

Tab 1	SB 54 by Rodriguez ; (Identical to H 00097) Expunction of Criminal History Records
Tab 2	SB 184 by Avila (CO-INTRODUCERS) Hooper ; (Similar to CS/H 00075) Impeding, Threatening, or Harassing First Responders
Tab 3	SB 188 by Brodeur (CO-INTRODUCERS) Ingoglia ; (Similar to H 00119) Trespass on Commercial Agricultural Property

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Martin, Chair
Senator Bradley, Vice Chair

MEETING DATE: Tuesday, December 5, 2023
TIME: 2:00—4:00 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 54 Rodriguez (Identical H 97)	Expunction of Criminal History Records; Revising an eligibility criterion under which a person is eligible to petition a court to expunge a criminal history record if an indictment, information, or other charging document was dismissed by a court; expanding an exception to an eligibility requirement for expunction of a criminal history record to allow a prior expunction of a criminal history record granted for an offense committed when the person was a minor, etc. CJ 12/05/2023 Favorable FP	Favorable Yeas 7 Nays 0
2	SB 184 Avila (Similar H 75)	Impeding, Threatening, or Harassing First Responders; 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, from violating such warning and approaching or remaining within a specified distance of the first responder with specified intent, etc. CJ 12/05/2023 Favorable CA RC	Favorable Yeas 5 Nays 2
3	SB 188 Brodeur (Similar H 119)	Trespass on Commercial Agricultural Property; Providing enhanced criminal penalties for trespass with specified intent on certain commercial agricultural property; defining the term “commercial agricultural property”, etc. CJ 12/05/2023 Favorable AG RC	Favorable Yeas 6 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: SB 54

INTRODUCER: Senator Rodriguez

SUBJECT: Expunction of Criminal History Records

DATE: December 4, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	Favorable
2.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 54 amends s. 943.0585, F.S., to permit a person who has had one prior expunction granted for an offense that was committed when he or she was a minor to have another eligible record expunged. If the prior expunction was for an offense in which the minor was charged as an adult, the person is not eligible for a subsequent expunction. This bill also provides that the record is exempt from the 10 year sealing requirement.

Additionally, this bill specifies that a person is not eligible for expunction if the indictment, information, or other charging document in the case giving rise to the criminal history record was dismissed pursuant to s. 916.145, F.S., or s. 985.19, F.S., which provides statutory guidelines for the dismissal of charges when a defendant is adjudicated incompetent to proceed due to mental illness.

This bill may generate additional workload and IT costs for the Florida Department of Law Enforcement (FDLE), which may be offset by revenues from processing fees. See Section V. Fiscal Impact Statement.

This bill is effective July 1, 2024.

II. Present Situation:

There are multiple types of relief that may be sought in order to seal or expunge a criminal history record. The public will not have access to a criminal history record that has been sealed or expunged. Certain government or related entities have access to records even after they are sealed. Most of the entities who have access to sealed records also have access to see whether a

person has had an expunction. However, those entities do not have access to the expunged criminal history record without a court order.¹

Sealing and Expunction of Criminal History Records

A criminal history record includes any non-judicial record maintained by a criminal justice agency² that contains criminal history information.³ Criminal history information is information collected by criminal justice agencies and consists of identifiable descriptions of individuals and notations of arrests, detentions, indictments, informations, other formal criminal charges, and criminal dispositions.⁴

Expunction of a Criminal History Record

A person may have his or her criminal history record expunged under certain circumstances.⁵ When a record is expunged, the criminal justice agencies possessing such record must physically destroy or obliterate it. The FDLE maintains a copy of the record to evaluate subsequent requests for sealing or expunction, and to recreate the record in the event a court vacates the order to expunge.⁶ The criminal history record retained by the FDLE is confidential and exempt.⁷ Once the record is expunged, a person may lawfully deny or fail to acknowledge the arrests covered by the expunged record, subject to exceptions.⁸

Certificate of Eligibility

Before petitioning a court to expunge a criminal history record, a person must apply to the FDLE for a certificate of eligibility for expunction. The FDLE must issue a certificate of eligibility for expunction to a person who is the subject of a criminal history record if that person:

- Is eligible for expunction, as described above;
- Has submitted to the FDLE a written certified statement from the appropriate state attorney or statewide prosecutor which confirms the criminal history record complies with specified criteria;⁹
- Has submitted to the FDLE a certified copy of the disposition of the charge to which the petition pertains; and

¹ *Florida Department of Law Enforcement Frequently Asked Questions*, Florida Department of Law Enforcement, available at http://www.fdle.state.fl.us/Seal-and-Expunge-Process/Frequently-Asked-Questions#Sealed_vs_Expunged (last visited November 16, 2023).

² Section 943.045(11), F.S., provides that criminal justice agencies include a court, the Florida Department of Law Enforcement (FDLE), the Department of Juvenile Justice, components of the Department of Children and Families, other governmental agencies that administrate criminal justice, and the investigations component of the Department of Financial Services.

³ Section 943.045(6), F.S.

⁴ Section 943.045(5), F.S.

⁵ Sections 943.0581, 943.0582, 943.0583, and 943.0585, F.S.

⁶ Section 943.045(16), F.S.

⁷ Section 943.0585(6)(a), F.S.

⁸ Section 943.0585(6), F.S.

⁹ Section 943.0585(2)(a)2., F.S. Specified criteria include: An indictment, information, or other charging document was not filed or issued in the case giving rise to the criminal history record; An indictment, information, or other charging document was filed or issued in the case giving rise to the criminal history record, was dismissed or nolle prosequi by the state attorney or statewide prosecutor, or was dismissed by a court or a judgment of acquittal was rendered, or a verdict of not guilty was rendered; The person has never been adjudicated guilty or delinquent for committing any felony or specified misdemeanors.

- Pays a \$75 processing fee to the FDLE.¹⁰

A certificate of eligibility for expunction is valid for 12 months after the date stamped on the certificate when issued by the FDLE.¹¹

Court Ordered Expunction

A court, in its discretion, may order the expunction of a person's criminal history record if the FDLE issues the person a certificate of eligibility for expunction.¹² The FDLE must issue a certificate of eligibility for court-ordered expunction to a person meeting all criteria.¹³ Generally, a person is eligible for expunction if:

- An indictment, information, or other charging document was not filed or issued in the case giving rise to the criminal history record.
- An indictment, information, or other charging document was filed or issued in the case giving rise to the criminal history record, but was dismissed or nolle prosequi by the State, was dismissed by the court, a judgment of acquittal was rendered, or a verdict of not guilty was rendered.
- The person is not seeking to expunge a criminal history record relating to a violation of certain enumerated offenses.
- The person has never, prior to filing the application for a certificate of eligibility, been either:
 - Adjudicated guilty of any criminal offense or comparable ordinance violation; or
 - Adjudicated delinquent of any felony or certain enumerated misdemeanors as a juvenile.
- The person has not been adjudicated guilty or delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to expunge pertains.
- The person has never secured a prior sealing or expunction, unless:
 - Expunction is sought of a criminal history record previously sealed for at least 10 years; and
 - The record was sealed because adjudication was withheld, or because a judgment of acquittal or verdict of not guilty was rendered.¹⁴

A criminal history record is not eligible for court-ordered sealing or expunction if it relates to:

- Sexual misconduct (Sections 393.135, 394.4593, and 916.1075, F.S.).
- Illegal use of explosives (Chapter 552, F.S.).
- Terrorism (Section 775.30, F.S.).
- Murder (Sections 782.04, 782.065, and 782.09, F.S.).
- Manslaughter or homicide (Sections 782.07, 782.071, and 782.072, F.S.).
- Assault or battery of one family or household member by another family or household member¹⁵ (Sections 784.011 and 784.03, F.S.).

¹⁰ Section 943.0585(2)(a)1.-4., F.S.

¹¹ Section 943.0585(2), F.S.

¹² Section 943.0585(4), F.S.

¹³ Section 943.0585(2), F.S.

¹⁴ Section 943.0585(1), F.S.

¹⁵ Section 741.28(3), F.S., defines family or household member as spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of

- Aggravated assault (Section 784.021, F.S.).
- Felony battery, domestic battery by strangulation, or aggravated battery (Sections 784.03, 784.041, and 784.045, F.S.).
- Stalking or aggravated stalking (Section 784.048, F.S.).
- Luring or enticing a child (Section 787.025, F.S.).
- Human trafficking (Section 787.06, F.S.).
- Kidnapping or false imprisonment (Sections 787.01 and 787.02, F.S.).
- Sexual battery, unlawful sexual activity with a minor, or female genital mutilation (Chapter 794, F.S.).
- Procuring a person under the age of 18 for prostitution (Section 796.03, F.S. (2013) (repealed by ch. 2014-160, s. 10, L.O.F.)).
- Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age (Section 800.04, F.S.).
- Arson (Section 806.01, F.S.).
- Burglary of a dwelling (Section 810.02, F.S.).
- Voyeurism or video voyeurism (Sections 810.14 and 810.145, F.S.).
- Robbery or robbery by sudden snatching (Sections 812.13 and 812.131, F.S.).
- Carjacking (Section 812.133, F.S.).
- Home invasion robbery (Section 812.135, F.S.).
- A violation of the Florida Communications Fraud Act (Section 817.034, F.S.).
- Abuse of an elderly person or disabled adult or aggravated abuse of an elderly person or disabled adult (Section 825.102, F.S.).
- Lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person (Section 825.1025, F.S.).
- Child abuse or aggravated child abuse (Section 827.03, F.S.).
- Sexual performance by a child (Section 827.071, F.S.).
- Offenses by public officers and employees (Chapter 839, F.S.).
- Certain acts in connection with obscenity (Section 847.0133, F.S.).
- A violation of the Computer Pornography and Child Exploitation Prevention Act (Section 893.0135, F.S.).
- Selling or buying of minors (Section 847.0145, F.S.).
- Aircraft piracy (Section 860.16, F.S.).
- Manufacturing a controlled substance (Chapter 893, F.S.).
- Drug trafficking (Section 893.135, F.S.).
- Any violation specified as a predicate offense for registration as a sexual predator or sexual offender (Sections 775.21 and 943.0535, F.S.).¹⁶

persons who have a child in common the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

¹⁶ Section 943.0584, F.S.

Other types of expunction include: lawful self-defense expunction;¹⁷ human trafficking victim expunction;¹⁸ automatic juvenile expunction;¹⁹ early juvenile expunction;²⁰ administrative expunction;²¹ and juvenile diversion program expunction.²²

Sealing of a Criminal History Record

When a criminal history record is sealed, it is preserved so that it is secure and inaccessible to any person who does not have a legal right to access the record or the information contained within the record.²³ A court may order a criminal history record sealed,²⁴ rendering it confidential and exempt from Florida's public records laws.²⁵ Only the following entities may access a sealed criminal history record:

- The subject of the record;
- His or her attorney;
- Criminal justice agencies for criminal justice purposes;
- Judges in the state courts system for assisting in their case-related decision-making responsibilities; and
- Certain enumerated entities²⁶ for licensing, access authorization, and employment purposes.²⁷

Certificate of Eligibility

To seal a record, a person must first apply to the FDLE for a certificate of eligibility, which the FDLE must issue to a person who:

- Has submitted a certified copy of the charge disposition he or she seeks to seal;
- Is not seeking to seal a criminal history record relating to a violation of certain enumerated offenses;
- Has never, prior to filing the application for a certificate of eligibility, been either:
 - Adjudicated guilty of any criminal offense or comparable ordinance violation; or
 - Adjudicated delinquent of any felony or certain enumerated misdemeanors as a juvenile.
- Has not been adjudicated guilty or delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to seal pertains;
- Has never secured a prior sealing or expunction;

¹⁷ Section 943.0578, F.S.

¹⁸ Section 943.0583, F.S.

¹⁹ Section 943.0515(1)(b)1., F.S.

²⁰ Section 943.0515(1)(b)2., F.S.

²¹ Section 943.0581, F.S.

²² Section 943.0582, F.S.

²³ Section 943.045(19), F.S.

²⁴ Section 943.059, F.S.

²⁵ Sections 943.059(6) and 119.07(1), F.S.; Art. I, s. 24(a), Fla. Const.

²⁶ Section 943.059(6)(b), F.S., provides that enumerated entities include criminal justice agencies, The Florida Bar, the Department of Children and Families, the Division of Vocational Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, the Department of Juvenile Justice, the Department of Education, a district school board, a university laboratory school, a charter school, a private or parochial school, a local governmental entity that licenses child care facilities, the Division of Insurance Agent and Agency Services within the Department of Financial Services, and the Bureau of License Issuance of the Division of Licensing within the Department of Agriculture and Consumer Services.

²⁷ Sections 943.059(6)(a), F.S.

- Is no longer under court supervision related to the disposition of the arrest or alleged criminal activity to which the petition to seal pertains; and
- Pays a \$75 processing fee to the FDLE.²⁸

Court Ordered Sealing

Upon receiving a certificate of eligibility from the FDLE, a person must petition the court to seal the record.²⁹ A complete petition contains both a valid certificate of eligibility, issued within the previous 12 months, and a sworn statement from the petitioner attesting to his or her eligibility.³⁰ It is solely within the court's discretion to grant or deny a petition to seal.³¹

Upon sealing of a criminal history record, the subject of the record may lawfully deny or fail to acknowledge the arrests covered by the sealed record, with exceptions for certain state employment positions, professional licensing purposes, purchasing a firearm, applying for a concealed weapons permit, seeking expunction, or if the subject is a defendant in a criminal prosecution.³²

Dismissal Incompetence to Proceed Due to Mental Illness

Section 916.145, F.S., provides that the charges against a defendant who has been adjudicated incompetent to proceed due to mental illness must be dismissed without prejudice to the state if the defendant remains incompetent to proceed for 5 continuous, uninterrupted years after such determination, unless the court in its order specifies:

- Its reason for believing that the defendant will become competent to proceed within the foreseeable future; and
- The time within which the defendant is expected to become competent to proceed.

The court may dismiss charges against a defendant who has been adjudicated incompetent to proceed due to mental illness 3 years after such determination, unless the charge is for a specified offense.³³

The state may refile any charge that was dismissed pursuant to s. 916.145, F.S.

²⁸ Section 943.059(2), F.S.

²⁹ Section 943.059(3), F.S.

³⁰ Section 943.059(2)(b), F.S.

³¹ Section 943.059, F.S.

³² Sections 943.059(6)(b), F.S.

³³ Section 916.145(1)(a)-(u), F.S.; Specified offenses include: arson; sexual battery; robbery; kidnapping; aggravated child abuse; aggravated abuse of an elderly person or disabled adult; aggravated assault with a deadly weapon; murder; manslaughter; aggravated manslaughter of an elderly person or disabled adult; aggravated manslaughter of a child; unlawful throwing, projecting, placing, or discharging of a destructive device or bomb; armed burglary; aggravated battery; aggravated stalking; a forcible felony as defined in s. 776.08, F.S.; an offense where an element of the offense requires the possession, use, or discharge of a firearm; an attempt to commit any offense listed herein; an offense allegedly committed by a defendant who has had a forcible or violent felony conviction within the 5 years immediately preceding the date of arrest for the nonviolent felony sought to be dismissed; an offense allegedly committed by a defendant who, after having been found incompetent and placed under court supervision in a community-based program, is formally charged by a state attorney or the Office of the Statewide Prosecutor with a new felony offense; or an offense for which there is an identifiable victim and such victim has not consented to the dismissal.

Section 985.19, F.S., provides the process for a finding of incompetency in juvenile delinquency cases. The court retains jurisdiction for up to two years after a child is found incompetent. If the court determines at any time that the child will never become competent to proceed, the court may dismiss the delinquency petition. The court must dismiss a delinquency petition if, after the two years following the order of incompetency, the child has not attained competency and there is no evidence that the child will attain competency within a year.³⁴

III. Effect of Proposed Changes:

The bill amends s. 943.0585, F.S., to permit a person who has had one prior expunction granted for an offense that was committed when he or she was a minor to have another eligible record expunged. If the prior expunction was for an offense in which the minor was charged as an adult, the person is not eligible for a subsequent expunction. This bill also provides that the record is exempt from the 10 year sealing requirement.

Additionally, this bill specifies that a person is not eligible for expunction if the indictment, information, or other charging document in the case giving rise to the criminal history record was dismissed pursuant to s. 916.145 F.S., or s. 985.19, F.S., which provides statutory guidelines for the dismissal of charges when a defendant is adjudicated incompetent to proceed due to mental illness.

This bill is effective July 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.

³⁴ Section 985.19(5), F.S.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

As of August 31, 2023, the Computerized Criminal History (CCH) repository contains 243,474 unique individuals with 348,497 criminal history events (totaling 471,868 charges) that occurred while they were under the age of 18 and treated as juveniles and were not adjudicated delinquent, received an adjudication withheld, or adjudicated guilty. These individuals also did not have an adjudication of guilt anywhere on their criminal history record maintained within the CCH repository.³⁵

The above totals do not take into account individuals whose qualifying charge does not appear on their CCH record maintained in the repository. Charges are outside of CCH due to the individual not being fingerprinted for the event (typically being issued a notice to appear). As such, there is not a means of quantifying the additional number of individuals who may be eligible. Due to the added workload and complexity of the research required, the FDLE reports it will need 2 FTE Criminal Justice Information Analyst II, totaling \$139,530 in recurring and \$9,364 in nonrecurring.³⁶

There are approximately 3,306 criminal history records in the CCH repository for juvenile offenses that have been granted relief through a court-ordered expunction under s. 943.0585, F.S. This number does not account for those charges that are not maintained within CCH due to CCH only retaining fingerprint-based offenses. Those individuals would now be potentially eligible to receive additional relief for an adult charge under s. 943.0585, F.S.³⁷

The FDLE estimates that if programmatic changes are required, the analysis, design, programming and testing will total approximately \$35,000 (non-recurring) and an estimated 5 weeks to complete.³⁸

TOTAL FISCAL AS REPORTED BY THE FDLE: \$183,894 (\$44,364 non-recurring).

VI. Technical Deficiencies:

None.

³⁵ Florida Department of Law Enforcement, 2024 Agency Analysis of HB 97 (October 10, 2023).

³⁶ *Id.*

³⁷ *Id.* at page 4.

³⁸ *Id.*

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 943.0585 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.)

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 Rodriguez

40-00262-24

202454__

A bill to be entitled

An act relating to expunction of criminal history records; reenacting and amending s. 943.0585, F.S.; revising an eligibility criterion under which a person is eligible to petition a court to expunge a criminal history record if an indictment, information, or other charging document was dismissed by a court; expanding an exception to an eligibility requirement for expunction of a criminal history record to allow a prior expunction of a criminal history record granted for an offense committed when the person was a minor; providing applicability; providing an effective date.

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

Section 1. Paragraphs (b) and (g) of subsection (1) of section 943.0585, Florida Statutes, are amended, and paragraph (a) of subsection (2) and subsection (3) of that section are reenacted, to read:

943.0585 Court-ordered expunction of criminal history records.—

(1) ELIGIBILITY.—A person is eligible to petition a court to expunge a criminal history record if:

(b) An indictment, information, or other charging document was filed or issued in the case giving rise to the criminal history record, was dismissed or nolle prosequi by the state attorney or statewide prosecutor, or was dismissed by a court of competent jurisdiction, unless such dismissal was pursuant to s. 916.145 or s. 985.19, or a judgment of acquittal was rendered by

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40-00262-24

202454__

a judge, or a verdict of not guilty was rendered by a judge or jury.

(g) The person has never secured a prior sealing or expunction of a criminal history record under this section, s. 943.059, former s. 893.14, former s. 901.33, or former s. 943.058, unless:

1. Expunction is sought of a criminal history record previously sealed for 10 years pursuant to paragraph (h) and the record is otherwise eligible for expunction; or

2. One prior expunction was granted for a criminal history record for an offense that was committed when he or she was a minor and the record is otherwise eligible for expunction. This subparagraph does not apply if the prior expunction was for an offense in which the minor was charged as an adult. The requirement for the record to have previously been sealed for a minimum of 10 years under paragraph (h) does not apply to this subparagraph.

(2) CERTIFICATE OF ELIGIBILITY.—Before petitioning a court to expunge a criminal history record, a person seeking to expunge a criminal history record must apply to the department for a certificate of eligibility for expunction. The department shall adopt rules to establish procedures for applying for and issuing a certificate of eligibility for expunction.

(a) The department shall issue a certificate of eligibility for expunction to a person who is the subject of a criminal history record if that person:

1. Satisfies the eligibility criteria in paragraphs (1)(a)-(h) and is not ineligible under s. 943.0584.

2. Has submitted to the department a written certified

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

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202454__

59 statement from the appropriate state attorney or statewide
60 prosecutor which confirms the criminal history record complies
61 with the criteria in paragraph (1) (a) or paragraphs (1) (b) and
62 (c).

63 3. Has submitted to the department a certified copy of the
64 disposition of the charge to which the petition to expunge
65 pertains.

66 4. Remits a \$75 processing fee to the department for
67 placement in the Department of Law Enforcement Operating Trust
68 Fund, unless the executive director waives such fee.

69 (3) PETITION.—Each petition to expunge a criminal history
70 record must be accompanied by:

71 (a) A valid certificate of eligibility issued by the
72 department.

73 (b) The petitioner's sworn statement that he or she:

74 1. Satisfies the eligibility requirements for expunction in
75 subsection (1).

76 2. Is eligible for expunction to the best of his or her
77 knowledge and does not have any other petition to seal or
78 expunge a criminal history record pending before any court.

79

80 A person who knowingly provides false information on such sworn
81 statement commits a felony of the third degree, punishable as
82 provided in s. 775.082, s. 775.083, or s. 775.084.

83 Section 2. This act shall take effect July 1, 2024.

APPEARANCE RECORD

SB 54 Expunction

December 5, 2023

Meeting Date

Criminal Justice

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name Jonathan Webber

Phone 954-593-4449

Address 400 Washington Ave

Email jonathan.webber@splcactionfund.org

Street

Montgomery

AL

36104

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 \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-Joint-Rules.pdf)

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

The Florida Senate

APPEARANCE RECORD

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

12/5/23

Meeting Date

SB 54

Bill Number or Topic

SENATE CRIMINAL JUSTICE

Committee

Amendment Barcode (if applicable)

Name Christian Minor

Phone (321) 223-4232

Address 2850 Pablo Avenue

Email cminor@fjja.org

Street

Tallahassee

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:

The Florida Juvenile Justice 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 \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 54

12/5/2023

Meeting Date

Senate Criminal Justice

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Gus Corbella**

Phone **850-222-6891**

Address **101 East College Ave**

Email **corbella@gtlaw.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:

Florida Rights Restoration Coalition

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

1
12/5/23

Meeting Date

SB54

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Ashtel Richardson on behalf of
Florida Public Defender Assoc.

Phone 850-488-6850

Address 103 N. Gadsden St.

Email ARichardson@fpda.org

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:

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 \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 54

Meeting Date

12/05

Bill Number or Topic

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

Committee

Criminal Justice

Amendment Barcode (if applicable)

Name

Karen Mazzola

Phone

407-

Address

1747 Orlando Central Alley

Email

vp.education@floridapta.org

Street

City

Orlando

State

FL

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

12/5

Meeting Date

54

Bill Number or Topic

Senate Criminal Justice

Committee

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Amendment Barcode (if applicable)

Name Aaron Weyt

Phone 950-510-9909

Address 119 S Monroe

Email

Street

JLH

City

FL

State

32312

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:

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S-001 (08/10/2021)



The Florida Senate

Committee Agenda Request

To: Senator Jonathan Martin, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: October 10, 2023

I respectfully request that **Senate Bill #54**, relating to Expunction of Criminal History Records, be placed on the:

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

A handwritten signature in black ink, appearing to read "A. M. Rodriguez".

Senator Ana Maria Rodriguez
Florida Senate, District 40



2024 FDLE LEGISLATIVE BILL ANALYSIS



BILL INFORMATION	
BILL NUMBER:	HB 97
BILL TITLE:	Expunction of Criminal History Records
BILL SPONSOR:	Rep. Smith
EFFECTIVE DATE:	07/01/2024

COMMITTEES OF REFERENCE
1) Criminal Justice
2) Judiciary
3)
4)
5)

CURRENT COMMITTEE
Criminal Justice

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION	
BILL NUMBER:	SB 504 / HB 605
SPONSOR:	Sen. Rodriguez / Rep. Smith
YEAR:	2023
LAST ACTION:	Substituted CS/HB 605 (Vetoed by Governor)

IDENTICAL BILLS	
BILL NUMBER:	SB 54
SPONSOR:	Sen. Rodriguez

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	October 10, 2023
LEAD AGENCY ANALYST:	Lucy Saunders
ADDITIONAL ANALYST(S):	Mary Jackson, Becky Bezemek
LEGAL ANALYST:	Jim Martin, Jason Harrison
FISCAL ANALYST:	Elizabeth Martin

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Amends s. 943.0585, F.S., to disqualify dispositions that result in a dismissal by reason of insanity or mental incompetence from expunction relief under s. 943.0585, F.S. Section 943.0585(1)(g) is amended to add that an expunged offense as a minor does not count against the once in a lifetime rule.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** An individual is eligible to petition the court to expunge a criminal history record if the case resulted in dismissal or nolle prosequi by the State Attorney or statewide prosecutor, if the charge was dismissed, or if the individual was acquitted or given a verdict of not guilty by a jury in a court of competent jurisdiction. FDLE issues a certificate of eligibility, given the disposition of the criminal case meets these criteria, as well as all other eligibility requirements listed in s. 943.0585, F.S.

An individual is only allowed one court-ordered sealing or expunction in a lifetime under ss. 943.0585 and 943.059, F.S. An expunction received as a minor under s. 943.0515 or s. 943.0582, F.S., does not count against the once in a lifetime rule.

2. **EFFECT OF THE BILL:** Section 943.0585(1)(b), F.S., is amended to remove an individual's eligibility to seek expunction if their arrest event resulted in a disposition of dismissed due to insanity (s. 916.145, F.S.) or dismissed due to mental incompetency (s. 985.19, F.S.). As of August 31, 2023, there were 746 individuals with criminal history events that resulted in a disposition of dismissed due to insanity and 1,309 individuals with criminal history events that resulted in a disposition of dismissed due to mental incompetency. This number does not account for charges where a disposition has not been recorded and does not account for those charges that are not maintained within the Computerized Criminal History (CCH) repository due to CCH only retaining fingerprint-based offenses.

Section 943.0585(1)(g), F.S., is amended to add that an expunged offense as a minor does not count against the once in a lifetime rule. This amendment would allow individuals who have received relief through a court ordered expunction under s. 943.0585, F.S., for an offense that occurred while the individual was a minor (under the age of 18) to have an additional court ordered expunction under s. 943.0585, F.S., for a charge received as an adult, which would impact the Seal and Expunge process by allowing an individual multiple court-ordered expunctions, therefore negating the once in a lifetime rule.

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

If yes, explain:	
What is the expected impact to the agency's core mission?	
Rule(s) impacted (provide references to F.A.C., etc.):	

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

List any known proponents and opponents:	
Provide a summary of the proponents' and opponents' positions:	

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

If yes, provide a description:	
Date Due:	

Bill Section Number:	

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

Board:	
Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

FISCAL 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, 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:	An application received for relief under s. 943.0585, F.S. requires a \$75 processing fee.
Expenditures:	<p>As of August 31, 2023, the Computerized Criminal History (CCH) repository contains 243,474 unique individuals with 348,497 criminal history events (totaling 471,868 charges) that occurred while they were under the age of 18 and treated as juveniles and were not adjudicated delinquent, received an adjudication withheld, or adjudicated guilty. These individuals also did not have an adjudication of guilt anywhere on their criminal history record maintained within the CCH repository.</p> <p>Assuming those individuals seek relief for 1% of the potentially eligible events, there would be an increase of approximately 3,484 applications; this number does not account for an individual to receive court ordered expunction relief for multiple juvenile events.</p> <p>The above totals do not take into account individuals whose qualifying charge does not appear on their CCH record maintained in the repository. Charges are outside of CCH due to the individual not being fingerprinted for the event (typically being issued a notice to appear). As such, there is not a means of quantifying the additional number of individuals who may be eligible. Due to the added workload and complexity</p>

	<p>of the research required, the Seal and Expunge section will need 2 FTE Criminal Justice Information Analyst II, totaling \$139,530 in recurring and \$9,364 in nonrecurring.</p> <p>There are approximately 3,306 criminal history records in the CCH repository for juvenile offenses that have been granted relief through a court-ordered expunction under s. 943.0585, F.S. This number does not account for those charges that are not maintained within CCH due to CCH only retaining fingerprint-based offenses. Those individuals would now be potentially eligible to receive additional relief for an adult charge under s. 943.0585, F.S.</p> <p>It is estimated that if programmatic changes are required, the analysis, design, programming and testing will total approximately \$35,000 (non-recurring) and an estimated 5 weeks to complete.</p> <p>TOTAL FDLE FISCAL: \$183,894 (\$44,364 non-recurring)</p>
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

Does the bill increase taxes, fees or fines?	
Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE LEGISLATION 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.	It is estimated that if programmatic changes are required, the analysis, design, programming and testing will total approximately \$35,000 (non-recurring) and an estimated 5 weeks to complete.
--	--

FEDERAL IMPACT

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

<p>If yes, describe the anticipated impact including any fiscal impact.</p>	
---	--

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

<p>Issues/concerns/comments and recommended action:</p>	<p>The proposed language would allow an individual to receive an expungement for a juvenile offense and then also receive an expungement of an adult offense. However, the bill does not amend s. 943.059, meaning that if a person had a record sealed prior to the request for expungement, or were to apply to seal a record after the new juvenile expungement, the request for a court ordered sealing would be denied.</p>
---	--

ADDITIONAL COMMENTS

- The proposed language only references court ordered expunctions under s. 943.0585, F.S. and does not reference court ordered sealings under s. 943.059, F.S. An additional question the department has based on the clarification is whether or not an individual who receives a court ordered expunction for a juvenile charge can receive a court ordered seal under s. 943.059, F.S., for an adult event. Under current law, a prior expunction under s. 943.0585, F.S. renders someone ineligible for receiving relief under s. 943.059, F.S.
- Allowing court ordered expunctions for juvenile charges would prohibit those expunged records from being considered when determining firearm purchase eligibility.
- Additional statutory guidelines would need to be established for the consideration of juvenile records for eligibility; for example, whether adjudicated delinquent equates to being adjudicated guilty and therefore renders an individual ineligible for relief under s. 943.0585, F.S.

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 184

INTRODUCER: Senators Avila and Hooper

SUBJECT: Impeding, Threatening, or Harassing First Responders

DATE: December 4, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wyant	Stokes	CJ	Favorable
2.			CA	
3.			RC	

I. Summary:

SB 184 provides that it is a first degree misdemeanor for any 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 the warning and approach or remain within 14 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 by interfering with the first responder performing such duty.

A “first responder” includes a law enforcement officer, correctional probation officer, firefighter, or an emergency medical care provider. “Harass” means to engage in a course of conduct directed at a first responder which causes substantial emotional distress in that first responder.

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, 2024.

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 violence¹ or resisting an officer with violence.²

¹ Section 943.02, F.S.

² Section 843.01, F.S.

Section 843.02, F.S., provides that it is a first degree misdemeanor³ 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 or her words, conduct, or combination thereof, constituted obstruction or resistance of that lawful duty.⁴

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.”⁵ 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 an obstruction. This obstructive conduct rather than offensive words are normally required to support a conviction under this statute.

Section 843.01, F.S., provides that it is a third degree felony⁶ 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.

³ 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.

⁴ *C.E.L. v. State*, 24 So. 3d 1181 (Fla. 2009) (citations omitted).

⁵ *D.A.W. v. State*, 945 So. 2d 624, 627 (Fla. 2d DCA 2006).

⁶ 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.

III. Effect of Proposed Changes:

The bill creates s. 843.31, F.S., which provides that it is a first degree misdemeanor for any 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 the warning and approach or remain within 14 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 by interfering with the first responder performing such duty.

A “first responder” includes a law enforcement officer,⁷ a correctional probation officer,⁸ a firefighter,⁹ and an emergency medical care provider.¹⁰

The criminal offense does not appear to be violated if the person whom the warning is issued is within the 14-foot zone but the person does not have the required intent (e.g. impeding the first responder’s ability to perform his or her legal duty).

The bill provides an effective date of October 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁷ “Law enforcement officer” means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The term includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. The term also includes a special officer employed by a Class I, Class II, or Class III railroad pursuant to s. 354.01, F.S. Section 943.10(1), F.S.

⁸ “Correctional probation officer” means a person who is employed full time by the state whose primary responsibility is the supervised custody, surveillance, and control of assigned inmates, probationers, parolees, or community controllees within institutions of the Department of Corrections or within the community. The term includes supervisory personnel whose duties include, in whole or in part, the supervision, training, and guidance of correctional probation officers, but excludes management and administrative personnel above, but not including, the probation and parole regional administrator level. Section 943.10(3), F.S.

⁹ “Firefighter” means any person employed by any public employer of this state whose duty it is to extinguish fires; to protect life or property; or to enforce municipal, county, and state fire prevention codes, as well as any law pertaining to the prevention and control of fires. Section 784.07(1)(b), F.S.

¹⁰ “Emergency medical care provider” means 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 “emergency medical care provider” 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.

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.”¹¹

A vague statute, “because of its imprecision, may also invite arbitrary and discriminatory enforcement.”¹²

Questions may arise when determining how the warning requirement and 14-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 radius 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 due to a potential increase in jail beds. However, some behavior that is captured under the new crime created in the bill may currently be captured under s. 843.02, F.S.

¹¹ *State v. Wershow*, 343 So.2d 605, 608 (Fla. 1977).

¹² *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 Changes:

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

None.

B. Amendments:

None.

By Senator Avila

39-00061A-24

2024184__

1 A bill to be entitled
 2 An act relating to impeding, threatening, or harassing
 3 first responders; creating s. 843.31, F.S.; defining
 4 the terms "first responder" and "harass"; prohibiting
 5 a person, after receiving a warning not to approach
 6 from a first responder who is engaged in the lawful
 7 performance of a legal duty, from violating such
 8 warning and approaching or remaining within a
 9 specified distance of the first responder with
 10 specified intent; providing criminal penalties;
 11 providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Section 843.31, Florida Statutes, is created to
 16 read:

17 843.31 Approaching a first responder after a warning with
 18 intent to impede, threaten, or harass.—

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

20 (a) "First responder" includes a law enforcement officer as
 21 defined in s. 943.10(1), a correctional probation officer as
 22 defined in s. 943.10(3), a firefighter as defined in s. 784.07,
 23 and an emergency medical care provider as defined in s. 784.07.

24 (b) "Harass" means to engage in a course of conduct
 25 directed at a first responder which causes substantial emotional
 26 distress in that first responder.

27 (2)(a) It is unlawful for a person, after receiving a
 28 warning not to approach from a first responder who is engaged in
 29 the lawful performance of a legal duty, to violate such warning

Page 1 of 2

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

39-00061A-24

2024184__

30 and approach or remain within 14 feet of the first responder
 31 with the intent to:
 32 1. Interrupt, disrupt, hinder, impede, or interfere with
 33 the first responder's ability to perform such duty;
 34 2. Threaten the first responder with physical harm; or
 35 3. Harass the first responder by interfering with the first
 36 responder performing such duty.
 37 (b) A person who violates this subsection commits a
 38 misdemeanor of the first degree, punishable as provided in s.
 39 775.082 or s. 775.083.
 40 Section 2. This act shall take effect October 1, 2024.

Page 2 of 2

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The Florida Senate

APPEARANCE RECORD

12/5/23

Meeting Date

184

Bill Number or Topic

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

CRIMINAL JUSTICE

Committee

Amendment Barcode (if applicable)

Name WILLIAM B. SMITH

Phone 305-333-4344

Address 300 E BREVARD ST.

Street

Email WSMITH@FLPBA.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:

FL PBA

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

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SB 184

Bill Number or Topic

12/05/23

Meeting Date

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Jackson Oberlink

Phone 772-532-1371

Address 6100 Biscayne Blvd.

Street

Email jackson@floridaforallvote

Miami

City

FL

State

33161

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 Rising

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

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S-001 (08/10/2021)

December 5, 2023

Meeting Date

Criminal Justice

Committee

Name Jonathan Webber

Address 400 Washington Ave

Street

Montgomery

City

AL

State

36104

Zip

The Florida Senate

APPEARANCE RECORD

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SB 184 - Intimidating, Harassing

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 954-593-4449

Email jonathan.webber@splcactionfund.org

Speaking: [] For [x] Against [] Information OR Waive Speaking: [] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] 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:

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S-001 (08/10/2021)

The Florida Senate

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12/6/23
Meeting Date

Crim Justice
Committee

184
Bill Number or Topic

Amendment Barcode (if applicable)

Name NR Hines

Phone 786-363-1104

Address _____
Street

Email ~~786-363-1104~~
nhines@aclofl.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:

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The Florida Senate

APPEARANCE RECORD

SB 184

12/15/23

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 Ivanna Gonzalez

Phone 786-389-3783

Address 10800 Biscayne Blvd

Street

Email ivanna@florida rising.org

Miami

FL

33185

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:

Florida rising

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

12/5/23

Meeting Date

SB 184

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Lisa Henning

Phone 850-766-8808

Address 242 Office Plaza Dr

Street

Email luplegislative@aol.com

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:

Fraternal Order of Police

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

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

S-001 (08/10/2021)



SENATOR Bryan Avila
39th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Government Oversight and Accountability, Chair
Appropriations
Appropriations Committee on Education
Appropriations Committee of Health and Human
Services
Education Pre-K 12
Ethics and Elections
Health Policy
Select Committee on Resiliency
Joint Select Committee on Collective Bargaining

November 17, 2023

Honorable Senator Jonathan Martin
Committee on Criminal Justice

Honorable Chair Martin:

I respectfully request SB 184 Impending, Threatening, or Harassing First Responders be placed on the next committee agenda.

SB 184 Defines 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, from violating such warning and approaching or remaining within a specified distance of the first responder with specified intent.

A handwritten signature in blue ink that reads "Bryan Avila".

Senator Bryan Avila
Florida Senate, District 39

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

REPLY TO:

- 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
- 326 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5039

Senate's Website: www.flsenate.gov

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

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 188

INTRODUCER: Senator Brodeur

SUBJECT: Trespass on Commercial Agricultural Property

DATE: December 4, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wyant	Stokes	CJ	Favorable
2.			AG	
3.			RC	

I. Summary:

SB 188 amends s. 810.09, F.S., to provide that it is a third degree felony for a person to trespass with the intent to commit a crime on commercial agricultural property that is legally posted and identified by signs.

“Commercial agricultural property” means property that is cleared of its natural vegetation or fenced for the purposes of planting, growing, harvesting, processing, or storing plant or animal commercial commodities intended for human consumption.

The bill may have an indeterminate fiscal impact on the Department of Corrections (DOC). See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

In 2021, Florida had 47,500 commercial farms, using a total of 9.7 million acres. There were 5,000 farms with sales exceeding \$100,000. Florida ranks 15th among all states in number of farms and 30th in land in farms. Farm cash receipts from marketing Florida agricultural products in 2020 amounted to \$7.41 billion.¹

Florida provides enhanced criminal penalties for trespass upon specified properties, including commercial horticulture properties and agriculture sites for testing or research purposes. There are no enhanced penalties for commercial agricultural properties.

¹ See Florida Department of Agriculture and Consumer Services, Agriculture Industry, available at: <https://www.fdacs.gov/Agriculture-Industry/Florida-Agriculture-Overview-and-Statistics> (last visited November 28, 2023).

Section 810.09, F.S., provides that trespass on property other than a structure² or conveyance³ is a first degree misdemeanor.⁴

A person commits the offense of trespass on property other than a structure or conveyance, when he or she, without being authorized,⁵ licensed, or invited, willfully enters upon or remains in any property other than a structure or conveyance:

- As to which notice against entering or remaining is given, either by actual communication to the offender or by posting, fencing, or cultivation; or
- If the property is the unenclosed curtilage⁶ of a dwelling and the offender enters or remains with the intent to commit an offense thereon, other than the offense of trespass.

Additionally, s. 810.09, F.S., provides enhanced criminal penalties for specific types of trespass. For example, it is a third degree felony⁷ if the:

- Offender is armed with a firearm or other dangerous weapon during the commission of the offense of trespass on property other than a structure or conveyance.
- Property trespassed upon is commercial horticulture property and the property is legally posted and identified in substantially the following manner: “THIS AREA IS DESIGNATED COMMERCIAL PROPERTY FOR HORTICULTURE PRODUCTS, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY.”
- Property trespassed upon is an agricultural site for testing or research purposes that is legally posted and identified in substantially the following manner: “THIS AREA IS A DESIGNATED AGRICULTURAL SITE FOR TESTING OR RESEARCH PURPOSES, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY.”

III. Effect of Proposed Changes:

The bill amends s. 810.09, F.S., to provide that it is a third degree felony if the offender trespasses with the intent to commit a crime on commercial agriculture property that is legally

² “Structure” means a building of any kind, either temporary or permanent, which has a roof over it, together with the curtilage thereof. However, during the time of a state of emergency declared by executive order or proclamation of the Governor under ch. 252, F.S., and within the area covered by such executive order or proclamation and for purposes of ss. 810.02 and 810.08, F.S., only, the term means a building of any kind or such portions or remnants thereof as exist at the original site, regardless of absence of a wall or roof. Section 810.011(1), F.S.

³ “Conveyance” means any motor vehicle, ship, vessel, railroad vehicle or car, trailer, aircraft, or sleeping car; and “to enter a conveyance” includes taking apart any portion of the conveyance. However, during the time of a state of emergency declared by executive order or proclamation of the Governor under ch. 252, F.S., and within the area covered by such executive order or proclamation and for purposes of ss. 810.02 and 810.08, F.S., only, the term “conveyance” means a motor vehicle, ship, vessel, railroad vehicle or car, trailer, aircraft, or sleeping car or such portions thereof as exist. Section 810.011(3), F.S.

⁴ 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.

⁵ “Authorized person” or “person authorized” means any owner, his or her agent, or a community association authorized as an agent for the owner, or any law enforcement officer whose department has received written authorization from the owner, his or her agent, or a community association authorized as an agent for the owner, to communicate an order to leave the property in the case of a threat to public safety or welfare. Section 810.09(3), F.S.

⁶ “Unenclosed curtilage” means the unenclosed land or grounds, and any outbuildings, that are directly and intimately adjacent to and connected with the dwelling and necessary, convenient, and habitually used in connection with that dwelling. Section 810.09(1)(b), F.S.

⁷ 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.

posted and identified by signs in letters of not less than 2 inches in height at each pedestrian and vehicle entrance in substantially the following manner: “THIS AREA IS A DESIGNATED COMMERCIAL AGRICULTURAL PROPERTY AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY.”

“Commercial agricultural property” means property that is cleared of its natural vegetation or fenced for the purposes of planting, growing, harvesting, processing, or storing plant or animal commercial commodities intended for human consumption.

The bill takes effect July 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 creates a new third degree felony for trespass on agricultural property. This may have a positive indeterminate impact on the DOC due to the potential increase in prison beds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 810.09 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 Brodeur

10-00316-24

2024188__

1 A bill to be entitled
 2 An act relating to trespass on commercial agricultural
 3 property; amending s. 810.09, F.S.; providing enhanced
 4 criminal penalties for trespass with specified intent
 5 on certain commercial agricultural property; defining
 6 the term "commercial agricultural property"; providing
 7 an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Paragraph (k) is added to subsection (2) of
 12 section 810.09, Florida Statutes, to read:

13 810.09 Trespass on property other than structure or
 14 conveyance.—

15 (2)

16 (k)1. The offender commits a felony of the third degree,
 17 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
 18 if the offender trespasses with the intent to commit a crime on
 19 commercial agricultural property that is legally posted and
 20 identified by signs in letters of not less than 2 inches in
 21 height at each pedestrian and vehicle entrance in substantially
 22 the following manner: "THIS AREA IS A DESIGNATED COMMERCIAL
 23 AGRICULTURAL PROPERTY AND ANYONE WHO TRESPASSES ON THIS PROPERTY
 24 COMMITTS A FELONY."

25 2. For purposes of this paragraph, the term "commercial
 26 agricultural property" means property that is cleared of its
 27 natural vegetation or fenced for the purposes of planting,
 28 growing, harvesting, processing, or storing plant or animal
 29 commercial commodities intended for human consumption.

Page 1 of 2

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

10-00316-24

2024188__

30 Section 2. This act shall take effect July 1, 2024.

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

SB 188

Bill Number or Topic

Amendment Barcode (if applicable)

12/5/23

Meeting Date

Criminal Justice

Committee

Name

Tripp Hunter

Phone

850-408-6922

Address

193 S Monroe

Email

Tripp.Hunter@FFVA.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:

Florida Fruit & Vegetable Assn.

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 \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

12/5/23

Meeting Date

188

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 Jim SPRATT

Phone 850-228-1296

Address PO Box 10011

Email Jim@magnoliastrategiesllc.com

Street

TCH

City

FL

State

32302

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 Ag Coalition

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 0158

12/5/23

Meeting Date

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

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

Name Andrew Walmsley

Phone 202-430-0188

Address 310 W College Ave

Email andrew.walmsley@flbar.org

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:

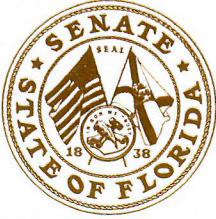
Florida Farm Bureau Federation

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

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S-001 (08/10/2021)



THE FLORIDA SENATE

SENATOR JASON W.B. PIZZO

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3475 Sheridan Street
Suite 211
Hollywood, FL 33021
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pizzo.jason@flsenate.gov

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COMMITTEES:

Joint Legislative Auditing,
Alternating Chair

Appropriations

Appropriations
Committee on Criminal &
Civil Justice

Community Affairs

Criminal Justice

Finance & Tax

Military & Veterans
Affairs, Space, and
Domestic Security

Select Committee on
Resiliency, *Vice Chair*

KATHLEEN PASSIDOMO

President of the Senate

DENNIS BAXLEY

President Pro Tempore

December 5, 2023

Senator Jonathan Martin, Chair
Senate Committee on Criminal Justice
404 South Monroe Street
Tallahassee, FL 32399

Chair Martin,

Please excuse my absence from the meeting of the Senate Committee on Criminal Justice this afternoon, December 5, 2023.

Sincerely,

A handwritten signature in black ink, appearing to read "JWP", written over a white background.

Jason W.B. Pizzo

cc: Amanda Stokes, Staff Director
Sue Arnold, Committee Administrative Assistant
Maggie Gerson, Senate Democratic Office Staff Director
Megan Ramba, Senate President's Office

CourtSmart Tag Report

Room: SB 37

Case No.:

Type:

Caption: Senate Criminal Justice Committee

Judge:

Started: 12/5/2023 2:03:50 PM

Ends: 12/5/2023 2:55:21 PM

Length: 00:51:32

2:03:49 PM Meeting called to order, roll call
2:04:07 PM Quorum is present
2:04:11 PM Senator Pizzo is excused
2:04:15 PM Chair Martin makes opening remarks
2:04:31 PM Tab 1- SB 54, Expunction of Criminal History Records, Senator Rodriguez
2:04:41 PM Senator Rodriguez explains the bill
2:06:01 PM Chair Martin reads appearance cards waiving
2:06:48 PM Debate:
2:06:51 PM Senator Ingoglia
2:07:21 PM Senator Powell
2:07:51 PM Senator Rodriguez closes on the bill
2:08:47 PM Roll call on SB 54
2:08:57 PM Chair Martin reports the bill
2:09:06 PM Tab 3- SB 188, Trespass on Commercial Agricultural Property, Senator Brodeur
2:09:18 PM Senator Ingoglia explains the bill
2:09:53 PM Questions:
2:09:56 PM Senator Powell
2:10:15 PM Senator Ingoglia
2:11:13 PM Senator Powell
2:11:37 PM Senator Ingoglia
2:12:35 PM Chair Martin reads the appearance cards waiving
2:12:59 PM Debate:
2:13:01 PM Senator Powell
2:14:38 PM Chair Martin
2:17:16 PM Senator Ingoglia closes on the bill
2:18:40 PM Roll call on SB 188
2:18:53 PM Chair Martin reports the bill
2:19:00 PM Tab 2- SB 184, Impeding, Threatening, or Harassing First Responders, Senator Avila
2:19:09 PM Senator Avila explains the bill
2:20:13 PM Questions:
2:20:18 PM Senator Powell
2:21:35 PM Senator Avila
2:23:28 PM Senator Powell
2:24:23 PM Senator Avila
2:25:35 PM Senator Powell
2:26:17 PM Senator Avila
2:27:03 PM Senator Powell
2:27:30 PM Senator Avila
2:28:16 PM Senator Powell
2:28:23 PM Senator Avila
2:29:08 PM Senator Powell
2:29:11 PM Senator Avila
2:29:27 PM Senator Polsky
2:29:38 PM Senator Avila
2:30:12 PM Senator Polsky
2:30:23 PM Senator Avila
2:30:54 PM Chair Martin reads appearance cards waiving
2:31:18 PM Jonathan Webber, SPLC Action Fund
2:32:32 PM Questions:
2:32:36 PM Senator Perry
2:32:45 PM Jonathan Webber
2:33:09 PM Senator Perry

2:33:44 PM Jonathan Webber
2:34:01 PM Senator Powell
2:34:49 PM Jonathan Webber
2:35:10 PM NR Hines, ACLU FL
2:37:32 PM Senator Powell
2:38:51 PM NR Hines
2:39:34 PM Ivanna Gonzalez
2:41:53 PM Debate:
2:41:57 PM Senator Powell
2:45:48 PM Chair Martin
2:48:53 PM Senator Powell
2:50:44 PM Senator Polsky
2:51:40 PM Senator Avila closes on the bill
2:54:30 PM Roll call on SB 184
2:54:44 PM Chair Martin reports the bill
2:55:05 PM Meeting adjourned
2:55:06 PM