775.084 as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal, or the state attorney would be authorized to file ~~files~~ a notice seeking that the defendant be sentenced pursuant to s. 775.082(9) or s. 775.084, as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal for the offense currently before the court; and

b. There is a substantial probability that the defendant committed the current offense for which he or she was arrested; ~~or and~~

~~c. There are no conditions of release that can reasonably protect the community from risk of physical harm or ensure the presence of the accused at trial.~~

8.a. The defendant has been convicted on more than five occasions of a misdemeanor of the first degree or a felony and at least one of his or her prior convictions was for a dangerous crime, including any attempt or conspiracy to commit a dangerous crime; and

b. There is a substantial probability that the defendant committed the current offense for which he or she was arrested.

(f)(d) When a person charged with a crime for which pretrial detention could be ordered is arrested, the arresting

33-00880B-23

20231534

agency shall promptly notify the state attorney of the arrest and shall provide the state attorney with such information as the arresting agency has obtained relative to:

1. The nature and circumstances of the offense charged;
2. The nature of any physical evidence seized and the contents of any statements obtained from the defendant or any witness;
3. The defendant's family ties, residence, employment, financial condition, and mental condition; and
4. The defendant's past conduct and present conduct, including any record of convictions, previous flight to avoid prosecution, or failure to appear at court proceedings.

(g)(e) When a person charged with a crime for which pretrial detention could be ordered is arrested, the arresting agency may detain such defendant, before his or her first appearance hearing or before ~~prior to~~ the filing by the state attorney of a motion seeking pretrial detention, for a period not to exceed 24 hours.

(h)(f) The pretrial detention hearing must ~~shall~~ be held within 5 days after the defendant's first appearance hearing, after arraignment, or after of the filing by the state attorney files of a motion ~~complaint~~ to seek pretrial detention, whichever is applicable. The defendant may request a continuance. A ~~No~~ continuance may not exceed ~~shall be for longer than~~ 5 days, unless there are extenuating circumstances. The defendant may be detained pending the completion of the hearing. The state attorney is ~~shall be~~ entitled to one continuance for good cause.

(i)(g) The state attorney has the burden of showing the

33-00880B-23

20231534

need for pretrial detention by clear and convincing evidence.
The state attorney may satisfy his or her burden by proffering
the facts and circumstances of the underlying crime and any
other relevant criteria specified in s. 903.046. If the court
finds that there is a substantial probability that the defendant
committed a dangerous crime or that the defendant meets the
criteria in subparagraph (e)7. or subparagraph (e)8., it must be
presumed, subject to rebuttal by the defendant, that no
conditions of release or bail will reasonably protect the
community from risk of physical harm to persons and assure the
appearance of the defendant at trial.

(j)(h) The defendant is entitled to be represented by
counsel and must be afforded an opportunity to testify, to
present witnesses, to cross-examine witnesses who appear at the
hearing, and to present information by proffer or otherwise.

(k) The rules concerning admissibility of evidence in
criminal trials do not apply to the presentation and
consideration of information at the pretrial detention hearing,
~~to present witnesses and evidence, and to cross-examine~~
~~witnesses. The court may admit relevant evidence without~~
~~complying with the rules of evidence, but evidence secured in~~
~~violation of the United States Constitution or the Constitution~~
~~of the State of Florida shall not be admissible. No Testimony or~~
~~proffer by or on behalf of the defendant is not shall be~~
~~admissible to prove guilt at any other judicial proceeding, but~~
~~such testimony may be admitted in an action for perjury, based~~
~~upon the defendant's statements made at the pretrial detention~~
~~hearing, or for impeachment.~~

(l) A party may move that a pretrial detention order be

33-00880B-23

20231534

reconsidered at any time before a defendant's trial if the judge
finds that information exists that was not known to the party
moving for reconsideration at the time of the pretrial detention
hearing and that such information has a material bearing on
determining whether there are conditions of release or bail that
will reasonably assure the required appearance of the defendant
and the safety of any other person and the community from harm.

(m)(i) The pretrial detention order of the court must shall
be based solely upon facts and circumstances proffered,
testimony received, or evidence produced at the hearing and must
shall contain findings of fact and conclusions of law to support
it. The order must shall be made either in writing or orally on
the record. The court shall render its findings within 24 hours
after of the pretrial detention hearing.

(n)(j) A defendant convicted at trial following the
issuance of a pretrial detention order must shall have credited
to his or her sentence, if imprisonment is imposed, the time the
defendant was held under the order, pursuant to s. 921.161.

(o)(k) The defendant is shall be entitled to dissolution of
the pretrial detention order whenever the court finds that a
subsequent event has eliminated the basis for detention.

~~(l) The Legislature finds that a person who manufactures~~
~~any substances in violation of chapter 893 poses a threat of~~
~~harm to the community and that the factual circumstances of such~~
~~a crime indicate a disregard for the safety of the community.~~
~~The court shall order pretrial detention if the court finds that~~
~~there is a substantial probability that a defendant charged with~~
~~manufacturing any substances in violation of chapter 893~~
~~committed such a crime and if the court finds that there are no~~

33-00880B-23

20231534__

465 ~~conditions of release reasonably sufficient to protect the~~
466 ~~community from the risk of physical harm to persons.~~

467 Section 5. This act shall take effect January 1, 2024.

OFFICE OF THE STATE COURTS ADMINISTRATOR
2023 JUDICIAL IMPACT STATEMENT

DATE: March 13, 2023

BILL NUMBER: HB 1627

SPONSOR(S): Representative Garrison

STATUTE(S) AFFECTED: ss. 903.011, 903.047, 903.0471, 907.041, F.S.

COMPANION BILL(S): SB 1534 (Senator Martin)

AGENCY CONTACT: Tashiba Robinson, Legislative Affairs

TELEPHONE: (850) 922-5692

ASSIGNED OSCA STAFF: BNS

I. SUMMARY:

The bill makes numerous changes to laws governing pretrial detention and release that will likely result in a significant workload impact on the state court system. The bill's most noteworthy provisions:

- Prohibit a person from being released before first appearance (i.e., pursuant to a bond schedule) if the person meets certain criteria;
- Require the Florida Supreme Court (FSC) to annually adopt a uniform statewide bond schedule;
- Prohibit trial court judges from establishing a county- or circuit-wide bond schedule that sets a lower bond amount than the uniform statewide bond schedule without approval from the FSC;
- Require, rather than authorize, courts to order pretrial detention when a defendant has been arrested for a "dangerous crime" if certain criteria are met; and

II. ANALYSIS:

Pretrial Release - Generally

Pretrial release is an alternative to incarceration that allows arrested defendants to be released from jail while they await disposition of their criminal charges. Pretrial release is a constitutional right for many people arrested for a crime.¹ Article I, Section 14, of the Florida Constitution

¹ Article I, Section 14, of the Florida Constitution provides that unless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime or violation of municipal or county ordinance shall be entitled to pretrial release on reasonable conditions. If no conditions of release

OFFICE OF THE STATE COURTS ADMINISTRATOR
2023 JUDICIAL IMPACT STATEMENT

provides, in part:

Unless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime or violation of municipal or county ordinance shall be entitled to pretrial release on reasonable conditions.

The primary considerations in deciding whether to grant a defendant pretrial release are whether the person presents a threat to the community, whether the person is a flight risk, or whether the person threatens the integrity of the judicial process.²

Generally, pretrial release determinations are made at the first appearance hearing and, if granted, occurs in one of three ways - defendants may be released on their own recognizance, required to post bail, and/or required to participate in a local pretrial release program. Section 903.046, F.S., specifies that when determining whether to grant pretrial release, and under what conditions, courts must consider certain factors (e.g., the nature and circumstances of the charged offense charged; the weight of the evidence against the defendant; the defendant's family ties, length of residence in the community, employment history, financial resources, and mental condition; the nature and probability of danger which the defendant's release poses to the community, etc.).

For those arrested for a dangerous crime,³ the state may file a motion for pretrial detention at first appearance. If no motion is filed, the judge may give the state three days to file such a motion if the state informs the court that it intends to file a motion.⁴ The failure of the state to file a motion for pretrial detention within the three-day window does not preclude the state from later filing a motion for pretrial detention because the state may do so at any time prior to trial.⁵

can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained.

² *Id.* See also, s. 903.046(1), F.S.

³ Section 907.041(4)(a), F.S., defines the term “dangerous crime” as arson; aggravated assault or battery; illegal use of explosives; child abuse or aggravated child abuse; abuse or aggravated abuse of an elderly person or disabled adult; aircraft piracy; kidnapping; homicide; manslaughter; sexual battery; robbery; carjacking; lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years; sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority; burglary of a dwelling; stalking and aggravated stalking; act of domestic violence; home invasion robbery; act of terrorism; manufacturing any substances in violation of ch. 893, F.S.; attempting or conspiring to commit any such crime; and human trafficking.

⁴ Fla. R. Crim. P. 3.132(a).

⁵ Fla. R. Crim. P. 3.132(b).

OFFICE OF THE STATE COURTS ADMINISTRATOR
2023 JUDICIAL IMPACT STATEMENT

Conditions and Revocation of Pretrial Release

Section 903.047, F.S., requires defendants, as a condition of pretrial release (of any type), to:

- Refrain from criminal activity of any kind;
- Refrain from any contact of any type with the victim (if the court issues a no contact order), except through pretrial discovery pursuant to the Florida Rules of Criminal Procedure; and
- Comply with all conditions of pretrial release.

The court may revoke pretrial release and order pretrial detention if it finds probable cause to believe that the defendant committed a new crime while on pretrial release.⁶

Effect of the Bill

The bill amends s. 903.047, F.S., to specifically authorize courts to consider imposing nonmonetary conditions of release, in addition to or in lieu of monetary conditions, when determining the appropriate conditions of pretrial release. Such nonmonetary conditions include, but are not limited to, requiring a defendant to:

- Maintain employment or, if unemployed, actively seek employment;
- Maintain or commence an educational program;
- Abide by specified restrictions on personal associations, place of residence, or travel;
- Report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency;
- Comply with a specified curfew;
- Refrain from possessing a firearm, destructive device, or other dangerous weapon;
- Refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance without a prescription from a licensed medical practitioner;
- Undergo available medical, psychological, psychiatric, mental health, or substance abuse evaluation and follow all recommendations, including treatment for drug or alcohol dependency, and remain in a specified institution, if required for that purpose;
- Return to custody for specified hours following release for employment, school, or other limited purposes; and
- Comply with any other condition that is reasonably necessary to assure his or her appearance at subsequent proceedings and to

⁶ s. 947.0471, F.S.

OFFICE OF THE STATE COURTS ADMINISTRATOR
2023 JUDICIAL IMPACT STATEMENT

protect the community against unreasonable danger of harm.

The bill also amends s. 903.0471, F.S., to specify that the court may also revoke pretrial release and order pretrial detention if there is probable cause to believe the defendant violated any condition of pretrial release in a material respect.

Pretrial Detention

Section 907.041(4)(c), F.S., authorizes a court to detain a defendant prior to trial if it finds there is a substantial probability based on the defendant's past and present patterns of behavior, the criteria in s. 903.046, F.S., and any other relevant facts, that any of the following circumstances exists:

- The defendant has previously violated conditions of release and no further conditions of release are reasonably likely to assure the defendant's appearance at subsequent proceedings;
- The defendant, with the intent to obstruct the judicial process, has threatened, intimidated, or injured any victim, potential witness, juror, or judicial officer, or has attempted or conspired to do so, and no condition of release will reasonably prevent the obstruction of the judicial process;
- The defendant is charged with trafficking in controlled substances, there is a substantial probability that the defendant has committed the offense, and no conditions of release will reasonably assure the defendant's appearance at subsequent criminal proceedings;
- The defendant is charged with DUI manslaughter, there is a substantial probability that the defendant committed the crime, and the defendant poses a threat of harm to the community;
- The defendant poses a threat of harm to the community;⁷
- The defendant was on probation, parole, or other release pending completion of sentence or on pretrial release for a dangerous crime at the time the current offense was committed;
- The defendant has violated one or more conditions of pretrial release for the offense currently before the court and the violation, in the discretion of the court, supports a finding that no conditions of release can reasonably protect the community from risk of physical harm to persons or assure the presence of the accused at trial; or
- The defendant has been sentenced as a prison releasee reoffender, a habitual violent felony offender, a three-time violent felony offender, or a violent career criminal (or the state attorney files a notice seeking that the defendant be sentenced as such); there is a

⁷ The court may so conclude if it finds that the defendant is presently charged with a dangerous crime, that there is a substantial probability that the defendant committed such crime, that the factual circumstances of the crime indicate a disregard for the safety of the community, and that there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons. Section 907.041(4)(c)5., F.S.

OFFICE OF THE STATE COURTS ADMINISTRATOR
2023 JUDICIAL IMPACT STATEMENT

substantial probability that the defendant committed the offense charged; and there are no conditions of release that can reasonably protect the community from risk of physical harm to persons or assure the presence of the accused at trial.

Effect of the Bill

The bill amends s. 907.041, F.S., by adding DUI Manslaughter, BUI Manslaughter, and trafficking in controlled substances to the list of dangerous crimes. Additionally, the bill *requires*, rather than authorizes, a court to order pretrial detention if the defendant is arrested for a dangerous crime that is classified as a capital, life, or first degree felony, if there is a substantial probability the arrestee committed the crime, and if based on the totality circumstances, no conditions of release will reasonably protect the community from risk of physical harm, assure the presence of the accused at trial, or assure the integrity of the judicial process.

The bill also amends s. 947.041(4), F.S., to require the court to hold a detention hearing within five days after, the defendant's first appearance hearing or arraignment if those events are applicable. (Otherwise, the hearing shall be held within 5 days of the filing of the state's motion for pretrial detention.)

Uniform Bond Schedules

As noted above, pretrial release determinations are often made at a defendant's first appearance hearing. However, many judicial circuits have uniform bond schedules that allow defendants charged with certain crimes to be released before their first appearance hearing. Generally, such bond schedules allow persons arrested for certain criminal offenses to be released on their own recognizance or on monetary bail in an amount that is based on the designated classification and degree of the offense. However, bond schedules usually contain provisions prohibiting certain defendants (e.g., those charged with violent or sexual offenses or arrested for a violation of probation or failure to appear) from being released prior to first appearance.

Currently, bond schedules are promulgated by chief judges via administrative order and have county-wide or circuit-wide application. This gives chief judges the ability to tailor their bond schedules in a manner that addresses their circuit's population and crime trends. There is currently no statewide uniform bond schedule promulgated by the Florida Supreme Court.

Effect of the Bill

The bill amends s. 903.011, F.S., to prohibit a person from being released before first appearance if the person meets any of the following

OFFICE OF THE STATE COURTS ADMINISTRATOR
2023 JUDICIAL IMPACT STATEMENT

criteria:

- The person was, at the time of arrest for any felony, on pretrial release, probation, or community control in Florida or another state;
- The person was, at the time of arrest, designated as a sexual offender or sexual predator in Florida or another state;
- The person was arrested for violating a protective injunction;
- The person was, at the time of arrest, on release from supervision under ss. 947.1405, 947.146, 947.149, or 944.4731, F.S. (conditional release, conditional medical release, etc.);
- The person has, at any time before the current arrest, been sentenced as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal;
- The person was previously arrested or issued a summons for a criminal violation within the immediately preceding six months;
- The offense for which the person is currently arrested is:
 - A capital or life felony, or felony of the first or second degree;
 - A homicide, or any attempt, solicitation, or conspiracy to commit a homicide, under ch. 782, F.S.;
 - Assault in furtherance of a riot or an aggravated riot; felony battery; domestic battery by strangulation; an act of domestic violence as defined in s. 741.28, F.S.; stalking; mob intimidation; assault or battery on a law enforcement officer; assault or battery on a juvenile probation officer, a staff member of a detention center, a staff member of a commitment facility, or health care services personnel; assault or battery on a person 65 years of age or older; robbery; burglary; carjacking; or resisting an officer with violence;
 - Kidnapping, false imprisonment, human trafficking, or human smuggling;
 - Possession of a firearm or any ammunition by a felon, violent career criminal, or person subject to an injunction against committing acts of domestic violence, stalking, or cyberstalking;
 - Sexual battery; indecent, lewd, or lascivious touching; exposure of sexual organs; incest; luring or enticing a child; or child pornography;
 - Abuse, neglect, or exploitation of an elderly person or disabled adult;
 - Child abuse or aggravated child abuse;
 - Arson; riot, aggravated riot, inciting a riot, or aggravated inciting a riot; or burglary or theft during a riot;

OFFICE OF THE STATE COURTS ADMINISTRATOR
2023 JUDICIAL IMPACT STATEMENT

- Escape; tampering or retaliating against a witness, victim, or informant; destruction of evidence; or tampering with a jury;
- Any offense committed for the purpose of benefiting, promoting, or furthering the interests of a criminal gang;
- Trafficking in a controlled substance, including conspiracy to engage in trafficking in a controlled substance;
- Racketeering; or
- Failure to appear at a required court proceeding while on bail.

The bill also requires the Florida Supreme Court (FSC), starting January 1, 2024, and annually thereafter, to adopt a uniform statewide bond schedule (for offenses not described above) that will allow a person to be released on bail before and in lieu of his or her first appearance hearing.

The bill permits chief judges to establish a county- or circuit-wide bond schedule that:

- Requires additional nonmonetary conditions to be imposed upon defendants charged with specified offenses or who have a specified criminal history; or
- Increases the monetary bond of an offense included in the statewide bond schedule.

In contrast, the bill prohibits a lower court judge from setting a county- or circuit-wide bond schedule that sets a lower bond amount than the FSC's bond schedule; however, chief judges may petition the FSC to approve such a bond schedule. If the FSC approves the petition, the local bond schedule may be used until a new or revised statewide bond schedule is adopted by the FSC.

In adopting the statewide uniform bond schedule (or considering a chief's judge's petition to approve a bond schedule that deviates from the FSC's), the bill requires the FSC to evaluate the amount of monetary bond necessary to protect the community from risk of physical harm, to assure the presence of the accused at trial, and to protect the integrity of the judicial process.

III. ANTICIPATED JUDICIAL OR COURT WORKLOAD IMPACT:

The bill will add an administrative burden, on an annual basis, on the FSC and on petitioning chief judges who seek to deviate from the FSC's uniform bond schedule.

OFFICE OF THE STATE COURTS ADMINISTRATOR
2023 JUDICIAL IMPACT STATEMENT

The bill will also significantly increase judicial workload in the trial courts as there will likely be a marked increase in the number of:

- Cases on first appearance dockets;
- Pretrial detention hearings; and
- Pretrial release revocation hearings.

The degree to which judicial workload will increase is difficult to quantify because it is not known how many additional first appearance and bond-related hearings will be required.

The bill may also result in increased litigation regarding its constitutionality

IV. IMPACT TO COURT RULES/JURY INSTRUCTIONS: Fla. R. Crim. P. 3.130, 3.131, and 3.132 would need to be reviewed.

V. ESTIMATED FISCAL IMPACTS ON THE JUDICIARY:

A. **Revenues:** None.

B. **Expenditures:** The fiscal impact of this legislation is indeterminate due to the unavailability of data needed to quantifiably establish the anticipated increase in judicial workload as discussed in Section III, above.

Trial court judicial workload is measured using a case weighting system that calculates the amount of time that it takes for a judge to dispose of a case. Passage of this bill may impact the case weighting system. The number of case filings using the case weighting system is used to determine the needs for additional judicial resources each year. Any judicial workload increases in the future as a result of this bill will be reflected in the Supreme Court's annual opinion *In re: Certification of Need for Additional Judges*.

The Florida Senate

APPEARANCE RECORD

8B 1534

3/27/23

Meeting Date

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

~~466338~~

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name LIBBY GURZO

Phone 850 245 0155

Address PL-01 CAPITOL

Email LIBBY.GURZO@myfloridalegal.com

TLH

City

FL

State

32399

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

OFC. OF ATTORNEY GENERAL

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

3/27/2023

Meeting Date

Criminal Justice

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1534

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Sheriff Bob Gualtieri**

Phone **727-582-6200**

Address **10750 Ulmerton Road**

Street

Largo

City

FL

State

33779

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

Florida Sheriffs Association

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

3/27/23

Meeting Date

CRIM JUSTICE

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1534

Bill Number or Topic

Amendment Barcode (if applicable)

Name

AARON WAYT

FL ASSN OF CRIMINAL
DEFENSE LAWYERS

Phone

(407) 435-3194

Address

553 E TENN ST

Street

Email

AARON@DONPUMPHREY.COM

TLH

City

FL

State

32308

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/24/23

Meeting Date

Criminal Justice

Committee

SB 1534

Bill Number or Topic

Amendment Barcode (if applicable)

Name Ed Brodsky, State Atty 12th Circuit

Phone 941 720-3556

Address Pres. Fla Prosecuting Assoc.

Street

Sarasota, FL

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/27/23

Meeting Date

1534

Bill Number or Topic

Crim Justice

Committee

Amendment Barcode (if applicable)

Name

NR Hines

Phone

786-363-1104

Address

4343 W Flagler

Street

Email

nhines@aclufl.org

Coral Gables FL 32303

City

State

Zip

Speaking:

☐ For

☒ Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

ACLU FL

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 1588

INTRODUCER: Senator Burgess

SUBJECT: Law Enforcement Operations

DATE: March 24, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Erickson	Stokes	CJ	Favorable
2. _____	_____	RC	_____

I. Summary:

SB 1588 revises powers, duties, and obligations of a sheriff and also revises the process of appealing a funding reduction to the operating budget of a municipal law enforcement agency. The bill does all of the following:

- Requires that there be an elected sheriff in each Florida county and prohibits the transfer of the sheriff's duties to another officer or office.
- Specifies that a sheriff has exclusive policing jurisdiction in the unincorporated areas of each county and the sheriff's jurisdiction and powers runs through the entire county regardless of incorporated cities or other independent districts or governmental entities in the county. The sheriff's jurisdiction is concurrent with any city, district, or other law enforcement agency that has jurisdiction in a city or district.
- Imposes duties on each board of county commissioners to ensure the successful transfer of a sheriff's exclusive jurisdiction in the unincorporated areas of the county, including but not limited to, developing and approving a budget, conducting an inventory and audit of all assets of any county police department and any other law enforcement agency that the sheriff will administer, providing for operations and insurance, and preparing and delivering to the sheriff documents, property and other items (as specified).
- Imposes duties on the sheriff-elect, including but not limited to, staffing, evaluating the budget and transfer of equipment, and notifying the board of county commissioners of any funding deficiencies.
- Authorizes the sheriff-elect to appeal by petition to the Administration Commission funding deficiencies that have not been timely addressed by the board of county commissioners (as specified).
- Authorizes the state attorney to petition the Division of Administrative Hearings to request a formal administrative hearing to challenge a reduction in a municipal law enforcement agency operating budget that is more than 5 percent compared to the current fiscal year's approved budget.

- Specifies procedures for the administrative hearing and issuance of a recommended and final order, certain information that may be presented at the hearing, and certain matters the administrative law judge may consider.
- Provides that the administrative law judge’s recommended order is subject to appeal in accordance with ch. 120, F.S.

A county may incur costs in the transfer of a sheriff’s exclusive jurisdiction in the unincorporated areas of the county but these costs are indeterminate. See Section V. Fiscal Impact Statement.

The bill takes effect upon becoming a law.

II. Present Situation:

Office of the Sheriff and Powers, Duties and Obligations of Sheriffs and Deputies

Art. VIII, s. 1(d), of the Florida Constitution, provides that each county must have an elected sheriff. There are currently 66 elected sheriffs in Florida’s 67 counties.^{1, 2} There is currently no statutory framework to guide a county without a sheriff, or a newly created county, to establish an Office of Sheriff. The Florida Constitution also forbids a county charter from abolishing an Office of Sheriff or transferring the office’s duties to another officer or office.

Section 30.15, F.S., provides an extensive list of duties of sheriffs and deputies. Examples of some of those duties include:

- Executing all process of the Supreme Court, circuit courts, county courts, and boards of county commissioners of this state, to be executed in their counties.
- Executing such other writs, processes, warrants, and other papers directed to them, as may come to their hands to be executed in their counties.
- Attending all sessions of the circuit court and county court held in their counties.
- Executing all orders of the boards of county commissioners of their counties.
- Being conservators of the peace in their counties.
- Suppressing tumults, riots, and unlawful assemblies in their counties with force and strong hand when necessary.³

¹ In 2018, Florida voters passed Amendment 10, which, in part, requires “that all 67 counties must elect their sheriff, tax collector, elections supervisor and clerk of courts.” Isadora Rangel and Rob Landers, *Florida amendments 2018 explained: What passed, what failed* (Nov. 6, 2018), Florida Today, available at <https://www.floridatoday.com/story/news/2018/11/02/florida-amendments-2018/1857180002/> (last visited on March 16, 2023). Prior to the passage of this amendment, “[s]everal Florida counties [had] ... at least one of these positions appointed based on home-rule charters, such as Miami-Dade County, whose top law enforcer[was] ... appointed, not elected.” *Id.* Currently, Miami-Dade Police Department Director Alfredo Ramirez III is serving in that appointed position. Additionally, the Miami-Dade Police Department currently “provides basic police services throughout the unincorporated area of Miami-Dade County, Miami Lakes, Palmetto Bay and Cutler Bay,” and its “specialized patrol teams include the airport, seaport, marine, motorcycle, bomb disposal and SWAT.” *Miami-Dade Police Department*, Miami-Dade County, available at <https://www.miamidade.gov/global/police/home.page> (last visited on March 15, 2023).

² Miami-Dade County does not presently have an elected sheriff, but will elect a sheriff in 2024.

³ Section 30.15(1)(a)-(f), F.S.

Appeal of a Funding Reduction to the Operating Budget of a Municipal Law Enforcement Agency

A municipality is required to adopt a budget each fiscal year.⁴ As part of the budget process, a municipality is required to post a tentative budget to the municipality's official website prior to a formal hearing adopting the final budget.⁵ Typically, the municipal police chief is appointed or hired by a city official or officials (mayor, city manager, city commission) and law enforcement funding is determined by the municipal governing body.

Section 166.241, F.S., provides a budget appeal process to challenge funding reductions in a municipal law enforcement agency's budget. If a municipality's tentative budget contains a funding reduction to the operating budget of the municipal law enforcement agency, the state attorney for the judicial circuit in which the municipality is located or a member of the governing body of the municipality who objects to the funding reduction may appeal by petition to the Administration Commission within 30 days after the day the tentative budget is posted on the municipality's website.⁶

The petition is filed with the Executive Office of the Governor (EOG), which provides for a budget hearing.⁷ The EOG submits a report of its findings and recommendations to the Administrative Commission which, within 30 days, approves the action of the governing body or amends or modifies the budget as to each separate item within the operating budget of the municipal law enforcement agency. The budget, as approved, amended, or modified by the Administrative Commission is final.⁸

III. Effect of Proposed Changes:

The bill revises the powers, duties, and obligations of a sheriff and also revises the process of appealing a funding reduction to the operating budget of a municipal law enforcement agency.

The bill amends s. 30.15, F.S., to:

- Require that there be an elected sheriff in each Florida county and prohibits the transfer of the sheriff's duties to another officer or office.
- Specify that a sheriff has exclusive policing jurisdiction in the unincorporated areas of each county and the sheriff's jurisdiction and powers runs through the entire county regardless of incorporated cities or other independent districts or governmental entities in the county. The sheriff's jurisdiction is concurrent with any city, district, or other law enforcement agency that has jurisdiction in a city or district.
- Prohibit the county's board of county commissioners, or any other county legislative body from maintaining or establishing a police department or other policing entity in the unincorporated areas of any county.

⁴ The fiscal year for a municipality is October 1 of each year through September 30 of the following year. Section 166.241(1) and (2), F.S.

⁵ Section 166.241(3), F.S.

⁶ Section 166.241(4)(a), F.S.

⁷ Section 166.241(4) and (5), F.S.

⁸ Section 166.241(5), F.S.

- Provide that only the duly elected sheriff may provide such policing and police functions in the unincorporated areas of any county.
- Prohibit a county from contracting with or engaging in any manner with an incorporated city's or district's police department to provide any services provided by the sheriff, including policing or police functions in the unincorporated areas of any county.⁹

The bill also creates s. 125.01015, F.S., to:

- Impose duties on each board of county commissioners to ensure the successful transfer of a sheriff's exclusive jurisdiction in the unincorporated areas of the county, including but not limited to, developing and approving a budget, conducting an inventory and audit of all assets of any county police department and any other law enforcement agency that the sheriff will administer, providing for operations and insurance, and preparing and delivering to the sheriff documents, property and other items (as specified).
- Require the board of county commissioners to provide a written certification to the Governor, the President of the Senate, and the Speaker of the House of Representatives that the previously-described requirements have been met. If a written certification is not provided, the Governor may remove or suspend county commissioners as provided in Art. IV, s. 7, of the Florida Constitution.
- Impose duties on the sheriff-elect, including but not limited to, staffing, evaluating the budget and transfer of equipment, and notifying the board of county commissioners of any funding deficiencies and authorizing the sheriff-elect to appeal those funding deficiencies as specified.
- Authorize the sheriff-elect to appeal by petition to the Administration Commission funding deficiencies that have not been timely addressed by the board of county commissioners (as specified).

The bill also amends s. 166.241, F.S., to revise the process of appealing a funding reduction to the operating budget of a municipal law enforcement agency. The bill:

- Authorizes the state attorney for the jurisdiction in which the municipality is located or a member of the governing body to petition the Division of Administrative Hearings (DOAH)¹⁰ to request a formal administrative hearing (rather than the current process of appealing to the Executive Office of the Governor) to challenge a reduction in a municipal law enforcement agency operating budget that is more than 5 percent compared to the current fiscal year's approved budget.

⁹ The bill provides that the jurisdiction or powers of any agency of the State of Florida or the United States are unaffected and mutual aid agreements between the sheriff and any other police department are not prohibited.

¹⁰ DOAH provides "a uniform and impartial forum for the trial and resolution of disputes between private citizens and organizations and agencies of the state in an efficient and timely manner." See discussion of DOAH by the Office of Program Policy Analysis and Government Accountability, available at <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=4129> (last visited on March 23, 2024). "An administrative proceeding is initiated when an agency action or inaction adversely affects a private party's substantial interests. The agency is almost always a party to the proceedings. Cases often come to administrative law judges after an administrative hearing before agency staff or an agency head." *Id.* Ch. 120, F.S., governs administrative hearings. Cases that administrative judges hear include agency rule challenges and "resolv[ing] disputes between an agency and a person whose substantial interests will be affected by an agency decision (other than a rule)." *Id.*

- Specifies procedures for the administrative hearing and issuance of a recommended and final order, some of the information that may be presented at the hearing, and some of the matters the administrative law judge may consider;

The bill provides for the following process after the administrative hearing:

- The administrative law judge, within 30 days after the hearing on the petition, issues a recommended order to approve or reject the proposed operating budget for the municipal law enforcement agency.
- The recommended order must list the administrative law judge's findings and explains its decision and is subject to appeal in accordance with ch. 120, F.S.
- The recommended order becomes a final order 90 days after its issuance unless the petitioner and municipality voluntarily enter into an agreement resolving the issues raised in the hearing. Before the execution of the agreement, the municipality must approve the agreement at a public hearing. Upon the filing of an executed agreement, the DOAH must close the case.
- If the final order approves the tentative budget of a municipality which contains a funding reduction to the operating budget of the municipal law enforcement agency, that portion of the operating budget is valid.
- If the final order rejects the tentative budget of a municipality which contains a funding reduction, the municipality must approve a budget that does not reduce funding to the municipal law enforcement agency as prescribed in the bill.¹¹

The bill take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹¹ There is a different process for reductions in a sheriff's budget by a board of commissioners or budget commission.. The sheriff, within 30 days after receiving written notice of a reduction in its budget may file an appeal by petition to the Administration Commission. The petition must set forth the budget proposed by the sheriff, in the form and manner prescribed by the Executive Office of the Governor (EOG) and approved by the Administration Commission, and the budget as approved by the board of county commissioners or the budget commission and contain the reasons or grounds for the appeal. This petition and reply to the petition are filed with the EOG. The EOG conducts a budget hearing and submits its findings and recommendations to the Administration Commission, which, within 30 days, either approves the action of the board or commission as to each separate item, or approves the budget as proposed by the sheriff as to each separate item, or amends or modifies the budget as to each separate item within the limits of the proposed board of expenditures and the expenditures as approved by the board of county commissioners or the budget commission, as the case may be. The budget as approved, amended, or modified by the Administration Commission is final. See s. 30.49(4) and (5), F.S.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Section 2 of the bill may raise an issue related to its nature as a special law, or a bill filed as a general law which applies to less than the entire state based on an invalid classification. A general law which applies evenly across the state or to a valid class of people or localities is valid, while a law applying only to a select group requires the treatment of a local bill.

The measure of a valid classification used in a general law is whether there is a reasonable possibility that others in the future may meet the criteria of the classification.¹² “Ultimately, the criterion that determines if a reasonable relationship exists between the classification adopted and the purpose of the statute is whether the classification is potentially open to additional parties.”¹³

Section 2 applies a set of procedures and obligations to any county which does not have an elected sheriff and is transferring policing jurisdiction from another body to a newly established sheriff. Maintaining an elected Office of Sheriff is required by Article VIII, s. 1(d), of the State Constitution, and 66 counties currently maintain such an office. Thus, the procedures and obligations laid out by the section only apply to Miami-Dade County.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

A county may incur costs in the transfer of exclusive policing jurisdiction in the unincorporated areas of the county but these costs are indeterminate. If the transfer is constitutionally required, these costs presumably would be incurred by the county, regardless of the provisions of the bill.

VI. Technical Deficiencies:

None.

¹² *Fla. Dep’t of Bus. & Prof’l Regulation v. Gulfstream Park Racing Ass’n, Inc.*, 967 So. 2d 802, 808–09 (Fla.2007).

¹³ *License Acquisitions, LLC*, *supra* at 1142-1143, citing *Dept. of Business Regulation v. Classic Mile, Inc.*, 541 So. 2d 1155, 1158-1159 (Fla. 1989) (quoting *Dep’t of Legal Affairs v. Sanford–Orlando Kennel Club, Inc.*, 434 So. 2d 879, 882 (Fla.1983)), *Ocala Breeders’ Sales Co., Inc. v. Fla. Gaming Ctrs., Inc.*, 731 So. 2d 21, 25 (Fla. 1st DCA 1999).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 30.15 and 166.241.

This bill creates section 125.01015 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.

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

By Senator Burgess

23-00878C-23

20231588__

A bill to be entitled

An act relating to law enforcement operations; amending s. 30.15, F.S.; revising the powers, duties, and obligations of a sheriff; creating s. 125.01015, F.S.; creating an office of the sheriff in each county; providing requirements for the board of county commissioners; requiring the board to provide a specified certification to the Governor and Legislature within a specified timeframe; providing a penalty; providing requirements for a sheriff-elect before, and a sheriff upon, taking office; amending s. 166.241, F.S.; authorizing certain persons to file a petition with the Division of Administrative Hearings, rather than an appeal to the Administration Commission, if the tentative budget of a municipality contains a certain reduction; providing requirements for such petition and a reply to such petition; providing procedures for hearings on such petitions; specifying the administrative law judge's considerations during the hearing; requiring the administrative law judge to issue a specified recommended order within a certain timeframe; providing that the recommended order is subject to appeal; specifying that the recommended order becomes final under certain circumstances; providing that the division must close the case under certain circumstances; providing the effects of the final order; providing an effective date.

Page 1 of 11

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

23-00878C-23

20231588__

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

Section 1. Subsection (5) is added to section 30.15, Florida Statutes, to read:

30.15 Powers, duties, and obligations.—

(5) As required by s. 1(d), Art. VIII of the State Constitution, there shall be an elected sheriff in each Florida county and the transfer of the sheriff's duties to another officer or office is prohibited.

(a) The sheriff shall have exclusive policing jurisdiction in the unincorporated areas of each county. The sheriff's jurisdiction and powers must run throughout the entire county regardless of whether there are incorporated cities or other independent districts or governmental entities in the county. The sheriff's jurisdiction is concurrent with any city, district, or other law enforcement agency that has jurisdiction in a city or district.

(b) A police department or other policing entity may not be maintained or established by the county's board of county commissioners, or any other county legislative body, to provide any policing in the unincorporated areas of any county. Only the duly elected sheriff may provide such policing and police functions in the unincorporated areas of any county. A county may not contract with or engage in any manner with an incorporated city's or district's police department to provide any services provided by the sheriff, including policing or police functions in the unincorporated areas of any county. Nothing in this paragraph affects the jurisdiction or powers of any agency of the State of Florida or the United States or

Page 2 of 11

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

23-00878C-23

20231588

prohibits mutual aid agreements between the sheriff and any other police department.

Section 2. Section 125.01015, Florida Statutes, is created to read:

125.01015 Office of sheriff.-

(1) As required by s. 1(d), Art. VIII of the State Constitution, there shall be an elected sheriff in each Florida county. If a county does not have an elected sheriff, one must be elected pursuant to the State Constitution, and the board of county commissioners must ensure a successful transfer of the exclusive policing jurisdiction in the unincorporated areas of each county.

(2) To ensure successful transfer of exclusive policing jurisdiction in the unincorporated areas of the county, the board of county commissioners shall:

(a) Before the election of the sheriff:

1. Develop and approve a budget for the office of the sheriff in the county fiscal year in which the election will occur. The budget must be consistent with the requirements of s. 30.49. The board of county commissioners shall consult with the Florida Sheriffs Association for technical advice and assistance on establishing an operating budget for the office of the sheriff's initial fiscal year. The budget for the fiscal year that the sheriff-elect will take office must address the election of a sheriff and the necessary transfer of assets.

2. Conduct an inventory and audit of all assets of any county police department and any other law enforcement agency that the elected sheriff shall administer. The inventory and audit must determine which of those assets must be transferred

23-00878C-23

20231588

to the office of the sheriff upon the sheriff-elect taking office. The board of county commissioners shall consult with the Florida Sheriffs Association to determine the basic necessary operating equipment, including, but not limited to, information technology, hardware, or software, that the sheriff-elect will need upon taking office.

a. The board must meet and consult with the association at least 18 months before the sheriff-elect takes office.

b. The inventory and audit must be completed at least 1 year before the sheriff-elect takes office.

3. Provide funding to purchase any basic necessary operating equipment, including, but not limited to, information technology, hardware, or software, that is not specifically designated for transfer to the new office of the sheriff.

(b) After the election of the sheriff:

1. Provide funding for all of the staff and office space necessary to establish an independent office of the sheriff so that the office may effectively operate and perform all of the functions required by general law on the date the sheriff-elect takes office.

2. Provide funding to purchase any basic necessary operating equipment, including, but not limited to, information technology, hardware, or software, that is not specifically designated for transfer to the new office of the sheriff.

3. Make available to the sheriff-elect the county's fiscal and budget software for the office of the sheriff's budget. The software must be sufficient to allow the sheriff-elect to operate a budget office upon taking office. The sheriff may obtain and implement his or her own independent fiscal and

23-00878C-23

20231588

budget software after taking office.

4. Provide funding for the sheriff-elect to select all necessary insurances, including, but not limited to, liability insurance, workers' compensation insurance, health insurance, and self-insurance.

5. Provide funding for the sheriff-elect to open bank and other accounts, as necessary, in his or her official capacity as sheriff so that such accounts may become operational upon the sheriff-elect taking office.

6. Provide funding for and facilitate procurement of the required surety bonds for the deputy sheriffs pursuant to s. 30.09 so that such bonds may be obtained and finalized upon the sheriff-elect taking office.

7. Prepare and deliver to the office of the sheriff all documents, property, or other items listed in subsection (4).

(c) The board of county commissioners shall provide a written certification to the Governor, the President of the Senate, and the Speaker of the House of Representatives that the requirements of this subsection have been met. The written certification is due within 30 days after each of the dates prescribed in sub-subparagraphs (a)2.a. and b.

(d) If a written certification is not provided pursuant to paragraph (c), the Governor may remove or suspend county commissioners as provided in s. 7, Art. IV of the State Constitution.

(3) After the election is certified and before taking office, the sheriff-elect shall:

(a) Select staff to assist the sheriff-elect in establishing an independent office of the sheriff. As provided

23-00878C-23

20231588

in s. 30.53, the sheriff shall preserve his or her independence concerning the purchase of supplies and equipment, the selection of personnel, and procedures regarding employment, setting of salaries, and termination of such personnel.

(b) Establish and open bank and other accounts, as necessary, in his or her official capacity as sheriff so that such accounts may become operational upon the sheriff taking office.

(c) Obtain all necessary insurances, including, but not limited to, liability insurance, workers' compensation insurance, health insurance, and self-insurance, to take effect upon the sheriff taking office.

(d) Evaluate the budget and transfer of equipment as described in this section to determine whether the operating, capital, and personnel services budget is sufficient for the sheriff to operate and fulfill his or her constitutional and statutory responsibilities.

(e) Provide written notice of any funding deficiencies to the board of county commissioners, which shall have 30 days to respond and reach an agreement with the sheriff-elect on funding requirements. If, after expiration of the 30-day period, an agreement has not been reached, the sheriff-elect may file an appeal by petition to the Administration Commission pursuant to s. 30.49(4)(a) and (b), (5), and (10). The Administration Commission shall expedite its review and determination of such petition and render a decision within 90 days.

(4) The sheriff, upon taking office, shall take receipt or possession of any of the following:

(a) Unexecuted writs and court processes and shall comply

23-00878C-23

20231588

with s. 30.14(3) as to any levy made before taking receipt of such unexecuted writs and court processes.

(b) Property confiscated under the Florida Contraband Forfeiture Act established in s. 932.701 and shall determine whether to pursue the forfeiture proceedings pursuant to s. 932.704.

(c) Records, papers, documents, or other writings, including those concerning open investigations, necessary for the sheriff to perform his or her required duties.

(d) Property held in evidence relating to a case that is under the jurisdiction of the office of the sheriff.

Section 3. Present subsections (6), (7), and (8) of section 166.241, Florida Statutes, are redesignated as subsections (8), (9), and (10), respectively, new subsections (6) and (7) are added to that section, and subsections (4) and (5) and present subsection (8) of that section are amended, to read:

166.241 Fiscal years, budgets, appeal of municipal law enforcement agency budget, and budget amendments.—

(4)(a) If the tentative budget of a municipality contains a funding reduction to the operating budget of the municipal law enforcement agency of more than 5 percent compared to the current fiscal year's approved budget, the state attorney for the judicial circuit in which the municipality is located, or a member of the governing body who objects to the funding reduction, may file a petition with an appeal by petition to the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57, with a copy served on the affected local government, to request a formal hearing to challenge the reduction in the municipal law enforcement agency's operating budget. The

23-00878C-23

20231588

petition must be filed with the division Administration ~~Commission~~ within 30 days after the day the tentative budget is posted to the official website of the municipality under subsection (3). The petition must set forth the tentative budget proposed by the municipality, in the form and manner prescribed by the division Executive Office of the Governor and ~~approved by the Administration Commission~~, and the operating budget of the municipal law enforcement agency as approved by the municipality for the previous year, and must state the reasons or grounds for the petition appeal. The ~~petition shall be filed with the Executive Office of the Governor and a copy served upon the governing body of the municipality or to the clerk of the circuit court of the county in which the municipality is located.~~

(b) The governing body of the municipality shall file a reply with the division and shall serve a copy of the reply on the petitioner within ~~has~~ 5 working days after receipt of service of a copy of the petition to file a reply with the Executive Office of the Governor and shall serve a copy of such reply to the petitioner.

(5) Upon receipt of the petition, the division Executive ~~Office of the Governor~~ shall hold a ~~provide for a~~ budget hearing at which the matters presented in the petition and the reply shall be considered. ~~A report of the findings and recommendations of the Executive Office of the Governor thereon shall be promptly submitted to the Administration Commission, which, within 30 days, shall approve the action of the governing body of the municipality or amend or modify the budget as to each separate item within the operating budget of the municipal~~

23-00878C-23

20231588__

law enforcement agency. The budget as approved, amended, or modified by the Administration Commission shall be final.

(a) During the hearing, the petitioner and municipality may present to the administrative law judge all information relevant to the municipal law enforcement agency's budgetary needs and requirements, including, but not limited to:

1. The grounds for the petition filed by the petitioner;

2. The grounds for opposing the petition;

3. The municipality's reasons for proposing a reduction in funding in the current fiscal year's operating budget;

4. The operating budget approved by the municipality;

5. A comparison of the municipal law enforcement agency's operating budget to the operating budgets of other entities within the municipality;

6. A comparison of the municipal law enforcement agency's operating budget to operating budgets of law enforcement agencies in nearby municipalities that are of comparable size;

7. Data and all other information describing the municipal law enforcement agency's staffing needs and budgetary requirements from the current fiscal year and the 2 previous fiscal years;

8. The draft municipal law enforcement agency operating budgets, budget amendments, or budget meeting minutes from the current fiscal year and the 2 previous fiscal years;

9. The revenue and projected revenue available to the municipality and the change in the amount of revenue collected over the last 3 fiscal years; and

10. Any other information provided by the petitioner or municipality relevant to the municipal law enforcement agency's

23-00878C-23

20231588__

operating budget.

(b) In making a determination, the administrative law judge may consider whether:

1. The law enforcement agency can fully perform its duties despite the budget reduction;

2. The proposed level of funding will endanger the safety of the municipality's residents; and

3. The proposed operating budget for the municipal law enforcement agency will have a substantially negative effect on the effectiveness of the law enforcement agency.

(6) (a) The administrative law judge, within 30 days after the hearing on the petition, shall issue a recommended order either approving or rejecting the proposed operating budget for the municipal law enforcement agency. The recommended order must list the administrative law judge's findings and explain its decision with reference to the information presented or discussed during the hearing. The recommended order is subject to appeal in accordance with chapter 120.

(b) The recommended order submitted under this subsection becomes a final order 90 days after its issuance unless the petitioner and municipality voluntarily enter into an agreement resolving the issues raised in the hearing. Before the execution of the agreement, the municipality must approve the agreement at a public hearing noticed in accordance with this chapter. Upon the filing of an executed agreement, the division must close the case.

(7) (a) If the final order approves the tentative budget of a municipality which contains a funding reduction to the operating budget of the municipal law enforcement agency, that

23-00878C-23

20231588__

291 portion of the operating budget is valid.

292 (b) If the final order rejects the tentative budget of a
293 municipality which contains a funding reduction to the operating
294 budget of the municipal law enforcement agency, the municipality
295 must approve a budget that does not reduce funding to the
296 municipal law enforcement agency as prescribed in paragraph
297 (4) (a).

298 (10)(8) If the governing body of a municipality amends the
299 budget pursuant to paragraph (9)(c) ~~(7)(e)~~, the adopted
300 amendment must be posted on the official website of the
301 municipality within 5 days after adoption and must remain on the
302 website for at least 2 years. If the municipality does not
303 operate an official website, the municipality must, within a
304 reasonable period of time as established by the county or
305 counties in which the municipality is located, transmit the
306 adopted amendment to the manager or administrator of such county
307 or counties who shall post the adopted amendment on the county's
308 website.

309 Section 4. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Jonathan Martin, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: March 10, 2023

I respectfully request that **Senate Bill #1588**, relating to Law Enforcement Operations, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Danny", is written over a horizontal line.

Senator Danny Burgess
Florida Senate, District 23

3-27-23

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1588

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Jess M. McCarty, Executive Assistant County Attorney Phone 305-979-7110

Address 111 N.W. 1st Street Suite 2800 Email jmm2@miamidade.gov
Street

Miami

City

FL

State

33128

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Miami-Dade County

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/27/2023

Meeting Date

Criminal Justice

Committee

Steven B. SLADE

Name

Phone

850.322.5760

Address

300 E. BERNARD ST

Street

TALLAHASSEE, FL 32311

City

State

Zip

Email

stevenstade@flpba.org

Amendment Barcode (if applicable)

Speaking:

☐ For

☐ Against

☐ Information

OR

Waive Speaking:

☒

In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

FL PBA

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/27/23

Meeting Date

1588

Bill Number or Topic

Crim Justice

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Ron Book

Phone

850-224-3427

Address

104 W. Jefferson St

Email

ron@RLBookPA.com

Street

Tallahassee Fla 32301

City

State

Zip

Speaking:

☐ For

☒ Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Miami Dade County

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

3/27/2023

Meeting Date

Criminal Justice

Committee

Name Sheriff Bob Gualtieri

Phone 727-582-6200

Address 10750 Ulmerton Road

Email

Street

Largo

FL

33779

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

Florida Sheriffs Association

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1588

Bill Number or Topic

Amendment Barcode (if applicable)

CourtSmart Tag Report

Room: SB 37

Case No.:

Type:

Caption: Senate Criminal Justice Committee

Judge:

Started: 3/27/2023 3:04:10 PM

Ends: 3/27/2023 5:14:51 PM

Length: 02:10:42

3:04:11 PM Meeting called to order, roll call
3:04:31 PM Quorum is present
3:04:36 PM Chair Martin makes opening remarks
3:05:04 PM Tab 1, SB 496- Electronic Monitoring of Persons Charged with or Convicted of Offenses Involving Schools or Students by Senator Burgess
3:05:06 PM Chair Martin recognizes Senator Burgess
3:05:21 PM Amendment 840234
3:05:25 PM Senator Burgess explains the amendment
3:06:31 PM Questions:
3:06:33 PM Senator Pizzo
3:07:02 PM Senator Burgess waives close
3:07:22 PM Chair Martin reports amendment
3:07:28 PM Chair Martin reads appearance cards waiving
3:07:40 PM Senator Burgess waives close
3:07:46 PM Roll call on CS/SB 496
3:07:58 PM Chair Martin reports bill
3:08:09 PM Tab 5, SB 998- Chiefs of Police by Senator Burgess
3:08:21 PM Chair Martin recognizes Senator Burgess
3:08:22 PM Senator Burgess explains the bill
3:09:04 PM Amendment 741470
3:09:12 PM Senator Burgess explains the amendment
3:09:50 PM Questions:
3:09:52 PM Senator Ingoglia
3:10:08 PM Senator Burgess
3:10:23 PM Senator Powell
3:10:30 PM Senator Burgess
3:10:33 PM Senator Powell
3:10:36 PM Senator Burgess
3:10:52 PM Senator Powell
3:11:32 PM Senator Burgess
3:12:53 PM Senator Powell
3:13:01 PM Senator Burgess
3:13:12 PM Senator Pizzo
3:13:25 PM Senator Burgess
3:13:42 PM Senator Burgess waives close
3:13:47 PM Chair Martin reports the amendment
3:13:53 PM Chair Martin recognizes appearance cards:
3:14:04 PM Shawn Chamberlain, FPCA
3:20:25 PM Senator Powell
3:20:52 PM Shawn Chamberlain
3:21:30 PM Chair Martin reads appearance cards waiving
3:21:49 PM Debate:
3:21:52 PM Senator Pizzo
3:22:04 PM Senator Burgess closes on the bill
3:22:18 PM Roll call on CS/SB 998
3:22:29 PM Chair Martin reports the bill
3:22:38 PM Tab 9, SB 1208- Depositions of Witnesses in Criminal Proceedings by Senator Burgess
3:22:44 PM Chair Martin
3:22:48 PM Senator Burgess explains the bill
3:22:55 PM Amendment 466338
3:23:01 PM Senator Burgess explains the amendment
3:23:37 PM Questions:

3:23:42 PM	Senator Pizzo
3:24:38 PM	Senator Burgess
3:24:47 PM	Senator Pizzo
3:25:43 PM	Senator Burgess
3:27:23 PM	Chair Martin recognizes appearance cards:
3:27:34 PM	Carlos Martinez, Florida Public Defender Association
3:30:46 PM	Debate:
3:30:49 PM	Senator Pizzo
3:32:25 PM	Senator Burgess waives close
3:32:35 PM	Chair Martin reports amendment
3:32:43 PM	Chair Martin recognizes appearance cards:
3:33:03 PM	Carlos Martinez, Florida Public Defender Association
3:33:13 PM	Senator Pizzo
3:33:31 PM	Carlos Martinez
3:34:09 PM	Senator Pizzo
3:34:34 PM	Carlos Martinez
3:34:56 PM	Aaron Wayt, Florida Association of Criminal Defense Lawyers
3:37:37 PM	Chair Martin reads appearance cards waiving
3:37:59 PM	Debate:
3:38:02 PM	Senator Pizzo
3:39:00 PM	Chair Martin
3:40:37 PM	Senator Pizzo
3:40:48 PM	Senator Burgess
3:40:56 PM	Senator Burgess closes on the bill
3:41:39 PM	Roll call on CS/SB 1208
3:41:54 PM	Chair Martin reports the bill
3:42:01 PM	Tab 17, SB 1588- Law Enforcement Operations by Senator Burgess
3:42:18 PM	Senator Burgess explains the bill
3:42:18 PM	Chair Martin recognizes Senator Burgess
3:43:14 PM	Chair Martin recognizes appearance cards:
3:43:28 PM	Sheriff Bob Gualteri
3:43:35 PM	Ron Book, Miami Dade County
3:44:08 PM	Chair Martin reads appearance cards waiving
3:44:24 PM	Debate:
3:44:25 PM	Senator Pizzo
3:45:12 PM	Senator Burgess closes on the bill
3:45:53 PM	Roll call on SB 1588
3:46:09 PM	Chair Martin reports the bill
3:46:17 PM	Tab 12, SB 1442- Terrorism by Senator Collins
3:46:21 PM	Chair Martin recognizes Senator Collins
3:46:29 PM	Senator Collins explains the bill
3:48:01 PM	Chair Martin recognizes appearance cards:
3:48:22 PM	Keith Stansell
3:51:50 PM	Newt Porter
3:53:06 PM	Senator Collins closes on the bill
3:53:57 PM	Roll call on SB 1442
3:54:05 PM	Chair Martin reports the bill
3:54:12 PM	Tab 10, SB 1300- Animals Working with Law Enforcement Officers by Senator Burton
3:54:25 PM	Chair Martin recognizes Senator Burton
3:54:28 PM	Senator Burton explains the bill
3:55:34 PM	Chair Martin reads appearance cards waiving
3:55:42 PM	Debate:
3:56:08 PM	Senator Pizzo
3:56:34 PM	Senator Burton closes on the bill
3:56:57 PM	Roll call on SB 1300
3:56:59 PM	Chair Martin reports the bill
3:57:10 PM	Senator Pizzo
3:57:40 PM	Tab 7, SB 1126- Impeding, Provoking, or Harassing First Responders by Senator Avila
3:57:47 PM	Chair Martin recognizes Senator Avila
3:57:54 PM	Senator Avila explains the bill
3:59:06 PM	Amendment 155538
3:59:13 PM	Senator Avila explains the amendment

4:00:24 PM	Questions:
4:00:26 PM	Senator Powell
4:00:37 PM	Senator Avila
4:01:05 PM	Senator Avila waives close
4:01:26 PM	Chair Martin reports amendment
4:01:32 PM	Questions:
4:01:38 PM	Senator Powell
4:02:01 PM	Senator Avila
4:02:45 PM	Senator Powell
4:02:56 PM	Senator Avila
4:03:37 PM	Senator Powell
4:03:42 PM	Senator Avila
4:04:08 PM	Senator Powell
4:04:31 PM	Senator Avila
4:05:13 PM	Senator Powell
4:05:45 PM	Senator Avila
4:06:35 PM	Senator Pizzo
4:06:46 PM	Senator Avila
4:08:01 PM	Senator Pizzo
4:10:19 PM	Senator Avila
4:10:57 PM	Senator Bradley
4:11:24 PM	Chair Martin recognizes appearance cards
4:11:40 PM	N R Hines, ACLU Florida
4:14:12 PM	Senator Powell
4:14:19 PM	N R Hines
4:14:24 PM	Jonathan Webber, SPLC Action Fund
4:16:12 PM	Chair Martin reads appearance cards waiving
4:16:27 PM	Debate:
4:16:31 PM	Senator Powell
4:18:40 PM	Senator Pizzo
4:20:35 PM	Chair Martin
4:22:41 PM	Senator Avila closes on the bill
4:24:39 PM	Roll call on CS/SB 1126
4:24:49 PM	Chair Martin reports the bill
4:25:01 PM	Tab 13, SB 1456- Firearms Offenses by Senator Avila
4:25:14 PM	Chair Martin recognizes Senator Avila
4:25:19 PM	Senator Avila explains the bill
4:26:53 PM	Chair Martin reads appearance cards waiving
4:27:04 PM	Senator Avila waives close
4:27:09 PM	Roll call on SB 1456
4:27:15 PM	Chair Martin reports the bill
4:27:23 PM	Tab 6, SB 1104- Victim Compensation Claims by Senator Wright
4:27:41 PM	Chair Martin recognizes Senator Wright
4:27:49 PM	Senator Wright explains the bill
4:28:44 PM	Chair Martin reads appearance cards waiving
4:29:10 PM	Senator Wright waives close
4:29:16 PM	Roll call on SB 1104
4:29:23 PM	Chair Martin reports the bill
4:29:26 PM	Tab 4, SB 994- Public Nuisances by Senator Calatayud
4:29:44 PM	Amendment 529702
4:30:04 PM	Senator Calatayud explains the amendment
4:31:45 PM	Senator Calatayud waives close
4:31:56 PM	Chair Martin reports amendment
4:32:00 PM	Chair Martin recognizes public testimony:
4:32:27 PM	Avrohom Luban
4:34:36 PM	Chair Martin reads appearance cards waiving
4:34:47 PM	Senator Calatayud closes on the bill
4:36:44 PM	Roll call on CS/SB 994
4:36:57 PM	Chair Martin reports the bill
4:37:04 PM	Tab 2, SB 528- Gain-time for Attempted Sexual Offenses by Senator Davis
4:37:26 PM	Amendment 852262
4:37:33 PM	Senator Davis explains the amendment

4:41:47 PM Senator Davis waives close
4:41:54 PM Chair Martin reports the amendment
4:42:02 PM Senator Davis closes on the bill
4:43:25 PM Roll call on CS/SB 528
4:43:32 PM Chair Martin reports the bill
4:43:40 PM Tab 3, SB 836- Theft from Nonprofit Organizations by Senator Powell
4:43:58 PM Chair Martin recognizes Senator Powell
4:44:07 PM Senator Powell explains the bill
4:45:12 PM Amendment 443382
4:45:20 PM Senator Powell explains the amendment
4:46:32 PM Senator Powell waives close
4:46:37 PM Chair Martin reports the amendment
4:46:44 PM Senator Powell closes on the bill
4:47:18 PM Roll call on CS/SB 836
4:47:35 PM Chair Martin reports the bill
4:47:45 PM Tab 8, SB 1140- Rapid DNA Grant Program by Senator Ingoglia
4:47:56 PM Chair Martin recognizes Senator Ingoglia
4:48:03 PM Senator Ingoglia explains the bill
4:48:40 PM Chair Martin reads appearance cards waiving
4:48:51 PM Senator Ingoglia waives close
4:48:56 PM Roll call on SB 1140
4:49:09 PM Chair Martin reports the bill
4:49:13 PM Tab 14, SB 1510- Visiting County and Municipal Detention Facilities by Senator Pizzo
4:49:33 PM Amendment 410686
4:49:37 PM Senator Pizzo explains the amendment
4:50:17 PM Senator Pizzo waives close
4:50:54 PM Chair Martin reports the amendment
4:51:00 PM Chair Martin recognizes public testimony:
4:51:09 PM Laurette Philipsen, Florida Cares
4:51:31 PM Senator Pizzo
4:52:21 PM Senator Pizzo closes on the bill
4:52:45 PM Roll call on CS/SB 1510
4:52:57 PM Chair Martin reports the bill
4:53:01 PM Tab 15, SB 1520- Controlled Substances by Senator Pizzo
4:53:10 PM Chair Martin recognizes Senator Pizzo
4:53:49 PM Senator Pizzo explains the bill
4:54:04 PM Chair Martin recognizes public testimony:
4:54:20 PM Laurette Philipsen
4:54:32 PM Chair Martin reads appearance cards waiving
4:54:50 PM Senator Pizzo closes on the bill
4:55:31 PM Roll call on SB 1520
4:55:38 PM Chair Martin reports the bill
4:55:51 PM Chair Martin passes the Chair to Vice Chair Bradley
4:56:20 PM Tab 11, SB 1402- Public Records/ Investigative Genetic Genealogy Materials by Senator Martin
4:56:42 PM Chair Bradley recognizes Senator Martin
4:56:52 PM Senator Martin explains the bill
4:59:42 PM Senator Martin waives close
4:59:47 PM Roll call on SB 1420
4:59:55 PM Chair Bradley reports the bill
5:00:01 PM Tab 16, SB 1534- Pretrial Release and Detention by Senator Martin
5:00:21 PM Chair Bradley recognizes Senator Martin
5:00:28 PM Senator Martin explains the bill
5:02:48 PM Questions:
5:02:50 PM Senator Pizzo
5:03:13 PM Senator Martin
5:03:18 PM Senator Pizzo
5:03:29 PM Chair Bradley recognizes public testimony:
5:03:39 PM N R Hines, ACLU of Florida
5:08:55 PM Senator Pizzo
5:09:27 PM N R Hines
5:09:35 PM Senator Pizzo
5:09:51 PM N R Hines

5:10:05 PM Chair Bradley reads appearance cards waiving
5:10:25 PM Debate:
5:10:27 PM Senator Pizzo
5:11:33 PM Senator Martin closes on the bill
5:13:24 PM Roll call on SB 1534
5:13:34 PM Chair Bradley reports the bill
5:13:44 PM Chair Bradley passes the chair to Senator Martin
5:13:56 PM Senator Yarborough moves to record a missed vote
5:14:28 PM Senator Polsky moves to record a missed vote
5:14:42 PM Meeting adjourned