Tab 1	**SB 208** by **Burgess (CO-INTRODUCERS) Perry**; (Similar to CS/H 00801) Alzheimer's Disease and Related Dementia Training for Law Enforcement Officers

740482	A	S	RCS	CJ, Burgess	Delete L.23 - 34:	01/23 06:24 PM

Tab 2	**SB 232** by **Wright**; (Identical to H 00871) Driving Under the Influence

953686	A	S	RCS	CJ, Martin	Delete L.37 - 49.	01/23 06:24 PM
613870	A	S	RCS	CJ, Martin	btw L.290 - 291:	01/23 06:24 PM

Tab 3	**SB 258** by **Perry**; (Identical to H 00317) Interstate Safety

Tab 4	**SB 260** by **DiCeglie (CO-INTRODUCERS) Hooper**; (Similar to CS/H 00039) Refusal to Submit to a Breath, Urine, or Blood Test

724064	D	S	RCS	CJ, DiCeglie	Delete everything after	01/23 06:24 PM

Tab 5	**SB 576** by **Ingoglia**; (Compare to H 00601) Investigation of Complaints Against Law Enforcement and Correctional Officers

Tab 6	**SB 718** by **Collins (CO-INTRODUCERS) Hooper**; (Similar to CS/H 00231) Exposures of First Responders to Fentanyl

738808	D	S	RCS	CJ, Collins	Delete everything after	01/23 06:24 PM
290480	AA	S	RCS	CJ, Collins	Delete L.31 - 37:	01/23 06:24 PM

Tab 7	**SB 808** by **DiCeglie (CO-INTRODUCERS) Stewart, Osgood, Powell, Polsky**; (Similar to CS/H 00637) Treatment by a Medical Specialist

951398	A	S	RCS	CJ, DiCeglie	Delete L.24 - 41:	01/23 06:24 PM

Tab 8	**SB 864** by **Collins (CO-INTRODUCERS) Perry**; (Similar to H 00829) Autism Spectrum Disorder Training for Law Enforcement Officers

892168	A	S	RCS	CJ, Collins	Delete L.32:	01/23 06:24 PM

Tab 9	**SB 1190** by **Ingoglia**; (Identical to H 01131) Online Sting Operations Grant Program

Tab 10	**SB 1220** by **Martin**; (Similar to H 01171) Schemes to Defraud

Tab 11	**SB 1222** by **Trumbull (CO-INTRODUCERS) Perry**; (Similar to CS/H 00549) Theft

646978	A	S	RCS	CJ, Trumbull	Delete L.294 - 756:	01/23 06:24 PM

Tab 12	**SB 1230** by **Bradley**; (Identical to H 01235) Sexual Predators and Sexual Offenders

~~709618~~	A	S	WD	CJ, Bradley	Delete L.1036 - 1602:	01/23 08:56 AM

Tab 13	**SB 1278** by **Martin**; (Identical to H 01337) Department of Corrections

Tab 14	**SB 1284** by **Martin**; (Similar to H 00959) Health Care for Inmates

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Martin, Chair
Senator Bradley, Vice Chair

MEETING DATE: Tuesday, January 23, 2024
TIME: 1:00—3:00 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 208** Burgess (Similar CS/H 801)	Alzheimer's Disease and Related Dementia Training for Law Enforcement Officers; Requiring the Department of Law Enforcement to establish an online, continued employment training component relating to Alzheimer's disease and related forms of dementia; requiring that the training component be developed with the Department of Elderly Affairs; authorizing the completion of such training to count toward a certain requirement, etc. CJ 01/23/2024 Fav/CS ACJ FP	Fav/CS Yeas 8 Nays 0
2	**SB 232** Wright (Identical H 871)	Driving Under the Influence; Prohibiting a trial court judge from accepting specified pleas when a person is charged with the offense of driving under the influence unless specified conditions are met; requiring that a person be told that his or her failure to submit to a lawful test of breath or urine is a second degree misdemeanor or a first degree misdemeanor under certain circumstances; classifying a person's refusal to submit to a chemical or physical test of breath or urine as a second degree misdemeanor or a first degree misdemeanor under certain circumstances; authorizing judicial circuits to create a driving under the influence diversion program, etc. CJ 01/23/2024 Fav/CS ACJ FP	Fav/CS Yeas 8 Nays 0
3	**SB 258** Perry (Identical H 317)	Interstate Safety; Defining the term "furthermost left-hand lane"; prohibiting a driver from operating a motor vehicle in the furthermost left-hand lane of certain roadways, except under certain circumstances, etc. TR 01/10/2024 Favorable CJ 01/23/2024 Favorable RC	Favorable Yeas 8 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 260** DiCeglie (Similar CS/H 39)	Refusal to Submit to a Breath, Urine, or Blood Test; Requiring a person arrested for driving under the influence who refuses to submit to a lawful test of his or her breath to be told that he or she is subject to mandatory placement, at his or her own expense and for a specified period, of an ignition interlock device on all vehicles that are individually or jointly leased or owned and routinely operated by the person; directing the Department of Highway Safety and Motor Vehicles to require placement of an ignition interlock device before issuing a permanent or restricted driver license to a person who refused to submit to a lawful test of his or her breath, etc. TR 12/13/2023 Favorable CJ 01/23/2024 Fav/CS FP	Fav/CS Yeas 8 Nays 0
5	**SB 576** Ingoglia (Compare H 601)	Investigation of Complaints Against Law Enforcement and Correctional Officers; Revising the definition of "political subdivision"; prohibiting a political subdivision from adopting or attempting to enforce certain ordinances relating to the receipt, processing, or investigation of complaints against law enforcement officers or correctional officers, or relating to civilian oversight of law enforcement agency investigations of complaints of misconduct by such officers, etc. CJ 01/23/2024 Favorable CA RC	Favorable Yeas 6 Nays 2
6	**SB 718** Collins (Similar CS/H 231)	Exposures of First Responders to Fentanyl; Providing criminal penalties for persons who recklessly expose first responders to fentanyl, fentanyl derivatives, analogs of fentanyl, or mixtures containing such substances and an overdose or serious bodily injury of a first responder results, if the substance or mixture is proven to have caused or been a substantial factor in causing the overdose or serious bodily injury of the first responder; specifying prima facie evidence that a person experienced an overdose or a serious bodily injury, etc. CJ 01/23/2024 Fav/CS ACJ FP	Fav/CS Yeas 7 Nays 1

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	**SB 808** DiCeglie (Similar CS/H 637)	Treatment by a Medical Specialist; Authorizing firefighters, law enforcement officers, correctional officers, and correctional probation officers to receive medical treatment by a medical specialist for certain conditions under certain circumstances; requiring firefighters, law enforcement officers, correctional officers, and correctional probation officers to notify certain entities of their selection of a medical specialist before beginning treatment, etc. CJ 01/23/2024 Fav/CS AEG AP	Fav/CS Yeas 8 Nays 0
8	**SB 864** Collins (Similar H 829)	Autism Spectrum Disorder Training for Law Enforcement Officers; Providing requirements for training officers for interacting with individuals with autism spectrum disorder; requiring the Criminal Justice Standards and Training Commission to adopt rules requiring such training as part of continued employment training for officers, etc. CJ 01/23/2024 Fav/CS ACJ FP	Fav/CS Yeas 8 Nays 0
9	**SB 1190** Ingoglia (Identical H 1131)	Online Sting Operations Grant Program; Creating the Online Sting Operations Grant Program within the Department of Law Enforcement to support local law enforcement agencies in creating certain sting operations to protect children; requiring the department to annually award grant funds to local law enforcement agencies; 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 01/23/2024 Favorable ACJ FP	Favorable Yeas 8 Nays 0
10	**SB 1220** Martin (Similar H 1171)	Schemes to Defraud; Providing for the reclassification of certain scheme-to-defraud offenses committed against persons 65 years of age or older or persons with certain disabilities; authorizing a person whose image or likeness is used without his or her consent in a scheme to defraud to file a civil action for damages, etc. CJ 01/23/2024 Favorable ACJ FP	Favorable Yeas 8 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	**SB 1222** Trumbull (Similar CS/H 549, Compare S 824)	Theft; Reducing the minimum threshold amount for grand theft of the third degree; creating the offense of grand theft of the third degree; providing criminal penalties; defining the term "social media platform"; providing criminal penalties for persons committing certain retail theft acts in concert with a certain number of other persons within one or more establishments for specified purposes, etc. CJ 01/23/2024 Fav/CS ACJ FP	Fav/CS Yeas 7 Nays 1
12	**SB 1230** Bradley (Identical H 1235)	Sexual Predators and Sexual Offenders; Revising the definitions of the terms "conviction," "permanent residence," "temporary residence," and "transient residence"; specifying that, in order to qualify for removal of certain registration requirements, certain sexual offenders must meet specified criteria; authorizing sexual predators to report to the Department of Law Enforcement through the department's online system within a specified timeframe required vehicle information changes after any change in vehicles owned, etc. CJ 01/23/2024 Favorable ACJ FP	Favorable Yeas 8 Nays 0
13	**SB 1278** Martin (Identical H 1337)	Department of Corrections; Providing additional authority for law enforcement officers of the office of the inspector general concerning department and private correctional facilities; providing that correctional privatization contracts are not exempt from specified state contracting provisions unless otherwise specified; removing provisions concerning development of consensus per diem rates by the Prison Per-Diem Workgroup, etc. CJ 01/23/2024 Favorable ACJ FP	Favorable Yeas 8 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
14	**SB 1284** Martin (Similar H 959)	Health Care for Inmates; Providing for individual dignity and treatment; substantially rewording provisions concerning involuntary examinations of inmates and providing requirements therefor; substantially rewording provisions relating to placement and treatment of an inmate in a mental health treatment facility and providing requirements therefor; specifying purposes for which an inmate's mental health treatment records may be provided to the Florida Commission on Offender Review and the Department of Children and Families, etc. CJ 01/23/2024 Favorable ACJ FP	Favorable Yeas 8 Nays 0

Other Related Meeting Documents

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 208
INTRODUCER:	Criminal Justice Committee and Senators Burgess and Perry
SUBJECT:	Alzheimer's Disease and Related Dementia Training for Law Enforcement Officers
DATE:	January 23, 2024 REVISED:

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 208 creates s. 943.17299, F.S., which establishes a continued employment training component related to Alzheimer's disease and related forms of dementia. The Florida Department of Law Enforcement (FDLE) shall establish an online training in consultation with the Department of Elder Affairs. The training must include, but is not limited to:

- Instruction on interacting with persons with Alzheimer's disease or a related form of dementia.
- Instruction on techniques for recognizing behavioral symptoms and characteristics.
- Effective communication.
- Employing the use of alternatives to physical restraints.
- Identifying signs of abuse, neglect, or exploitation.

Completion of the training component may count toward the 40 hours of instruction for continued employment or appointment as a law enforcement officer.

This bill may have an indeterminate fiscal impact on the FDLE. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2024.

II. Present Situation:

Chapter 943, F.S., contains a number of specific requirements relevant to law enforcement officer training including training in subjects such as victims assistance,[1] sexual assault investigation,[2] autism spectrum disorder,[3] and others.

Section 943.17296, F.S., requires each certified law enforcement officer to successfully complete training on identifying and investigating elder abuse and neglect as part of the basic recruit training,[4] or continuing education.[5] The training is required to be developed in consultation with the Department of Elder Affairs and the Department of Children and Families and must incorporate instruction on the identification of and appropriate responses for persons suffering from dementia and on identifying and investigating elder abuse and neglect.

Elder abuse training must include instruction of and appropriate responses for persons suffering from dementia and on identifying and investigating elder abuse and neglect.[6] An officer who fails to comply with the elder abuse and neglect training requirements must become an inactive officer. The officer's certification is reactivated when the officer's employing agency provides Criminal Justice Standards and Training Commission (CJSTC) staff with verification that the officer has met the continuing education or training requirement.

Full time, part time, or auxiliary officers must successfully complete 40 hours of continuing education or training every four years.

III. Effect of Proposed Changes:

The bill creates s. 943.17299, F.S., which establishes a continued employment training component related to Alzheimer's disease and related forms of dementia. The FDLE shall establish an online training in consultation with the Department of Elder Affairs. The training must include, but is not limited to:

- Instruction on interacting with persons with Alzheimer's disease or a related form of dementia.
- Instruction on techniques for recognizing behavioral symptoms and characteristics.

[1] Section 943.172, F.S., requires every basic skills course required in order for law enforcement officers, probation officers, and other appropriate correctional staff to obtain initial certification to include a minimum of 4 hours of training in victims' assistance and rights.
[2] Section 943.1724, F.S., requires each basic skills course required for a law enforcement office to obtain initial certification must incorporate culturally responsive, trauma-informed training on interviewing sexual assault victims and investigation of incidents of sexual assault.
[3] Section 943.1727, F.S., requires 40 hours of instruction for continued employment or appointment as a law enforcement officer on training related to autism spectrum disorder, including but not limited to, instruction on the recognition of the symptoms and characteristics of an individual on the autism disorder spectrum and appropriate responses to a person exhibiting such symptoms and characteristics.
[4] Section 943.13(9), F.S., requires any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer or correctional officer or auxiliary correctional probation officer to complete a commission-approved basic recruit training program.
[5] Section 943.135(1), F.S., requires all officers, as a condition of continued employment, to receive periodic commission-approved continuing training or education. Such continuing training or education is required at the rate of 40 hours every 4 years.
[6] Rule 11B-27.00212 (15) (b), F.A.C.

- Effective communication.
- Employing the use of alternatives to physical restraints.
- Identifying signs of abuse, neglect, or exploitation.

Completion of the training component may count toward the 40 hours of instruction for continued employment or appointment as a law enforcement officer.

The bill takes effect on October 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 requires the CJSTC to develop additional instruction on Alzheimer's disease and related forms of dementia. Development of the training curricula will cost approximately $11,000.[7]

[7] Florida Department of Law Enforcement, *2024 Agency Analysis of SB 208*, October 23, 2023 (on file with the Senate committee on Criminal Justice).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 934.17299 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 January 23, 2024:
The committee substitute:

- Makes a technical change to correct "Department of Elderly Affairs" to "Department of Elder Affairs."
- Provides an effective date of October 1, 2024.

B. Amendments:

None.

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

740482

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2024	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 23 - 34

and insert:

consultation with the Department of Elder Affairs and must include, but need not be limited to, instruction on interacting with persons with Alzheimer's disease or a related form of dementia, including instruction on techniques for recognizing behavioral symptoms and characteristics, effective communication, employing the use of alternatives to physical

740482

restraints, and identifying signs of abuse, neglect, or exploitation. Completion of the training component may count toward the 40 hours of instruction for continued employment or appointment as a law enforcement officer required under s. 943.135.

Section 2. This act shall take effect October 1, 2024.

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

And the title is amended as follows:

Delete line 9

and insert:

Department of Elder Affairs; specifying instruction

By Senator Burgess

23-00333-24 2024208__

A bill to be entitled

An act relating to Alzheimer's disease and related dementia training for law enforcement officers; creating s. 943.17299, F.S.; requiring the Department of Law Enforcement to establish an online, continued employment training component relating to Alzheimer's disease and related forms of dementia; requiring that the training component be developed with the Department of Elderly Affairs; specifying instruction requirements for the training component; authorizing the completion of such training to count toward a certain requirement; providing an effective date.

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

Section 1. Section 943.17299, Florida Statutes, is created to read:

943.17299 Continued employment training relating to Alzheimer's disease and related forms of dementia.—The department shall establish an online, continued employment training component relating to Alzheimer's disease and related forms of dementia. The training component must be developed in consultation with the Department of Elderly Affairs and must include, but need not be limited to, instruction on interacting with persons with Alzheimer's disease or a related form of dementia, including instruction on techniques for recognizing behavioral symptoms and characteristics, effective communication, employing the use of alternatives to physical restraints, and identifying signs of abuse, neglect, or

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

23-00333-24 2024208__

exploitation. Completion of the training component may count toward the 40 hours of instruction for continued employment or appointment as a law enforcement officer required under s. 943.135.

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

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

2024 FDLE LEGISLATIVE BILL ANALYSIS

BILL INFORMATION	
BILL NUMBER:	SB 208
BILL TITLE:	**Alzheimer's Disease and Related Dementia Training for Law Enforcement Officers**
BILL SPONSOR:	Sen. Burgess
EFFECTIVE DATE:	July 1, 2024

COMMITTEES OF REFERENCE
1) Criminal Justice
2) Appropriations on Criminal and Civil Justice
3) Fiscal Policy
4)
5)

CURRENT COMMITTEE
Criminal Justice

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

IDENTICAL BILLS	
BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	October 23, 2023
LEAD AGENCY ANALYST:	Chad Brown
ADDITIONAL ANALYST(S):	Ashley Pennington, Glen Hopkins, Brett Kirkland
LEGAL ANALYST:	Chris Bufano, Jim Martin
FISCAL ANALYST:	Elizabeth Martin

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill requires the Florida Department of Law Enforcement (FDLE), in consultation with the Department of Elder Affairs (DOEA), to develop an online continued employment training component related to dementia. Training must include interacting with persons with dementia as well as techniques for recognizing symptoms and characteristics, effective communication, alternate physical restraint, and identifying signs of abuse. Training would count towards the 40 hours of instruction for continued employment under s. 943.135, F.S.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** In order to maintain their certification, law enforcement officers must satisfy the continuing training and education requirements of s. 943.135, F.S. This statute requires officers, as a condition of continued employment or appointment, to receive continuing training or education at the rate of 40 hours every four years. The employing agency must document continuing training or education is job-related and consistent with the needs of the employing agency and report completion to Criminal Justice Standards and Training Commission (CJSTC) through the Automated Training Management System .

   Currently, there is not a CJSTC specialized post-basic course devoted specifically to the topic of Alzheimer's Disease and Related Dementia.

2. **EFFECT OF THE BILL:** To meet the course requirement outlined in the bill, CJSTC staff, in consultation with DOEA, will identify subject matter experts (SMEs) and conduct workshops with the SMEs to develop the content for the online training. The costs of the workshops are outlined under Additional Comments.

   After the course content has been developed, CJSTC staff will work with DOEA to review the course for approval. Once approval has been received from DOEA, CJSTC staff will present the course to the CJSTC for approval.

   Upon CJSTC approval, staff will upload the course to the FDLE website page that houses all CJSTC online courses. This is not a mandatory course that officers must take but it will be available as a course that counts toward an officer's 40 hours of instruction for continued employment.

1. 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.):	

2. 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:	

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

If yes, provide a description:	

Date Due:	
Bill Section Number:	

4. 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:	None
Expenditures:	• Requires CJSTC to develop additional instruction on Alzheimer's disease and related dementia. Development of the training curricula will cost approximately $11,000 (see Additional Comments). **Total FDLE Fiscal: $11,000**
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.	

FEDERAL IMPACT

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

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

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	

ADDITIONAL COMMENTS

- The bill has an effective date of July 1, 2024; however, that is not enough time to host workshops, compile research, develop the course and receive approval from CJSTC. FDLE recommends an effective date change of July 1, 2025.

- Development of an online CJSTC specialized post-basic course on Alzheimer's disease and related dementia would include the following costs:

Tasks	Hours	Cost
Analysis		
Identify SMEs	40	$ 1000
Research existing material	40	$ 1000
SME Workshop—Instructional Analysis	80	$ 2000
Design/Development		
Develop course content	160	$ 4000
Review/Revisions	80	$ 2000
Implementation		
Course edit	40	$ 1000
Total cost		$ 11,000

The Florida Senate

APPEARANCE RECORD

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

11/23/24
Meeting Date

Criminal Justice
Committee

208
Bill Number or Topic

Amendment Barcode (if applicable)

Name Olivia Babis Keller

Phone 850-617-9718

Address 2473 Care Dr. #200
Street

Email olivia@drflorida.org

Tallahassee FL 32304
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: Disability Rights 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)

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

1/23/24
Meeting Date

Senate Criminal Justice
Committee

SB 208
Bill Number or Topic

Amendment Barcode (if applicable)

Name Cheryl Ann Haley

Phone 941-626-7447

Address 11353 Regal Square DR
Street

Email cherylannhaley@outlook.com

Temple Terrace FL 33617
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:

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S-001 (08/10/2021)

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The Florida Senate

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Senate professional staff conducting the meeting

1/23/24
Meeting Date

Criminal Justice
Committee

SB 208
Bill Number or Topic

Amendment Barcode (if applicable)

Name Laurette Philipsen

Phone 727-484-0237

Email advocatephilipsen@gmail.com

Address 7240 Westwind Drive
Street

Port Richey FL 34668
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ I am a registered lobbyist, representing:

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S-001 (08/10/2021)

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The Florida Senate

APPEARANCE RECORD

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

1/23/24
Meeting Date

Criminal Justice
Committee

SB 208
Bill Number or Topic

Amendment Barcode (if applicable)

Name Alex Anderson

Phone 904 502 2506

Address 325 John Knox C-128
Street

Email

Tallahassee 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: Alzheimer's 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. 2020-2022JointRules.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

Jan 23, 2024
Meeting Date

CJ
Committee

SB 208 - Alzheimer's
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ann Salamone
mother of MD who treats Alzheimer patients

Phone 561-866-0930

Address 4228 NW 68 TER
Street

Email absalamone@aol.com

Gainesville FL 32606
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/23/24
Meeting Date

Criminal Justice
Committee

208 - Alzheimer's Training
Bill Number or Topic

Amendment Barcode (if applicable)

Name Karen Murillo

Phone 850-567-0414

Address 215 S. Monroe St., Ste. 603
Street

Email kmurillo@aarp.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:
AARP Florida

☐ 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

January 23, 2024
Meeting Date

Criminal Justice
Committee

208
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 1454 Vieux Carre Drive
Street

Email Barney@BarneyBishop.com

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 Smart Justice Alliance

☐ 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

Committee Agenda Request

To: Senator Jonathan Martin, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: November 13, 2023

I respectfully request that **Senate Bill #208**, relating to Alzheimer's Disease and Related Dementia Training for Law Enforcement Officers, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Danny Burgess
Florida Senate, District 23

File signed original with committee office

S-020 (03/2004)

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 232
INTRODUCER:	Criminal Justice Committee and Senator Wright
SUBJECT:	Driving Under the Influence
DATE:	January 23, 2024
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 232 amends s. 316.1932, F.S., requiring that a person be told that his or her failure to submit to a lawful test of breath or urine is a second degree misdemeanor[1] or a first degree misdemeanor[2] if his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215, F.S., for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under chs. 316 or 327, F.S.

The bill amends s. 316.1939, F.S., classifying a person's first refusal to submit to a chemical or physical test of breath or urine as a second degree misdemeanor. The bill provides that a second or subsequent refusal to submit to a lawful breath, urine, or blood test is a first-degree misdemeanor.

The bill creates s. 316.19395, F.S., authorizing any judicial circuit to create a Driving Under the Influence Diversion Program. A judicial circuit that creates such a program shall publish the terms and conditions of the program on the website of the office of the state attorney. Each judicial circuit operating a Driving Under the Influence Diversion Program must report to the Florida Department of Highway Safety and Motor Vehicles (DHSMV) persons who have

[1] A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days, as provided in s. 775.082 or s. 775.083, F.S.

[2] A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year and a $1,000 fine, as provided in s. 775.082 or s. 775.083, F.S.

successfully completed the program. The DHSMV shall notate the successful participation of the diversion program on the driving record of each person.

The bill amends s. 316.656, F.S., prohibiting a court from suspending, deferring, or withholding adjudication of guilt or imposition of sentence for any violation of s. 316.1939, F.S., relating to the refusal to submit to a breath test.

The bill amends s. 322.34, F.S., providing that any person who knowingly drives while his or her driver license or driving privilege has been canceled, suspended, or revoked as provided by law or who does not have a driver license or driving privilege commits a third degree felony, upon a third or subsequent conviction if the current violation of this section or the most recent prior violation of the section is related to driving while license canceled, suspended, revoked, or suspension or revocation equivalent status resulting from a violation of:

- Driving under the influence;
  - A person in violation of this provision must serve a minimum of 30 days in jail upon a first conviction, a minimum of 60 days in jail upon a second conviction, and a minimum of 90 days in jail upon a third or subsequent conviction.
- Refusal to submit to a urine, breath-alcohol, or blood alcohol test;
  - A person in violation of this provision must serve a minimum of 30 days in jail upon a first conviction, a minimum of 60 days in jail upon a second conviction, and a minimum of 90 days in jail upon a third or subsequent conviction.
- A traffic offense causing death or serious bodily injury; or
- Fleeing or eluding.

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

The bill is effective October 1, 2024.

II. Present Situation:

Testing for Alcohol, Chemical Substances, and Controlled Substances

Implied Consent

Section 316.1932, F.S., sets forth what is commonly known as the implied consent law. Specifically, s. 316.1932(1)(a)1., F.S., provides that anyone who operates a motor vehicle or vessel in the state is, by operating such a vehicle or vessel, deemed to have given his or her consent to submit to an approved chemical or physical test of his or her breath to determine the alcoholic content of his or her blood or breath or a urine test to detect the presence of chemical substances or controlled substances.[3]

The person shall be told that his or her failure to submit to any lawful test of his or her breath will result in the suspension of the person's privilege to operate a motor vehicle for a period of

[3] Sections 316.1932(1)(a)1.a., and 327.352(1)(a)1., F.S.

1 year for a first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended or if he or she has previously been fined under s. 327.35215, F.S.[4]

As a result of a refusal to submit to a test or tests required under ch. 316 or ch. 327, F.S., the person shall also be told that if he or she refuses to submit to a lawful test of his or her breath and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215, F.S., for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under ch. 316 or ch. 327, F.S., he or she commits a first-degree misdemeanor.[5]

These tests may be performed if the person is lawfully arrested for any offense allegedly committed while the person was driving or in actual physical control of a motor vehicle, or operating a vessel, while under the influence of alcohol or chemical, or controlled substances.[6]

Driving Under the Influence

A person is guilty of driving under the influence if a person drives or is in actual physical control of a vehicle and the person:

- Is under the influence of alcoholic beverages, any controlled substance set forth in s. 877.111, F.S., or any substance controlled under ch. 893, F.S., to the extent that the person's normal faculties are impaired;[7]
- Has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood;[8] or
- Has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.[9]

The criminal penalties for driving under the influence vary depending on numerous factors such as the number of prior convictions, the length of time between convictions, and the defendant's blood alcohol level.[10] The penalties for a first time driving under the influence offense are punishable by:

- A period of probation not exceeding one year;
- A fine of not less than $500 or more than $1,000;
- Imprisonment for not more than six months;
- A mandatory 50 hours of community service; and
- A mandatory ten-day vehicle impoundment.[11]

[4] When a person refuses to submit to a blood test, breath test, or urine test pursuant to s. 327.352, F.S., a law enforcement officer authorized to make arrests for violations of this chapter shall file with the clerk of the court, on a form provided by the commission, a certified statement that probable cause existed to arrest the person for a violation of s. 327.35, F.S., and that the person refused to submit to a test as required by s. 327.352, F.S. Along with the statement, the officer shall also submit a sworn statement on a form provided by the commission that the person has been advised of both the penalties for failure to submit to the blood, breath, or urine test and the procedure for requesting a hearing. Section 327.35215(2), F.S.
[5] A first-degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year and a $1,000 fine, as provided in ss. 775.082 and s. 775.083, F.S.
[6] Section 316.1932(1)(a)1.b., F.S.
[7] Section 316.193(1)(a), F.S.
[8] Section 316.193(1)(b), F.S.
[9] Section 316.193(1)(c), F.S.
[10] Section 316.193, F.S.
[11] Section 316.193(2)(a), F.S.

III. Effect of Proposed Changes:

The bill amends s. 316.1932, F.S., requiring that a person be told that his or her failure to submit to a lawful test of breath or urine is a second degree misdemeanor[12] or a first degree misdemeanor[13] if his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215, F.S., for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under chs. 316 or 327, F.S.

The bill amends s. 316.1939, F.S., classifying a person's first failure to submit to a lawful breath or urine test as a second-degree misdemeanor. The bill provides that a second or subsequent refusal to submit to a lawful breath, urine, or blood test is a first-degree misdemeanor.

The bill creates s. 316.19395, F.S., authorizing any judicial circuit to create a Driving Under the Influence Diversion Program. A judicial circuit that creates such a program shall publish the terms and conditions of the program on the website of the office of the state attorney. Each judicial circuit operating a Driving Under the Influence Diversion Program must report to the DHSMV persons who have successfully completed the program. The DHSMV shall notate the successful participation of the diversion program on the driving record of each person.

The bill provides that if, after successfully completing a diversion program, a person is charged with a new driving under the influence offense, the person may not participate in a subsequent Driving Under the Influence Diversion program.

The bill amends s. 316.656, F.S., prohibiting a court from suspending, deferring, or withholding adjudication of guilt or imposition of sentence for any violation of s. 316.1939, F.S., relating to the refusal to submit to a breath test.

The bill amends s. 322.34, F.S., providing that any person who knowingly drives while his or her driver license or driving privilege has been canceled, suspended, or revoked as provided by law or who does not have a driver license or driving privilege commits a third degree felony, upon a third or subsequent conviction if the current violation of this section or the most recent prior violation of the section is related to driving while license canceled, suspended, revoked, or suspension or revocation equivalent status resulting from a violation of:

- Driving under the influence;
  - A person in violation of this provision must serve a minimum of 30 days in jail upon a first conviction, a minimum of 60 days in jail upon a second conviction, and a minimum of 90 days in jail upon a third or subsequent conviction.
- Refusal to submit to a urine, breath-alcohol, or blood alcohol test;
  - A person in violation of this provision must serve a minimum of 30 days in jail upon a first conviction, a minimum of 60 days in jail upon a second conviction, and a minimum of 90 days in jail upon a third or subsequent conviction.
- A traffic offense causing death or serious bodily injury; or

[12] A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days, as provided in s. 775.082 or s. 775.083, F.S.

[13] A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year and a $1,000 fine, as provided in s. 775.082 or s. 775.083, F.S.

- Fleeing or eluding.

The bill is effective October 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 have an indeterminate impact on the anticipated judicial or court workload. Provisions prohibiting acceptance of a plea to reduced DUI charges under specified circumstances and reporting requirements for DUI diversion programs are not likely to have a significant impact on judicial workload; however, the bill may encourage judicial circuits to implement a DUI Court (currently there are four DUI Courts operating statewide). The effect on workload from establishing a new misdemeanor offense for first refusals is too speculative to quantify.[14]

[14] Office of the State Courts Administrator, *2024 Judicial Impact Statement* on SB 232, pg. 2 (on file with the Senate Committee on Criminal Justice).

This bill may have a fiscal impact to the clerks of the circuit court in judicial circuits which establish DUI diversion programs because they will be required to report to the department regarding persons who successfully complete a DUI diversion program.[15]

Additionally, the DHSMV estimates that 128 hours will be required for programming and implementation. These hours are estimated to have a fiscal impact on the department of $8,063 in FTE and contracted resources.[16]

The results of the DUI Diversion Program reported by the court will need to be recorded on the driver history of a driver that successfully completes a DUI Diversion Program. The result of the DUI Diversion Program will need to be treated as a first DUI for a second or subsequent DUI if the driver receives another DUI after the completion of the DUI Diversion Program. The successful completion of the DUI Diversion Program should be recorded on the driver history as a correspondence code and the retention time is 75 years, the same as a DUI conviction.[17]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.1932, 316.1939, 316.656, and 322.34.

This bill creates section 316.19395 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.)

CS by Criminal Justice on January 23, 2024:
The committee substitute:

- Removes the provision prohibiting a trial court judge from accepting a specified plea to a reduced charge when a person is charged with DUI unless the court determines there is a good faith basis to believe that a reduction is warranted.
- Provides mandatory minimum penalties for certain violations related to driving while license canceled, suspended, revoked, or suspension or revocation equivalent status.

[15] DHSMV, *2024 Agency Legislative Bill Analysis on SB 232* (November 14, 2023), at pg. 5 (on file with the Senate Committee on Criminal Justice).
[16] *Id*.
[17] *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.

953686

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2024	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 37 - 49.

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

And the title is amended as follows:

Delete lines 3 - 6.

613870

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2024	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 290 and 291
insert:

Section 6. Subsection (2) of section 322.34, Florida Statutes, is amended to read:

322.34 Driving while license suspended, revoked, canceled, or disqualified.—

(2) Any person whose driver license or driving privilege has been canceled, suspended, or revoked as provided by law, or

613870

who does not have a driver license or driving privilege but is under suspension or revocation equivalent status as defined in s. 322.01(42), except persons defined in s. 322.264, who, knowing of such cancellation, suspension, revocation, or suspension or revocation equivalent status, drives any motor vehicle upon the highways of this state while such license or privilege is canceled, suspended, or revoked, or while under suspension or revocation equivalent status, commits:

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

(b)~~1.~~ A misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, upon a second or subsequent conviction, except as provided in paragraph (c).

~~2.~~ A person convicted of a third or subsequent conviction, except as provided in paragraph (c), must serve a minimum of 10 days in jail.

(c) A felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, upon a third or subsequent conviction if the current violation of this section or the most recent prior violation of the section is related to driving while license canceled, suspended, revoked, or suspension or revocation equivalent status resulting from a violation of:

1. Driving under the influence. A person to whom this subparagraph applies must serve a minimum of 30 days in jail upon a first conviction, a minimum of 60 days in jail upon a second conviction, and a minimum of 90 days in jail upon a third or subsequent conviction;

2. Refusal to submit to a urine, breath-alcohol, or blood

613870

alcohol test. A person to whom this subparagraph applies must serve a minimum of 30 days in jail upon a first conviction, a minimum of 60 days in jail upon a second conviction, and a minimum of 90 days in jail upon a third or subsequent conviction;

3. A traffic offense causing death or serious bodily injury; or

4. Fleeing or eluding.

The element of knowledge is satisfied if the person has been previously cited as provided in subsection (1); or the person admits to knowledge of the cancellation, suspension, or revocation, or suspension or revocation equivalent status; or the person received notice as provided in subsection (4). There is ~~shall be~~ a rebuttable presumption that the knowledge requirement is satisfied if a judgment or an order as provided in subsection (4) appears in the department's records for any case except for one involving a suspension by the department for failure to pay a traffic fine or for a financial responsibility violation.

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

And the title is amended as follows:

Delete line 33

and insert:

violation; amending s. 322.34, F.S.; providing penalties for specified violations of driving while a license or driving privilege is canceled, suspended, or revoked or under suspension or revocation

613870

equivalent status; making technical changes; providing an effective date.

By Senator Wright

8-00132-24 2024232__

A bill to be entitled

An act relating to driving under the influence; amending s. 316.193, F.S.; prohibiting a trial court judge from accepting specified pleas when a person is charged with the offense of driving under the influence unless specified conditions are met; amending s. 316.1932, F.S.; requiring that a person be told that his or her failure to submit to a lawful test of breath or urine is a second degree misdemeanor or a first degree misdemeanor under certain circumstances; making technical changes; amending s. 316.1939, F.S.; classifying a person's refusal to submit to a chemical or physical test of breath or urine as a second degree misdemeanor or a first degree misdemeanor under certain circumstances; making technical changes; creating s. 316.19395, F.S.; authorizing judicial circuits to create a driving under the influence diversion program; requiring that the policies and procedures of the diversion program be published on the website of the state attorney's office; requiring each judicial circuit operating such a diversion program to submit participant information for persons who successfully complete the program to the Department of Highway Safety and Motor Vehicles; requiring the department to notate successful completion on the driving record of such participants; providing that a person who successfully completes such a diversion program is ineligible for participation in such a program in the future;

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

8-00132-24 2024232__

amending s. 316.656, F.S.; prohibiting a court from suspending, deferring, or withholding adjudication of guilt or imposition of sentence for a specified violation; providing an effective date.

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

Section 1. Subsection (15) is added to section 316.193, Florida Statutes, to read:

316.193 Driving under the influence; penalties.—

(15) A trial court judge may not accept a plea of guilty or no contest to a reduced charge, including a charge of reckless driving brought under s. 316.192, from a person charged with a violation of subsection (1) unless at least one of the following applies:

(a) The trial court judge determines that there is a good faith basis to believe that a reduction in such charge is warranted.

(b) The defendant successfully completes a driving under the influence diversion program in accordance with s. 316.19395.

Section 2. Paragraph (a) of subsection (1) of section 316.1932, Florida Statutes, is amended to read:

316.1932 Tests for alcohol, chemical substances, or controlled substances; implied consent; refusal.—

(1)(a)1.a. A person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by operating such vehicle, deemed to have given his or her consent to submit to an approved chemical test or physical test including, but not limited to, an infrared light test of

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

his or her breath for the purpose of determining the alcoholic content of his or her blood or breath if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic beverages. The chemical or physical breath test must be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of the motor vehicle within this state while under the influence of alcoholic beverages. The administration of a breath test does not preclude the administration of another type of test. The person must ~~shall~~ be told that his or her failure to submit to any lawful test of his or her breath will result in the suspension of his or her ~~the person's~~ privilege to operate a motor vehicle as provided in s. 322.2615(1)(a) for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended or if he or she has previously been fined under s. 327.35215 as a result of a refusal to submit to a test or tests required under this chapter or chapter 327, and must ~~shall~~ also be told that if he or she refuses to submit to a lawful test of his or her breath ~~and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327~~, he or she commits a misdemeanor of the second ~~first~~ degree, punishable as provided in s. 775.082 or s. 775.083, or a misdemeanor of the first degree, punishable as provided in s. 775.082 or s.

775.083, if his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, in addition to any other penalties provided by law. The refusal to submit to a chemical or physical breath test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

b. A person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by operating such vehicle, deemed to have given his or her consent to submit to a urine test for the purpose of detecting the presence of chemical substances as set forth in s. 877.111 or controlled substances if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of chemical substances or controlled substances. The urine test must be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of a motor vehicle within this state while under the influence of chemical substances or controlled substances. The urine test must ~~shall~~ be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such test in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of a

urine test does not preclude the administration of another type of test. The person must ~~shall~~ be told that his or her failure to submit to any lawful test of his or her urine will result in the suspension of his or her ~~the person's~~ privilege to operate a motor vehicle for a period of 1 year for the first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended or if he or she has previously been fined under s. 327.35215 as a result of a refusal to submit to a test or tests required under this chapter or chapter 327, and must ~~shall~~ also be told that if he or she refuses to submit to a lawful test of his or her urine ~~and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327~~, he or she commits a misdemeanor of the second ~~first~~ degree, punishable as provided in s. 775.082 or s. 775.083, or a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, in addition to any other penalties provided by law. The refusal to submit to a urine test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

2. The Alcohol Testing Program within the Department of Law Enforcement is responsible for the regulation of the operation, inspection, and registration of breath test instruments utilized

under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program is responsible for the regulation of the individuals who operate, inspect, and instruct on the breath test instruments utilized in the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program is further responsible for the regulation of blood analysts who conduct blood testing to be utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program shall:

a. Establish uniform criteria for the issuance of permits to breath test operators, agency inspectors, instructors, blood analysts, and instruments.

b. Have the authority to permit breath test operators, agency inspectors, instructors, blood analysts, and instruments.

c. Have the authority to discipline and suspend, revoke, or renew the permits of breath test operators, agency inspectors, instructors, blood analysts, and instruments.

d. Establish uniform requirements for instruction and curricula for the operation and inspection of approved instruments.

e. Have the authority to specify one approved curriculum for the operation and inspection of approved instruments.

f. Establish a procedure for the approval of breath test operator and agency inspector classes.

g. Have the authority to approve or disapprove breath test instruments and accompanying paraphernalia for use pursuant to the driving and boating under the influence provisions and

related provisions located in this chapter and chapters 322 and 327.

h. With the approval of the executive director of the Department of Law Enforcement, make and enter into contracts and agreements with other agencies, organizations, associations, corporations, individuals, or federal agencies as are necessary, expedient, or incidental to the performance of duties.

i. Issue final orders which include findings of fact and conclusions of law and which constitute final agency action for the purpose of chapter 120.

j. Enforce compliance with this section through civil or administrative proceedings.

k. Make recommendations concerning any matter within the purview of this section, this chapter, chapter 322, or chapter 327.

l. Adopt ~~Promulgate~~ rules for the administration and implementation of this section, including definitions of terms.

m. Consult and cooperate with other entities for the purpose of implementing the mandates of this section.

n. Have the authority to approve the type of blood test utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.

o. Have the authority to specify techniques and methods for breath alcohol testing and blood testing utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.

p. Have the authority to approve repair facilities for the approved breath test instruments, including the authority to set

criteria for approval.

Nothing in this section shall be construed to supersede provisions in this chapter and chapters 322 and 327. The specifications in this section are derived from the power and authority previously and currently possessed by the Department of Law Enforcement and are enumerated to conform with the mandates of chapter 99-379, Laws of Florida.

Section 3. Section 316.1939, Florida Statutes, is amended to read:

316.1939 Refusal to submit to testing; penalties.—

(1) A person who has refused to submit to a chemical or physical test of his or her breath or urine, as described in s. 316.1932, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law, and such person whose driving privilege was previously suspended or who was previously fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood required under this chapter or chapter 327 commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law if all of the following apply~~, and~~:

(a) ~~Who~~ The arresting law enforcement officer had probable cause to believe that the person was driving or in actual physical control of a motor vehicle in this state while under the influence of alcoholic beverages, chemical substances, or controlled substances.~~;~~

(b) The person ~~Who~~ was placed under lawful arrest for a

violation of s. 316.193, unless such test was requested pursuant to s. 316.1932(1)(c). ~~.~~

(c) The person ~~Who~~ was informed that, if he or she refused to submit to such test, his or her privilege to operate a motor vehicle would be suspended for a period of 1 year or, in the case of a second or subsequent refusal, for a period of 18 months. ~~.~~

(d) The person, after having been informed as required in paragraph (c), still refuses ~~Who was informed that a refusal~~ to submit to a lawful test of his or her breath or urine as described in s. 316.1932~~, if his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law; and~~

~~(c) Who, after having been so informed, refused to submit to any such test when requested to do so by a law enforcement officer or correctional officer~~

~~commits a misdemeanor of the first degree and is subject to punishment as provided in s. 775.082 or s. 775.083~~.

(2) The disposition of any administrative proceeding that relates to the suspension of a person's driving privilege does not affect a criminal action under this section.

(3) The disposition of a criminal action under this section does not affect any administrative proceeding that relates to the suspension of a person's driving privilege~~.~~ The department's

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

records showing that a person's license has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood are ~~shall be~~ admissible and create ~~shall create~~ a rebuttable presumption of such suspension.

Section 4. Section 316.19395, Florida Statutes, is created to read:

316.19395 Driving under the influence diversion programs.—

(1) Any judicial circuit may create a driving under the influence diversion program. A judicial circuit that creates such a diversion program shall publish the terms and conditions of the program on the website of the office of the state attorney for that circuit.

(2) Each judicial circuit that offers a diversion program under this section shall notify the department of each person who successfully completes the program. The department shall notate the successful completion of participation in the diversion program on the driving record of each such person.

(3) A person who successfully completes such a diversion program is ineligible for future participation in such a program.

Section 5. Subsection (1) of section 316.656, Florida Statutes, is amended to read:

316.656 Mandatory adjudication; prohibition against accepting plea to lesser included offense.—

(1) Notwithstanding ~~the provisions of~~ s. 948.01, a court may not ~~no court may~~ suspend, defer, or withhold adjudication of guilt or imposition of sentence for any violation of s. 316.193 or s. 316.1939, for manslaughter resulting from the operation of a motor vehicle, or for vehicular homicide.

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

Section 6. This act shall take effect October 1, 2024.

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

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2024 AGENCY LEGISLATIVE BILL ANALYSIS

1. AGENCY: Highway Safety and Motor Vehicles

BILL INFORMATION	
BILL NUMBER:	SB 232
BILL TITLE:	Driving Under the Influence
BILL SPONSOR:	Wright
EFFECTIVE DATE:	October 1, 2024

COMMITTEES OF REFERENCE
1) Criminal Justice
2) Appropriations Committee on Criminal and Civil Justice
3) Fiscal Policy
4)
5)

CURRENT COMMITTEE

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION	
BILL NUMBER:	CS/SB 432
SPONSOR:	Wright
YEAR:	2023
LAST ACTION:	5/5/2023 - Died in Appropriations Committee on Criminal and Civil Justice

IDENTICAL BILLS	
BILL NUMBER:	
SPONSOR:	

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
Date of Analysis:	November 8, 2023: Milton Grosz, Bureau of Motorist Compliance
Division Director/Designee MS	DocuSigned by: 11/14/23
Division Director/Designee FHP	Lisa Barnett 11/9/2023
Bureau Chief(s):	
Additional Analyst(S):	October 19, 2023: Kenny Zimmerman/Stan Kirkland – Strategic Management Office
Legal Analyst:	Kathy Jimenez, Driver License Chief, OGC
Fiscal Analyst:	Steve Burch, CFO

11/9/23

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

SB 232 ("bill"):

- Prohibits a trial court from accepting specified pleas when a person is charged with the offense of driving under the influence (DUI) unless specified conditions are met.
- Requires a person to be told that his or her first failure to submit to a lawful test of breath or urine is a second-degree misdemeanor and his or her second or subsequent refusal is a first-degree misdemeanor.
- Reclassifies a person's first failure to submit to a lawful test of breath or urine as a second-degree misdemeanor or a first-degree misdemeanor under certain circumstances.
- Authorizes judicial circuits to create a DUI Diversion Program.
- Requires each judicial circuit operating a diversion program to submit participant information for persons who successfully complete the program to the Department of Highway Safety and Motor Vehicles (Department).
- Requires the department to notate the driver record of such participants indicating successful completion of a DUI diversion program.

If passed, this bill will take effect October 1, 2024.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Penalties for Refusing to Submit to Lawful DUI Tests

Any person who operates an automobile in Florida consents to an approved chemical or physical test under s. 316.1932, F.S.

A person must be informed that any driver who refuses to submit to a DUI breath test for the first time will have their license or driving privilege suspended for a period of 12 months, for any subsequent DUI refusals, the license suspension will be for 18 months, and, if a person refuses to submit to a lawful test of his or her breath, ~~or~~ urine, or blood and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood, he or she commits a first-degree misdemeanor, punishable under s. 775.082 (jail term not exceeding 1 year) or s. 775.083 ($1000 fine), F.S.[1]

Section 316.1939, F.S., provides that if a person refuses to submit to an approved test of his or her blood, breath, or urine and his or her driving privilege has previously been suspended or he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test, he or she commits a misdemeanor of the first degree.

Section 327.35215, F.S., provides for a civil penalty for a person who was lawfully arrested for a violation of s. 327.35, F.S., (relating to boating under the influence) and refuses to submit to a test of their breath, blood, or urine.

Section 316.1932, F.S., uses language to indicate failure to submit to requested testing will result in the "suspension of the person's privilege to operate a motor vehicle." This language is specifically used because

[1] *See*, s. 316.1932, F.S.

the action taken for a refusal is against the driving privilege of the individual, not the driver license. Use of the phrase "suspension of the person's privilege to operate a motor vehicle" allows action to be taken against individuals that do not have a driver license or are from another country who commit criminal or non-criminal offenses. It also gives the department the ability to act and create a driving record for the individual and annotate the offense for future reference if the individual tries to get a driver license in the future.

Section 322.2615(1)(a), F.S., provides law enforcement or correctional officers the authority to administratively suspend the driving privilege of a person operating a vehicle with a breath or blood alcohol level of 0.08 or higher or who refuses to submit to a lawful chemical test. The officer is required to take possession of the person's driver license and issue a 10-day temporary permit, if eligible, and a notice of suspension. A person whose driver license is administratively suspended pursuant to s. 322.2615, F.S., may seek an informal or formal review by the Department of the suspension.

Reinstatement of an administrative suspension for a refusal to submit to a sobriety test pursuant to s. 322.2615, F.S., currently requires presenting proof of enrollment in a substance abuse education course conducted by a licensed DUI program to the Florida Department of Highway Safety and Motor Vehicles as provided in s. 322.291, F.S. In addition to proof of enrollment, the driver must also pay statutorily defined reinstatement fees as provided in s. 322.21, F.S., before the driver may reinstate his or her license.

In the calendar year 2021, the DUI test refusal rate was 34.67%; 15,182 people were charged with refusing a lawful test of blood, breath, or urine out of 43,787 DUI arrests.

In the calendar year 2022, the DUI refusal rate was 35.39%, with 15,199 people charged with refusing a lawful test of blood, breath, or urine out of 42,947 DUI arrests.

DUI Diversion Programs

While DUI Diversion programs exist in Florida, they are run at the county or judicial circuit level and the results of such programs are not currently reported to the Department. Currently, DUI Diversion Programs are not available in all judicial circuits.

2. **EFFECT OF THE BILL:**

Penalties for Refusing to Submit to Lawful DUI Tests

The bill amends s. 316.1932(1)(a)1.a., F.S., to add to the information an operator must be notified when the operator refuses to submit to a lawful test of his breath that his or her refusal will result in the suspension of his or her privilege to drive a motor vehicle as provided in s. 322.2615(1)(a).

The bill also amends s. 316.1932(1)(a)1.a., F.S., to require that a person must be told that if he or she refuses to submit to a lawful test of his or her breath he or she commits a misdemeanor of the second degree for the first refusal and a misdemeanor of the first degree for a second or subsequent refusal.

Additionally, the bill amends s. 316.1932(1)(a)1.b., F.S., to require that a person must be informed that if he or she refuses to submit to a lawful test of his or her urine, he or she commits a misdemeanor, in addition to any other penalties provided by law.

The bill amends s. 316.1939(1), F.S., to specify that a first offense for a refusal is a misdemeanor of the second degree and a subsequent offense is a misdemeanor of the first degree and to relocate within subsection (1) the information which a driver must be provided concerning the penalties if he or she refuses a lawful test of his or her breath. Section 316.1939(1)(d), F.S., is amended to provide that a person who has

refused a lawful test commits such a criminal offense when, after having been informed that the refusal to submit to a lawful test would result in the suspension of his or her driving privilege, still refuses to submit to a lawful test of his or her breath or urine "as described in s. 316.1932, F.S."

The penalties for a second-degree misdemeanor (for a first-time refusal) would be jail time of up to 60 days and/or a fine of up to $500. The penalties for a second or subsequent refusal remains jail time not to exceed 1 year and/or a fine of up to $1000.

The amendment s. 316.1939(1), F.S., provides for a criminal charge for a first refusal and creates a tiered approach to the penalties for a refusal which makes this consistent with the national standard described by the National Highway Traffic Safety Administration (NHTSA).

Prohibition on and Requirements for Reduction of DUI Charges
The bill creates s. 316.193(15), F.S., prohibiting a trial court judge from accepting a guilty plea or no contest plea to a reduced charge, including reckless driving, when a person is charged with the offense of driving under the influence unless:

- The trial judge determines there is a good faith basis to believe that a reduction in such charge is warranted; ; or
- The defendant successfully completes a DUI diversion program in accordance with proposed s. 316.19395, F.S.

Driving Under the Influence Diversion Programs
The bill creates s. 316.19395, F.S., to authorize any judicial circuit to create a DUI diversion program. The terms and conditions of a program must be published on the state attorney's office websites.

A judicial circuit which offers a DUI diversion program "under this section" must notify the Department of each person who successfully completes the diversion program. The Department must notate the successful completion of participation in the diversion program on the driver record of each such person. A person who successfully completes "such a diversion program is ineligible for future participation in such a program."[2]

The bill amends s. 316.656, F.S., to state that a court may not suspend, defer, or withhold adjudication for any violation of s. 316.193, F.S., or s. 316.1939, F.S. All law enforcement officers will need to be educated and trained on the provisions of this bill. Additionally, all implied consent warning forms and/or cards, and refusal affidavits will need to be reviewed and updated to ensure compliance with these provisions. Citation records and electronic systems will need to be updated, as necessary, to reflect the additional criminal charge for s. 316.1939(1), F.S., for a first refusal.

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:	The Department will need a procedure for converting the DUI diversion program from a notation to a first offense in the event of a second DUI.
Is the change consistent with the agency's core mission?	Y☒ N☐
Rule(s) impacted (provide references to F.A.C., etc.):	CI06D- Internal procedures regarding DUI and refusals

[2] DUI diversion programs already exist in several judicial circuits which were *not* created pursuant to proposed new s. 316.19395, F.S. The requirements in proposed s. 316.19395(2) and (3), F.S., relating to reporting of the successful completion of a DUI diversion program created under the proposed section and the prohibition on repeating participation in such a DUI diversion program appear to apply only to diversion programs created pursuant to that proposed new section of law.

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

Proponents and summary of position:	There are no known proponents
Opponents and summary of position:	There are no known opponents

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? YO 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? YO 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☒ NO

Revenues:	None
Expenditures:	Clerks of the circuit court in judicial circuits which establish DUI diversion programs will be required to report to the department regarding persons who successfully complete a DUI diversion program.
Does the legislation increase local taxes or fees? If yes, explain.	None
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?	NA

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

Revenues:	None
Expenditures:	None
Does the legislation contain a State Government appropriation?	NA
If yes, was this appropriated last year?	NA

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

Revenues:	None
Expenditures:	None
Other:	NA

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

If yes, explain impact.	None
Bill Section Number:	NA

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.	The Department estimates that 128 hours will be required for programming and implementation. These hours are estimated to have a fiscal impact on the Department of $8,063 in FTE and contracted resources. (Development: 25 hours @ $40/hour + 60 hours @ $100/hour and Testing: 43 hours @ $25/hour) The results of the DUI Diversion Program reported by the court will need to be recorded on the driver history of a driver that successfully completes a DUI Diversion Program. The result of the DUI Diversion program will need to be treated as a first DUI for a second or subsequent DUI if the driver receives another DUI after the completion of the DUI Diversion Program. The successful completion of the DUI Diversion Program should be recorded on the driver history as a correspondence code and the retention time is 75 years, the same as a DUI conviction.

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.	None.

ADDITIONAL COMMENTS

Comment #1

Line 276 should be revised to specify the information required to be provided to the Department concerning each person who successfully completes a DUI diversion program.

Amendment #1

Revise line 276 to read:
"who have successfully completed the program. The report must include: each such person's first name; middle name; last name; date of birth; and driver license number. The department shall"

This change will allow the department to correctly identify DUI program participants and update those persons' driver records.

Comment #2

Lines 268-281

No specification is provided on whether the completion of a diversion program is considered a conviction for DUI. This specification is relevant to s. 316.193(2), which specifies the level of offense as well as fines which are based upon the number of convictions.

Comment #3

Lines 72-74 and 121

The bill adds language to lines 72-74 to cite the suspension is "as provided in s. 322.2615(1)(a)" but does not add similar language to line121.

Amendment #2

Revise line 121 to read:

"motor vehicle as provided in s. 322.2615(1)(a) for a period of 1 year for the first refusal, or"

Comment #4

Lines 268 – 281 authorize any judicial circuit to create a DUI diversion program. DUI diversion programs already exist in several judicial circuits. This portion of the bill should be revised to clarify that the proposed new section applies to existing DUI diversion programs.

Amendment #3

Revise lines 269 through 281 to read:

"(1) Any judicial circuit may create a driving under the influence diversion program. A judicial circuit that *operates or* creates ~~such~~ a diversion program shall publish the terms and conditions of the program on the website of the office of the state attorney for that circuit.

(2) Each judicial circuit that offers a diversion program ~~under this section~~ shall notify the department of each person who successfully completes the program. The department shall notate the successful completion of participation in *a* ~~the~~ diversion program on the driving record of each such person.

(3) A person who successfully completes ~~such~~ a diversion program is ineligible for future participation in such a program."

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	None.

OFFICE OF THE STATE COURTS ADMINISTRATOR
2024 JUDICIAL IMPACT STATEMENT

DATE: December 15, 2023

BILL NUMBER: SB 232

SPONSOR(S): Senator Wright

STATUTE(S) AFFECTED: ss. 316.193, 316.1932, 316.1939, and 316.656, F.S.; creates s. 316.19395, F.S.

COMPANION BILL(S): HB 871 (Representative Tramont)

AGENCY CONTACT: Tashiba Robinson, Chief of Legislative Affairs

TELEPHONE: (850) 922-5692

ASSIGNED OSCA STAFF: BNS

I. **SUMMARY:** The bill prohibits trial courts from accepting a guilty or no contest plea to a reduced DUI charge, including reckless driving, unless the court determines there is a good faith basis to reduce the DUI charge or the defendant successfully completes a DUI Diversion Program. The bill also establishes that a first refusal to submit to a lawful breath or urine test is a second-degree misdemeanor and prohibits a court from suspending, deferring, or withholding adjudication or imposition of sentence for refusal to submit to a breath or urine test.

The bill takes effect on October 1, 2024.

II. **ANALYSIS:**
The bill amends several provisions of current law to strengthen criminal prosecutions and penalties for DUI and for the failure to submit to a lawful breath or urine test incident to a DUI arrest. Specifically, the bill:

- Amends s. 316.193, F.S., and creates s. 316.19395, F.S., to prohibit a court from accepting a plea of guilty or no contest to a reduced DUI charge, including reckless driving, unless the court determines there is a good faith basis to believe that a reduction in such charge is warranted or the defendant successfully completed a DUI diversion program. The bill authorizes judicial circuits to create DUI diversion programs; requires that the terms and conditions of such programs be posted on the state attorney's website; requires the circuit to notify the Department of Highway Safety and Motor Vehicles (DHSMV) when a defendant successfully completes the

program; requires DHSMV to notate the successful completion of the program on the defendant's driving record; and prohibits a defendant who successfully completes a DUI diversion program from participating in such programs in the future.

- Amends ss. 316.1932 and 316.1939, F.S., to establish that a first refusal to submit to a chemical or physical breath or urine test incident to a lawful arrest for DUI is a second-degree misdemeanor. Under current law, criminal penalties apply only upon the second refusal to submit to testing which is a first-degree misdemeanor.

- Amends s. 316.656, F.S., to prohibit a court from suspending, deferring, or withholding adjudication of guilt or imposition of sentence for refusal to submit to a chemical or physical breath or urine test incident to a lawful arrest for DUI.

The bill takes effect on October 1, 2024.

III. **ANTICIPATED JUDICIAL OR COURT WORKLOAD IMPACT:** Indeterminate. Provisions prohibiting acceptance of a plea to reduced DUI charges under specified circumstances and reporting requirements for DUI diversion programs are not likely to have a significant impact on judicial workload; however, the bill may encourage judicial circuits to implement a DUI Court (currently there are four DUI Courts operating statewide). The effect on workload from establishing a new misdemeanor offense for first refusals is too speculative to quantify.

IV. **IMPACT TO COURT RULES/JURY INSTRUCTIONS:** The bill may require the creation/amendment of standard jury instructions relating to DUI and refusal to submit to testing.

V. **ESTIMATED FISCAL IMPACTS ON THE JUDICIARY:**

A. **Revenues:** None.

B. **Expenditures:** The fiscal impact of this legislation cannot be accurately determined due to the unavailability of data needed to establish the increase in judicial workload resulting from the creation of a new misdemeanor offense related to first refusals, as discussed in Section III.

Trial court judicial workload is measured using a case weighting system that calculates the amount of time it takes for a judge to dispose of a case. The number of case filings using the case weighting system is used to determine the need for additional judicial resources each year. Any judicial workload increases in the future as a result of legislation that

passes this session will be reflected in the Supreme Court's annual opinion, *In re: Certification of Need for Additional Judges.* Please note that the workload impact from each bill may be nominal but the cumulative effect to the State Courts System from all bills could be substantial.

The Florida Senate

APPEARANCE RECORD

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

1/23/24
Meeting Date

CJ
Committee

232
Bill Number or Topic

953686
Amendment Barcode (if applicable)

Name AARON WAYT FL ASSN OF CRIM DEF LAWYERS

Phone (407) 435-3194

Address
Street

Email AARON@DONPUMPHREY.COM

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. 2020-2022JointRules.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
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January 23, 2024
Meeting Date

Criminal Justice
Committee

232
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 1454 Vieux Carre Drive
Street

Email Barney@BarneyBishop.com

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 Smart Justice Alliance

☐ 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)

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S-001 (08/10/2021)

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1/23/24
Meeting Date

CJ
Committee

SB0232
Bill Number or Topic

Amendment Barcode (if applicable)

Name Abby Hilley, Lt

Phone 321-229-7054

Address OCSO
Street

Email abby.hilley@ocsofl.com

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: Sheriff mina - Orange County Sheriff's office

☐ 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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1112
Meeting Date

Criminal Justice
Committee

232
Bill Number or Topic

Amendment Barcode (if applicable)

Name Angela Drzewiecki

Phone 850 577 9090

Address 301 S. Bronough St.
Street

Email Angela.Drzewiecki@gray-robinson.com

Tallahassee FL
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 Sheriff 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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January 23, 2024
Meeting Date

Criminal Justice
Committee

SB 0232
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jennifer Cook Pritt

Phone 8502193631

Address 2636 Mitcham Drive
Street

Email jpritt@fpca.com

Tallahassee FL 32308
City *State* *Zip*

Reset Form

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 Police Chiefs 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. 2020-2022JointRules.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

1/23/24
Meeting Date

CRIM JUSTICE
Committee

232
Bill Number or Topic

Amendment Barcode (if applicable)

Name AARON WAYT FL ASSN OF CRIM DEF LAWYERS

Phone (407) 435-3164

Email AARON@DONPOMPHREY.COM

Address
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.

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

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: November 15, 2023

I respectfully request that **Senate Bill 232**, relating to Driving Under the Influence, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Tom A. Wright

Senator Tom A. Wright
Florida Senate, District 8

File signed original with committee office

S-020 (03/2004)

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 258
INTRODUCER:	Senator Perry
SUBJECT:	Interstate Safety
DATE:	January 22, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shutes	Vickers	TR	**Favorable**
2.	Parker	Stokes	CJ	**Favorable**
3.			RC	

I. Summary:

SB 258 prohibits a driver from operating a motor vehicle in the furthermost left-hand lane on a road, street, or highway having two or more lanes allowing movement in the same direction with a posted speed limit of at least 65 miles per hour. A driver may drive in the furthermost left-hand lane when overtaking and passing another vehicle, when preparing to exit the road, street, or highway, or when otherwise directed by an official traffic control device. This provision does not apply to authorized emergency vehicles and vehicles engaged in highway maintenance or construction operations.

A violation is a noncriminal traffic infraction punishable as a moving violation. The statutory base fine is $60, but with additional fees and charges, the total penalty may be up to $158.

The bill may have an indeterminate fiscal impact on state and local government.

The bill takes effect January 1, 2025.

II. Present Situation:

Under Florida law, a vehicle must be driven upon the right half of the roadway, except:

- When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
- When an obstruction exists making it necessary to drive to the left of the center of the highway, provided any person so doing yields the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

- Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or
- Upon a roadway designated and signposted for one-way traffic.[1]

Upon all roadways, any vehicle proceeding at less than the normal speed of traffic must be driven in the right-hand lane then available for traffic or as close as practicable to the right-hand curb or edge of the roadway except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn.[2]

On a road, street, or highway having two or more lanes allowing movement in the same direction, a driver may not continue to operate a motor vehicle in the furthermost left-hand lane if the driver knows or reasonably should know that he or she is being overtaken in that lane from the rear by a motor vehicle traveling at a higher rate of speed. This does not apply to drivers operating a vehicle that is overtaking another vehicle proceeding in the same direction, or is preparing for a left turn at an intersection.[3]

Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, a vehicle may not be driven to the left of the centerline of the roadway, except when authorized by official traffic control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted to drive around an obstruction. However, this may not be construed as prohibiting the crossing of the centerline in making a left turn.[4]

A violation of the above laws is a noncriminal traffic infraction, punishable as a moving violation.[5] The statutory base fine is $60,[6] but with additional fees and surcharges, the total penalty may be up to $158.[7]

There are at least eight states where traveling in the left lane on certain roads, streets, and highways is prohibited except for turning and passing.[8] Most states, like Florida, require slower traffic to keep right.[9]

[1] Section 316.081(1), F.S.
[2] Section 316.081(2), F.S.
[3] Section 316.081(3), F.S.
[4] Section 316.081(4), F.S.
[5] Section 316.081(5), F.S.
[6] Section 318.18(3)(a), F.S.
[7] Florida Court Clerks and Comptrollers, *Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs and Fines, Including a Fee Schedule for Recording* (December 2022), at p. 42, available at https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/2022/22bull098_attach_2_2022_dist.pdf (last visited January 18, 2024).
[8] Bodine, Rachel and Walker, Daniel, *Is left lane driving allowed in your state?* (June 29, 2022), AutoInsurance.Org, https://www.autoinsurance.org/keep-right-which-states-enforce-left-lane-passing-only/ and Massachusetts Institute of Technology, *State "keep right" laws*, https://www.mit.edu/~jfc/right.html (last visited January 18, 2024).
[9] *Id.*

III. Effect of Proposed Changes:

The bill amends s. 316.081, F.S., to prohibit a driver from operating a motor vehicle in the furthermost left-hand lane on a road, street, or highway having two or more lanes allowing movement in the same direction with a posted speed limit of at least 65 miles per hour. The bill provides exceptions authorizing a driver to drive in the furthermost left-hand lane when overtaking and passing another vehicle, when preparing to exit the road, street, or highway, or when otherwise directed by an official traffic control device. Additionally, this prohibition does not apply to authorized emergency vehicles and vehicles engaged in highway maintenance or construction operations.

For purposes of this provision, the term "furthermost left-hand lane" excludes a high-occupancy-vehicle lane or a designated left turn lane. The furthermost left-hand lane is considered the lane immediately to the right of such high-occupancy-vehicle lane or left turn lane in these instances.

A violation of this provision is a noncriminal traffic infraction punishable as a moving violation. The statutory base fine is $60, but with additional fees and charges, the total penalty may be up to $158.

The bill takes effect January 1, 2025.

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:

The bill may have an indeterminate negative impact on individuals who violate this provision. An individual cited for violating this provision may be subject to a penalty of up to $158.

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact on the Department of Highway Safety and Motor Vehicles (DHSMV), which will need to update its driver handbook, driver license test question bank, driver improvement course curricula, and the Uniform Traffic Citation manual to reflect the change in law.[10] Additionally, the DHSMV and local law enforcement may need to conduct training on the law change.

The bill may have an indeterminate positive fiscal impact on state and local government that receive revenue from the traffic fine.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 316.081 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.

[10] DHSMV, *2024 Legislative Bill Analysis: SB 258* (November 1, 2023) at p. 3 (on file with the Senate Criminal Justice Committee).

By Senator Perry

9-00462-24 2024258__

A bill to be entitled

An act relating to interstate safety; amending s. 316.081, F.S.; defining the term "furthermost left-hand lane"; prohibiting a driver from operating a motor vehicle in the furthermost left-hand lane of certain roadways, except under certain circumstances; providing applicability; providing a penalty; providing an effective date.

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

Section 1. Present subsections (4) and (5) of section 316.081, Florida Statutes, are redesignated as subsections (5) and (6), respectively, a new subsection (4) is added to that section, and present subsection (5) of that section is republished, to read:

316.081 Driving on right side of roadway; exceptions.—

(4)(a) As used in this subsection, the term "furthermost left-hand lane" means the farthest, most left-hand lane, except that, if such left-hand lane is a high-occupancy-vehicle lane as defined in s. 316.0741, or is a designated left-turn lane, the furthermost left-hand lane is the lane immediately to the right of that high-occupancy-vehicle lane or left-turn lane.

(b) On a road, street, or highway with two or more lanes allowing movement in the same direction and a posted speed limit of at least 65 miles per hour, a driver may not operate a motor vehicle in the furthermost left-hand lane, except when overtaking and passing another vehicle; when preparing to exit the road, street, or highway; or when otherwise directed by an official traffic control device. This subsection does not apply to authorized emergency vehicles and vehicles engaged in highway maintenance or construction operations.

(6)~~(5)~~ A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 2. This act shall take effect January 1, 2025.

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

2024 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Highway Safety and Motor Vehicles

BILL INFORMATION	
BILL NUMBER:	SB 258
BILL TITLE:	Interstate Safety
BILL SPONSOR:	Perry
EFFECTIVE DATE:	1/1/2025

COMMITTEES OF REFERENCE
1)
2)
3)
4)
5)

CURRENT COMMITTEE

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION	
BILL NUMBER:	464
SPONSOR:	Perry
YEAR:	2023
LAST ACTION:	Died on Special Order Calendar

IDENTICAL BILLS	
BILL NUMBER:	
SPONSOR:	

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
Date of Analysis:	November 1, 2023
Division Director/Designee MS:	
Division Director/Designee FHP:	Major Lisa Barnett
Bureau Chief(s):	
Additional Analyst(S):	
Legal Analyst:	Bill Minton, FHP Chief, OGC
Fiscal Analyst:	
Office of Legislative Affairs:	

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Senate Bill 258 ("bill") relates to driving in the furthermost left-hand lane on a roadway with more than two lanes allowing movement in the same direction with a posted speed limit of at least 65 miles per hour and limits the use of such lane to overtaking and passing, preparing to exit, or when official signage designates its use.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Section 316.081, F.S., requires vehicles to be driven on the right side of the roadway on all roadways of sufficient width except:

- When overtaking and passing another vehicle in the same direction;
- When moving around an obstruction in the highway;
- Upon a roadway divided into three marked lanes; or
- Upon a roadway designated & signposted for one-way traffic.

A vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic or as close as practicable to the right-hand curb or edge of the roadway except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

On a road, street, or highway having two or more lanes allowing movement in the same direction, a driver may not continue to operate a motor vehicle in the furthermost left-hand lane if the driver knows or reasonably should know that he or she is being overtaken in that lane from the rear by a motor vehicle traveling at a higher rate of speed.

On any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the centerline of the roadway, except when authorized by official traffic control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as otherwise permitted by law.

2. EFFECT OF THE BILL:

The bill amends s. 316.081, F.S., to add a new subsection (4) and renumber the previous subsections (4) and (5) to (5) and (6). The new subsection defines "furthermost left-hand lane" as the farthest, most left-hand land, except when left-hand lane is a high-occupancy-vehicle lane, or a designated left-turn lane, then the furthermost left-hand lane is the lane immediately to the right of that high-occupancy-vehicle lane or left-turn lane.

The bill prohibits a driver from operating a motor vehicle in the furthermost left-hand lane on a road, street, or highway having two or more lanes allowing movement in the same direction with a posted speed limit of at least 65 miles per hour, except when overtaking and passing another vehicle, when preparing to exit the road, street, or highway, or when otherwise directed by an official traffic control device. The bill excludes authorized emergency vehicles and vehicles engaged in highway maintenance or construction operations from this subsection.

Impact to the Department

Passage of this bill would require the Department of Highway Safety and Motor Vehicles (Department) to update its driver handbook, driver license knowledge test question bank, driver improvement course curricula, and Appendix C of the Uniform Traffic Citation Manual. Appendix C is the traffic infraction reference guide, used by law enforcement and the court system, listing citable offenses, established under the authority of s. 316.650(1)(d), F.S. These violations are listed in order by Florida Statute number and contain information such as points, classification, and fine amounts.

In addition, passage of the bill will require members of the Florida Highway Patrol to receive training on the changes discussed above.

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):	

FISCAL ANALYSIS

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

Revenues:	Indeterminate
Expenditures:	None
Does the legislation increase local taxes or fees? If yes, explain.	NA

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?	NA

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

Revenues:	None
Expenditures:	None
Does the legislation contain a State Government appropriation?	None
If yes, was this appropriated last year?	NA

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

Revenues:	None
Expenditures:	None
Other:	NA

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

If yes, explain impact.	None
Bill Section Number:	NA

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.	This legislation does not appear to have any impact on the Department's technology systems.

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:	None.

The Florida Senate

Committee Agenda Request

To: Senator Jonathan Martin, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: January 10, 2024

I respectfully request that **Senate Bill #258**, relating to Interstate Safety, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

W. Keith Perry

Senator Keith Perry
Florida Senate, District 9

File signed original with committee office

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 260
INTRODUCER:	Criminal Justice Committee and Senators DiCeglie and Hooper
SUBJECT:	Refusal to Submit to a Breath, Urine, or Blood Test
DATE:	January 24, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shutes	Vickers	TR	**Favorable**
2.	Parker	Stokes	CJ	**Fav/CS**
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 260 amends ss. 316.1939, 322.2615, 322.2616, and 322.2715, F.S., providing that an ignition interlock device be placed for a first refusal for 1 year, and reverts to current law on a second or subsequent refusal. The bill allows the placement period for an ignition interlock resulting from a first refusal to run concurrently with any other ignition interlock placement period required by a court or the Department of Highway Safety and Motor Vehicles (DHSMV).

The bill amends s. 316.1932, F.S., requiring a person be told that refusing to submit to the lawful breath test will result in the mandatory placement of an ignition interlock device for the duration of the license suspension.

The bill amends s. 316.1939, F.S., requiring proof of installation of the ignition interlock device to be sent to the DHSMV, and provides that the prohibitions and penalties in s. 316.1937(5), (6), and (8), F.S., apply to a person whose driving privilege is restricted pursuant to this subsection and to an ignition interlock device required by this subsection.

The bill may have a negative fiscal impact on the DHSMV associated with a projected increase in the number of driver license suspension administrative hearings. See the "Fiscal Impact" heading for additional details.

The bill takes effect October 1, 2024.

II. Present Situation:

Section 316.1932, F.S., provides that any person who accepts the privilege of operating a motor vehicle within this state is deemed to have given consent to submit to an approved breath test to determine the alcohol content of his or her breath, also referred to as the "implied consent" law. The breath test must be incidental to a lawful arrest and administered at the request of a law enforcement officer who has a reasonable belief such person was driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages.[1]

Every state in the U.S. has implied consent laws, which are a tool used by law enforcement to access evidence showing a person was illegally impaired while operating a motor vehicle. A person who refuses to submit to a lawful breath test can be subject to administrative and criminal penalties, but penalties vary among the states.[2]

Refusal to Submit to a Lawful Breath Test

In Florida, failure to submit to a lawful breath test results in an administrative suspension of the person's driving privilege for one year for a first refusal or 18 months for a subsequent refusal.[3] Additionally, a person who refuses to submit to a breath test for a subsequent time commits a first-degree misdemeanor, punishable by up to one year in jail and $1,000 fine.[4]

Comparatively, a first conviction of driving under the influence (DUI) can result in a fine of at least $500, 50 hours of community service, imprisonment of no more than six months, up to one year of probation, a court order to install an ignition interlock device for at least six continuous months, and completion of an authorized substance abuse course.[5]

The table below provides data on DUI breath testing refusal rates in Florida from 2018 to 2023.[6] Previous studies found the nationwide average rate for testing refusal at 24 percent.[7]

[1] Section 316.1932(1)(a)1.a., F.S.
[2] In 2016, the U.S. Supreme Court in *Birchfield v. North Dakota* held that the Fourth Amendment permits warrantless breath tests incident to arrest, and criminalizing the refusal to submit to a breath test is designed to serve the government's interest in deterring drunk driving. However, warrants for blood tests are required unless there are exigent circumstances.
[3] Section 322.2616(2)(b)1.a., F.S.
[4] Sections 316.1939(1), F.S.
[5] Section 316.193, F.S.
[6] Email from Jonas Marquez, Legislative Affairs Director, DHSMV, *RE: SB – 260 Refusal to Submit to a Breath, Urine or Blood Test*, (November 8, 2023) (on file with the Senate Committee on Transportation).
[7] Foundation for Advancing Alcohol Responsibility, *BAC Test Refusal Penalties*, (2016), https://www.responsibility.org/wp-content/uploads/2015/03/BAC-Test-Refusal-Penalties-2016-2.pdf (last visited January 18, 2024).

Year	Total Refusals	DUI UTCs	Refusal Rate	Crash-related Refusals
2018	15,091	43,715	34.52%	4,051
2019	15,497	44,890	34.52%	4,083
2020	12,926	37,310	34.64%	3,675
2021	15,183	43,787	34.67%	4,230
2022	14,941	44,001	33.96%	4,154
2023*	11,459	32,582	35.17%	3,166
*2023 is preliminary, activity dated 1/1/2023-9/30/2023				

Restricted Driver Licenses

A person whose driving privilege is suspended for refusing to submit to a lawful test of his or her breath, urine, or blood may be able to apply for restricted driving privileges through the Department of Highway Safety and Motor Vehicles (DHSMV) Bureau of Administrative Review after at least 90 days have elapsed from the date of the license suspension or expiration of a temporary driving permit.[8, 9] However, this privilege may not be granted to a person whose license has been suspended two or more times for testing refusal, or who refused testing following two or more DUI convictions.[10] Furthermore, a person whose driving privilege was suspended for an unlawful blood-alcohol or breath-alcohol level may be able to apply for restricted driving privileges after at least 30 days have elapsed from the date of the license suspension or expiration of a temporary driving permit.[11]

Section 322.271(1)(c), F.S., defines a "business purposes only" restricted driving privilege as limited to driving necessary to maintain livelihood, including driving to and from work, necessary on-the-job driving, driving for educational purposes, and driving for church and medical purposes. An "employment purposes only" restricted driving privilege is limited to driving to and from work and necessary on-the-job driving.

Ignition Interlock Devices

An ignition interlock device is a breath alcohol analyzer connected to a motor vehicle's ignition, which requires a breath sample to operate the motor vehicle. Section 316.1937, F.S., requires such devices to prohibit the vehicle from starting if the operator's blood alcohol level is in excess of 0.025 percent or other court-specified level.

[8] Section 322.2615(10)(a), F.S.
[9] DHSMV, *Application for Administrative Hearing*, Form HSMV 78306 (Rev. 1/2022), *available at* https://www.flhsmv.gov/pdf/forms/78306.pdf (last visited January 18, 2024).
[10] Section 322.271(2)(a), F.S.
[11] Section 322.2615(10)(b), F.S.

The table below summarizes when an ignition interlock device is required in Florida.[12]

DUI Conviction	Ignition Interlock Device Required
1st conviction	If court orders for at least 6 continuous months
1st conviction if blood-alcohol level is ≥ 0.15, or minor in car	Mandatory for at least 6 continuous months
2nd conviction	Mandatory for at least 1 year
2nd conviction if blood-alcohol level is ≥ 0.15, or minor in car	Mandatory for at least 2 continuous years
3rd conviction	Mandatory for at least 2 years

The DHSMV contracts with vendors to provide ignition interlock devices in Florida. Currently, the DHSMV contracts with seven vendors to provide ignition interlock services.[13] The devices must meet or exceed the current standards of the U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA).[14] The DHSMV oversees and monitors the ignition interlock devices.[15]

The Florida Legislature's Office of Program Policy Analysis and Government Accountability (OPPAGA) conducted a study researching ignition interlock devices and DUI offense recidivism rates. The research showed that ignition interlock devices, while installed, were more effective at reducing re-arrest rates for alcohol-impaired driving when compared to other sanctions, such as license suspensions.[16] Similarly, NHTSA reviewed 15 studies on ignition interlock device effectiveness and found alcohol-impaired driving recidivism rates were 75 percent lower for drivers with ignition interlock devices installed. However, the difference in recidivism rates largely disappeared once the device was removed.[17]

The DHSMV indicates the compliance rate for individuals *eligible* to have an ignition interlock device installed is almost 98 percent. Forty-six percent of individuals required to have an ignition interlock device installed are not eligible until other sanctions on their record are cleared to allow driving privilege eligibility.[18] Section 316.193, F.S., providing DUI penalties, requires placement of the ignition interlock device "when the convicted person qualifies for a permanent or restricted license." Additionally, the DHSMV indicates that inability to afford the cost

[12] Section 316.193, F.S.
[13] DHSMV, *Ignition Interlock Program*, https://www.flhsmv.gov/driver-licenses-id-cards/education-courses/dui-and-iid/ignition-interlock-program/ (last visited January 18, 2024).
[14] Section 316.1938, F.S.
[15] Sections 316.1938 and 316.193(11), F.S.
[16] OPPAGA, *Ignition Interlock Devices and DUI Recidivism Rates*, Report No. 14-14, (December 2014), https://oppaga.fl.gov/Documents/Reports/14-14.pdf (last visited January 18, 2024).
[17] NHTSA, *A Highway Safety Countermeasure Guide for State Highway Safety Offices*, 10th Edition (2020), https://www.nhtsa.gov/book/countermeasures/deterrence/42-alcohol-ignition-interlocks (last visited January 18, 2024).
[18] Email from Jonas Marquez, Legislative Affairs Director, DHSMV, *RE: SB 260- Refusal to Submit to a Breath, Urine, or Blood Test*, (November 14, 2023) (on file with the Senate Committee on Transportation).

associated with the ignition interlock device is the most persuasive barrier to required installation.[19]

According to a study distributed by NHTSA, 27 states mandate ignition interlock program participation upon test refusal.[20] The requirements of the programs vary by state. States may require ignition interlock device placement as a penalty for testing refusal, incident to arrest for DUI, or to be granted restricted driving privileges following an administrative license suspension for refusing to submit to the breath test.

III. Effect of Proposed Changes:

The bill amends ss. 316.1939, 322.2615, 322.2616, and 322.2715, F.S., providing that an ignition interlock device be placed for a first refusal for 1 year, and reverts to current law on a second or subsequent refusal. The bill allows the placement period for an ignition interlock resulting from a first refusal to run concurrently with any other ignition interlock placement period required by a court or the DHSMV.

The bill amends s. 316.1932, F.S., requiring a person be told that refusing to submit to the lawful breath test will result in the mandatory placement of an ignition interlock device for the duration of the license suspension.

The bill amends s. 316.1939, F.S., requiring proof of installation of the ignition interlock device to be sent to the DHSMV, and provides that the prohibitions and penalties in s. 316.1937(5), (6), and (8), F.S., apply to a person whose driving privilege is restricted pursuant to this subsection and to an ignition interlock device required by this subsection.

The bill takes effect October 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.

[19] *Supra* note 14. *See also* V. Fiscal Impact Statement.
[20] Barrett, H., Robertson, R.D., & Vanlaar, W. G. M., *State of the Practice of State Alcohol Ignition Interlock Programs* Report No. DOT HS 813 394, (January 2023), https://rosap.ntl.bts.gov/view/dot/66102 (last visited January 18, 2024).

E. Other Constitutional Issues:

None Identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Individuals required to install an ignition interlock device are responsible for costs of the device. Costs vary by vendor, but can range from $70 to $170 for installation and $50 to $120 per month for device leasing and monitoring.[21]

C. Government Sector Impact:

The DHSMV receives $12 for each ignition interlock installation, which is deposited into the Highway Safety Operating Trust Fund for operation of the Ignition Interlock Device Program.[22]

The DHSMV estimates the bill will result in a significant increase in the number of driver license review hearings that the Bureau of Administrative Review (BAR) will have to conduct. The department expects that it will need additional legal (hearing officers) and administrative support staff as a result of the expected increase in formal hearings. The department estimates that BAR will require an additional $1,135,000 in recurring funds (for eight additional full-time hearing officers and four additional administrative assistants) as a result of this bill.[23]

Additionally, the department projects that the potential increase in ignition interlock installations will require two additional staff positions in the Bureau of Motorists Compliance to administer the additional workload. The department estimates that the cost for these positions will be $133,268, recurring.

VI. Technical Deficiencies:

None.

[21] LifeSaver Ignition Interlock, *Ignition Interlock Costs*, https://www.lifesafer.com/ignition-interlock-cost/ (last visited January 18, 2024).
[22] Section 322.2715(5), F.S.
[23] DHSMV, *2024 Legislative Bill Analysis: HB 39* (November 1, 2023) at p. 7 (on file with the Senate Committee on Criminal Justice).

VII. Related Issues:

The DHSMV notes that law enforcement officers will need to be educated and trained on the provisions of the bill and implied consent warning forms and/or cards, and refusal affidavits will need to be reviewed and updated to ensure compliance with the requirements of the bill.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.1932, 316.1939, 322.2615, 322.2616, and 322.2715.

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 January 23, 2024:

The committee substitute:

- Provides that an ignition interlock device be placed for a first refusal for 1 year, and reverts to current law on a second or subsequent refusal.
- Allows the placement period for an ignition interlock resulting from a first refusal to run concurrently with any other ignition interlock placement period required by a court or the DHSMV.
- Requires proof of installation of the ignition interlock device to be sent to the DHSMV.
- Applies the prohibitions and penalties in s. 316.1937(5), (6), and (8), F.S., relating to tampering with a court-ordered ignition interlock device, to a person whose driving privilege is restricted pursuant to s. 316.1939, F.S.
- Reverts to current law regarding the number of days a person must wait before applying for a hardship license.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2024	.	
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The Committee on Criminal Justice (DiCeglie) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (1) of section 316.1932, Florida Statutes, is amended to read:

316.1932 Tests for alcohol, chemical substances, or controlled substances; implied consent; refusal.—

(1)(a)1.a. A person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this

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state is, by operating such vehicle, deemed to have given his or her consent to submit to an approved chemical test or physical test including, but not limited to, an infrared light test of his or her breath for the purpose of determining the alcoholic content of his or her blood or breath if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic beverages. The chemical or physical breath test must be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of the motor vehicle within this state while under the influence of alcoholic beverages. The administration of a breath test does not preclude the administration of another type of test. The person must ~~shall~~ be told that his or her failure to submit to any lawful test of his or her breath will, for a first refusal, result in the suspension of the person's privilege to operate a motor vehicle for ~~a period of~~ 1 year, and the person will be subject to mandatory placement for 1 continuous year, at the person's own expense, of an ignition interlock device on all vehicles that are individually or jointly leased or owned and routinely operated by the person when the person qualifies for reinstatement of a permanent or restricted driver license. ~~for a first refusal, or for a period of 18 months~~ If the driving privilege of such person has been previously suspended or if he or she has previously been fined under s. 327.35215 as a result of a refusal to submit to a test or tests required under this chapter or chapter 327, the person must be told that his or her

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failure to submit to any lawful test of his or her breath will result in the suspension of the person's privilege to operate a motor vehicle for 18 months. The person must ~~and shall~~ also be told that if he or she refuses to submit to a lawful test of his or her breath and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, he or she commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law. The refusal to submit to a chemical or physical breath test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

b. A person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by operating such vehicle, deemed to have given his or her consent to submit to a urine test for the purpose of detecting the presence of chemical substances as set forth in s. 877.111 or controlled substances if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of chemical substances or controlled substances. The urine test must be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of a motor vehicle within this state while

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under the influence of chemical substances or controlled substances. The urine test must ~~shall~~ be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such test in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of a urine test does not preclude the administration of another type of test. The person must ~~shall~~ be told that his or her failure to submit to any lawful test of his or her urine will result in the suspension of the person's privilege to operate a motor vehicle for ~~a period of~~ 1 year for the first refusal, or for ~~a period of~~ 18 months if the driving privilege of such person has been previously suspended or if he or she has previously been fined under s. 327.35215 as a result of a refusal to submit to a test or tests required under this chapter or chapter 327, and must ~~shall~~ also be told that if he or she refuses to submit to a lawful test of his or her urine and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, he or she commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law. The refusal to submit to a urine test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

2. The Alcohol Testing Program within the Department of Law Enforcement is responsible for the regulation of the operation, inspection, and registration of breath test instruments used

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~~utilized~~ under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program is responsible for the regulation of the individuals who operate, inspect, and instruct on the breath test instruments used ~~utilized~~ in the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program is further responsible for the regulation of blood analysts who conduct blood testing to be used ~~utilized~~ under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program must ~~shall~~:

a. Establish uniform criteria for the issuance of permits to breath test operators, agency inspectors, instructors, blood analysts, and instruments.

b. Have the authority to permit breath test operators, agency inspectors, instructors, blood analysts, and instruments.

c. Have the authority to discipline and suspend, revoke, or renew the permits of breath test operators, agency inspectors, instructors, blood analysts, and instruments.

d. Establish uniform requirements for instruction and curricula for the operation and inspection of approved instruments.

e. Have the authority to specify one approved curriculum for the operation and inspection of approved instruments.

f. Establish a procedure for the approval of breath test operator and agency inspector classes.

g. Have the authority to approve or disapprove breath test instruments and accompanying paraphernalia for use pursuant to

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the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.

h. With the approval of the executive director of the Department of Law Enforcement, make and enter into contracts and agreements with other agencies, organizations, associations, corporations, individuals, or federal agencies as are necessary, expedient, or incidental to the performance of duties.

i. Issue final orders that ~~which~~ include findings of fact and conclusions of law and that ~~which~~ constitute final agency action for the purpose of chapter 120.

j. Enforce compliance with this section through civil or administrative proceedings.

k. Make recommendations concerning any matter within the purview of this section, this chapter, chapter 322, or chapter 327.

l. Adopt ~~Promulgate~~ rules for the administration and implementation of this section, including definitions of terms.

m. Consult and cooperate with other entities for the purpose of implementing ~~the mandates of~~ this section.

n. Have the authority to approve the type of blood test used ~~utilized~~ under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.

o. Have the authority to specify techniques and methods for breath alcohol testing and blood testing used ~~utilized~~ under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.

p. Have the authority to approve repair facilities for the

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approved breath test instruments, including the authority to set criteria for approval.

~~Nothing in~~ This section does not ~~shall be construed to~~ supersede provisions in this chapter and chapters 322 and 327. The specifications in this section are derived from the power and authority previously and currently possessed by the Department of Law Enforcement and are enumerated to conform with the mandates of chapter 99-379, Laws of Florida.

Section 2. Section 316.1939, Florida Statutes, is amended to read:

316.1939 Refusal to submit to testing; penalties.—

(1)(a) A person who refuses to submit to a lawful test of his or her breath as required under s. 316.1932(1)(a)1.a. is subject to mandatory placement, at the person's own expense, of an ignition interlock device approved by the department in the same manner as devices approved by the department in accordance with s. 316.1938 on all vehicles individually or jointly leased or owned and routinely operated by the person for 1 continuous year for a first refusal when the person qualifies for reinstatement of a permanent or restricted driver license. This subsection applies in addition to any other penalties authorized by this section. The ignition interlock device placement period required by this subsection may run concurrently with any other ignition interlock device placement period required by a court or the department.

(b) Proof of installation of an ignition interlock device required by this subsection must be sent to the department, and verification of the operation of the device in the person's

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vehicle must be periodically reported to the department.

(c) The prohibitions and penalties provided in s. 316.1937(5), (6), and (8) apply to a person whose driving privilege is restricted pursuant to this subsection and to an ignition interlock device required by this subsection.

(2) ~~(1)~~ A person who has refused to submit to a chemical or physical test of his or her breath or urine, as described in s. 316.1932, and whose driving privilege was previously suspended or who was previously fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood required under this chapter or chapter 327, and:

(a) Who the arresting law enforcement officer had probable cause to believe was driving or in actual physical control of a motor vehicle in this state while under the influence of alcoholic beverages, chemical substances, or controlled substances;

(b) Who was placed under lawful arrest for a violation of s. 316.193 unless such test was requested pursuant to s. 316.1932(1)(c);

(c) Who was informed that:~~,~~

1. If he or she refused to submit to a lawful test of his or her breath, his or her privilege to operate a motor vehicle would be suspended for 1 year for a first refusal and that he or she would be subject to mandatory placement, at his or her own expense, of an ignition interlock device approved by the department in the same manner as devices approved by the department in accordance with s. 316.1938 for 1 continuous year for a first refusal on all vehicles that he or she individually or jointly leases or owns and routinely operates when he or she

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qualifies for reinstatement of a permanent or restricted driver license; or

2. If he or she refused to submit to a lawful ~~such~~ test of his or her urine, his or her privilege to operate a motor vehicle would be suspended for ~~a period of~~ 1 year for a first refusal or~~, in the case of a second or subsequent refusal, for a period of~~ 18 months for a second or subsequent refusal;

(d) Who was informed that a refusal to submit to a lawful test of his or her breath or urine, if his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law; and

(e) Who, after having been so informed, refused to submit to any such test when requested to do so by a law enforcement officer or correctional officer

commits a misdemeanor of the first degree and is subject to punishment as provided in s. 775.082 or s. 775.083.

(3)~~(2)~~ The disposition of any administrative proceeding that relates to the suspension of a person's driving privilege does not affect a criminal action under subsection (2) ~~this section~~.

(4)~~(3)~~ The disposition of a criminal action under subsection (2) ~~this section~~ does not affect any administrative proceeding that relates to the suspension of a person's driving privilege. The department's records showing that a person's

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license has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood is ~~shall be~~ admissible and creates ~~shall create~~ a rebuttable presumption of such suspension.

Section 3. Present subsections (12) through (16) of section 322.2615, Florida Statutes, are redesignated as subsections (13) through (17), respectively, subsection (1) of that section is amended, and a new subsection (12) is added to that section, to read:

322.2615 Suspension of license; right to review.—

(1)(a) A law enforcement officer or correctional officer shall, on behalf of the department, suspend the driving privilege of a person who is driving or in actual physical control of a motor vehicle and who has an unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher, or of a person who has refused to submit to a urine test or a test of his or her breath-alcohol or blood-alcohol level. The officer shall take the person’s driver license and issue the person a 10-day temporary permit if the person is otherwise eligible for the driving privilege and shall issue the person a notice of suspension. If a blood test has been administered, the officer or the agency employing the officer shall transmit such results to the department within 5 days after receipt of the results. If the department then determines that the person had a blood-alcohol level or breath-alcohol level of 0.08 or higher, the department shall suspend the person’s driver license pursuant to subsection (3).

(b) The suspension under paragraph (a) shall be pursuant to, and the notice of suspension shall inform the driver of, the

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following:

1.a. The driver refused to submit to a lawful breath~~, blood, or urine~~ test and his or her driving privilege is suspended for ~~a period of~~ 1 year for a first refusal or for ~~a period of~~ 18 months if his or her driving privilege has been previously suspended as a result of a refusal to submit to such a test, and he or she is subject to mandatory placement, at his or her own expense, of an ignition interlock device approved by the department in the same manner as devices approved by the department in accordance with s. 316.1938 for 1 continuous year for a first refusal on all vehicles that he or she individually or jointly leases or owns and routinely operates when he or she qualifies for reinstatement of a permanent or restricted driver license;

b. The driver refused to submit to a lawful blood or urine test and his or her driving privilege is suspended for 1 year for a first refusal or for 18 months if his or her driving privilege has been previously suspended as a result of a refusal to submit to such a test; or

c.~~b.~~ The driver was driving or in actual physical control of a motor vehicle and had an unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher and his or her driving privilege is suspended for ~~a period of~~ 6 months for a first offense or for ~~a period of~~ 1 year if his or her driving privilege has been previously suspended under this section.

2. The suspension period shall commence on the date of issuance of the notice of suspension.

3. The driver may request a formal or informal review of the suspension by the department within 10 days after the date

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of issuance of the notice of suspension or may request a review of eligibility for a restricted driving privilege under s. 322.271(7).

4. The temporary permit issued at the time of suspension expires at midnight of the 10th day following the date of issuance of the notice of suspension.

5. The driver may submit to the department any materials relevant to the suspension.

(12) If a person whose driver license is suspended for refusal to submit to a lawful breath test has such suspension invalidated for any reason under this section, the requirement that he or she install an ignition interlock device for refusal to submit to a lawful test of his or her breath under s. 316.1939(1) is waived.

Section 4. Present subsections (13) through (19) of section 322.2616, Florida Statutes, are redesignated as subsections (14) through (20), respectively, subsection (2) of that section is amended, and a new subsection (13) is added to that section, to read:

322.2616 Suspension of license; persons under 21 years of age; right to review.—

(2)(a) A law enforcement officer or correctional officer shall, on behalf of the department, suspend the driving privilege of such person if the person has a blood-alcohol or breath-alcohol level of 0.02 or higher. The officer shall also suspend, on behalf of the department, the driving privilege of a person who has refused to submit to a test as provided by paragraph (b). The officer shall take the person’s driver license and issue the person a 10-day temporary driving permit

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if the person is otherwise eligible for the driving privilege and shall issue the person a notice of suspension.

(b) The suspension under paragraph (a) must be pursuant to, and the notice of suspension must inform the driver of, the following:

1.a. The driver refused to submit to a lawful breath test and his or her driving privilege is suspended for ~~a period of~~ 1 year for a first refusal or for ~~a period of~~ 18 months if his or her driving privilege has been previously suspended as provided in this section as a result of a refusal to submit to a test, and he or she is subject to mandatory placement, at his or her own expense, of an ignition interlock device approved by the department in the same manner as devices approved by the department in accordance with s. 316.1938 for 1 continuous year for a first refusal on all vehicles that he or she individually or jointly leases or owns and routinely operates when he or she qualifies for reinstatement of a permanent or restricted driver license; or

b. The driver was under the age of 21 and was driving or in actual physical control of a motor vehicle while having a blood-alcohol or breath-alcohol level of 0.02 or higher; and the person’s driving privilege is suspended for ~~a period of~~ 6 months for a first violation, or for ~~a period of~~ 1 year if his or her driving privilege has been previously suspended as provided in this section for driving or being in actual physical control of a motor vehicle with a blood-alcohol or breath-alcohol level of 0.02 or higher.

2. The suspension period commences on the date of issuance of the notice of suspension.

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3. The driver may request a formal or informal review of the suspension by the department within 10 days after the issuance of the notice of suspension.

4. A temporary permit issued at the time of the issuance of the notice of suspension shall not become effective until after 12 hours have elapsed and will expire at midnight of the 10th day following the date of issuance.

5. The driver may submit to the department any materials relevant to the suspension of his or her license.

(c) When a driver subject to this section has a blood-alcohol or breath-alcohol level of 0.05 or higher, the suspension shall remain in effect until such time as the driver has completed a substance abuse course offered by a DUI program licensed by the department. The driver shall assume the reasonable costs for the substance abuse course. As part of the substance abuse course, the program shall conduct a substance abuse evaluation of the driver, and notify the parents or legal guardians of drivers under the age of 19 years of the results of the evaluation. The term “substance abuse” means the abuse of alcohol or any substance named or described in Schedules I through V of s. 893.03. If a driver fails to complete the substance abuse education course and evaluation, the driver license shall not be reinstated by the department.

(d) A minor under the age of 18 years proven to be driving with a blood-alcohol or breath-alcohol level of 0.02 or higher may be taken by a law enforcement officer to the addictions receiving facility in the county in which the minor is found to be so driving, if the county makes the addictions receiving facility available for such purpose.

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(13) If a person whose driver license is suspended for refusal to submit to a lawful breath test has such suspension invalidated for any reason under this section, the requirement that he or she install an ignition interlock device for refusal to submit to a lawful test of his or her breath under s. 316.1939(1) is waived.

Section 5. Present subsection (5) of section 322.2715, Florida Statutes, is redesignated as subsection (6), subsection (1) of that section is amended, and a new subsection (5) is added to that section, to read:

322.2715 Ignition interlock device.—

(1) Before issuing a permanent or restricted driver license under this chapter, the department shall require the placement of a department-approved ignition interlock device for any person convicted of committing an offense of driving under the influence as specified in subsection (3), or for any person who refused to submit to a lawful test of his or her breath as specified in subsection (5), except that consideration may be given to those individuals having a documented medical condition that would prohibit the device from functioning normally. If a medical waiver has been granted for a ~~convicted~~ person seeking a restricted license, the ~~convicted~~ person shall not be entitled to a restricted license until the required ignition interlock device installation period under subsection (3) or subsection (5) expires, in addition to the time requirements under s. 322.271. If a medical waiver has been approved for a ~~convicted~~ person seeking permanent reinstatement of the driver license, the ~~convicted~~ person must be restricted to an employment-purposes-only license and be supervised by a licensed DUI

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program until the required ignition interlock device installation period under subsection (3) or subsection (5) expires. An interlock device shall be placed on all vehicles that are individually or jointly leased or owned and routinely operated by the ~~convicted~~ person.

(5) If a person refused to submit to a lawful test of his or her breath as required by s. 316.1932(1)(a)1.a., he or she must install, at his or her own expense, an ignition interlock device on all vehicles individually or jointly leased or owned and routinely operated by the person for 1 continuous year for a first refusal upon reinstatement of a permanent or restricted driver license.

Section 6. This act shall take effect October 1, 2024.

========== 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 refusal to submit to a breath, urine, or blood test; amending s. 316.1932, F.S.; requiring a person arrested for driving under the influence who refuses to submit to a lawful test of his or her breath to be told that he or she is subject to mandatory placement, for a specified period, of an ignition interlock device on all vehicles that are individually or jointly leased or owned and routinely operated by the person; amending s. 316.1939, F.S.; requiring a person arrested for driving under the

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influence who refuses to submit to a lawful test of his or her breath to be subject to mandatory placement, for a specified period, of an ignition interlock device on all vehicles that are individually or jointly leased or owned and routinely operated by the person; authorizing certain placement periods for ignition interlock devices to run concurrently; requiring reporting to the Department of Highway Safety and Motor Vehicles; specifying application of prohibitions and penalties; conforming provisions to changes made by the act; amending s. 322.2615, F.S.; requiring certain information to be contained in a notice of suspension; waiving the requirement to install an ignition interlock device under certain circumstances; amending s. 322.2616, F.S.; requiring certain information to be contained in a notice of suspension; waiving the requirement to install an ignition interlock device under certain circumstances; amending s. 322.2715, F.S.; directing the department to require placement of an ignition interlock device before issuing a permanent or restricted driver license to a person who refused to submit to a lawful test of his or her breath; requiring the person to install the device at his or her own expense for a specified period; providing an effective date.

By Senator DiCeglie

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A bill to be entitled

An act relating to refusal to submit to a breath, urine, or blood test; amending s. 316.1932, F.S.; requiring a person arrested for driving under the influence who refuses to submit to a lawful test of his or her breath to be told that he or she is subject to mandatory placement, at his or her own expense and for a specified period, of an ignition interlock device on all vehicles that are individually or jointly leased or owned and routinely operated by the person; making technical changes; amending s. 316.1939, F.S.; requiring a person who refuses to submit to a lawful test of his or her breath to be subject to mandatory placement, at his or her expense and for a specified period, of an ignition interlock device on all vehicles that are individually or jointly leased or owned and routinely operated by the person; providing applicability; conforming provisions to changes made by the act; amending s. 322.2615, F.S.; requiring certain information to be contained in a notice of suspension; decreasing the period during which a person whose driver license is suspended for failure to submit to a breath, urine, or blood test is not eligible to receive a license for business or employment purposes only; waiving the requirement to install an ignition interlock device under certain circumstances; amending s. 322.2616, F.S.; requiring certain information to be contained in a notice of suspension; waiving the requirement to install an

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ignition interlock device under certain circumstances; amending s. 322.2715, F.S.; directing the Department of Highway Safety and Motor Vehicles to require placement of an ignition interlock device before issuing a permanent or restricted driver license to a person who refused to submit to a lawful test of his or her breath; requiring the person to install the device at his or her own expense for a specified period; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) of section 316.1932, Florida Statutes, is amended to read:

316.1932 Tests for alcohol, chemical substances, or controlled substances; implied consent; refusal.—

(1)(a)1.a. A person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by operating such vehicle, deemed to have given his or her consent to submit to an approved chemical test or physical test including, but not limited to, an infrared light test of his or her breath for the purpose of determining the alcoholic content of his or her blood or breath if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic beverages. The chemical or physical breath test must be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was

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

in actual physical control of the motor vehicle within this state while under the influence of alcoholic beverages. The administration of a breath test does not preclude the administration of another type of test. The person must ~~shall~~ be told that his or her failure to submit to any lawful test of his or her breath will, for a first refusal, result in the suspension of the person's privilege to operate a motor vehicle for ~~a period of~~ 1 year and the person will be subject to mandatory placement for 1 continuous year, at his or her own expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 on all vehicles that are individually or jointly leased or owned and routinely operated by the person, when the person qualifies for reinstatement of a permanent or restricted driver license. ~~for a first refusal, or for a period of 18 months~~ If the driving privilege of such person has been previously suspended or if he or she has previously been fined under s. 327.35215 as a result of a refusal to submit to a test or tests required under this chapter or chapter 327, the person must be told that his or her failure to submit to any lawful test of his or her breath will result in the suspension of the person's privilege to operate a motor vehicle for 18 months and the person will be subject to mandatory placement for 18 continuous months, at his or her own expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 on all vehicles that are individually or jointly leased or owned and routinely operated by the person, when the person qualifies for reinstatement of a permanent or restricted driver license. The person must ~~and shall~~ also be told that if he or she refuses to

submit to a lawful test of his or her breath and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, he or she commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law. The refusal to submit to a chemical or physical breath test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

b. A person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by operating such vehicle, deemed to have given his or her consent to submit to a urine test for the purpose of detecting the presence of chemical substances as set forth in s. 877.111 or controlled substances if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of chemical substances or controlled substances. The urine test must be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of a motor vehicle within this state while under the influence of chemical substances or controlled substances. The urine test must ~~shall~~ be administered at a detention facility or any other facility, mobile or otherwise,

which is equipped to administer such test in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of a urine test does not preclude the administration of another type of test. The person must ~~shall~~ be told that his or her failure to submit to any lawful test of his or her urine will result in the suspension of the person's privilege to operate a motor vehicle for ~~a period of~~ 1 year for the first refusal, or for ~~a period of~~ 18 months if the driving privilege of such person has been previously suspended or if he or she has previously been fined under s. 327.35215 as a result of a refusal to submit to a test or tests required under this chapter or chapter 327, and must ~~shall~~ also be told that if he or she refuses to submit to a lawful test of his or her urine and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, he or she commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law. The refusal to submit to a urine test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

2. The Alcohol Testing Program within the Department of Law Enforcement is responsible for the regulation of the operation, inspection, and registration of breath test instruments used ~~utilized~~ under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program is responsible for the

regulation of the individuals who operate, inspect, and instruct on the breath test instruments used ~~utilized~~ in the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program is further responsible for the regulation of blood analysts who conduct blood testing to be used ~~utilized~~ under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program must ~~shall~~:

a. Establish uniform criteria for the issuance of permits to breath test operators, agency inspectors, instructors, blood analysts, and instruments.

b. Have the authority to permit breath test operators, agency inspectors, instructors, blood analysts, and instruments.

c. Have the authority to discipline and suspend, revoke, or renew the permits of breath test operators, agency inspectors, instructors, blood analysts, and instruments.

d. Establish uniform requirements for instruction and curricula for the operation and inspection of approved instruments.

e. Have the authority to specify one approved curriculum for the operation and inspection of approved instruments.

f. Establish a procedure for the approval of breath test operator and agency inspector classes.

g. Have the authority to approve or disapprove breath test instruments and accompanying paraphernalia for use pursuant to the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.

h. With the approval of the executive director of the Department of Law Enforcement, make and enter into contracts and agreements with other agencies, organizations, associations, corporations, individuals, or federal agencies as are necessary, expedient, or incidental to the performance of duties.

i. Issue final orders that ~~which~~ include findings of fact and conclusions of law and that ~~which~~ constitute final agency action for the purpose of chapter 120.

j. Enforce compliance with this section through civil or administrative proceedings.

k. Make recommendations concerning any matter within the purview of this section, this chapter, chapter 322, or chapter 327.

l. Adopt ~~Promulgate~~ rules for the administration and implementation of this section, including definitions of terms.

m. Consult and cooperate with other entities for the purpose of implementing ~~the mandates of~~ this section.

n. Have the authority to approve the type of blood test used ~~utilized~~ under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.

o. Have the authority to specify techniques and methods for breath alcohol testing and blood testing used ~~utilized~~ under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.

p. Have the authority to approve repair facilities for the approved breath test instruments, including the authority to set criteria for approval.

~~Nothing in~~ This section does not ~~shall be construed to~~ supersede provisions in this chapter and chapters 322 and 327. The specifications in this section are derived from the power and authority previously and currently possessed by the Department of Law Enforcement and are enumerated to conform with the mandates of chapter 99-379, Laws of Florida.

Section 2. Section 316.1939, Florida Statutes, is amended to read:

316.1939 Refusal to submit to testing; penalties.—

(1) A person who refuses to submit to a lawful test of his or her breath as required under s. 316.1932(1)(a)1.a. is subject to mandatory placement, at his or her own expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 on all vehicles individually or jointly leased or owned and routinely operated by the person, for 1 continuous year for a first refusal, or 18 continuous months for a second or subsequent refusal, when the person qualifies for reinstatement of a permanent or restricted driver license. This subsection applies in addition to any other penalties authorized by this section.

(2) ~~(1)~~ A person who has refused to submit to a chemical or physical test of his or her breath or urine, as described in s. 316.1932, and whose driving privilege was previously suspended or who was previously fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood required under this chapter or chapter 327, and:

(a) Who the arresting law enforcement officer had probable cause to believe was driving or in actual physical control of a motor vehicle in this state while under the influence of

alcoholic beverages, chemical substances, or controlled substances;

(b) Who was placed under lawful arrest for a violation of s. 316.193 unless such test was requested pursuant to s. 316.1932(1)(c);

(c) Who was informed that:~~,~~

1. If he or she refused to submit to a lawful test of his or her breath, his or her privilege to operate a motor vehicle would be suspended for 1 year for a first refusal or 18 months for a second or subsequent refusal, and that he or she would be subject to mandatory placement, at his or her own expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 for 1 continuous year for a first refusal, or 18 continuous months for a second or subsequent refusal, on all vehicles that he or she individually or jointly leases or owns and routinely operates, when he or she qualifies for reinstatement of a permanent or restricted driver license; or

2. If he or she refused to submit to a lawful ~~such~~ test of his or her urine, his or her privilege to operate a motor vehicle would be suspended for ~~a period of~~ 1 year for a first refusal or~~, in the case of a second or subsequent refusal, for a period of~~ 18 months for a second or subsequent refusal;

(d) Who was informed that a refusal to submit to a lawful test of his or her breath or urine, if his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, is a misdemeanor of

the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law; and

(e) Who, after having been so informed, refused to submit to any such test when requested to do so by a law enforcement officer or correctional officer

commits a misdemeanor of the first degree and is subject to punishment as provided in s. 775.082 or s. 775.083.

(3)~~(2)~~ The disposition of any administrative proceeding that relates to the suspension of a person's driving privilege does not affect a criminal action under subsection (2) ~~this section~~.

(4)~~(3)~~ The disposition of a criminal action under subsection (2) ~~this section~~ does not affect any administrative proceeding that relates to the suspension of a person's driving privilege. The department's records showing that a person's license has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood is ~~shall be~~ admissible and creates ~~shall create~~ a rebuttable presumption of such suspension.

Section 3. Present subsections (12) through (16) of section 322.2615, Florida Statutes, are redesignated as subsections (13) through (17), respectively, a new subsection (12) is added to that section, and subsection (1) and paragraph (a) of subsection (10) of that section are amended, to read:

322.2615 Suspension of license; right to review.—

(1)(a) A law enforcement officer or correctional officer shall, on behalf of the department, suspend the driving privilege of a person who is driving or in actual physical

control of a motor vehicle and who has an unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher, or of a person who has refused to submit to a urine test or a test of his or her breath-alcohol or blood-alcohol level. The officer shall take the person's driver license and issue the person a 10-day temporary permit if the person is otherwise eligible for the driving privilege and shall issue the person a notice of suspension. If a blood test has been administered, the officer or the agency employing the officer shall transmit such results to the department within 5 days after receipt of the results. If the department then determines that the person had a blood-alcohol level or breath-alcohol level of 0.08 or higher, the department shall suspend the person's driver license pursuant to subsection (3).

(b) The suspension under paragraph (a) must ~~shall~~ be pursuant to, and the notice of suspension shall inform the driver of, the following:

1.a. The driver refused to submit to a lawful breath~~, blood, or urine~~ test and his or her driving privilege is suspended for ~~a period of~~ 1 year for a first refusal or for ~~a period of~~ 18 months if his or her driving privilege has been previously suspended as a result of a refusal to submit to such a test, and he or she is subject to mandatory placement, at his or her own expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 for 1 continuous year for a first refusal, or 18 continuous months for a second or subsequent refusal, on all vehicles that he or she individually or jointly leases or owns and routinely operates, when he or she qualifies for reinstatement of a permanent or

restricted driver license;

b. The driver refused to submit to a lawful blood or urine test and his or her driving privilege is suspended for 1 year for a first refusal or for 18 months if his or her driving privilege has been previously suspended as a result of a refusal to submit to such a test; or

c.~~b.~~ The driver was driving or in actual physical control of a motor vehicle and had an unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher and his or her driving privilege is suspended for ~~a period of~~ 6 months for a first offense or for ~~a period of~~ 1 year if his or her driving privilege has been previously suspended under this section.

2. The suspension period shall commence on the date of issuance of the notice of suspension.

3. The driver may request a formal or informal review of the suspension by the department within 10 days after the date of issuance of the notice of suspension or may request a review of eligibility for a restricted driving privilege under s. 322.271(7).

4. The temporary permit issued at the time of suspension expires at midnight of the 10th day following the date of issuance of the notice of suspension.

5. The driver may submit to the department any materials relevant to the suspension.

(10) A person whose driver license is suspended under subsection (1) or subsection (3) may apply for issuance of a license for business or employment purposes only if the person is otherwise eligible for the driving privilege pursuant to s. 322.271.

(a) If the suspension of the driver license of the person for failure to submit to a breath, urine, or blood test is sustained, the person is not eligible to receive a license for business or employment purposes only, pursuant to s. 322.271, until 30 ~~90~~ days have elapsed after the expiration of the last temporary permit issued. If the driver is not issued a 10-day permit pursuant to this section or s. 322.64 because he or she is ineligible for the permit and the suspension for failure to submit to a breath, urine, or blood test is not invalidated by the department, the driver is not eligible to receive a business or employment license pursuant to s. 322.271 until 30 ~~90~~ days have elapsed from the date of the suspension.

(12) If a person whose driver license is suspended for refusal to submit to a lawful breath test has his or her driver license suspension invalidated for any reason under this section, the requirement under s. 316.1939(1) that he or she install an ignition interlock device for refusal to submit to a lawful test of his or her breath is waived.

Section 4. Present subsections (13) through (19) of section 322.2616, Florida Statutes, are redesignated as subsections (14) through (20), respectively, a new subsection (13) is added to that section, and subsection (2) of that section is amended, to read:

322.2616 Suspension of license; persons under 21 years of age; right to review.—

(2)(a) A law enforcement officer or correctional officer shall, on behalf of the department, suspend the driving privilege of such person if the person has a blood-alcohol or breath-alcohol level of 0.02 or higher. The officer shall also

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

suspend, on behalf of the department, the driving privilege of a person who has refused to submit to a test as provided by paragraph (b). The officer shall take the person's driver license and issue the person a 10-day temporary driving permit if the person is otherwise eligible for the driving privilege and shall issue the person a notice of suspension.

(b) The suspension under paragraph (a) must be pursuant to, and the notice of suspension must inform the driver of, the following:

1.a. The driver refused to submit to a lawful breath test and his or her driving privilege is suspended for ~~a period of~~ 1 year for a first refusal or for ~~a period of~~ 18 months if his or her driving privilege has been previously suspended as provided in this section as a result of a refusal to submit to a test, and he or she is subject to mandatory placement, at his or her own expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 for 1 continuous year for a first refusal, or 18 continuous months for a second or subsequent refusal, on all vehicles that he or she individually or jointly leases or owns and routinely operates, when he or she qualifies for reinstatement of a permanent or restricted driver license; or

b. The driver was under the age of 21 and was driving or in actual physical control of a motor vehicle while having a blood-alcohol or breath-alcohol level of 0.02 or higher; and the person's driving privilege is suspended for ~~a period of~~ 6 months for a first violation, or for ~~a period of~~ 1 year if his or her driving privilege has been previously suspended as provided in this section for driving or being in actual physical control of

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a motor vehicle with a blood-alcohol or breath-alcohol level of 0.02 or higher.

2. The suspension period commences on the date of issuance of the notice of suspension.

3. The driver may request a formal or informal review of the suspension by the department within 10 days after the issuance of the notice of suspension.

4. A temporary permit issued at the time of the issuance of the notice of suspension shall not become effective until after 12 hours have elapsed and will expire at midnight of the 10th day following the date of issuance.

5. The driver may submit to the department any materials relevant to the suspension of his or her license.

(c) When a driver subject to this section has a blood-alcohol or breath-alcohol level of 0.05 or higher, the suspension shall remain in effect until such time as the driver has completed a substance abuse course offered by a DUI program licensed by the department. The driver shall assume the reasonable costs for the substance abuse course. As part of the substance abuse course, the program shall conduct a substance abuse evaluation of the driver, and notify the parents or legal guardians of drivers under the age of 19 years of the results of the evaluation. The term "substance abuse" means the abuse of alcohol or any substance named or described in Schedules I through V of s. 893.03. If a driver fails to complete the substance abuse education course and evaluation, the driver license shall not be reinstated by the department.

(d) A minor under the age of 18 years proven to be driving with a blood-alcohol or breath-alcohol level of 0.02 or higher

may be taken by a law enforcement officer to the addictions receiving facility in the county in which the minor is found to be so driving, if the county makes the addictions receiving facility available for such purpose.

(13) If a person whose driver license is suspended for refusal to submit to a lawful breath test has his or her driver license suspension invalidated for any reason under this section, the requirement under s. 316.1939(1) that he or she install an ignition interlock device for refusal to submit to a lawful test of his or her breath is waived.

Section 5. Present subsection (5) of section 322.2715, Florida Statutes, is redesignated as subsection (6), a new subsection (5) is added to that section, and subsection (1) of that section is amended, to read:

322.2715 Ignition interlock device.—

(1) Before issuing a permanent or restricted driver license under this chapter, the department shall require the placement of a department-approved ignition interlock device for any person convicted of committing an offense of driving under the influence as specified in subsection (3), or for any person who refused to submit to a lawful test of his or her breath as specified in subsection (5), except that consideration may be given to those individuals having a documented medical condition that would prohibit the device from functioning normally. If a medical waiver has been granted for a ~~convicted~~ person seeking a restricted license, the ~~convicted~~ person shall not be entitled to a restricted license until the required ignition interlock device installation period under subsection (3) or subsection (5) expires, in addition to the time requirements under s.

322.271. If a medical waiver has been approved for a ~~convicted~~ person seeking permanent reinstatement of the driver license, the ~~convicted~~ person must be restricted to an employment-purposes-only license and be supervised by a licensed DUI program until the required ignition interlock device installation period under subsection (3) or subsection (5) expires. An interlock device shall be placed on all vehicles that are individually or jointly leased or owned and routinely operated by the ~~convicted~~ person.

(5) If a person refused to submit to a lawful test of his or her breath as required by s. 316.1932(1)(a)1.a., he or she must install, at his or her own expense, an ignition interlock device on all vehicles individually or jointly leased or owned and routinely operated by the person, for 1 continuous year for a first refusal or for 18 continuous months for a second or subsequent refusal, upon reinstatement of a permanent or restricted driver license.

Section 6. This act shall take effect October 1, 2024.

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2024 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Highway Safety and Motor Vehicles

BILL INFORMATION	
BILL NUMBER:	SB 260
BILL TITLE:	Refusal to Submit to Breath, Urine, or Blood
BILL SPONSOR:	DiCeglie
EFFECTIVE DATE:	October 1, 2024

COMMITTEES OF REFERENCE
1) Transportation & Modals Subcommittee
2) Infrastructure & Tourism Appropriations Subcommittee
3) Infrastructure Strategies Committee
4)
5)

CURRENT COMMITTEE

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION	
BILL NUMBER:	CS/CS/HB 197
SPONSOR:	Representative Koster
YEAR:	2023
LAST ACTION:	5/5/23: Died in Senate Rules Committee

IDENTICAL BILLS	
BILL NUMBER:	
SPONSOR:	

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	November 1, 2023
Division Director/Designee MS	11/1/23
Division Director/Designee FHP	
ADDITIONAL ANALYST(S):	Kenny Zimmerman – Strategic Management Office Milton Grosz/Ra Graves – Bureau of Motorist Com liance p
LEGAL ANALYST:	Tom Moffett, William Minton, and Kathy Jimenez, Chief Counsels, OGC Ross McSwain, OGC

FISCAL ANALYST:	Steve Burch, CFO

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Senate Bill 260 ("bill") requires a person who is arrested for DUI and who refuses to submit to a lawful test of his or her breath for purpose of determining alcoholic content, be subject to the mandatory placement of an ignition interlock device (IID) for 1 continuous year for the first refusal and 18 continuous months for a second or subsequent refusal, when the person qualifies for reinstatement or a permanent or restricted driver license (DL).

The bill also requires that such a person be told that he or she will be required to install an ignition interlock device upon all vehicles individually or jointly leased or owned and routinely operated by the person. The warning must indicate that the device must be installed for a period of one continuous year for the person's first refusal and eighteen continuous months for a second and any subsequent refusals, when the person qualifies for reinstatement or a permanent or restricted DL.

These requirements would apply in addition to the existing penalties for refusing to submit to a breath test at the request of a law enforcement officer.

The bill also reduces the time which must elapse before a person whose DL has been suspended for failure to submit to a breath, urine, or blood test is eligible to apply for a license for business or employment purposes from 90 days to 30 days, when the suspension is upheld after a hearing.

If passed, this bill will take effect October 1, 2024.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Overview/Authority:

Refusal to Submit to Alcohol Testing

Any person who operates a motor vehicle within Florida is deemed to have given his or her consent to submit to an approved test of the alcohol content of his or her blood, breath, or urine. The test must be incidental to a lawful arrest, and administered at the request of a law enforcement officer who has a reasonable belief that a person was driving a motor vehicle while under the influence of alcoholic beverages.

A person who fails to submit to an approved test of the alcohol content of his or her blood, breath, or urine per Section 316.1932, F.S., will have their DL administratively suspended for one year for a first offense and for 18 months for subsequent offenses. Further, a person who has a second or subsequent administrative refusal is not eligible for a restricted DL.

Additionally, section 316.1939, F.S., provides that if a person refuses to submit to an approved test of his or her blood, breath, or urine and his or her driving privilege has previously been suspended or has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test, he or she commits a misdemeanor of the first degree, provided that he or she was informed of the consequences of refusing the test.

Section 322.2715, F.S., provides that before issuing a permanent or restricted DL the Department shall require the placement of an IID for any person convicted of DUI. Currently, an IID is not required when an administrative sanction or suspension is imposed upon a person's driving privilege due to a DUI.

In calendar year 2021, the DUI test refusal rate was 34.67%; 15,182 persons were charged with refusing a lawful test of blood, breath, or urine out of 43,787 persons arrested for DUI.

In calendar year 2022, the DUI test refusal rate was 35.39%; 15,199 persons were charged with refusing a lawful test of blood, breath, or urine out of 42,947 persons arrested for DUI.

Ignition Interlock Device

An IID is a dashboard-mounted breathalyzer that requires a driver to blow in the breathalyzer to operate the motor vehicle. Sections 316.193, and 322.2715, F.S., require an IID to be installed on the vehicles of persons convicted of certain driving under the influence offenses upon reinstatement of a permanent or restricted DL. The table below summarizes when an ignition interlock device is required in Florida.

Driving under the influence conviction	Ignition interlock device required
1st conviction	If court ordered
1st conviction if blood-alcohol level is ≥ 0.15, or minor in car	Mandatory for at least 6 continuous months
2nd conviction	Mandatory for at least 1 continuous year
2nd conviction if blood-alcohol level is ≥ 0.15, or minor in car	Mandatory for at least 2 continuous years
3rd conviction	Mandatory for at least 2 continuous years
4th or subsequent conviction	Mandatory for at least 5 years

The Department of Highway Safety and Motor Vehicles (DHSMV or Department) contracts with vendors to provide IIDs for offenders in Florida. The devices must meet or exceed the current standards of the National Highway Traffic Safety Administration. The DHSMV oversees and monitors the use of IIDs and has adopted rules for the implementation of IIDs. See, Rule Chapter 15A-9, F.A.C and ss. 316.1937 and 316.1938, F.S.. The department does not regulate IID prices and does not pay the vendors for IID services. Offenders choose a vendor to install an IID in their vehicle and receive training on its use. Generally, IID costs are approximately $100 or more per month. In addition, users may be required to pay installation, de-installation, and other ancillary fees associated with an IID.

The Florida Legislature's Office of Program Policy Analysis and Government Accountability (OPPAGA) conducted a study in 2014 researching the use of IIDs and driving under the influence recidivism rates which can be found at http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1414rpt.pdf. The research showed that IIDs, while installed, were more effective at reducing re-arrest rates for alcohol-impaired driving when compared to other sanctions, such as license suspensions.

In Fiscal Year 2022-2023, 11,276 IIDs were installed in Florida.

Driver License Suspensions for DUI or Refusal to Submit to Breath, Urine or Blood Tests
Section 322.2615, F.S., mandates the suspension of the DL of a person who:

- Charged with DUI, for either a period of 6 months or a period of 1 year if the person's DL has been previously suspended pursuant to s. 322.2615, F.S.; or
- Refused to submit to a lawful breath, urine, or blood test, for either a period of 1 year for a first refusal or a period of 18 months if the person's driving privilege has been previously suspended for refusal to submit to a test.

Section 322.2616, F.S., mandates the suspension of the of the DL of a person under age 21 who:

- Operates a motor vehicle with a blood-alcohol or breath-alcohol level in excess of 0.02, for either a period of 6 months or a period of 1 year if the person's DL has been previously suspended pursuant to s. 322.2616, F.S.; or
- Refused to submit to a breath-alcohol test, for either a period of 1 year for a first refusal or a period of 18 months if the person's driving privilege has been previously suspended for refusal to submit to a test.

Those statutes:

- Prescribe the notice that must be provided to a driver concerning the suspension;
- Require issuance of a ten-day temporary driving permit to the driver;
- Provide for the availability or an informal review and a formal review hearing to a driver to contest the suspension; and
- Provides procedural requirements applicable to the requests for and the conduct of informal reviews and formal review hearings.

Those procedural requirements include provisions relating to evidence, issuance of subpoenas, and requirements for invalidation of suspension upon certain events, such as the failure of the Department to schedule a hearing within 30 days after receipt of a request for a formal review hearing, or the failure of the arresting officer or breath technician to appear at a formal review hearing after subpoena.

A person whose DL is suspended pursuant to s. 322.2615, F.S., or s. 322.2616, F.S., may apply for a license to drive for business or employment purposes under certain circumstances, when the person is otherwise eligible for the driving privilege pursuant to s. 322.271, F.S. Section 322.271(7), F.S., provides that a person who has never had a DL suspension under s. 322.2615, F.S., never before been disqualified under s. 322.64, F.S., and has never been convicted of DUI (i.e., a first-time offender) may obtained a license to drive for business or employment purposes pursuant to s. 322.271(2), F.S., and that acceptance of the reinstated driving privilege is a waiver of the right to a formal and informal review pursuant to s. 322.2615, F.S. As a result, such a person who waives his or her right to an informal review or a formal review hearing may obtain a license to drive for business or employment purposes immediately.

However, if the suspension of a person's DL for refusal to submit to a breath, urine, or blood test is sustained in an informal review or a formal review hearing, s. 322.2615(10)(a), F.S., provides that a person is not eligible for a license to drive for business and employment purposes until 90 days have elapsed after the suspension began or the expiration of the driver's last temporary driving permit.[1]

[1] Under s. 322.2616(9)(a), F.S., if the suspension of the DL of a person under the age of 21 for refusal to submit to a breath test is sustained in a formal review hearing, that a person is not eligible for a license to drive for business and employment purposes until 30 days have elapsed after the suspension began or the expiration of the driver's last temporary driving permit.

1. **EFFECT OF THE BILL:**

The bill amends section 316.1932 , F.S., s. 316.1939, F.S., s. 322.2615, and s. 322.2616, F.S., to require that any person who refuses to submit to a lawful test of his or her breath ***must be told*** that his or her failure to submit to any lawful breath test will result in an IID being placed in all vehicles individually or jointly leased or owned and routinely operated by the person as follows:

- 1st refusal – time period for the installation of an IID is one continuous year.
- 2nd or subsequent refusal – time period for the installation of an IID is 18 continuous months

when the person qualifies for reinstatement or a permanent or restricted DL).

The bill also amends s. 316.1932, F.S., and s. 316.1939, F.S., to require that any person whose driving privilege was *previously* suspended or was *previously* fined under s. 327.35215, F.S., for refusing to submit to a lawful test of his or her breath, urine or blood ***must be told*** that if he or she refuses to submit to a breath test that:

- His or her privilege to operate a motor vehicle would be suspended for 1 year for refusal to submit to a breath test and for 18 months for a *second or subsequent* refusal; and
- An IID would be placed for 1 continuous year *for refusal to submit to a breath test* and for 18 continuous months for a *second or subsequent* refusal, at his or her expense, upon all vehicles that are individually or jointly leased or owned and routinely used by him or her.

The bill amends s. 322.2615, F.S., to reduce the time which must elapse before a person whose DL suspension for a refusal to submit to a breath, urine or blood test was upheld in a formal review hearing is eligible to apply for a license to drive for business or employment purposes from 90 days to 30 days.

The bill amends s. 322.2615, F.S., and s. 322.2616, F.S., to waive the requirement for the installation of an IID if the person whose DL was suspended has their suspension invalidated for any reason pursuant to s. 322.2615, F.S., or s. 322.2616, F.S., whichever is applicable.

The bill amends s. 322.2715, F.S., to require an IID for any person who refused to submit to a breath test as required in s. 316.1932, F.S., upon reinstatement of the permanent or restricted DL. This amendment will have the effect of requiring the placement of an IID either as a result of: i) a conviction under s. 316.1939, F.S., for the refusal to submit to a breath-test; *or* ii) an administrative suspension of a person's DL for a refusal to submit to a breath test. Under s. 322.271, F.S., individuals who have DUI convictions and who are granted restricted DLs for business or employment purposes must be supervised by a DUI program (special supervision program) and are required to have an IID. The DUI programs monitor the offenders' use of the IID while they are in the special supervision program. Section 322.271(2)(a), F.S., provides that individuals who have two or more refusals are not eligible to apply for a restricted DL for business or employment purposes. A person who has two or more refusals will have to install an IID upon reinstating a permanent DL as provided in s. 322.2715, F. Therefore, persons who reinstate their permanent DL and who must have an IID installed, may not be monitored by DUI programs or the Department since the bill contains no requirement for the monitoring of the IID in such circumstances.

2. 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.):	

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

Proponents and summary of position:	Proponents may be ignition interlock companies.
Opponents and summary of position:	There are no known opponents.

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

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

5. 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:	
Expenditures:	All law enforcement officers will need to be educated and trained on the provisions of this bill. Additionally, all implied consent warning forms and/or cards, and refusal affidavits will need to be reviewed/updated to comply with the bill.
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:	**Impact on the Department's Bureau of Administrative Review (BAR)** Please see the detailed explanation of the estimated recurring impact of the bill on BAR's DL suspension formal review hearing caseload in the Additional Comments section of this analysis. At present, BAR's existing formal review hearing caseload (7,144 formal review hearings were held in Calendar Year 2022) is handled by approximately 8 full-time hearing officers and four part-time hearing officers. Due to the likely minimum impact of an 88 percent increase in the number of formal review hearings that BAR will have to conduct annually, BAR estimates a need for a minimum of 8 additional full-time hearing officers and two additional part-time hearing officers. The estimated recurring cost of salaries and benefits for those positions is $819,000. In the last two fiscal years, hiring attorneys to conduct BAR hearings who are to be compensated at that assumed per position cost ($61,000 for salary plus $30,000 for benefits; a total of $91,000) has proven extremely difficult. The turnover rate among hearing officers has also been relatively high. BAR also will require additional legal and administrative support staff associated with the workload for the expected increase in requests for formal review hearings. BAR estimates a need for 4 additional administrative assistants. The estimated recurring cost of salaries and benefits for those positions is $200,000. In addition to DL license suspension formal review hearings, BAR is also responsible for conducting hearing for limited or restricted driving permits and for hardship driving permits (such as for permits for driving only for business or employment purposes). BAR also may see an increase in requests for limited or restricted driving permits as a result of the bill, but an such impact is indeterminate. In summary, BAR will need the following on a recurring basis: **Impact on the Department's Bureau of Motorist Compliance** With the potential increase in IID installations with the proposed requirement for IID for each refusal, the Bureau of Motorist Compliance will need two additional MS Compliance Officer IIIs to handle the increase in IID installations. The estimated cost for these positions is $133,268; recurring.

Position Type	FTE	Cost per Position	Cost
Hearing Officer	9	$91,000	$891,000
Admin. Asst.	4	61,000	244,000
Total	13	-	$1,135,000

	Impact to Train to all State Law Enforcement Officers In addition, all law enforcement officers will need to be educated and trained on the provisions of this bill and all implied consent warning forms and/or cards, and refusal affidavits will need to be reviewed and updated to ensure compliance with the provisions of this bill.
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:	Yes, more persons who refuse to submit to a lawful breath test will be required to have an IID installed in the motor vehicles individually or jointly leased or owned and routinely operated by such persons.
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.	The Department estimates that 120 hours will be required for programming and implementation. These hours are estimated to have a fiscal impact on the Department of $7,800 in FTE and contracted resources. (Development: 20 hours @ $40/hour + 60 hours @ $100/hour and Testing: 40 hours @ $25/hour) The IID requirements would have to be updated to include the changes in this proposed legislation, a 1-year requirement for a first refusal and an 18-month requirement for a second or subsequent refusal. If the bill passes, modifications would also be needed in the refusal requirements. The bill does not indicate whether the IID requirements for refusal must be served consecutively or concurrently with any IID requirement for a DUI conviction as required in section 322.2715, F.S. The department interprets the bill, *as filed*, to mandate that multiple interlock requirements are to run *concurrently*.

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.	None

ADDITIONAL COMMENTS

This bill will have a significant impact on the Department's Bureau of Administrative Reviews (BAR).

In Calendar Year 2022, BAR conducted 7,144 formal review hearings for DL suspensions. However, the total number of DL suspensions was 32,389. So, BAR currently hears only 22.13 percent of all DL suspensions.

If only 25 percent of the drivers whose licenses were suspended and did not request a formal review hearing on their suspension (25,245) are motivated to seek a hearing due to the changes being proposed in this bill, BAR can reasonably expect to see a demand for approximately 6,311 additional formal review hearings for the annual period beginning October 1, 2024, an 88 percent increase.[2]

In Calendar Year 2022, BAR also held 8,410 review waiver hearings.[3] Typically, these are brief hearings where the driver does not contest their administrative DL suspension pursuant to s. 322.2615, F.S., in lieu of being issued a restricted (hardship) license for business or employment purposes without having to wait out the 90-day period before they are eligible to apply for a restricted license.

By contrast, a formal review hearing for a driver facing the suspension of his or her license requires significantly more hearing officer time and BAR resources. Formal review hearings can involve multiple hearings, can require the issuance of subpoenas for the arresting law enforcement officer, the breath technician, and other witnesses, hearing testimony, and review of the videotape of the arrest, and require preparation of a final order on the validity of the suspension.

This bill disincentives drivers from accepting the suspension and immediately pursuing a restricted license for business or employment purposes through a review waiver hearing because the driver will have to deal with the cost of the IID (approximately $100 or more per month, plus possibly installation costs, calibration costs, and removal costs) to obtain that restricted license. The bill likely will motivate a suspended driver to challenge the administrative suspension in a formal review hearing to attempt to avoid the cost of the IID (if the suspension is invalidated, the bill *waives* the requirement for an IID).

Consequently, BAR may face a situation where a large proportion of the persons who requested these 8,410 review waiver hearings instead first request formal review hearings in order to avoid the cost of an IID and then, if the suspension is upheld and after the passage of 30 days (under the bill), seek a license to drive for business or employment purposes for the balance of the suspension period.

[2] In Calendar Year 2022, 15,199 persons refused a breath, urine, or blood test; 6,311 additional formal review hearings for persons who refuse a breath test represent 41.5 percent of such refusals.

[3] In addition to 7,144 formal review hearings and 8,410 formal review waiver hearings, BAR also conducted 13,002 other types of hearings for licenses to drive for business or employment purposes pursuant to s. 322.271, F.S.

As a result, BAR will need a significant number of additional hearing officers to conduct the increased number of formal review hearings likely to result from this bill, all of which must be scheduled within 30 days after the receipt of the request."[4]

Following the 2013 enactment of s. 322.271(7), F.S.[5], which encouraged a person whose DL is suspended pursuant to s.. 322.2615, F.S., to waive their right to a formal review hearing and informal review of the suspension and more quickly obtain a license to drive for business or employment purposes, the Department experienced a significant reduction in the number of requests for formal review hearings and informal reviews of DL suspension.

By reducing the mandatory suspension period before a license to drive for business or employment purposes from 90 days to 30 days for those who refuse to submit to a breath-test, the bill effectively removes the incentive for those persons to waive the right to a formal review hearing or informal review of their underlying DL suspension.

In Calendar Year 2022, 29.3 percent of administrative DL suspensions were invalidated by BAR.

The reasons for the invalidation of administrative suspensions vary. Statutory reasons for the invalidation of a DL suspension include:

- Failure to schedule a requested hearing within 30-days after receipt of the request;
- Failure of the arresting law enforcement officer or breath technician to appear at a suspension hearing; and
- Failure of the arresting officer's agency to submit the package of information (i.e., the evidence) required to sustain a suspension.

If more formal review hearings result from the enactment of this bill, the reported suspension invalidation rate likely will increase for each of those reasons. Under the bill, if a suspension is invalidated the requirement that the driver obtain an IID is *waived.*

In Calendar Year 2022, BAR's most common invalidation reasons related to the arresting officer or breath technician failing to appear or the law enforcement agency not submitting the package of information as discussed above.

The changes proposed in the bill will have the following additional impacts:

- With a larger number of formal review hearings, attendance at such hearings will require larger amounts of law enforcement officer and breath technician time.
- As more arresting law enforcement officer and breath technician time is consumed by attendance at an increased number of formal review hearings, more arresting officers and breath technicians may be unable to attend suspension hearings.
- Consequently, a greater number of DL suspensions automatically will be invalidated due to the failure of the officer or breath technician to attend and testify.

[4] *See*, s. 322.2615(6)(a) and (9), F.S., and s. 322.2616(7)(a) and (10), F.S. Section 322.2715(9), F.S., and s. 322.2616(10), F.S., provide that if the Department "fails to schedule the formal review hearing within 30 days after receipt of the request", the department must invalidate the suspension. As of October 16, 2023, BAR is scheduling formal review hearings to be held in January and February 2024.

[5] Section 322.271(7), F.S., allows a person who has never had a DL suspension under s. 322.2615, F.S., never before been disqualified under s. 322.62, F.S., and has never been convicted of DUI (i.e., a first-time offender), to waive his or her right to a formal review hearing and an informal review of a DL suspension and thereby obtain a license to drive for business or employment purposes *immediately rather than 90 days* after the suspension began

- Law enforcement agencies will have to devote more time and resources to timely submitting the increasing number of information packets required to sustain a challenge to a driver's record.
- Consequently, a greater number of the packages of information law enforcement agencies must submit to DHSMV likely will not be timely filed.

As a result, more DL suspensions likely will have to be invalidated for lack of evidence. As mentioned above, if a DL administrative suspension is invalidated, then the requirement that the driver obtain an IID is *waived.*

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	The amendments proposed in ss. 322.2615(1)(b)1.a. and b. and 322.2616(2)(b)1.a., F.S., require that a law enforcement officer must inform the driver of the consequences of refusing a lawful breath test include the mandatory placement of an IID for 1 continuous year for a first refusal and for 18 continuous months for a second or subsequent refusal. By adding these IID notification requirements into ss. 322.2615(1)(b)1.a. and b. and 322.2616(2)(b)1.a., F.S., compliance with those requirements likely will become a part of BAR's DL suspension review hearings. Consequently, if the law enforcement officer fails to read the complete and longer notification required relating to the placement of an IID, the Department's BAR hearing officers likely will be required to invalidate the DL suspension, resulting in an increase in the invalidation rate for DL suspensions. Additionally, the proposed new ss. 322.2615(12) and 322.2616(13), F.S., provide that the requirement for the placement of an IID is *waived* if the DL administrative suspension is invalidated for a person whose DL was suspended for refusal to submit to a lawful breath test. As a result, these revisions to ss. 322.2615 and 322.2616, F.S., may increase the number of formal DL suspensions hearings which the Department will have to conduct.

The Florida Senate

APPEARANCE RECORD

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

1/23/24
Meeting Date

CRIM JUSTICE
Committee

260
Bill Number or Topic

Amendment Barcode (if applicable)

Name AARON WAYT FL ASSN OF CRIM DEF LAWYERS

Phone (407) 435-3194

Email AARON@DONPUMPHREY.COM

Address
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/23/24
Meeting Date

Criminal Justice
Committee

260
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kristen Allen

Phone 850-681-0061

Address 1018 Thomasville Road
Street

Email kristen.allen@madd.org

Tallahassee 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:
Mothers Against Drunk Driving

☐ 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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/23/2024
Meeting Date

Criminal Justice
Committee

SB 260
Bill Number or Topic

Amendment Barcode (if applicable)

Name CHRIS KONSCHAK

Phone 202-812-3005
~~804-310-7455~~

Address 101 Constitution Ave, NW
Street

Email Chris.Konschak@responsibility.or

Washington DC 20001
City State Zip

Speaking: [X] 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:

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

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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Jan 23, 2024
Meeting Date

Criminal Justice
Committee

SB 260
Bill Number or Topic

Amendment Barcode (if applicable)

Name Nancy Stewart

Phone 850-385-7805

Address 1400 Village Square Blvd Suite 3-156
Street

Email nancy.stewart nancyblackstewart.com

Tallahassee FL 32312
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 Association of DUI Programs

☐ 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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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11/23/24
Meeting Date

Criminal Justice
Committee

SB 260
Bill Number or Topic

Amendment Barcode (if applicable)

Name Aurelie Colon

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Address 403 Washington Ave
Street

Email aurelie.colon@splcenter.org

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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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1/23/24
Meeting Date

260
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name GARETT BERMAN on behalf of the Florida Prosecuting Attorneys Association Phone 850-488-3076

Address 107 W Gaines St #L407 Email gberman@yourfpaa.org
Street

Tallahassee FL 32399
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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January 23, 2024
Meeting Date

Criminal Justice
Committee

260
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 1454 Vieux Carre Drive
Street

Email Barney@BarneyBishop.com

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 Smart Justice Alliance

☐ 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)

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S-001 (08/10/2021)

THE FLORIDA SENATE
SENATOR NICK DICEGLIE
District 18

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

January 9, 2023

Dear Chair Martin,

I respectfully request that **SB 260: Refusal to Submit to a Breath, Urine, or Blood Test** be placed on the agenda of the Criminal Justice Committee at your earliest convenience. If my office can be of any assistance to the committee please do not hesitate to contact me at DiCeglie.Nick@flsenate.gov or (850) 487-5018. Thank you for your consideration.

Sincerely,

Nick DiCeglie

State Senator, District 18

Proudly Serving Pinellas County

Transportation Committee, Chair ~ Banking and Insurance Committee, Vice Chair ~
Fiscal Policy Committee ~ Judiciary Committee ~
Rules Committee ~ Joint Legislative Auditing Committee

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 576
INTRODUCER:	Senator Ingoglia
SUBJECT:	Investigation of Complaints Against Law Enforcement and Correctional Officers
DATE:	January 22, 2024
REVISED:	

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

I. Summary:

SB 576 amends s. 112.533, F.S., to revise the receiving, processing, and investigation of complaints against law enforcement and correctional officers. The bill specifies that the rights and privileges while under investigation apply uniformly throughout the state and political subdivisions.

The bill specifies that a political subdivision may not adopt or attempt to enforce any ordinance relating to either:

- The receipt, processing, or investigation by any political subdivision of this state of complaints of misconduct by law enforcement or correctional officers.
- Civilian oversight of law enforcement agencies' investigations of complaints of misconduct by law enforcement or correctional officers.

Any civilian oversight that is currently practicing in a political subdivision would be prohibited from convening after the July 1, 2024, effective date. The bill does not change the process for misconduct investigations for employing agencies, the Criminal Justice Standards and Training Commission (CJSTC), or any criminal investigations based on misconduct by law enforcement officers, correctional officers, or correctional probation officers.

The bill may have a fiscal impact to local government that currently have citizen advisory boards in place. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Investigations of Law Enforcement Officers

Currently, s. 112.533, F.S., provides that every law enforcement agency and correctional agency establish and put into operation a system for the receipt, investigation, and determination of complaints received from any person which shall be the procedure for investigating a complaint against a law enforcement and correctional officer determining whether to proceed with disciplinary action or to file disciplinary charges.[1] When law enforcement or correctional agency personnel assigned the responsibility of investigating the complaint prepare an investigative report or summary, regardless of form, the person preparing the report shall, at the time the report is completed verify that the contents are true and accurate based on the person's personal knowledge, information, and belief and include a specific statement.[2] There is no specific authorization in statute authorizing a political subdivision to create a civilian oversight entity.

Criminal Justice Standards and Training Commission

The CJSTC was established within the Florida Department of Law Enforcement with the purpose to promote and facilitate the competency and professional conduct of criminal justice officers through a partnership with criminal justice agencies in providing entry-level and in-service officer training, criminal justice leadership development and executive training, and maintaining disciplinary procedures. Among its duties, the CJSTC is responsible for certifying and, when warranted, revoking the certification of law enforcement officers, correctional officers, and correctional probation officers.[3] The CJSTC is responsible for enforcing compliance with provisions of s. 943.12, F.S., through injunctive relief and civil fines.

Officer Bill of Rights

Law enforcement officers' and correctional officers' rights are outlined in the Florida Statutes, these are commonly referred to as, "law enforcement officers' bill of rights."[4,5] Whenever a law enforcement officer or correctional officer is under investigation and subject to interrogation by members of his or her agency for any reason that could lead to disciplinary action, suspension, demotion, or dismissal, the interrogation must be conducted under the following conditions:[6]

- The interrogation must be conducted at a reasonable hour;
- The interrogation must take place either at the office of the command of the investigating officer or at the local precinct, police unit, or correctional unit in which the incident allegedly occurred;
- The officer under investigation must be informed of the rank, name, and command of the officer in charge of the investigation, the interrogating officer, and all persons present during

[1] Section s. 112.533, F.S.

2 Section 112.533(1)(a)2., F.S. "I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in ss. 112.532 and 112.533, Florida Statutes."

[3] Section 943.12(3), F.S.

[4] Section 112.532, F.S.

[5] Whenever a law enforcement officer or correctional officer is under investigation and subject to interrogation by members of his or her agency for any reason that could lead to disciplinary action, suspension, demotion, or dismissal, the interrogation must be conducted under certain conditions. Section 112.532, F.S.

[6] Section 112.532(1), F.S.

the interrogation. All questions directed to the officer under interrogation must be asked by or through one interrogator during any one interrogation;
- The officer must be informed of the nature of the investigation before any interrogation begins, and must be informed of the names of all complainants;
- Interrogating sessions must be for reasonable periods and must be timed to allow for personal necessities and rest periods;
- The officer under interrogation may not be subjected to offensive language or be threatened with transfer, dismissal, or disciplinary action. A promise or reward may not be made as an inducement to answer questions;
- If the officer under interrogation is under arrest, or is likely to be placed under arrest, he or she must be completely informed of all his or her rights before commencing the interrogation; and
- At the request of the officer under investigation, he or she has the right to counsel, who must be present at all times during the interrogation.

Currently, law enforcement officers and correctional officers may appeal injustices made by persons outside their agency to complaint review boards. Three member boards oversee agencies or units with less than 100 members while officers employed by larger agencies have a five member panel. There are separate boards for law enforcement officers and correctional officers. These boards provide an avenue for officers to vindicate their actions and reputations against unjust and unjustified claims.[7]

Under the bill of rights, officers must receive notice of disciplinary action, a copy of and the opportunity to address contents of the investigative file. Any dismissal, demotion, transfer, reassignment, or other personnel action that might result in loss of pay or benefits or that might otherwise be considered a punitive measure may not be taken against any law enforcement officer or correctional officer unless the law enforcement officer or correctional officer is notified of the action and the reason or reasons for the action before the effective date of the action.[8] The contents of the complaint and investigation must remain confidential until such time as the employing law enforcement agency makes a final determination whether or not to issue a notice of disciplinary action consisting of suspension with loss of pay, demotion, or dismissal.[9]

No law enforcement officer or correctional officer shall be discharged; disciplined; demoted; denied promotion, transfer, or reassignment; or otherwise discriminated against in regard to his or her employment or appointment, or be threatened with any such treatment, by reason of his or her exercise of the rights granted by this part.[10]

Civilian Oversight Agencies

Civilian oversight entity or civilian oversight agencies (COA) are governmental agencies, predominantly at the local level, that serve as a source of external oversight of police agencies. Civilian oversight bodies come in three main forms: investigatory bodies that look into

[7] Section 112.532, F.S., Law enforcement officers' and correctional officers' rights.
[8] Section 112.532(4)(a), F.S.
[9] Section 112.532(4)(b), F.S.
[10] Section 112.532(5), F.S.

allegations of police misconduct and operate separately from law enforcement; bodies that review the quality of completed internal affairs investigations and make recommendations; and auditor/monitor bodies that focus on large-scale systemic reform and at times participate in or monitor internal investigations.[11]

The 2021 Leroy Collins Institute study on COAs found that there are 21 cities in Florida that had active agencies. Cities cited in the study include: Bradenton, Daytona Beach, Delray Beach, Fort Lauderdale, Fort Myers, Fort Pierce, Gainesville, Key West, Kissimmee, Lakeland, Miami, North Miami, North Miami Beach, Ocoee, Orlando, Pensacola, St. Petersburg, Tallahassee, Tampa, West Palm Beach, and Winter Haven.[12]

III. Effect of Proposed Changes:

The bill amends s. 112.533, F.S., to revise the receiving, processing and investigation of complaints against law enforcement and correctional officers. The bill specifies that the rights and privileges while under investigation apply uniformly throughout the state and political subdivisions.

The bill specifies that a political subdivision may not adopt or attempt to enforce any ordinance relating to either:

- The receipt, processing, or investigation by any political subdivision of this state of complaints of misconduct by law enforcement or correctional officers.
- Civilian oversight of law enforcement agencies' investigations of complaints of misconduct by law enforcement or correctional officers.

Any civilian oversight that is currently practicing in a political subdivision would be prohibited from convening after the July 1, 2024, effective date. The bill does not change the process for misconduct investigations for employing agencies, the CJSTC, or any criminal investigations based on misconduct by law enforcement officers, correctional officers, or correctional probation officers.

Technical changes and clarifying language have been made throughout the bill to streamline language.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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[11] ABC News, Marlene Lanthang, *Police oversight boards are proliferating, but do they actually work?*, available at, https://abcnews.go.com/US/police-oversight-boards-proliferating-work/story?id=77919091 (last visited January 20, 2024).
[12] Leroy Collins Institute, James E. Wright, *Improving Police Community Relations: The Role of Civilian Oversight Agencies (COA) in Florida*, https://lci.fsu.edu/wp-content/uploads/sites/28/2022/08/FINAL-Improving-Police-Community-Relations_-The-Role-of-Civilian-Oversight-Agencies-COA-in-Florida.pdf (last visited January 17, 2024).

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 may be positive fiscal impact to local governments that currently have citizen advisory boards in place. After such boards are dissolved, local governments will no longer expend funds to operate such boards.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 112.533 and 112.532, F.S.

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 Ingoglia

11-00323-24 2024576__

A bill to be entitled

An act relating to the investigation of complaints against law enforcement and correctional officers; amending s. 112.533, F.S.; providing legislative intent; revising the definition of "political subdivision"; prohibiting a political subdivision from adopting or attempting to enforce certain ordinances relating to the receipt, processing, or investigation of complaints against law enforcement officers or correctional officers, or relating to civilian oversight of law enforcement agency investigations of complaints of misconduct by such officers; making technical changes; amending s. 112.532, F.S.; conforming a cross-reference; making technical changes; providing an effective date.

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

Section 1. Section 112.533, Florida Statutes, is amended to read:

112.533 Receipt and processing of complaints.—

(1) It is the intent of the Legislature to make the process for receiving, processing, and investigation of complaints against law enforcement or correctional officers, and the rights and privileges provided in this part while under investigation, apply uniformly throughout this state and its political subdivisions.

(2) As used in this section, the term "political subdivision" means a separate agency or unit of local government

11-00323-24 2024576__

created or established by law or ordinance and the officers thereof and includes, but is not limited to, an authority, a board, a branch, a bureau, a city, a commission, a consolidated government, a county, a department, a district, an institution, a metropolitan government, a municipality, an office, an officer, a public corporation, a town, or a village.

(3) A political subdivision may not adopt or attempt to enforce any ordinance relating to either of the following:

(a) The receipt, processing, or investigation by any political subdivision of this state of complaints of misconduct by law enforcement or correctional officers, except as expressly provided in this section.

(b) Civilian oversight of law enforcement agencies' investigations of complaints of misconduct by law enforcement or correctional officers.

(4)(a) Every law enforcement agency and correctional agency shall establish and put into operation a system for the receipt, investigation, and determination of complaints received by such agency from any person, which must ~~shall~~ be the procedure for investigating a complaint against a law enforcement or ~~and~~ correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary. When law enforcement or correctional agency personnel assigned the responsibility of investigating the complaint prepare an investigative report or summary, regardless of form, the person preparing the report shall, at the time the report is completed:

1. Verify pursuant to s. 92.525 that the contents of the report are true and accurate based upon the person's personal

knowledge, information, and belief.

2. Include the following statement, sworn and subscribed to pursuant to s. 92.525:

"I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in ss. 112.532 and 112.533, Florida Statutes."

The requirements of subparagraphs 1. and 2. must ~~shall~~ be completed before ~~prior to~~ the determination as to whether to proceed with disciplinary action or to file disciplinary charges. This subsection does not preclude the Criminal Justice Standards and Training Commission from exercising its authority under chapter 943.

(b) ~~1.~~ Any political subdivision that initiates or receives a complaint against a law enforcement officer or correctional officer shall ~~must~~ within 5 business days forward the complaint to the employing agency of the officer who is the subject of the complaint for review or investigation.

~~2. For purposes of this paragraph, the term "political subdivision" means a separate agency or unit of local government created or established by law or ordinance and the officers thereof and includes, but is not limited to, an authority, board, branch, bureau, city, commission, consolidated government, county, department, district, institution, metropolitan government, municipality, office, officer, public~~

~~corporation, town, or village.~~

Notwithstanding the rights and privileges provided under this part or any provisions provided in a collective bargaining agreement, the agency head or the agency head's designee may request a sworn or certified investigator from a separate law enforcement or correctional agency to conduct the investigation when a conflict is identified with having an investigator conduct the investigation of an officer of the same employing agency; the employing agency does not have an investigator trained to conduct such investigations; or the agency's investigator is the subject of, or a witness in, the investigation and such agency is composed of any combination of 35 or fewer law enforcement officers or correctional officers. The employing agency must document the identified conflict. Upon completion of the investigation, the investigator shall present the findings without any disciplinary recommendation to the employing agency.

(5)(a) ~~(2)(a)~~ A complaint filed against a law enforcement officer or correctional officer with a law enforcement agency or correctional agency and all information obtained pursuant to the investigation by the agency of the complaint is confidential and exempt from the provisions of s. 119.07(1) until the investigation ceases to be active, or until the agency head or the agency head's designee provides written notice to the officer who is the subject of the complaint, either personally or by mail, that the agency has concluded the investigation with either a finding:

1. ~~Concluded the investigation with a finding~~ Not to

proceed with disciplinary action or to file charges; or

2. ~~Concluded the investigation with a finding~~ To proceed with disciplinary action or to file charges.

Notwithstanding the foregoing provisions, the officer who is the subject of the complaint, along with legal counsel or any other representative of his or her choice, may review the complaint and all statements regardless of form made by the complainant and witnesses and all existing evidence, including, but not limited to, incident reports, analyses, GPS locator information, and audio or video recordings relating to the investigation, immediately before beginning the investigative interview. All statements, regardless of form, provided by a law enforcement officer or correctional officer during the course of a complaint investigation of that officer must ~~shall~~ be made under oath pursuant to s. 92.525. Knowingly false statements given by a law enforcement officer or correctional officer under investigation may subject the law enforcement officer or correctional officer to prosecution for perjury. If a witness to a complaint is incarcerated in a correctional facility and may be under the supervision of, or have contact with, the officer under investigation, only the names and written statements of the complainant and nonincarcerated witnesses may be reviewed by the officer under investigation immediately before ~~prior to~~ the beginning of the investigative interview.

(b) This subsection does not apply to any public record which is exempt from public disclosure pursuant to chapter 119. For the purposes of this subsection, an investigation is ~~shall be~~ considered active as long as it is continuing with a

reasonable, good faith anticipation that an administrative finding will be made in the foreseeable future. An investigation is ~~shall be~~ presumed to be inactive if no finding is made within 45 days after the complaint is filed.

(c) Notwithstanding ~~other provisions of~~ this section, the complaint and information must ~~shall~~ be available to law enforcement agencies, correctional agencies, and state attorneys in the conduct of a lawful criminal investigation.

(6) ~~(3)~~ A law enforcement officer or correctional officer has the right to review his or her official personnel file at any reasonable time under the supervision of the designated records custodian. A law enforcement officer or correctional officer may attach to the file a concise statement in response to any items included in the file identified by the officer as derogatory, and copies of such items must be made available to the officer.

(7) ~~(4)~~ Any person who is a participant in an internal investigation, including the complainant, the subject of the investigation and the subject's legal counsel or a representative of his or her choice, the investigator conducting the investigation, and any witnesses in the investigation, who willfully discloses any information obtained pursuant to the agency's investigation, including, but not limited to, the identity of the officer under investigation, the nature of the questions asked, information revealed, or documents furnished in connection with a confidential internal investigation of an agency, before such complaint, document, action, or proceeding becomes a public record as provided in this section commits a misdemeanor of the first degree, punishable as provided in s.

775.082 or s. 775.083. However, this subsection does not limit a law enforcement or correctional officer's ability to gain access to information under paragraph (5)(a) ~~(2)(a)~~. Additionally, a sheriff, police chief, or other head of a law enforcement agency, or his or her designee, is not precluded by this section from acknowledging the existence of a complaint and the fact that an investigation is underway.

Section 2. Paragraph (b) of subsection (4) of section 112.532, Florida Statutes, is amended to read:

112.532 Law enforcement officers' and correctional officers' rights.—All law enforcement officers and correctional officers employed by or appointed to a law enforcement agency or a correctional agency shall have the following rights and privileges:

(4) NOTICE OF DISCIPLINARY ACTION; COPY OF AND OPPORTUNITY TO ADDRESS CONTENTS OF INVESTIGATIVE FILE; CONFIDENTIALITY.—

(b) Notwithstanding s. 112.533(5) ~~s. 112.533(2)~~, whenever a law enforcement officer or correctional officer is subject to disciplinary action consisting of suspension with loss of pay, demotion, or dismissal, the officer or the officer's representative must ~~shall~~, upon request, be provided with a complete copy of the investigative file, including the final investigative report and all evidence, and with the opportunity to address the findings in the report with the employing law enforcement agency before imposing disciplinary action consisting of suspension with loss of pay, demotion, or dismissal. The contents of the complaint and investigation must ~~shall~~ remain confidential until such time as the employing law enforcement agency makes a final determination whether ~~or not~~ to

issue a notice of disciplinary action consisting of suspension with loss of pay, demotion, or dismissal. This paragraph does not provide law enforcement officers with a property interest or expectancy of continued employment, employment, or appointment as a law enforcement officer.

Section 3. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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1/23/24
Meeting Date

Criminal Justice
Committee

576
Bill Number or Topic

Amendment Barcode (if applicable)

Name Shannon Copeland Phone

Address 11380 NW Lake Mystic Road
Street

Email thechannoncopeland@gmail.com

Bristol FL 32321
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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Meeting Date

SB 576
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name NR Hines

Phone 786-363-1104

Address 4343 W Flagler St
Street

Email nhines@aclufl.org

Coral Gables FL 33436
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 of Florida

☐ 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)

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1/23/24
Meeting Date

Criminal Justice
Committee

SB 576
Bill Number or Topic

Amendment Barcode (if applicable)

Name Laurette Philipsen

Phone 727-484-0237

Address 7240 Westwind drive
Street

Email advocatephilipsen@gmail.com

Port Richey FL 34668
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:

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S-001 (08/10/2021)

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1/23/24
Meeting Date

CRIM. JUST.
Committee

SB 576
Bill Number or Topic

Amendment Barcode (if applicable)

Name JIM SNIFFEN - FL FOP

Phone 561 965 7122

Address 600 Banyan Blvd
Street

Email SNIFFEN@WPBFOP.ORG

W. 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:

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S-001 (08/10/2021)

The Florida Senate

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1/23/24
Meeting Date

Criminal Justice
Committee

576
Bill Number or Topic

—

Amendment Barcode (if applicable)

Name Lisa Henning

Phone

Address 242 Office Plaza Dr
Street

Email foplegislative@aol.com

Tallahassee FL 32305
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:

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)

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S-001 (08/10/2021)

The Florida Senate

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01/23/2024
Meeting Date

Criminal Justice
Committee

576
Bill Number or Topic

Amendment Barcode (if applicable)

Name Steve Zona

Phone 904-398-7010

Address 242 Office Plaza
Street

Email S.Zona@FOP530.com

Tallahassee FL 32321
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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January 23, 2024
Meeting Date

Criminal Justice
Committee

576
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 1454 Vieux Carre Drive
Street

Email Barney@BarneyBishop.com

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 Smart Justice Alliance

☐ 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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/23/2024
Meeting Date

Senate
Committee

Citizen Review Board
Bill Number or Topic

576
Amendment Barcode (if applicable)

Name Gwendolyn McDaniel

Phone 850 766 7780

Address 3044 N Fulmer Circle
Street

Email gemcdaniel@yahoo.com

TLH 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:

☐ 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)

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The Florida Senate

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1/23/24
Meeting Date

Crim Justice
Committee

576
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lauren Bueie - First Amendment Foundation

Phone 727 212 7408

Address 317 E Park Ave
Street

Email ~~kotl~~ laurenb@flanda faf.org

Tallahassee FL 32304
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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1/23/24
Meeting Date

Criminal Justice
Committee

576
Bill Number or Topic

Amendment Barcode (if applicable)

Name Aurelie Colon

Phone 9548818595

Address 403 Washington Ave
Street

Email aurelie.colon@splcenter.org

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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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January 23, 2024
Meeting Date

Criminal Justice
Committee

576
Bill Number or Topic

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Phone 850-425-1344

Address 104 S. Monroe Street
Street

Email TcgLobby@aol.com

Tallahassee FL 32301
City *State* *Zip*

Reset Form

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:
NAACP Florida State Conference

☐ 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)

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S-001 (08/10/2021)

THE FLORIDA SENATE

Tallahassee, Florida. 32399-1100

COMMITTEES:
Finance and Tax, *Chair*
Appropriations
Banking and Insurance
Criminal Justice
Ethics and Elections

SELECT COMMITTEE:
Select Committee on Resiliency

JOINT COMMITTEE:
Joint Administrative Procedures Committee, *Alternating Chair*

Senator Blaise Ingoglia
11th District

December 7, 2023

The Honorable Jonathan Martin, Chair
Criminal Justice Committee
315 Senate Office Building
402 South Monroe Street
Tallahassee, FL 32399

Re: SB 576 Investigation of Complaints Against Law Enforcement and Correctional Officers

Chair Martin,

SB 576 has been referred to the Criminal Justice Committee as its first committee of reference. I respectfully request that it be placed on the 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,

Blaise Ingoglia
State Senator, District 11

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

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 718
INTRODUCER:	Criminal Justice Committee and Senator Collins
SUBJECT:	Exposures of First Responders to Fentanyl
DATE:	January 24, 2024 REVISED:

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 718 creates s. 893.132, F.S., relating to fentanyl exposure for first responders causing overdose or serious bodily injury. First responders as outlined in the bill include emergency medical technicians and paramedics, firefighters, correctional officers, correctional probation officers, and state or local law enforcement officers.

The bill provides that it is a second degree felony for a person 18 years of age or older who, in the course of unlawfully possessing dangerous fentanyl or fentanyl analogs, exposes a first responder to a specified substance that results in an overdose or serious bodily injury of the first responder. The specified substances in the bill include fentanyl or fentanyl analogs.

Such substance or mixture must be proved to have caused or been a substantial factor in causing the overdose or serious bodily injury.

The bill provides that it is a defense to a violation of this section that a first responder acted outside the scope of ordinary care generally exercised by a member of his or her profession, and in doing so, caused or substantially contributed to his or her exposure.

The bill will have a "positive indeterminate" prison bed impact. See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2024.

II. Present Situation:

Fentanyl is a controlled substance as defined in s. 893.03, F.S., which classifies controlled substances into five categories or classifications, known as schedules. The schedules regulate the manufacture, distribution, preparation, and dispensing of substances listed in the schedules. The most important factors in determining which schedule may apply to a substance are the potential for abuse[1] of the substance and whether there is a currently accepted medical use for the substance. The controlled substance schedules are described as follows:

- Schedule I substances (s. 893.03(1), F.S.) have a high potential for abuse and no currently accepted medical use in treatment in the United States. Use of these substances under medical supervision does not meet accepted safety standards.
- Schedule II substances (s. 893.03(2), F.S.) have a high potential for abuse and a currently accepted but severely restricted medical use in treatment in the United States. Abuse of these substances may lead to severe psychological or physical dependence.
- Schedule III substances (s. 893.03(3), F.S.) have a potential for abuse less than the Schedule I and Schedule II substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to moderate or low physical dependence or high psychological dependence. Abuse of anabolic steroids may lead to physical damage.
- Schedule IV substances (s. 893.03(4), F.S.) have a low potential for abuse relative to Schedule III substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule III substances.
- Schedule V substances (s. 893.03(5), F.S.) have a low potential for abuse relative to Schedule IV substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule IV substances.

"Fentanyl is a powerful synthetic opioid that is similar to morphine but is 50 to 100 times more potent. It is a prescription drug that is also used and made illegally."[2] Fentanyl is a Schedule (2)(b) controlled substance.[3] Drug offenses currently account for 23.6 percent of all new prison admissions in the Department of Corrections.[4]

[1] Section 893.035(3)(a), F.S., defines potential for abuse as a substance that has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of the substance being: used in amounts that create a hazard to the user's health or the safety of the community; diverted from legal channels and distributed through illegal channels; or taken on the user's own initiative rather than on the basis of professional medical advice.
[2] National Institute on Drug Abuse, *Fentanyl DrugFacts,* (footnotes omitted), available at https://nida.nih.gov/publications/drugfacts/fentanyl (last visited on December 21, 2023). As a medicine, fentanyl is "typically used to treat patients with severe pain, especially after surgery[,]" and "is also sometimes used to treat patients with chronic pain who are physically tolerant to other opioids." Id.
[3] Section 893.03(2)(b)9., F.S.
[4] Florida Department of Corrections, *Florida's Criminal Punishment Code: Assessment and Analysis*, available at, https://fdc.myflorida.com/pub/scoresheet/criminal%20Punishment%20Code%202023.pdf (last visited January 16, 2024).

Controlled Substance Analog

A "controlled substance analog" is defined in s. 893.0356(2)(a), F.S., as a substance which, due to its chemical structure and potential for abuse, meets the following criteria:

- The substance is substantially similar to that of a controlled substance listed in Schedule I or Schedule II of s. 893.03, F.S.; and
- The substance has a stimulant, depressant, or hallucinogenic effect on the central nervous system or is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance listed in Schedule I or Schedule II of s. 893.03, F.S.

Crimes Related to Fentanyl and Related Substances

Sale of a Controlled Substance

Section 893.13(1), F.S., prohibits a person from selling, manufacturing,[5] or delivering,[6] or possessing with the intent to sell, manufacture, or deliver a controlled substance. The penalty for selling a controlled substance varies depending on several factors, including the type and amount of the substance sold, and the location where the sale takes place.

Under current law, selling, manufacturing, or delivering, or possessing with the intent to sell, manufacture, or deliver, fentanyl, alfentanil, carfentanil, sufentanil, a fentanyl derivative, a controlled substance analog is punishable as a second degree felony.[7,8]

Sale of a Controlled Substance to a Minor

Section 893.13(4), F.S., prohibits a person 18 years of age or older from:

- Delivering a controlled substance to a person younger than 18 years of age;
- Using or hiring a person younger than 18 years of age as an agent or employee in the sale or delivery of a controlled substance; or
- Using a person younger than 18 years of age to assist in avoiding detection or apprehension for a violation of ch. 893, F.S.

A violation is punishable as either a first, second, or third degree felony depending on the controlled substance that is sold or delivered.

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[5] "Manufacture" means the production, preparation, propagation, compounding, cultivating, growing, conversion, or processing of a controlled substance, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation, compounding, packaging, or labeling of a controlled substance by: a practitioner or pharmacist as an incident to his or her administering or delivering of a controlled substance in the course of his or her professional practice; a practitioner, or his or her authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis, and not for sale. Section 893.02(15)(a), F.S

[6] "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship. Section 893.02(6), F.S.

[7] A second degree felony is punishable by a term of imprisonment not exceeding 30 years and a $10,000 fine. Sections 775.082 and 775.083, F.S.

[8] Section 893.13(1)(a)1., F.S.

Under current law, delivering fentanyl or fentanyl derivatives to a person younger than 18 years of age is punishable as a first degree felony.[9]

Distribution Resulting in Overdose or Serious Bodily Injury

Section 893.131, F.S., provides that a person 18 years of age or older who unlawfully distributes[10] the following substances and an overdose or serious bodily injury of the user results, commits a second degree felony:

- Heroin, as described in s. 893.03(1)(b)11., F.S.;
- Alfentanil, as described in s. 893.03(2)(b)1., F.S.;
- Carfentanil, as described in s. 893.03(2)(b)6., F.S;
- Fentanyl, as described in s. 893.03(2)(b)9., F.S;
- Sufentanil, as described in s. 893.03(2)(b)30., F.S;
- Fentanyl derivatives, as described in s. 893.03(1)(a)62., F.S;
- A controlled substance analog, as described in s. 893.0356, F.S, of any substance specified above; or
- A mixture containing any substance specified above.

The substance or mixture must be proved to have caused or been a substantial factor in causing the overdose or serious bodily injury.

A second or subsequent violation is a first degree felony.[11]

Drug Trafficking

Drug trafficking occurs when a person knowingly sells, purchases, manufactures, delivers, or brings into the state, or is in actual or constructive possession of, a specified quantity of a controlled substance.[12] Generally, a drug trafficking offense is punishable as a first degree felony.[13,14] Section 893.135, F.S., outlines threshold amounts of the applicable controlled substance for each trafficking offense. Drug trafficking offenses are subject to mandatory minimum sentences and heightened fines, which are determined by the threshold amounts.

Under s. 893.135(1)(c)4., F.S., a person commits the first degree felony offense of trafficking in dangerous fentanyl or fentanyl analogues if he or she knowingly sells, purchases, manufactures,

[9] Section 893.13(4)(a), F.S

[10] Sections 893.131(1)(a) and 893.02, F.S., defines distribute as to deliver, other than by administering or dispensing, a controlled substance.

[11] Section 893.131(2)(b), F.S.

[12] Florida law criminalizes trafficking in cannabis; cocaine; illegal drugs, which include morphine, opium, hydromorphone, or any salt derivative, isomer, or salt of an isomer thereof, including heroin; hydrocodone, oxycodone; fentanyl; phencyclidine; methaqualone; amphetamine; flunitrazepam; gamma-hydroxybutryic (GHB); gamma-butryolactone (GBL); 1,4-Butanediol; phenethylamines; lysergic acid diethylamide (LSD); synthetic cannabinoids; and n-benzyl phenethylamines. Section 893.135, F.S.

[13] A first degree felony is punishable by up to 30 years imprisonment and a $10,000 fine. Sections 775.082 and 775.083, F.S.

[14] Trafficking in certain controlled substances can be a capital offense under specified circumstances. See, e.g., s. 893.135(1)(h)2., F.S. (Any person who knowingly manufactures or brings into this state 400 grams or more of amphetamine . . . who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of amphetamine, a capital felony).

delivers, or brings into this state, or is knowingly in actual or constructive possession of four grams or more of:

- Alfentanil, as described in s. 893.03(2)(b)1., F.S.;
- Carfentanil, as described in s. 893.03(2)(b)6., F.S.;
- Fentanyl, as described in s. 893.03(2)(b)9., F.S.;
- Sufentanil, as described as in s. 893.03(2)(b)30., F.S.;
- A fentanyl derivative, as described in s. 893.03(1)(a)62., F.S.;
- A controlled substance analog, as described in s. 893.0356, F.S., of any substance described in sub-sub-subparagraphs (I)-(V); or
- A mixture containing any substance described in sub-sub-subparagraphs (I)-(VI).

In regards to the weighing of a mixture containing a controlled substance, the weight of the controlled substance is the total weight of the mixture, including the controlled substance and any other substance in the mixture.[15]

III. Effect of Proposed Changes:

The bill creates s. 893.132, F.S., relating to fentanyl exposure for first responders causing overdose or serious bodily injury.

The bill provides that it is a second degree felony for a person 18 years of age or older who, in the course of unlawfully possessing dangerous fentanyl or fentanyl analogs, exposes a first responder to a specified substance that results in an overdose or serious bodily injury of the first responder. The specified substances in the bill include fentanyl or fentanyl analogs as described in s. 893.135(1)(c)4.a.(I)-(VII), F.S.

Such substance or mixture must be proved to have caused or been a substantial factor in causing the overdose or serious bodily injury.

"Expose," means to cause any of the following, including, but not limited to skin contact, inhalation, ingestion, contact with a needle stick that pricks the skin, or contact with a mucous membrane.

The bill defines first responder to include: emergency medical technicians and paramedics as defined in s. 401.23, F.S.,[16,17] firefighters as defined in s. 633.102, F.S.,[18] correctional officers as

[15] Section 893.135(6), F.S.
[16] Section 401.23, F.S., defines emergency medical technician as a person who is certified by the department to perform basic life support pursuant to this part.
[17] Section 401.23, F.S., defines Paramedic as a person who is certified by the department to perform basic and advanced life support pursuant to this part.
[18] Section 633.102, F.S., defines Firefighter as an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance.

defined in s. 943.10(2), F.S.,[19] correctional probation officers as defined in s. 943.10(3), F.S.,[20] and state or local law enforcement officers as defined in s. 943.10, F.S.[21]

Additionally, the bill defines overdose or serious bodily injury[22] as drug toxicity or a physical condition that creates a substantial risk of death or substantial loss or impairment of the function of any bodily member or organ.

The bill provides that it is a defense to a violation of this section that a first responder acted outside the scope of ordinary care generally exercised by a member of his or her profession, and in doing so, caused or substantially contributed to his or her exposure.

The bill establishes a criminal penalty of a second degree felony for individuals that recklessly expose first responders to fentanyl resulting in serious bodily injury.

The bill takes effect October 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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[19] Section 943.10(2), F.S., defines "Correctional officer" as any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term "correctional officer" does not include any secretarial, clerical, or professionally trained personnel.

[20] Section 943.10(3), F.S. defines "Correctional probation officer" as 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.

[21] Section 943.10, F.S., defines Law enforcement Officers as 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.

[22] The bill defines "Overdose or serious bodily injury" as drug toxicity or a physical condition that creates a substantial risk of death or a substantial loss or impairment of the function of any bodily member or organ.

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).[23] The EDR provides the following information relevant to these felonies and its estimate:

> It is not known how many incidents occur each year, but news reports on the matter and research by medical professionals indicate that exposure to fentanyl by first responders is a rare event. Therefore, this new language is not expected to have a significant impact on the prison population. In FY 22-23, the incarceration rate for a Level 7, 1st degree felony was 67.6%.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 893.132 of the Florida Statutes.

[23] *SB 718-Exposures of Frist Responders to Fentanyl*, Office of Economic and Demographic Research (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 January 23, 2024:
The committee substitute:

- Adds language to include correctional officers or correctional probation officers as first responders relating to fentanyl exposure.
- Reduces the penalty from a first degree felony to a second degree felony and includes language that protects the scope of ordinary care.
- Revises the crime to provide penalties for those persons who expose a first responder to fentanyl or fentanyl analogs be 18 years of age or older.

B. Amendments:

None.

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

738808

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2024	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 893.132, Florida Statutes, is created to read:

893.132 Dangerous fentanyl exposure of first responder resulting in overdose or serious bodily injury.—

(1) For purposes of this section, the term:

(a) "Dangerous fentanyl or fentanyl analogs" means any

738808

controlled substance described in s. 893.135(1)(c)4.a.(I)-(VII).

(b) "Expose" or "exposure" means to cause any of the following, including, but not limited to, ingestion, inhalation, needlestick injury, or absorption through skin or mucous membranes.

(c) "First responder" means a law enforcement officer as defined in s. 943.10(1), a correctional officer as defined in s. 943.10(2), a correctional probation officer as defined in s. 943.10(3), a firefighter as defined in s. 633.102, an emergency medical technician as defined in s. 401.23, or a paramedic as defined in s. 401.23, who is acting in his or her official capacity.

(d) "Overdose or serious bodily injury" means drug toxicity or a physical condition that creates a substantial risk of death or substantial loss or impairment of the function of any bodily member or organ.

(2) A person 18 years of age or older who, in the course of unlawfully possessing dangerous fentanyl or fentanyl analogs, exposes a first responder to dangerous fentanyl or fentanyl analogs and an overdose or serious bodily injury of the first responder results, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) It is an affirmative defense to a violation of this section that a first responder acted so far outside the scope of ordinary care generally exercised by a member of his or her profession that he or she caused or substantially contributed to the exposure.

Section 2. This act shall take effect October 1, 2024.

738808

========== 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 exposures of first responders to fentanyl and fentanyl analogs; creating s. 893.132, F.S.; providing definitions; providing criminal penalties for adults who unlawfully possess specified controlled substances and who expose a first responder to such substances, and the exposure results in an overdose or serious bodily injury; providing an affirmative defense; providing an effective date.

290480

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2024	.	
	.	
	.	
	.	

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

Senate Amendment to Amendment (738808) (with title amendment)

Delete lines 31 - 37
and insert:
responder results, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) It is a defense to a violation of this section that a first responder acted outside the scope of ordinary care generally exercised by a member of his or her profession, and in

290480

doing so, caused or substantially contributed to his or her exposure.

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

And the title is amended as follows:

Delete lines 51 - 52

and insert:

overdose or serious bodily injury; providing a defense; providing an effective date.

By Senator Collins

14-00284A-24 2024718__

A bill to be entitled

An act relating to exposures of first responders to fentanyl; creating s. 893.132, F.S.; defining terms; providing criminal penalties for persons who recklessly expose first responders to fentanyl, fentanyl derivatives, analogs of fentanyl, or mixtures containing such substances and an overdose or serious bodily injury of a first responder results, if the substance or mixture is proven to have caused or been a substantial factor in causing the overdose or serious bodily injury of the first responder; specifying prima facie evidence that a person experienced an overdose or a serious bodily injury; providing an effective date.

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

Section 1. Section 893.132, Florida Statutes, is created to read:

893.132 Fentanyl exposure of first responder resulting in overdose or serious bodily injury.—

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

(a) "Emergency opioid antagonist" has the same meaning as in s. 381.887(1).

(b) "Expose" means to cause any of the following, including, but not limited to, skin contact, inhalation, ingestion, contact with a needlestick that pricks the skin, or contact with a mucus membrane, including without limitation the mouth, eyes, or nose.

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

14-00284A-24 2024718__

(c) "First responder" means an emergency medical technician as defined in s. 401.23, a paramedic as defined in s. 401.23, a firefighter as defined in s. 633.102, or a state or local law enforcement officer as defined in s. 943.10.

(d) "Medical care" means the administration of treatment for the purposes of preserving or sustaining life, including the administration of an emergency opioid antagonist.

(e) "Overdose or serious bodily injury" means drug toxicity or a physical condition that creates a substantial risk of death or a substantial loss or impairment of the function of any bodily member or organ.

(f) "Recklessly" means in a manner that shows a willful or wanton disregard for the safety of other persons, such as when possessing a controlled substance as described in paragraphs (2)(a)-(d).

(g) "Substantial factor" means that the use of a substance or mixture alone is sufficient to cause an overdose or serious bodily injury, regardless of whether any other substance or mixture used is also sufficient to cause an overdose or serious bodily injury.

(2) A person who recklessly exposes a first responder to any of the following:

(a) Fentanyl, as described in s. 893.03(2)(b)9.;

(b) Fentanyl derivatives, as described in s. 893.03(1)(a)62.;

(c) A controlled substance analog, as described in s. 893.0356, of any substance specified in paragraph (a) or paragraph (b); or

(d) A mixture containing any substance specified in

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

paragraph (a), paragraph (b), or paragraph (c),

and an overdose or serious bodily injury of the first responder results commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if such substance or mixture is proven to have caused or been a substantial factor in causing the overdose or serious bodily injury of the first responder.

(3) The administration of medical care by a first responder is prima facie evidence that the person receiving medical care experienced an overdose or serious bodily injury.

Section 2. This act shall take effect October 1, 2024.

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

SB 718 – Exposures of First Responders to Fentanyl

This bill creates s. 893.132, F.S., defining multiple terms and adding an **unranked, 1st degree felony (Level 7 by default)** for "a person who recklessly exposes a first responder to…fentanyl…fentanyl derivatives…a controlled substance analog…or a mixture containing…" these substances "…and an overdose or serious bodily injury of the first responder results…if such substance or mixture is proven to have caused or been a substantial factor in causing the overdose or serious bodily injury of the first responder." The term "recklessly" is defined as "in a manner that shows a willful or wanton disregard for the safety of other persons, such as when possessing" these substances. The term "expose" is defined as "to cause any of the following, including, but not limited to, skin contact, inhalation, ingestion, contact with a needlestick that pricks the skin, or contact with a mucus membrane, including without limitation the mouth, eyes, or nose." The bill also defines "first responders" as "an emergency medical technician…a paramedic…a firefighter…or a state or local law enforcement officer."

It is not known how many incidents occur each year, but news reports on the matter and research by medical professionals indicate that exposure to fentanyl by first responders is a rare event.[1] Therefore, this new language is not expected to have a significant impact on the prison population.

In FY 22-23, the incarceration rate for a Level 7, 1st degree felony was 67.6%.

EDR PROPOSED ESTIMATE: Positive Insignificant

Requested by: Senate

[1] "'Passive' fentanyl exposure: more myth than reality," https://www.statnews.com/2018/12/21/passive-fentanyl-exposure-myth-reality/

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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January 23, 2024
Meeting Date

Criminal Justice
Committee

718
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

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Email Barney@BarneyBishop.com

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 Smart Justice Alliance

☐ 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

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1/23/24
Meeting Date

Criminal Justice
Committee

718
Bill Number or Topic

Amendment Barcode (if applicable)

Name Robert Palmer

Phone 931-561-6846

Address 730 Cane St. E.
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Lehigh Acres Fl. 33974
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/23/24
Meeting Date

CRIM JUSTICE
Committee

718
Bill Number or Topic

Amendment Barcode (if applicable)

Name AARON WAYT FL ASSN OF CRIM DEF LAWYERS

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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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/23/24
Meeting Date

Criminal Justice
Committee

SB 718
Bill Number or Topic

Amendment Barcode (if applicable)

Name Aurelie Colon

Phone 9548818595

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Street

Email aurelie.colon@splcenter.org

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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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01/23/2024
Meeting Date

Criminal Justice
Committee

S.B. 718
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ashley Hayek

Phone

Address 1001 Pennsylvania Ave NW
Street

Email jshiner@americafirstpolicy.com

Washington DC 20004
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:
America First Policy Institute

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

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1-23-24
Meeting Date

CRIMINAL JUSTICE
Committee

0718
Bill Number or Topic

Amendment Barcode (if applicable)

Name Wayne "BERNIE" BERNOSKA

Phone 321-231-9116

Address 343 W. MADISON St.
Street

Email BERNIE@FPFP.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:
FLORIDA PROFESSIONAL FIREFIGHTERS

☐ 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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1/23
Meeting Date

CRIMINAL JUSTICE
Committee

SB 718
Bill Number or Topic

Amendment Barcode (if applicable)

Name LIBBY GUZZO

Phone 850 245 0155

Address CAPITOL PL-01
Street

Email LIBBY.GUZZO@MYFLORIDALEGAL.COM

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:
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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01/23/24
Meeting Date

CJ
Committee

SB 718
Bill Number or Topic

Amendment Barcode (if applicable)

Name Michael Choate, Fire Chief Phone 863-245-1845

Address 5368 Useppa Dr. Email

Street

Ave Maria FL 34142

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:

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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: January 10, 2024

I respectfully request that **Senate Bill #718**, relating to Exposures of First Responders to Fentanyl, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Jay Collins
Florida Senate, District 14

File signed original with committee office

S-020 (03/2004)

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 808
INTRODUCER:	Criminal Justice Committee and Senator DiCeglie
SUBJECT:	Treatment by a Medical Specialist
DATE:	January 24, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wyant	Stokes	CJ	**Fav/CS**
2.			AEG	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 808 amends s. 112.18, F.S., to authorize firefighters, law enforcement officers, correctional officers, and correctional probation officers to receive medical treatment for a compensable presumptive condition by his or her selected medical specialist.

The bill requires written notice of the selection of a medical specialist to be given to his or her workers' compensation carrier, self-insured employer, or third-party administrator before he or she begins treatment, except in emergency situations. The bill creates an exception applicable to the usual provider selection process provided under the workers' compensation law.

The bill requires the workers' compensation carrier, self-insured employer, or third-party administrator to authorize the selected medical specialist or authorize an alternative medical specialist with the same or greater qualifications within 5 business days after receipt of written notice and schedule the appointment for treatment to be held within 30 days after receipt of written notice. If after 5 business days, the carrier has not authorized an alternative medical specialist, the selected medical specialist is authorized. The continuing care and treatment must be reasonable, necessary, and related to tuberculosis, heart disease, or hypertension.

Treatment by a medical specialist must be reimbursed at no more than 200 percent of the Medicare rate.

The bill defines "medical specialist."

The bill may have an indeterminate fiscal impact to local and state government. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2024.

II. Present Situation:

Medical Treatment for Compensable Presumptive Conditions

Section 112.18, F.S., provides that for any condition or impairment of any Florida state, municipal, county, port authority, special tax district, or fire control district firefighter,[1] or any law enforcement officer,[2] correctional officer,[3] or correctional probation officer,[4] caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death is to be presumed to have been accidental and to have been suffered in the line of duty unless the contrary can be shown by competent evidence. Any such firefighter or officer must have successfully passed a preemployment physical exam, which failed to reveal any evidence of any such condition.

Employing fire service providers are required to maintain preemployment physical examinations for at least 5 years after the employee's separation from the employing provider. If the employing fire service provider fails to maintain the records, it is presumed the employee has met the requirements.[5]

Preemployment Physical Examinations

A person applying for certification as a firefighter must be in good physical condition as determined by a medical examination.[6] Section 943.13(6), F.S., states a law enforcement officer,

[1] "Firefighter" means an individual employed as a full-time firefighter or full-time, Florida-certified fire investigator within the fire department or public safety department of an employer whose primary responsibilities are the prevention and extinguishing of fires; the protection of life and property; and the enforcement of municipal, county, and state fire prevention codes and laws pertaining to the prevention and control of fires; or the investigation of fires and explosives. Section 112.1816(1)(c), F.S.

[2] "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.

[3] "Correctional officer" means any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution, not including any secretarial, clerical, or professionally trained personnel. Section 943.10(2), F.S.

[4] "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 controlees within institutions of the Department of Corrections or within the community. Section 943.10(3), F.S.

[5] Section 112.18(1)(b)2., F.S.

[6] Section 633.412(5), F.S.

correctional officer, or correctional probation officer must have passed a physical examination by a licensed physician, physician assistant, or licensed advanced practice registered nurse. In order to be eligible for the presumption applied in s. 112.18, F.S., the officer must have successfully passed the physical examination which failed to reveal any evidence of tuberculosis, heart disease, or hypertension.

Eligibility for Workers' Compensation Presumption

In a disputed workers' compensation determination, the legal presumption does not apply if a law enforcement, correctional, or correctional probation officer:

- Departed from the course of treatment prescribed by his or her physician, resulting in a significant aggravation of the disease or disability or need for medical treatment; or
- Was previously compensated for the disabling disease and departed from the treatment prescribed by his or her physician, resulting in disability or increasing the disability or need for medical treatment.[7]

To be eligible for workers' compensation benefits, a law enforcement officer, correctional officer, or correctional probation officer must make a claim for benefits prior to or within 180 days of leaving the employment or the employing agency.[8]

Firefighters are not subject to the exclusion for prior treatment or compensation and they are not covered by the claim-filing deadline that allows a law enforcement officer, correctional officer, or correctional probation officer to file a claim up to 180 days after leaving the employment.

Thus, a firefighter suffering from tuberculosis, heart disease, or hypertension must advise his or her employer of the injury within 90 days of the initial manifestation of the disease or 90 days after the firefighter obtains a medical opinion that the injury (occupational disease) is due to the nature of the firefighter's employment.[9]

Workers' Compensation

Florida's Workers' Compensation laws[10] require employers to provide injured employees all medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require.[11] The Department of Financial Services (DFS) provides regulatory oversight of Florida's workers' compensation system, including the workers' compensation health care delivery system. The law specifies certain reimbursement formulas and methodologies to compensate workers' compensation health care providers[12] that provide medical services to injured employees. Where a reimbursement amount or methodology is not specifically included in statute, the Three-Member Panel is authorized to annually adopt

[7] Section 112.18(1)(b)1., F.S.
[8] Section 112.18(1)(b)4., F.S.
[9] Sections 440.151(6) and 440.185(1), F.S.
[10] Chapter 440, F.S.
[11] Section 440.13(2)(a), F.S.
[12] The term "health care provider" includes a physician or any recognized practitioner licensed to provide skilled services pursuant to a prescription or under the supervision or direction of a physician. It also includes any hospital licensed under ch. 395, F.S., and any health care institution licensed under ch. 400 or ch. 429, F.S. Section 440.13(1)(g), F.S.

statewide schedules of maximum reimbursement allowances (MRAs) to provide uniform fee schedules for the reimbursement of various medical services.[13]

In 2023, CS/CS/HB 487 eliminated the authority of the Three-Member Panel to adopt MRA's for individually licensed health care providers, work-hardening programs, pain programs, and durable medical equipment providers.[14] Instead, it mandates the DFS to annually publish the maximum reimbursement allowance for physician and non-hospital reimbursements on its website by July 1st, effective the following January 1st.[15] The DFS incorporates the statewide schedules of the MRAs through rulemaking.

Reimbursement for Healthcare Providers

In establishing the MRA manuals, the panel considers the usual and customary levels of reimbursement for similar treatment, services, and care;[16] the cost impact to employers for providing reimbursement that ensures that injured workers have access to necessary medical care; and the financial impact of the MRAs on healthcare providers and facilities.[17] Florida law requires the panel to develop MRA manuals that are reasonable, promote the workers' compensation system's healthcare cost containment and efficiency, and are sufficient to ensure that medically necessary treatment is available for injured workers.[18] Annually the panel must adopt schedules of MRAs for hospital inpatient care, hospital outpatient care, and ambulatory surgical centers which are reimbursed either the agreed-upon contract price or the MRA in the appropriate schedule.[19] Maximum reimbursement allowances are as follows:

- Inpatient hospital care is limited based on a schedule of per diem rates approved by the panel.[20]
- Hospital outpatient care is reimbursed at 75 percent of usual and customary charges with exceptions provided in this section.[21]
- Outpatient reimbursement for scheduled surgeries is reimbursed at 60 percent of usual and customary charges.[22]
- For physicians listed under ch. 458 or ch. 459, F.S., the maximum reimbursement must be 110 percent of the reimbursement allowed by Medicare or at the level adopted by the panel, whichever is greater.[23]
- For surgical procedures, the maximum reimbursement must be 140 percent of the reimbursement allowed by Medicare or the level adopted by the panel, whichever is greater.[24]

[13] Section 440.13(12), F.S.
[14] Chapter 2023-144, L.O.F.
[15] *Id*.
[16] Section 440.13(12)(i)1., F.S.
[17] Section 440.13(12)(i)2., F.S.
[18] Section 440.13(12)(i)3., F.S.
[19] Section 440.13(12)(a), F.S.
[20] *Id*.
[21] *Id*.
[22] Section 440.13(12)(d), F.S.
[23] Section 440.13(12)(f), F.S.
[24] Section 440.13(12)(g), F.S.

- For prescription medication, the reimbursement must be the average wholesale price plus a $4.18 dispensing fee.[25] Repackaged or relabeled prescription medication dispensed by a dispensing practitioner has a maximum reimbursement of 112.5 percent of the average wholesale price plus an $8.00 dispensing fee.[26]

Reimbursement for all fees and other charges for such treatment, care, and attendance, including treatment, care, and attendance provided by any hospital or other health care provider, ambulatory surgical center, work-hardening program, or pain program, must not exceed the amounts provided by the schedule of MRAs as determined by the panel or as otherwise provided.[27]

III. Effect of Proposed Changes:

The bill amends s. 112.18, F.S., to authorize firefighters, law enforcement officers, correctional officers, and correctional probation officers to receive medical treatment for a compensable presumptive condition by his or her selected medical specialist.

The bill defines "medical specialist" as a physician licensed under ch. 458[28] or ch. 459, F.S.,[29] who has board certification in a medical specialty inclusive of care and treatment of tuberculosis, heart disease, or hypertension.

The bill requires written notice of the selection of a medical specialist to be given to his or her workers' compensation carrier, self-insured employer, or third-party administrator before he or she begins treatment, except in emergency situations. The bill creates an exception applicable to the usual provider selection process provided under the workers' compensation law.

The bill requires the workers' compensation carrier, self-insured employer, or third-party administrator to authorize the selected medical specialist or authorize an alternative medical specialist with the same or greater qualifications within 5 business days after receipt of written notice and schedule the appointment for treatment to be held within 30 days after receipt of written notice. The continuing care and treatment must be reasonable, necessary, and related to tuberculosis, heart disease, or hypertension.

Treatment by a medical specialist must be reimbursed at no more than 200 percent of the Medicare rate.

The bill is effective October 1, 2024.

[25] Section 440.13(12)(h), F.S.
[26] *Id*.
[27] Section 440.13(12)(i), F.S.
[28] Section 458.305(4), F.S., defines "physician" as someone who is licensed to diagnose, treat, operate, or prescribe for any human disease, pain, injury, deformity, or other physical or mental condition.
[29] Section 459.003(4), F.S., defines "osteopathic physician" as a person who is licensed to diagnose, treat, operate, or prescribe for any human disease, pain, injury, deformity, or other physical or mental condition, which practice is based in part upon educational standards and requirements which emphasize the importance of the musculoskeletal structure and manipulative therapy in the maintenance and restoration of health.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because the bill requires county/municipality governments that employ firefighters, law enforcement officers, correctional officers, or correctional probation officers to fund additional expenses related to such employees accessing specialist care for presumed conditions at a rate higher than currently applicable workers' compensation rates; however, an exception may apply. The bill applies to all similarly situated persons, i.e., every county/municipality government that employs such individuals, in addition to the state, which also employs such individuals.

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:

Providers may have less incentive to offer substantial discounts to carriers, possibly resulting in higher costs to the carriers, which may be passed through to local and state governments.

Implementation of the any willing provider provision authorized in the bill may create challenges for carriers that want to implement value based purchasing or alternative payment methodologies that are tied to certain carrier specific quality improvement strategies.

C. Government Sector Impact:

The local and state government may experience increased expenses associated with specialist treatment due to the increase in reimbursement of no more than 200 percent of the Medicare rate.

VI. Technical Deficiencies:

Lines 38-41 of the bill requires the treatment by a medical specialist "be reasonable, necessary, and related to tuberculosis, heart disease, or hypertension…" However, the standard in the Workers' Compensation Law, in s. 440.13(2)(a), F.S., requires the following:

Subject to the limitations specified elsewhere in this chapter, the employer shall furnish to the employee such medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require, which is in accordance with established practice parameters and protocols of treatment as provided for in this chapter, including medicines, medical supplies, durable medical equipment, orthoses, prostheses, and other medically necessary apparatus. Remedial treatment, care, and attendance, including work-hardening programs or pain-management programs accredited by an accrediting organization whose standards incorporate comparable regulations required by this state or pain-management program affiliated with medical schools, shall be considered covered treatment only when such care is given based on a referral by a physician as defined in this chapter.

For consistency, a reference to this section as to the standard of care, rather than creating a different standard, would clarify the medical's specialist's duty.

Lines 42-46 define the term, "medical specialist," and reference a requirement that the specialist have board certification inclusive of care and treatment of specified conditions. However, it does not specify what entity would issue such a certification to a physician licensed under ch. 458 or ch. 459, F.S. A reference to s. 458.33212 and s. 459.0152, F.S., respectively, relating to specialties, would clarify this issue.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 112.18 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 January 23, 2024:
The committee substitute:

- Requires notice of the selected medical specialist to be written.

- Allows a carrier to authorize an alternative medical specialist with the same or greater qualifications as the selected medical specialist.
- Requires the specialist to be authorized within 5 business days after receipt of written notice.
- Requires an appointment to be held within 30 days after receipt of written notice.
- Authorizes a selected medical specialist within 5 days if the carrier fails to authorize an alternative medical specialist.
- Allows for continuing care and treatment.
- Clarifies that the bill creates an exception applicable to the usual provider selection process provided under the workers' compensation law.

B. Amendments:

None.

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

951398

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2024	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 24 - 41

and insert:

(3)(a) Notwithstanding s. 440.13(2)(c), a firefighter, law enforcement officer, correctional officer, or correctional probation officer requiring medical treatment for a compensable presumptive condition listed in subsection (1) may be treated by a medical specialist. Except in emergency situations, a firefighter, law enforcement officer, correctional officer, or

951398

correctional probation officer entitled to access a medical specialist under this subsection must provide written notice of his or her selection of a medical specialist to the firefighter's or officer's workers' compensation carrier, self-insured employer, or third-party administrator, and the carrier, self-insured employer, or third-party administrator must authorize the selected medical specialist or authorize an alternative medical specialist with the same or greater qualifications. Within 5 business days after receipt of the written notice, the workers' compensation carrier, self-insured employer, or third-party administrator must authorize treatment and schedule an appointment, which must be held within 30 days after receipt of the written notice, with the selected medical specialist or the alternative medical specialist. If the workers' compensation carrier, self-insured employer, or third-party administrator fails to authorize an alternative medical specialist within 5 business days after receipt of the written notice, the medical specialist selected by the firefighter or officer is authorized. The continuing care and treatment by a medical specialist must be reasonable, necessary, and related to tuberculosis, heart disease, or hypertension; be reimbursed at no more than 200 percent of the Medicare rate; and be authorized by the firefighter's or officer's workers' compensation carrier, self-insured employer, or third-party administrator.

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

And the title is amended as follows:

Delete lines 11 - 14

and insert:

951398

medical specialist; providing requirements for the firefighter's or officer's workers' compensation carrier, self-insured employer, or third-party administrator; requiring that the continuing care and treatment by a medical specialist be reasonable, necessary, and related to the firefighter's or officer's condition and authorized by the workers' compensation carrier, self-insured employer, or third-party administrator; specifying a reimbursement

By Senator DiCeglie

18-00704-24 2024808__

A bill to be entitled

An act relating to treatment by a medical specialist; amending s. 112.18, F.S.; authorizing firefighters, law enforcement officers, correctional officers, and correctional probation officers to receive medical treatment by a medical specialist for certain conditions under certain circumstances; requiring firefighters, law enforcement officers, correctional officers, and correctional probation officers to notify certain entities of their selection of a medical specialist before beginning treatment; requiring that such treatment be reasonable, necessary, and related to the firefighter's or officer's condition; specifying a reimbursement percentage for such treatment; defining the term "medical specialist"; providing an effective date.

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

Section 1. Subsection (3) is added to section 112.18, Florida Statutes, to read:

112.18 Firefighters and law enforcement or correctional officers; special provisions relative to disability.—

(3)(a) A firefighter or a law enforcement officer, correctional officer, or correctional probation officer as defined in s. 943.10(1), (2), or (3), respectively, requiring medical treatment for a compensable presumptive condition listed in subsection (1) may be treated by a medical specialist. Except in emergency situations, a firefighter, law enforcement officer,

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

18-00704-24 2024808__

correctional officer, or correctional probation officer entitled to receive treatment by a medical specialist under this subsection must provide notice of his or her selection of a medical specialist to his or her workers' compensation carrier, self-insured employer, or third-party administrator, as applicable, before he or she begins treatment, and the workers' compensation carrier, self-insured employer, or third-party administrator must authorize and schedule the appointment and treatment with the medical specialist. The treatment by a medical specialist must be reasonable, necessary, and related to tuberculosis, heart disease, or hypertension and reimbursed at no more than 200 percent of the Medicare rate.

(b) For purposes of this subsection, the term "medical specialist" means a physician licensed under chapter 458 or chapter 459 who has board certification in a medical specialty inclusive of care and treatment of tuberculosis, heart disease, or hypertension.

Section 2. This act shall take effect October 1, 2024.

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

The Florida Senate

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1/23/24
Meeting Date

Criminal Justice
Committee

808
Bill Number or Topic

951398
Amendment Barcode (if applicable)

Name Rocco Salvatori

Phone 850-224-7333

Address 318 West Madison St
Street

Email rocco@fpfp.org

Tallahassee FL 32301
City State Zip

Speaking: [X] For [ ] 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: Florida Professional Firefighters

[ ] 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)

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Committee

808
Bill Number or Topic

Amendment Barcode (if applicable)

Name Rocco Salvatori

Phone 850-224-7333

Address 343 W Madison St
Street

Email rocco@fpfp.org

Tallahassee FL 32301
City State Zip

Speaking: [X] For [ ] 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: Florida Professional Firefighters

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

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1/23/24
Meeting Date

Criminal Justice
Committee

SB 808
Bill Number or Topic

Amendment Barcode (if applicable)

Name Fraser Cobbe

Phone 813-215-7140

Address 319 S. Glen Arven Avenue
Street

Email fcobbe@cobbemanagement.com

Temple Terrace FL 33617
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:

Duval County Medical Society & Dade County Medical Association

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S-001 (08/10/2021)

THE FLORIDA SENATE
SENATOR NICK DICEGLIE
District 18

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

January 11, 2024

Dear Chair Martin,

I respectfully request that **SB: 808 Treatment by a Medical Specialist** be placed on the agenda of the Criminal Justice Committee at your earliest convenience.
If my office can be of any assistance to the committee please do not hesitate to contact me at DiCeglie.Nick@flsenate.gov or (850) 487-5018. Thank you for your consideration.

Sincerely,

Nick DiCeglie

State Senator, District 18

Proudly Serving Pinellas County

Transportation Committee, Chair ~ Banking and Insurance Committee, Vice Chair ~
Fiscal Policy Committee ~ Judiciary Committee ~
Rules Committee ~ Joint Legislative Auditing Committee

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 864
INTRODUCER:	Criminal Justice Committee and Senator Collins
SUBJECT:	Autism Spectrum Disorder Training for Law Enforcement Officers
DATE:	January 24, 2024 REVISED:

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 864 amends s. 943.1727, F.S., requiring a training component relating to individuals with autism spectrum disorder. The bill specifies that the training may count toward the 40 hours of instruction for continued employment or for appointment as a law enforcement officer, correctional officer, or correctional probation officer. This would apply to both the Criminal Justice Standards and Training Commission (CJSTC) advanced/specialized programs and to the basic recruit training for those seeking to become a certified law enforcement officer in Florida.

The bill also specifies that the training may include at least 4 hours of in-person instruction in the techniques and procedures including:

- The nature and manifestation of autism spectrum disorders;
- Appropriate techniques for interviewing or interrogating an individual with autism spectrum disorder, including techniques to ensure the legality of statements made by the individual and techniques used to protect the right of the individual;
- Techniques for locating an individual with autism spectrum disorder who runs away and is in danger and for returning that individual while causing as little stress as possible to the individual;
- Techniques for recognizing the agency of an individual with autism spectrum disorder while identifying potential abusive or coercive situations;
- Techniques for deescalating a potentially dangerous situation to maximize the safety of both the officer and the individual with autism spectrum disorder;

- Techniques for differentiating an individual with autism spectrum disorder from an individual who is belligerent, uncooperative, or otherwise displaying traits similar to the characteristics of an individual with autism spectrum disorder and understanding the law as it relates to the use of the Baker Act against an individual with autism spectrum disorder;
- Procedures to identify and address challenges related to the safety and wellbeing of individuals with autism spectrum disorder in a correctional facility; and
- The impact of interaction with officers on individuals with autism spectrum disorder.

The Florida Department of Law Enforcement has reported a fiscal impact of $260,832. See Part V. Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Criminal Justice Standards and Training Commission (CJSTC)

The CJSTC is established under s. 943.11, F.S. The commission is an independent policy making body that ensures that Florida's criminal justice officers are ethical, qualified, and well-trained. The commission is responsible for creating entry-level curricula and certification testing for criminal justice officers in Florida, establishing minimum standards for employment and certification, and revoking the certification of officers who fail to maintain these minimum standards of conduct.[1]

Minimum Qualifications

An individual must be at least 19 years of age to become a certified law enforcement officer or a certified correctional probation officer and must be at least 18 years of age to become a certified correctional officer. Additionally, the individual must be a citizen of the United States, not have been convicted of a felony or received a dishonorable discharge from the military, pass a physical exam, and have good moral character as determined by a background investigation. Certification as a law enforcement officer or correctional officer requires a high school diploma or equivalent (GED). Certification as a correctional probation officer requires a bachelor's degree.[2,3]

Autism Training

In 2017, s. 943.1727, F.S., was amended to include autism training for law enforcement officers. This training may be counted toward the 40 hours of instruction for continued employment or appointment as a law enforcement officer under s. 943.135, F.S.[4]

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[1] Florida Department of Law Enforcement, Criminal Justice Professionalism Division, *Overview of the Professionalism Division*, https://www.fdle.state.fl.us/CJSTC/Overview.aspx (last visited January 18, 2024).
[2] Office of Program Policy Analysis and Governmental Accountability, *Department of Law Enforcement Criminal Justice Professionalism Services*, https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=1065 (last visited January 18, 2024).
[3] Section 943.13, F.S.
[4] The commission shall, by rule, adopt a program that requires all officers, as a condition of continued employment or appointment as officers, to receive periodic commission-approved continuing training or education. Such continuing training or education shall be required at the rate of 40 hours every 4 years. No officer shall be denied a reasonable opportunity by the

Section 627.6686(2)(b), F.S., defines "Autism spectrum disorder" to mean any of the following disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association:

- Autistic disorder.
- Asperger's syndrome.
- Pervasive developmental disorder not otherwise specified.[5]

Currently, the Florida Law Enforcement Academy Basic Recruit Training Program (LEBRT or Basic Recruit) is set at 770 hours of instruction time. The Basic Recruit has a lesson in place on interacting with people with autism that addresses topics relating to the autism spectrum disorder. Training is included in an optional 4-hour Specialized Course, Autism Spectrum Disorder and Awareness. The LEBRT program also includes information on interviewing people with autism spectrum disorder and responding to missing persons incidents involving people with autism spectrum disorder.[6]

III. Effect of Proposed Changes:

The bill amends s. 943.1727, F.S., requiring a training component relating to individuals with autism spectrum disorder. The bill specifies that the training may count toward the 40 hours of instruction for continued employment or for appointment as a law enforcement officer, correctional officer, or correctional probation officer. This would apply to both the CJSTC's advanced/specialized programs and to the basic recruit training for those seeking to become certified law enforcement officers in Florida.

The bill also specifies that the training may include at least 4 hours of in-person instruction in the techniques and procedures including:

- The nature and manifestation of autism spectrum disorders;
- Appropriate techniques for interviewing or interrogating an individual with autism spectrum disorder, including techniques to ensure the legality of statements made by the individual and techniques used to protect the right of the individual;
- Techniques for locating an individual with autism spectrum disorder who runs away and is in danger and for returning that individual while causing as little stress as possible to the individual;
- Techniques for recognizing the agency of an individual with autism spectrum disorder while identifying potential abusive or coercive situations;
- Techniques for deescalating a potentially dangerous situation to maximize the safety of both the officer and the individual with autism spectrum disorder;
- Techniques for differentiating an individual with autism spectrum disorder from an individual who is belligerent, uncooperative, or otherwise displaying traits similar to the

employing agency to comply with this section. The employing agency must document that the continuing training or education is job-related and consistent with the needs of the employing agency. The employing agency must maintain and submit, or electronically transmit, the documentation to the commission, in a format approved by the commission. Section 943.135, F.S.

[5] Section 627.6686, F.S.

[6] 2024 FDLE Legislative Bill Analysis, January 6, 2024 (on file with the Senate Committee on Criminal Justice).

characteristics of an individual with autism spectrum disorder and understanding the law as it relates to the use of the Baker Act against an individual with autism spectrum disorder;
- Procedures to identify and address challenges related to the safety and wellbeing of individuals with autism spectrum disorder in a correctional facility; and
- The impact of interaction with officers on individuals with autism spectrum disorder.

The bill provides a definition for "agency" as the ability to make independent decisions and act in one's own best interests.

The bill provides a definition of "autism spectrum disorder" as found in s. 627.6686(2)(b), F.S.[7]

Increasing the overall number of hours for basic recruit training would require the CJSTC approval and approval by the Department of Education be completed and approved before the training would become effective.

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.

[7] Section 627.6686(2)(b), F.S., defines "autism spectrum disorder" as Autism spectrum disorder means any of the following disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association:
1. Autistic disorder.
2. Asperger's syndrome.
3. Pervasive developmental disorder not otherwise specified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The FDLE has advised that the added workload, 2 additional FTE, and technology costs would require $260,832 in expenditures.[8]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 943.1727 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 January 23, 2024:
The committee substitute:
- Adds language to include correctional officers or correctional probation officers in autism spectrum disorder training.

B. Amendments:

None.

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

[8] 2024 FDLE Legislative Bill Analysis, January 6, 2024 (on file with the Senate Committee on Criminal Justice).

892168

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2024	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete line 32

and insert:

continued employment or appointment as a law enforcement officer, correctional officer, or correctional probation officer

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

And the title is amended as follows:

Delete line 3

892168

and insert:
for law enforcement and correctional officers;
amending s. 943.1727,

By Senator Collins

14-01363-24 2024864__

A bill to be entitled

An act relating to autism spectrum disorder training for law enforcement officers; amending s. 943.1727, F.S.; providing definitions; providing requirements for training officers for interacting with individuals with autism spectrum disorder; requiring the Criminal Justice Standards and Training Commission to adopt rules requiring such training as part of continued employment training for officers; providing an effective date.

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

Section 1. Section 943.1727, Florida Statutes, is amended to read:

943.1727 ~~Continued~~ Employment training relating to autism spectrum disorder.—

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

(a) "Agency" means the ability to make independent decisions and act in one's own best interests.

(b) "Autism spectrum disorder" has the same meaning as in s. 627.6686(2).

(2) The commission ~~department~~ shall establish an ~~a continued~~ employment training component relating to individuals with autism spectrum disorder ~~as defined in s. 627.6686. The training component shall include, but need not be limited to, instruction on the recognition of the symptoms and characteristics of an individual on the autism disorder spectrum and appropriate responses to an individual exhibiting such~~

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

14-01363-24 2024864__

~~symptoms and characteristics~~. Completion of the training component may count toward the 40 hours of instruction for continued employment or appointment as a law enforcement officer required under s. 943.135.

(3) The employment training component for officers relating to interaction with individuals with autism spectrum disorder may include at least 4 hours of in-person instruction in the techniques and procedures described in this subsection:

(a) The nature and manifestation of autism spectrum disorders.

(b) Appropriate techniques for interviewing or interrogating an individual with autism spectrum disorder, including techniques to ensure the legality of statements made by the individual and techniques used to protect the rights of the individual.

(c) Techniques for locating an individual with autism spectrum disorder who runs away and is in danger and for returning that individual while causing as little stress as possible to the individual.

(d) Techniques for recognizing the agency of an individual with autism spectrum disorder while identifying potential abusive or coercive situations.

(e) Techniques for deescalating a potentially dangerous situation to maximize the safety of both the officer and the individual with autism spectrum disorder.

(f) Techniques for differentiating an individual with autism spectrum disorder from an individual who is belligerent, uncooperative, or otherwise displaying traits similar to the characteristics of an individual with autism spectrum disorder

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

and understanding the law as it relates to the use of the Baker Act against an individual with autism spectrum disorder.

(g) Procedures to identify and address challenges related to the safety and wellbeing of individuals with autism spectrum disorder in a correctional facility.

(h) The impact of interaction with officers on individuals with autism spectrum disorder.

(4) All recruits must receive the employment training component relating to individuals with autism spectrum disorder. Such training component may be taught as part of other relevant components of the training.

(5) The commission shall by rule require that each officer receive, as part of the required instruction for continued employment or appointment as an officer, instruction in the techniques and procedures described in subsection (3).

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

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

2024 FDLE LEGISLATIVE BILL ANALYSIS

BILL INFORMATION	
BILL NUMBER:	SB 864
BILL TITLE:	Autism Spectrum Disorder Training for Law Enforcement Officer
BILL SPONSOR:	Sen. Jay Collins
EFFECTIVE DATE:	July 1, 2024

COMMITTEES OF REFERENCE
1) Criminal Justice
2) Appropriations Committee on Criminal and Civil Justice
3) Fiscal Policy
4)
5)

CURRENT COMMITTEE
Criminal Justice

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

IDENTICAL BILLS	
BILL NUMBER:	HB 829
SPONSOR:	Rep. Paula Stark

PREVIOUS LEGISLATION	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	January 6, 2024
LEAD AGENCY ANALYST:	Chad Brown
ADDITIONAL ANALYST(S):	Ashley Pennington, Glen Hopkins, Brett Kirkland, Becky Bezemek
LEGAL ANALYST:	Jim Martin
FISCAL ANALYST:	Elizabeth Martin

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill outlines requirements and appropriate techniques, of at least 4 hours of in-person instruction, for training officers regarding individuals with autism spectrum disorder. It further requires the Criminal Justice Standards & Training Commission (CJSTC) to adopt rules requiring the training as part of continued employment or appointment as an officer. The bill takes effect July 1, 2024.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** Currently, there is an optional 4-hour Specialized Course, *Autism Spectrum Disorder and Awareness,* that covers many of the topics outlined in the bill. Likewise, the *Florida Law Enforcement Academy Basic Recruit Training Program* (LEBRT) has a lesson on interacting with people with autism that addresses some, but not all, of the topics. The LEBRT program also has information on interviewing people with autism and responding to missing persons incidents involving people with autism. A table listing each of the procedures and techniques listed in the bill and whether it is included in the current curricula is included under additional comments.

   Additionally, FDLE offers two online courses related to autism that can be taken as part of an officer's mandatory retraining. These are *Autism Awareness Telecommunicator and Autism Spectrum Disorders (ASD)* and *Interviews*. While these two courses can be counted toward the 40 hours of mandatory retraining, they were not developed by the CJSTC.

2. **EFFECT OF THE BILL:** The bill states the training may count toward the 40 hours of instruction for continued employment or for appointment as a law enforcement officer (LEO); therefore, this would apply to both the CJSTC's advanced/specialized programs and to the basic recruit training for those seeking to become certified LEOs in Florida.

   Current CJSTC training related to autism will need to be reviewed and updated to make the specified procedures and techniques required training as part of initial certification and/or continuing employment.

   LEBRT is currently set at 770 hours. Placing 4 additional hours of training related to autism spectrum disorder into the BRT curriculum would require removing 4 hours from another topic in order to maintain the curriculum at 770 hours. Increasing the overall number of hours for BRT would require CJSTC approval and a completely new framework with the Department of Education (DOE) be completed and approved before the training would become effective. The approval of a new framework process through DOE takes approximately one year. Therefore, without cutting 4 hours from another topic, this would require time for workshops and the approval process with both CJSTC and DOE. This likely would be a two-year process to increase the overall hours for BRT, meaning that it is impossible to meet the July 1, 2024 effective date. FDLE requests an effective date of July 1, 2026.

   Furthermore, if the intent is to require this training for all LEOs as part of mandatory retraining, programming to FDLE's Automated Training Management System will be needed to ensure compliance by each officer.

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:	
Expenditures:	Due to added workload and complexity of the research required, FDLE needs 2 FTE totaling $183,632 ($9,364 nonrecurring): • $161,446 in Salaries and Benefits; • $84 in HR Assessment; and • $22,102 in Expenses ($9,364 nonrecurring).

	Training and Development Costs - $32,200 (see Additional Comments below). Information technology costs - $45,000 (see Technology Impact for details) **Total FDLE Fiscal: $260,832**
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.	If this is determined to be mandatory for continuing education there will be minimal programming changes needed for the Automated Training Management System. The estimated time to complete the necessary programmatic changes is three months utilizing existing staff resources and cost $45,000.

FEDERAL IMPACT

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

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

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	OGC concurs with the analysis, especially the reference to needing clarification of the "may" count toward the 40 hours.

ADDITIONAL COMMENTS

Although referenced in subsection 4, the bill does not explicitly state if the employment training component is to be included in LEBRT. Existing statute (lines 30-33) states that "completion of the training component may count toward the 40 hours of instruction for continued employment or for appointment as a law enforcement officer" while proposed language in subsection 5 (lines 69-72) states that, "The commission shall by rule require that each officer receive, as part of the required instruction for continued employment or appointment as an officer, instruction in the procedures and techniques described in subsection (3)." Similarly, line 35 uses the term "may" when outlining the procedures and techniques to be covered in the training. It is not clear whether this bill will require that training include the procedures and techniques or if they will be optional. Clarification of the specific intent is needed.

Current curricula on autism compared to procedures and techniques listed in the bill.

Procedure or technique	Included in Specialized Course?	Included in LEBRT?
The nature and manifestation of autism spectrum disorders	Yes	Yes
Appropriate techniques for interviewing or interrogating an individual with autism spectrum disorder, including techniques to ensure the legality of statements made and techniques used to protect the rights of the individual.	Partially; missing techniques for ensuring legality of statements	Partially; missing techniques for ensuring legality of statements
Techniques for locating an individual with autism spectrum disorder who runs away and is in danger and returning the individual while causing as little stress as possible to the individual.	Needs review	Needs review
Techniques for recognizing the agency of an individual with autism spectrum disorder while identifying potential abusive or coercive situations.	Needs review	Needs review
Techniques for deescalating a potentially dangerous situation to maximize the safety of both the officer and the individual with autism spectrum disorder.	Yes	Yes
Techniques for differentiating an individual with autism spectrum disorder from an individual who is belligerent, uncooperative, or otherwise displaying traits similar to the characteristics of an individual with autism spectrum disorder and understanding the law as it relates to the use of the Baker Act against an individual with autism spectrum disorder.	Needs review	Needs review
Procedures to identify and address challenges related to the safety and wellbeing of individuals with autism spectrum disorder in a correctional facility*.	Needs review	Needs review
The impact of interaction with officers on individuals with autism spectrum disorder.	Yes	Yes
*The bill as written addressing training for law enforcement officers; this item seems to be intended for correctional officers.		

The Bureau of Training would need to conduct assessments of current curricula and hold development workshops to incorporate the training into the Specialized Course and the LEBRT program. To adequately develop both training for initial certification and for retraining purposes, the costs are outlined below.

For the Specialized Course:

	Hours	Cost
FTE 1 Education and Training Specialist (curriculum developer)		$91,816
Analysis Identify SMEs Research existing material SME Workshops—Instructional Analysis	 40 80 120	 $ 940 $ 1,880 $ 2,820
Design/Development Develop course content	 320	 $ 7,520
Review/Revisions	80	$ 2,000
Implementation Course edit	 40	 $ 940
Total cost		$ 90,112

For the LEBRT program:

	Hours	Cost
FTE 1 Education and Training Specialist (curriculum developer)		$91,816
Analysis Identify SMEs Research existing material SME Workshops—Instructional Analysis	 40 80 120	 $ 940 $ 1,880 $ 2,820
Design/Development Develop course content	 320	 $ 7,520
Review/Revisions	80	$ 2,000
Implementation Course edit	 40	 $ 940
Total cost		$ 90,112

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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11/23/24
Meeting Date

Criminal Justice
Committee

864
Bill Number or Topic

Amendment Barcode (if applicable)

Name Olivia Babis Keller

Phone 850-617-9718

Address 2493 Care Dr. # 200
Street

Email olivia@drflorida.org

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:
Disability Rights 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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/23/24
Meeting Date

Criminal Justice
Committee

SB 824
Bill Number or Topic

Amendment Barcode (if applicable)

Name Laurette Philipsen

Phone 727-484-0237

Address 7240 Westwind Drive
Street

Email advocatephilipsen@gmail.com

Port Richey FL 34668
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/23/24
Meeting Date

Criminal Justice
Committee

SB 864
Bill Number or Topic

Amendment Barcode (if applicable)

Name Maxine Evans

Phone 904-484-8082

Address 6135 Woodville Hwy Apt 5
Street

Email maxineevans@gmail.com

Tallahassee FL 32305
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/23/2024
Meeting Date

Criminal Justice
Committee

SB 864
Bill Number or Topic

Amendment Barcode (if applicable)

Name Mónica M. Carretero

Phone 787-486-9530

Address 1764 Prairie View Ln
Street

Email monica-carretero@hotmail.com

Oviedo FL 32765
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. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/23/2024
Meeting Date

Criminal Justice
Committee

513 8e4
Bill Number or Topic

Amendment Barcode (if applicable)

Name Dina Justice, The Arc of Florida Phone

Address 2898 Mahan Dr Ste 1 Email dina@arcflorida.org
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: The Arc of Florida

☐ 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

1/23/24
Meeting Date

Criminal Justice
Committee

SB 864
Bill Number or Topic

Amendment Barcode (if applicable)

Name Aurelie Colon

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Address 403 Washington Ave
Street

Email aurelie.colon@splcenter.org

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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Jan 23, 2024
Meeting Date

CJ
Committee

SB 864 - Autism
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ann Salamone

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Street

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Crainsville FL 32606
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1.23.24
Meeting Date

Criminal Justice
Committee

864
Bill Number or Topic

Amendment Barcode (if applicable)

Name Damaris Allen, Florida PTA

Phone 813 843 6210

Address 1747 Orlando Central Parkway
Street

Email

Orlando FL
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

January 23, 2024
Meeting Date

Criminal Justice
Committee

864
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

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Street

Email Barney@BarneyBishop.com

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 Smart Justice Alliance

☐ 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)

The Florida Senate

Committee Agenda Request

To: Senator Jonathan Martin, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: January 10, 2024

I respectfully request that **Senate Bill # 864**, relating to Autism Spectrum Disorder Training for Law Enforcement Officers, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Jay Collins
Florida Senate, District 14

File signed original with committee office

S-020 (03/2004)

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 1190
INTRODUCER:	Senator Ingoglia
SUBJECT:	Online Sting Operations Grant Program
DATE:	January 22, 2024
REVISED:	

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

I. Summary:

SB 1190 creates s. 943.0411, F.S., establishing the Online Sting Operations Grant Program within the Florida Department of Law Enforcement (FDLE). The purpose of the program is to award grants to law enforcement agencies to support their creation of sting operations to target individuals online who prey upon children or attempt to do so.

The FDLE will annually award to local law enforcement agencies funds specifically appropriated for the grant program to cover expenses related to computers, electronics, software, and other related necessary supplies.

The bill provides that grants must be provided to local law enforcement agencies if funds are appropriated for that purpose. The total amount of grants awarded may not exceed funding appropriated for the grant program.

The bill authorizes FDLE to establish criteria and set specific time periods for the acceptance of applications and for the selection process for awarding grant funds.

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

The bill becomes effective July 1, 2024.

II. Present Situation:

Local law enforcement agencies in Florida routinely conduct sting operations targeting online predators who may intend to commit crimes against children. In Leon County, the Capital City

Human Trafficking Taskforce has arrested 16 people since its formation in late 2023.[1] The taskforce's undercover operations targeted individuals engaging in Internet crimes against children, prostitution, and human trafficking.

On January 11, 2024, the Hillsborough County Sheriff's Office (HSCO) announced the arrest of 123 people over the course of three months, including online predators who thought they were communicating with children and young teens but were actually communicating with HCSO detectives.[2]

On October 10, 2023, the Polk County Sheriff's Office announced that its fourth undercover sting operation resulted in the arrest of six people alleged to have communicated online with persons they thought were children or guardians for the purpose of soliciting unlawful sexual activity with minors.[3]

Florida Crimes Against Children Criminal Profiling Program

Section 943.041, F.S., creates the Crimes Against Children Criminal Profiling Program (CACP) within the FDLE. The CACP provides investigative, training, and intelligence assistance to local law enforcement agencies while taking a proactive approach to investigating and preventing child sexual exploitation.[4,5]

Intelligence Assistance

The first step in this program is the identification of local, state, and federal law enforcement professionals working these cases. The networking and sharing of intelligence and investigative data enhances the existing communications network of the Florida Investigative Support Center (FISC) within FDLE. This database enables FDLE personnel to identify patterns and movements of specific criminal activities. In addition, it provides local law enforcement investigators with a statewide medium through which they share criminal information.

Investigative Assistance

Special Agents of the CACP have received extensive training in the area of crimes against children. Consequently, members of this program are qualified to investigate multi-jurisdictional

[1] Elena Barrera, Human trafficking taskforce arrests over a dozen individuals during undercover operation (January 11, 2024), Tallahassee Democrat, https://news.yahoo.com/human-trafficking-taskforce-arrests-over-020052310.html?guccounter=1 (last visited January 19, 2024).The taskforce includes members from the Department of Homeland Security, the United States Attorney's Office for the Northern District of Florida, the State Attorney's Office for the Second Judicial Circuit, the Leon County Sheriff's Office, FDLE, the Tallahassee Police Department, the Federal Bureau of Investigations, the Internal Revenue Service, and the United States Marshals Service.
[2] HCSO, Operation Renewed Hope, https://teamhcso.com/News/PressRelease/69dfc87b-5961-4432-b0a4-b123d01d11cf/en-US (last visited January 19, 2024).
[3] Polk County Sheriff's Office, Six suspects arrested during "Operation Child Protector IV" focusing on online solicitation of minors (Oct. 10, 2023) https://www.polksheriff.org/news-investigations/2023/10/10/six-suspects-arrested-during-operation-child-protector-iv-focusing-on-online-solicitation-of-minors (last visited on January 19, 2024).
[4] Section 943.041, F.S.
[5] Florida Department of Law Enforcement, *Crimes Against Children*, available at https://www.fdle.state.fl.us/mcicsearch/crimesagainstchildren.asp#:~:text=The%20Crimes%20Against%20Children%20Program,to%20local%20law%20enforcement%20agencies. (last visited January 19, 2024).

operations and organized crimes against children. In addition, investigative and technical assistance is provided to local law enforcement agencies.

The major concerns include:
- Serial Child Homicides.
- Pedophiles.
- Child Pornography.
- Child Sexual Abuse.

The CACP also has the ability to utilize the services of FDLE Special Agents who have been specifically trained in psychological profiling.[6]

Sting operations cover a wide variety of crimes and use different techniques depending on the operation's immediate or long-term purpose. It is difficult to define precisely what a sting operation is. However, with some exceptions, all sting operations contain four basic elements:
- An opportunity or enticement to commit a crime, either created or exploited by police.
- A targeted likely offender or group of offenders for a particular crime type.
- An undercover or hidden police officer or surrogate, or some form of deception.
- A "gotcha" climax when the operation ends with arrests.[7]

Sting operations targeting child predators online may frequently result in criminal charges for the offenses described below.

Certain Uses of Computer Services or Devices Prohibited

Under s. 847.0135(3), F.S., it is a third degree felony[8] for a person who knowingly uses a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to:
- Seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child or another person believed by the person to be a child, to commit any illegal act described in ch. 794 (sexual battery), ch. 800 (lewd or lascivious offenses), or ch. 827 (child sexual performance), F.S., or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child;[9] or
- Solicit, lure, or entice, or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed to be a parent, legal guardian, or custodian of a child to consent to the participation of such child in any act described in ch. 794, ch. 800, or ch. 827, F.S., or to otherwise engage in any sexual conduct.[10]

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[6] *Id*.
[7] Graeme R. Newman, *Sting Operations, Center for Problem-Oriented Policing*, 2007, https://portal.cops.usdoj.gov/resourcecenter/RIC/Publications/cops-p134-pub.pdf (last visited January 18, 2024).
[8] A third degree felony is punishable by up to five years imprisonment and a $5,000 fine pursuant to s. 775.082, s. 775.083, and s. 775.084, F.S.
[9] Section 847.0135(3)(a), F.S.
[10] Section 847.0135(3)(b), F.S.

Traveling to Meet a Minor

Any person who travels any distance either within this state, to this state, or from this state by any means, who attempts to do so, or who causes another to do so or to attempt to do so for the purpose of engaging in any illegal act described in ch. 794, ch. 800, or ch. 827, F.S., or to otherwise engage in other unlawful sexual conduct with a child or with another person believed by the person to be a child after using a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to:[11]

- Seduce, solicit, lure, or entice or attempt to seduce, solicit, lure, or entice a child or another person believed by the person to be a child, to engage in any illegal act described in ch. 794, ch. 800, or ch. 827, F.S., or to otherwise engage in other unlawful sexual conduct with a child;[12] or
- Solicit, lure, or entice or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed to be a parent, legal guardian, or custodian of a child to consent to the participation of such child in any act described in ch. 794, ch. 800, or ch. 827, F.S., or to otherwise engage in any sexual conduct, commits a felony of the second degree.[13,14]

III. Effect of Proposed Changes:

The bill creates s. 943.0411, F.S., establishing the Online Sting Operations Grant Program within the FDLE. The purpose of the program is to award grants to law enforcement agencies to support their creation of sting operations to target individuals online who prey upon children or attempt to do so.

The FDLE will annually award to local law enforcement agencies funds specifically appropriated for the grant program to cover expenses related to computers, electronics, software, and other related necessary supplies.

The bill provides that grants must be provided to local law enforcement agencies if funds are appropriated for that purpose. The total amount of grants awarded may not exceed funding appropriated for the grant program.

The bill authorizes FDLE to establish criteria and set specific time periods for the acceptance of applications and for the selection process for awarding grant funds.

The bill becomes effective July 1, 2024.

[11] Section 847.0135(4), F.S.
[12] Section 847.0135(4)(a), F.S.
[13] Section 847.0135(4)(b), F.S.
[14] A second degree felony is punishable by a term of imprisonment not exceeding 15 years pursuant to s. 775.082, s. 775.083, or s. 775.084, F.S.

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 have an indeterminate positive fiscal impact. The bill would ensure that local agencies would be able to conduct operations for online predators without budget restrictions for financially restricted agencies.[15]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[15] FDLE, *2024 Legislative Bill Analysis*, (January 8, 2023), at p. 3 (on file with the Senate Committee on Criminal Justice).

VIII. Statutes Affected:

This bill creates section 943.0411 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 Ingoglia

11-01285-24 20241190__

A bill to be entitled

An act relating to the Online Sting Operations Grant Program; creating s. 943.0411, F.S.; creating the Online Sting Operations Grant Program within the Department of Law Enforcement to support local law enforcement agencies in creating certain sting operations to protect children; requiring the department to annually award grant funds to local law enforcement agencies; 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 effective date.

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

Section 1. Section 943.0411, Florida Statutes, is created to read:

943.0411 Online Sting Operations Grant Program for local law enforcement agencies to protect children.—

(1) There is created within the department the Online Sting Operations Grant Program to award grants to local law enforcement agencies to support their creation of sting operations to target individuals online preying upon children or attempting to do so.

(2) The department shall annually award to local law enforcement agencies any funds specifically appropriated for the grant program to cover expenses related to computers, electronics, software, and other related necessary supplies.

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

11-01285-24 20241190__

Grants must be provided to local law enforcement agencies 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. This act shall take effect July 1, 2024.

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

2024 FDLE LEGISLATIVE BILL ANALYSIS

BILL INFORMATION	
BILL NUMBER:	SB1190
BILL TITLE:	Online Sting Operations Grant Program
BILL SPONSOR:	Senator Ingoglia
EFFECTIVE DATE:	July 1, 2024

COMMITTEES OF REFERENCE
1) Criminal Justice
2) Appropriations Committee on Criminal and Civil Justice
3) Fiscal Policy
4)
5)

CURRENT COMMITTEE
Criminal Justice

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

IDENTICAL BILLS	
BILL NUMBER:	HB1131
SPONSOR:	Representative Temple

PREVIOUS LEGISLATION	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	January 8, 2023
LEAD AGENCY ANALYST:	Lori Mizell
ADDITIONAL ANALYST(S):	Mike Duffey, Jeff Watson
LEGAL ANALYST:	Jim Martin, Phil Lindley
FISCAL ANALYST:	Elizabeth Martin

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Creates Online Sting Operations Grant Program within the Florida Department of Law Enforcement (FDLE) to support local law enforcement agencies in creating sting operations to protect children; requires FDLE to annually award grant funds; provides funding requirements.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** There is currently no Online Sting Operations Grant Program.

2. **EFFECT OF THE BILL:** The bill creates s. 943.0411, F.S., to establish the Online Sting Operations Grant Program within FDLE to support local law enforcement agencies in creating certain sting operations to protect children. The bill requires FDLE to annually award grant funds to local law enforcement agencies.

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:	Lines 34-36: Allows FDLE to establish criteria and set up specific time periods for the acceptance of applications and for the selection process for awarding grant fund.
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?	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?	The bill would ensure that local agencies would be able to conduct operations for online predators without budget restrictions for financially restricted agencies.

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

Revenues:	
Expenditures:	FDLE requests 1 FTE totaling $100,186 ($85,111 in Salaries and Benefits, $342 in HR Assessment, and $11,051 in Expenses (($4,682 non-recurring)) **Total Fiscal: $100,186**
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.	

FEDERAL IMPACT

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

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

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	

ADDITIONAL COMMENTS

- FDLE respectfully requests adding the following language to include covering the cost of the undercover or sting operations and agency overtime and other operational costs necessary to complete the operation:
    - Agencies shall conduct these operations in coordination with their respective Internet Crimes Against Children Task Force Commander and the FDLE Cyber Bureau.

- FDLE respectfully requests the addition of "operational investigative costs" and "related training" to Section 1, Subsection (2), Lines 28-29: "grant program to cover expenses related to computers, electronics, software, operational investigative costs, related training, and other necessary supplies."
    - The grant covering operational costs and training would greatly benefit agencies that do not currently have the budget to conduct the online sting operations. The grant could also benefit agencies who may need training for members to participate in online sting operations. Fiscally constrained agencies would be afforded training opportunities and participation in online sting operations.

The Florida Senate

APPEARANCE RECORD

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

January 23, 2024
Meeting Date

Criminal Justice
Committee

1190
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

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Address 1454 Vieux Carre Drive
Street

Email Barney@BarneyBishop.com

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 Smart Justice Alliance

☐ 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)

THE FLORIDA SENATE

Tallahassee, Florida. 32399-1100

COMMITTEES:
Finance and Tax, *Chair*
Appropriations
Banking and Insurance
Criminal Justice
Ethics and Elections

SELECT COMMITTEE:
Select Committee on Resiliency

JOINT COMMITTEE:
Joint Administrative Procedures Committee, *Alternating Chair*

Senator Blaise Ingoglia
11th District

January 9, 2024

The Honorable Jonathan Martin, Chair
Criminal Justice
315 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Re: SB 1190 Online Sting Operations Grant Programs

Chair Martin,

SB 1190 has been referred to the Criminal Justice as its first committee of reference. I respectfully request that it be placed on the 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,

Blaise Ingoglia
State Senator, District 11

Cc: Amanda Stokes, Staff Director, Sue Arnold, Committee Administration Assistant

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 1220
INTRODUCER:	Senator Martin
SUBJECT:	Schemes to Defraud
DATE:	January 22, 2024
REVISED:	

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

I. Summary:

SB 1220 amends s. 817.034, F.S., to reclassify the penalty for committing specified offenses of schemes to defraud against a person 65 years of age or older, or against a person with mental or physical disabilities.

- A first degree misdemeanor is reclassified to a third degree felony;
- A third degree felony is reclassified to a second degree felony;
- A second degree felony is reclassified to a first degree felony; and
- A first degree felony is reclassified to a life felony.

The bill adds "endorsements of nonconsenting parties" to the definition of "scheme to defraud."

The bill provides that a person whose image or likeness is used without his or her consent in a scheme to defraud may file a civil action in a court of competent jurisdiction to recover damages caused by the use of his or her image or likeness.

The bill may have an indeterminate impact on the Florida Department of Corrections due to increased prison admissions. See Section V. Fiscal Impact Statement.

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

II. Present Situation:

Section 817.034(3)(d), F.S., defines "scheme to defraud" as a systematic, ongoing course of conduct with intent to defraud one or more persons, or with intent to obtain property from one or more persons by false or fraudulent pretenses, representations, or promises or willful misrepresentations of a future act.[1]

[1] Section 817.034(3)(d), F.S.

Any person who engages in a scheme to defraud and obtains property thereby is guilty of organized fraud, punishable as follows:[2]

- Property obtained that has an aggregate value of $50,000 or more, the violator is guilty of a first degree felony.
- Property obtained that has an aggregate value of $20,000 or more, but less than $50,000, the violator is guilty of a second degree felony.[3]
- Property obtained that has an aggregate value of less than $20,000, the violator is guilty of a third degree felony.[4]

Any person who engages in a scheme to defraud and, in furtherance of that scheme, communicates with any person with intent to obtain property from that person is guilty, for each such act of communication, of communications fraud, punishable as follows:[5]

- If the value of property obtained or endeavored to be obtained by the communication is valued at $300 or more, the violator is guilty of a third degree felony.
- If the value of the property obtained or endeavored to be obtained by the communication is valued at less than $300, the violator is guilty of a first degree misdemeanor.[6]

Currently, there is no reclassification for scheme to defraud if the offense is against a person 65 years of age or older or against a person with a mental or physical disability.

Reclassification and Ranking

Florida currently has various statutes that reclassify criminal offenses under specified circumstances. Generally, criminal laws provide for reclassification to the next highest degree. Reclassifying an offense has the effect of increasing the maximum sentence that can be imposed for an offense. The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony:

- Sixty days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- Fifteen years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.[7]

[2] Section 817.034(4)(a), F.S.
[3] A second degree felony is punishable by up to 15 years imprisonment and a $10,000 fine. Sections 775.082 and 775.083, F.S.
[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] Section 817.034(4)(b), F.S.
[6] A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year. Sections 775.082 and 775.083, F.S.
[7] Section 775.082, F.S. Fines may also be imposed, and those fines escalate based on the degree of the offense. Section 775.083, F.S., provides the following maximum fines; $500 for a second degree misdemeanor; $1,000 for a first degree misdemeanor; $5,000 for a third degree felony; and $10,000 for a second degree felony and a first degree felony.

Criminal Punishment Code

The Florida Criminal Punishment Code is a set of guidelines that judges use to determine the appropriate sentence for a criminal offense in Florida.[8] The Criminal Punishment Code[9] is Florida's primary sentencing policy. If the offense is not listed in the chart, then by default the ranking is based on the felony degree of the offense as explained in s 921.0023, F.S.[10]

Section 921.0022(1) and (2), F.S., provides the offense severity ranking chart that must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998. The chart has 10 offense levels, ranked from least severe to most severe.

Section 921.0023, F.S., provides that until the Legislature specifically assigns an offense to a severity level in the offense severity ranking chart, the severity level is within the following parameters:

- A third degree felony is within offense level 1;
- A second degree felony is within offense level 4;
- A first degree felony is within offense level 7;
- A first degree punishable by life felony is within offense level 9; and
- A life felony is within offense level 10.

Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).[11] 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 non-state prison 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.[12] Absent mitigation,[13] 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.[14]

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[8] Florida Department of Corrections, *Florida Criminal Punishment Code Scoresheet Preparation Manual,* https://fdc.myflorida.com/pub/scoresheet/Scoresheet%20Preparation%20Manual%202021.pdf (Last visited January 17, 2024).

[9] 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.

[10] Section 921.0023.

[11] Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.

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

[13] 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.

[14] 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.

III. Effect of Proposed Changes:

The bill amends s. 817.034, F.S., to reclassify the penalty for committing specified offenses of schemes to defraud against a person 65 years of age or older, or against a person with mental or physical disabilities.

- A first degree misdemeanor[15] is reclassified to a third degree felony;[16]
- A third degree felony is reclassified to a second degree felony;[17]
- A second degree felony is reclassified to a first degree felony; and
- A first degree felony is reclassified to a life felony.

The bill adds "endorsements of nonconsenting parties" to the definition of "scheme to defraud."

The bill provides that a person whose image or likeness is used without his or her consent in a scheme to defraud may file a civil action in a court of competent jurisdiction to recover damages caused by the use of his or her image or likeness.

Technical changes have been made throughout the bill to streamline language, but do not change the meaning.

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

IV. 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.

[15] A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year. Sections 775.082 and 775.083, F.S

[16] A third degree felony is punishable by up to five years imprisonment and a $5,000 fine. Sections 775.082 and 775.083, F.S.

[17] A second degree felony is punishable by up to 15 years imprisonment and a $10,000 fine. Sections 775.082 and 775.083, F.S

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 review is pending.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 817.034 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

33-01197B-24 20241220__

A bill to be entitled

An act relating to schemes to defraud; amending s. 817.034, F.S.; revising the definition of the term "scheme to defraud"; providing for the reclassification of certain scheme-to-defraud offenses committed against persons 65 years of age or older or persons with certain disabilities; authorizing a person whose image or likeness is used without his or her consent in a scheme to defraud to file a civil action for damages; making technical changes; providing an effective date.

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

Section 1. Paragraph (d) of subsection (3) and subsection (4) of section 817.034, Florida Statutes, are amended to read:

817.034 Florida Communications Fraud Act.—

(3) DEFINITIONS.—As used in this section, the term:

(d) "Scheme to defraud" means a systematic, ongoing course of conduct with intent to defraud one or more persons, or with intent to obtain property from one or more persons by false or fraudulent pretenses, representations, endorsements of nonconsenting parties, or promises or willful misrepresentations of a future act.

(4) OFFENSES.—

(a) Any person who engages in a scheme to defraud and obtains property thereby commits ~~is guilty of~~ organized fraud, punishable as follows:

1. If the amount of property obtained has an aggregate

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

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value of $50,000 or more, the person commits ~~violator is guilty of~~ a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. If the amount of property obtained has an aggregate value of $20,000 or more, but less than $50,000, the person commits ~~violator is guilty of~~ a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. If the amount of property obtained has an aggregate value of less than $20,000, the person commits ~~violator is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who engages in a scheme to defraud and, in furtherance of that scheme, communicates with any person with the intent to obtain property from that person commits ~~is guilty~~, for each such act of communication, ~~of~~ communications fraud, punishable as follows:

1. If the value of property obtained or endeavored to be obtained by the communication is valued at $300 or more, the person commits ~~violator is guilty of~~ a third degree felony, punishable as set forth in s. 775.082, s. 775.083, or s. 775.084.

2. If the value of the property obtained or endeavored to be obtained by the communication is valued at less than $300, the person commits ~~violator is guilty of~~ a misdemeanor of the first degree, punishable as set forth in s. 775.082 or s. 775.083.

(c) The penalty for committing an offense specified in paragraph (a) or paragraph (b) against a person 65 years of age or older or against a person with a mental or physical

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

disability as defined in s. 775.0863 shall be reclassified as follows:

1. A misdemeanor of the first degree is reclassified to a felony of the third degree.

2. A felony of the third degree is reclassified to a felony of the second degree.

3. A felony of the second degree is reclassified to a felony of the first degree.

4. A felony of the first degree is reclassified to a life felony.

(d) A person whose image or likeness is used without his or her consent in a scheme to defraud may file a civil action in a court of competent jurisdiction to recover damages caused by the use of his or her image or likeness.

(e) Notwithstanding any contrary provisions of law, separate judgments and sentences for organized fraud under paragraph (a) and for each offense of communications fraud under paragraph (b) may be imposed when all such offenses involve the same scheme to defraud.

(f) ~~(d)~~ Notwithstanding any other ~~provision of~~ law, a criminal action or civil action or proceeding under this section may be commenced at any time within 5 years after the cause of action accrues; however, in a criminal proceeding under this section, the period of limitation does not run during any time when the defendant is continuously absent from this ~~the~~ state or is without a reasonably ascertainable place of abode or work within this ~~the~~ state, but in no case shall this extend the period of limitation otherwise applicable by more than 1 year.

Section 2. This act shall take effect October 1, 2024.

The Florida Senate

APPEARANCE RECORD

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

January 23, 2024
Meeting Date

Criminal Justice
Committee

1220
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 1454 Vieux Carre Drive
Street

Email Barney@BarneyBishop.com

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 Smart Justice Alliance

☐ 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)

1/23/24
Meeting Date

Criminal Justice
Committee

The Florida Senate

APPEARANCE RECORD

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

1220 - Schemes to Defraud
Bill Number or Topic

Amendment Barcode (if applicable)

Name Karen Murillo

Phone 850-567-0414

Address 215. S. Monroe St., Ste. 603
Street

Email kmurillo@aarp.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:
AARP Florida

☐ 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

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 1222
INTRODUCER:	Criminal Justice Committee and Senator Trumbull
SUBJECT:	Theft
DATE:	January 24, 2024
REVISED:	

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1222 amends s. 812.04, F.S., to specify the threshold value for third degree felony theft from a dwelling or unenclosed curtilage of a dwelling from $100 or more, but less than $750, to $40 or more, but less than $750. This crime retains a level 2 in the offense severity ranking chart.

The bill creates new crimes relating to taking property from a person's home or porch. Specifically, if the property is taken from a dwelling or from the unenclosed curtilage of a dwelling, it is a:

- Third degree felony, if the property stolen is valued at $750 or more. This crime is ranked as a level 4 in the offense severity ranking chart.
- Second degree felony, if the property stolen is taken from more than 20 dwellings or from the unenclosed curtilage of more than 20 dwellings, or any combination thereof. This crime is ranked as a level 5 in the offense severity ranking chart.
- First degree misdemeanor, if the property stolen is valued at less than $40.
  - A person who commits the above misdemeanor offense and who has previously been convicted of any theft commits a third degree felony. This crime is ranked as a level 2 in the offense severity ranking chart.
  - A person who commits the above misdemeanor offense and has previously been convicted two or more times of any theft commits a third degree felony. This crime is ranked as a level 4 in the offense severity ranking chart.

The bill amends s. 812.015, F.S., to provide that it is a third degree felony for a person to commit retail theft if the person acts in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, merchant's employee, or law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense. This crime is listed as a level 5 in the offense severity ranking chart.

Commission of the offense described above is a second degree felony if the person solicits the participation of another person in the offense through the use of a social media platform. This crime is listed as a level 6 in the offense severity ranking chart.

The bill provides it is a first degree felony, if a person commits retail theft under s. 812.015(8) or (9), F.S., and:

- Has two or more previous convictions of violations of either or both of those subsections; or
- Possesses a firearm during the commission of such offense. This crime is listed as a level 8 in the offense severity ranking chart.

Additionally, the bill amends the aggregation criteria for specified retail theft offenses. For retail theft offenses under ss. 812.015(8), 812.015(9), and 812.015(10), F.S., where a specified number of retail thefts, specified value of property stolen, or specified number of items stolen, is aggregated to determine the total number of retail thefts or value of property stolen, the bill increases the aggregation period from 30 days to 45 days.

The bill may have an indeterminate impact on prison admissions. See Section V. Fiscal Impact Statement.

The bill provides an effective date of October 1, 2024

II. Present Situation:

Retail merchants have experienced an increase in property theft referred to as "smash-and grab" theft. In this form of organized retail crime, a large group of offenders enter a retail store and steal thousands of dollars of products in minutes, typically overpowering the merchant's employees and preventing the merchant from stopping the theft. Law enforcement has reported such offenders utilizing social media to coordinate illegal group activity.

At the Nordstrom store in California, for example, thieves raided the store of over $100,000 of merchandise in one minute and left the scene in 25 separate cars.[1] In December 2023, a smash and grab burglary at the Sawgrass Mills Mall in Sunrise, led to panic when suspects used an unknown device to break display glass generating a loud noise.[2]

[1] The San Francisco Chronical Business Insider, Jessica Chastain, *Smash-and-Grab Robberies Organized on Social Media, Police Say*, available at, https://www.businessinsider.com/smash-and-grab-robberies-organized-on-social-media-police-2021-12 (last visited on January 20, 2024).
[2] 7 News, Miami, Brandon Beyer, Ruben Rosario and Robbin Simmons, *Police: Shattered glass during "smash and grab" at Sawgrass Mills Mall leads to panic*, available at, https://wsvn.com/news/local/broward/police-shattered-glass-during-smash-and-grab-at-sawgrass-mills-mall-leads-to-panic/ (Last visited January 20, 2024).

Porch Pirating is a theft crime that has also increased in recent years. "Porch pirate"[3] is a term that refers to a thief who takes packages left outside doors by couriers. As online shopping continues to be on the rise, so do incidences of porch piracy. Nearly eight in ten Americans have reported falling victim to such package theft in 2022, totaling an estimated 260 million packages worth $19.5 billion.[4]

Theft

Section 812.014, F.S., provides that a person commits a theft if he or she knowingly obtains or uses, or endeavors to obtain or to 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 use the property.[5]

Generally, a person commits a third degree felony[6] crime of grand theft if the property stolen is valued at $750 or more, but less than $20,000.[7] If the property stolen is $20,000 or more, but less than $100,000, the offender commits a second degree felony,[8] and if the property stolen is $100,000 or more, the offender commits a first degree felony.[9] Other items listed under this section such as the theft of a firearm, a motor vehicle, or a stop sign, may also constitute grand theft.[10]

Taking Property from a Dwelling or the Unenclosed Curtilage of a Dwelling

Section 812.014, F.S., defines theft offenses and categorizes the offense level based on the value of the property stolen and the offender's prior history of theft convictions, the circumstances under which the theft occurs, or the type of property stolen to determine the level of offense.

Specifically, s. 812.014(2)(d), F.S., prohibits a person from stealing property valued at $100 or more, but less than $750, when property is taken from a dwelling or the unenclosed curtilage of a dwelling. A violation of the prohibition is a third degree felony and ranked as a Level 2 offense on the offense severity ranking chart of the Criminal Punishment Code.

A dwelling is defined as a building or conveyance of any kind, including any attached porch, whether such building or conveyance is temporary or permanent, mobile or immobile, which has

[3] Dictionary.com definition of porch pirate.
[4] Forbes, Ana Durrani, *The Worst states for Porch Pirates 2024*, https://www.forbes.com/home-improvement/home-security/worst-states-for-porch-pirates/#:~:text=Nearly%20eight%20in%2010%20Americans%20have%20had%20packages,million%20packages%20estimated%20at%20%2419.5%20billion%20in%202022 (last visited January 20, 2024).
[5] Section 812.014(1), F.S.
[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.
[7] Section 812.014(2)(c)1.-3., F.S.
[8] Section 812.014(2)(b), F.S.
[9] Section 812.014(2)(a)1., F.S.
[10] Section 812.014(2)(c), F.S.

a roof over it and is designed to be occupied by people lodging therein at night, together with the curtilage thereof.[11]

Unenclosed curtilage of a dwelling is defined as 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.[12]

Retail Theft

Retail theft is the taking possession of or carrying away of merchandise, property, money, or negotiable documents; altering or removing a label, universal product code, or price tag; transferring merchandise from one container to another; or removing a shopping cart, with intent to deprive the merchant of possession, use, benefit, or full retail value.[13]

Under s. 812.015(8)(a)-(f), F.S., retail theft is a third degree felony, if a person:

- Individually, or in concert with one or more other persons, coordinates the activities of one or more individuals in committing the offense, which may occur through multiple acts of retail theft, in which the amount of each individual theft is aggregated within a 30-day period to determine the value of the property stolen and such value is $750 or more.
- Conspires with another person to commit retail theft with the intent to sell the stolen property for monetary or other gain, and subsequently takes or causes such property to be placed in the control of another person in exchange for consideration, in which the stolen property taken or placed within a 30-day period is aggregated to determine the value of the stolen property and such value is $750 or more.
- Acts in concert with one or more other individuals within one or more establishments to distract the merchant, merchant's employee, or law enforcement officer in order to carry out the offense, or acts in other ways to coordinate efforts to carry out the offense and such value is $750 or more.
- Commits the offense through the purchase of merchandise in a package or box that contains merchandise other than, or in addition to, the merchandise purposed to be contained in the package or box and such value is $750 or more.
- Individually, or in concert with 1 or more other persons, commits 5 or more retail thefts within a 30-day period and in committing such thefts obtains or uses 10 or more items of merchandise, and the number of items stolen during each theft is aggregated within the 30-day period to determine the total number of items stolen, regardless of the value of the merchandise, and two or more of the thefts occur at different physical locations.

Under s. 812.015(9)(a)-(c), F.S., retail theft is a second degree felony if a person:

- Commits a second or subsequent felony retail theft offense.
- Individually, or in concert with one or more other persons, coordinates the activities of one or more persons in committing the offense of retail theft, in which the amount of each individual theft within a 30-day period is aggregated to determine the value of the stolen property and such value is in excess of $3,000.

[11] Section s. 810.011(2), F.S.
[12] Section 810.09, F.S.
[13] Section 812.015(1)(d), F.S.

- Conspires with another person to commit retail theft with the intent to sell the stolen property for monetary or other gain, and subsequently takes or causes such property to be placed in control of another person in exchange for consideration, in which the stolen property taken or placed within a 30-day period is aggregated to have a value in excess of $3,000.

Under s. 812.015(9)(d), F.S., retail theft is a second degree felony, regardless of the value of property stolen, if a person individually, or in concert with one or more other persons, commits five or more retail thefts within a 30-day period and in committing such thefts obtains or uses 20 or more items of merchandise, and the number of items stolen during each theft is aggregated within the 30-day period to determine the total number of items stolen, regardless of the value of such merchandise, and two or more of the thefts occur at a different physical retail merchant location.

Criminal Punishment Code

The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony:
- Sixty days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- Fifteen years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.[14]

The Criminal Punishment Code[15] (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).[16] 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 non-state prison 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.[17] Absent mitigation,[18] 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.[19]

[14] Section 775.082, F.S. Fines may also be imposed, and those fines escalate based on the degree of the offense. Section 775.083, F.S., provides the following maximum fines; $500 for a second degree misdemeanor; $1,000 for a first degree misdemeanor; $5,000 for a third degree felony; and $10,000 for a second degree felony and a first degree felony.
[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] Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.
[17] Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.
[18] 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.
[19] 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.

Offense Severity Ranking Chart

Section 921.0022(1) and (2), F.S., provides the offense severity ranking chart that must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998. The chart has 10 offense levels, ranked from least severe to most severe.

Section 921.0023, F.S., provides that until the Legislature specifically assigns an offense to a severity level in the offense severity ranking chart, the severity level is within the following parameters:

- A third degree felony is within offense level 1;
- A second degree felony is within offense level 4;
- A first degree felony is within offense level 7;
- A first degree punishable by life felony is within offense level 9; and
- A life felony is within offense level 10.

III. Effect of Proposed Changes:

The bill amends s. 812.014(2), F.S., to specify the threshold value for third degree felony theft from a dwelling or unenclosed curtilage of a dwelling from $100 or more, but less than $750, to $40 or more, but less than $750.

Additionally, the bill creates new offenses relating to theft from a dwelling or unenclosed curtilage of a dwelling, including:

- A third degree felony,[20] ranked as a Level 4 offense, if the property stolen is valued at $750 or more.
- A second degree felony,[21] ranked as a Level 5 offense, if the property stolen is taken from more than 20 dwellings or from the unenclosed curtilage of more than 20 dwellings, or any combination thereof.
- Petit theft of the first degree and a first degree misdemeanor,[22] if the property stolen is valued at less than $40.
    - A person who commits the above misdemeanor offense and who has previously been convicted of any theft commits a third degree felony. This crime is ranked as a level 2 in the offense severity ranking chart.
    - A person who commits the above misdemeanor offense and has previously been convicted two or more times of any theft commits a third degree felony. This crime is ranked as a level 4 in the offense severity ranking chart.

Social media platform means any information service, system, Internet search engine, or access software provider that:

[20]. A third degree felony is punishable by up to five years imprisonment and a $5,000 fine. Sections 775.082 and 775.083, F.S.
[21] A second degree felony is punishable by up to 15 years imprisonment and a $10,000 fine. Sections 775.082 and 775.083, F.S.
[22] A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year. Sections 775.082 and 775.083, F.S

- Provides or enables computer access by multiple users to a computer server, including an Internet platform or a social media site;
- Operates as a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity;
- Does business in the state; and
- Satisfies at least one of the following thresholds:
  - Has annual gross revenues in excess of $100 million, as adjusted in January of each odd-numbered year to reflect any increase in the Consumer Price Index.
  - Has at least 100 million monthly individual platform participants globally.[23]

The bill amends s. 812.015, F.S., relating to retail theft, to:

- Prohibit a person from acting in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, merchant's employee, or law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense, punishable as a third degree felony. This crime is listed as a level 5 in the offense severity ranking chart.
- Prohibit a person from acting in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, merchant's employee, or law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense and, in the course of organizing or committing the offense, soliciting the participation of another person in the offense through the use of a social media platform, as defined in s. 501.2041(1), F.S., punishable as a second degree felony. This crime is listed as a level 6 in the offense severity ranking chart.

The bill provides it is a first degree felony, if a person commits retail theft under s. 812.015(8) or (9), F.S., and:

- Has two or more previous convictions of violations of either or both of those subsections; or
- Possesses a firearm during the commission of such offense. This crime is listed as a level 8 in the offense severity ranking chart.

Additionally, the bill amends the aggregation criteria for specified retail theft offenses. For retail theft offenses under ss. 812.015(8), 812.015(9), and 812.015(10), F.S., where a specified number of retail thefts, specified value of property stolen, or specified number of items stolen, is aggregated to determine the total number of retail thefts or value of property stolen, the bill increases the aggregation period from 30 days to 45 days.

The bill may have an indeterminate impact on prison admissions. See Section V. Fiscal Impact Statement.

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

[23] Section 501.2041(1)(g), F.S.

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 Legislature's Office of Economic and Demographic Research (EDR) preliminary review provided that there may be a positive indeterminate fiscal impact on the Florida Department of Corrections.[24]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[24] Office of Economic and Demographic Research *SB 1222 Preliminary Estimate*, (on file with the Senate Committee on Criminal Justice).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 812.014, 812.015, 921.0022, and 784.07.

IX. Additional Information:

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

CS by Criminal Justice on January 23, 2024:
The committee substitute makes the following technical changes by:

- Adding necessary statute citations.
- Correcting the Offense Severity Ranking Chart regarding the punishment for retail theft, s. 812.015(9)(b) F.S., to reflect the increase to a 45 day period.
- Reordering the new offense added in the Offense Severity Ranking Chart.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2024	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 294 - 756
and insert:
(11) A person commits a felony of the first degree punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if he or she violates subsection (8) or subsection (9) and:
(a) Has two or more previous convictions of violations of either or both of those subsections; or
(b) Possesses a firearm during the commission of such

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offense.

Section 3. Paragraphs (b), (d), (e), (f), (g), and (h) 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

(b) LEVEL 2

Florida Statute	Felony Degree	Description
379.2431 (1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413(6)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous

		waste.
517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.
590.28(1)	3rd	Intentional burning of lands.
784.03(3)	3rd	Battery during a riot or an aggravated riot.
784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
806.13(1)(b)3.	3rd	Criminal mischief; damage $1,000 or more to public communication or any other public service.

806.13(3)	3rd	Criminal mischief; damage of $200 or more to a memorial or historic property.
810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; $750 or more but less than $5,000.
812.014(2)(d)1. ~~812.014(2)(d)~~	3rd	Grand theft, 3rd degree; $40 ~~$100~~ or more but less than $750, taken from dwelling or its unenclosed curtilage ~~of dwelling~~.
812.014(2)(e)2.	3rd	Petit theft, 1st degree; less than $40 taken from dwelling or its unenclosed curtilage

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			with one prior theft conviction.
812.015(7)		3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
817.234(1)(a)2.		3rd	False statement in support of insurance claim.
817.481(3)(a)		3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over $300.
817.52(3)		3rd	Failure to redeliver hired vehicle.
817.54		3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
817.60(5)		3rd	Dealing in credit cards of another.

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817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
817.61	3rd	Fraudulent use of credit cards over $100 or more within 6 months.
826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
831.01	3rd	Forgery.
831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
831.09	3rd	Uttering forged notes,

			bills, checks, drafts, or promissory notes.
49			
	831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
50			
	832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
51			
	843.01(2)	3rd	Resist police canine or police horse with violence; under certain circumstances.
52			
	843.08	3rd	False personation.
53			
	843.19(3)	3rd	Touch or strike police, fire, SAR canine or police horse.
54			
	893.13(2)(a)2.	3rd	Purchase of any 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 other than cannabis.
893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.

(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 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

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		with intent to sell, contraband prescription drugs.
517.07(1)	3rd	Failure to register securities.
517.12(1)	3rd	Failure of dealer or associated person of a dealer of securities to register.
784.031	3rd	Battery by strangulation.
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.
784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
784.075	3rd	Battery on detention or commitment facility staff.
784.078	3rd	Battery of facility employee by throwing,

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		tossing, or expelling certain fluids or materials.
784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
784.081(3)	3rd	Battery on specified official or employee.
784.082(3)	3rd	Battery by detained person on visitor or other detainee.
784.083(3)	3rd	Battery on code inspector.
784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
787.04(2)	3rd	Take, entice, or remove

			child beyond state limits with criminal intent pending custody proceedings.
77			
	787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
78			
	787.07	3rd	Human smuggling.
79			
	790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
80			
	790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
81			
	790.115(2)(c)	3rd	Possessing firearm on school property.
82			
	794.051(1)	3rd	Indecent, lewd, or

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		lascivious touching of certain minors.
800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
806.135	2nd	Destroying or demolishing a memorial or historic property.
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 unoccupied conveyance; unarmed; no assault or battery.
810.06	3rd	Burglary; possession of tools.
810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.

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812.014(2)(c)3.	3rd	Grand theft, 3rd degree $10,000 or more but less than $20,000.
812.014 (2)(c)4. & 6.-10.	3rd	Grand theft, 3rd degree; specified items.
812.014(2)(d)2.	3rd	Grand theft, 3rd degree; $750 or more taken from dwelling or its unenclosed curtilage.
812.014(2)(e)3.	3rd	Petit theft, 1st degree; less than $40 taken from dwelling or its unenclosed curtilage with two or more prior theft convictions.
812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen $300 or more.
817.505(4)(a)	3rd	Patient brokering.
817.563(1)	3rd	Sell or deliver

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		substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
817.568(2)(a)	3rd	Fraudulent use of personal identification information.
817.5695(3)(c)	3rd	Exploitation of person 65 years of age or older, value less than $10,000.
817.625(2)(a)	3rd	Fraudulent use of scanning device, skimming device, or reencoder.
817.625(2)(c)	3rd	Possess, sell, or deliver skimming device.
828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.

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836.14(2)	3rd	Person who commits theft of a sexually explicit image with intent to promote it.
836.14(3)	3rd	Person who willfully possesses a sexually explicit image with certain knowledge, intent, and purpose.
837.02(1)	3rd	Perjury in official proceedings.
837.021(1)	3rd	Make contradictory statements in official proceedings.
838.022	3rd	Official misconduct.
839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
839.13(2)(c)	3rd	Falsifying records of the Department of Children and Families.

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843.021	3rd	Possession of a concealed handcuff key by a person in custody.
843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
843.19(2)	2nd	Injure, disable, or kill police, fire, or SAR canine or police horse.
847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
870.01(3)	2nd	Aggravated rioting.
870.01(5)	2nd	Aggravated inciting a riot.

874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)5. drugs).
914.14(2)	3rd	Witnesses accepting bribes.
914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
916.1085 (2)(c)1.	3rd	Introduction of specified contraband into certain DCF facilities.
918.12	3rd	Tampering with jurors.

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934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
944.47(1)(a)6.	3rd	Introduction of contraband (cellular telephone or other portable communication device) into correctional institution.
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.

(e) LEVEL 5

Florida Statute	Felony Degree	Description

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316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
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, 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.
379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
379.407(5)(b)3.	3rd	Possession of 100 or more undersized spiny lobsters.

381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
440.381(2)	3rd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected $20,000 or more but less than $100,000.

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626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
790.01(3)	3rd	Unlawful carrying of a concealed firearm.
790.162	2nd	Threat to throw or discharge destructive device.
790.163(1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.

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800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.014(2)(d)3.	2nd	Grand theft, 2nd degree; theft from 20 or more dwellings or their unenclosed curtilage, or any combination.
812.0145(2)(b)	2nd	Theft from person 65 years of age or older; $10,000 or more but less than $50,000.
812.015 (8)(a) & (c)-(e)	3rd	Retail theft; property stolen is valued at $750 or more and one or more specified acts.

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812.015(8)(f)	3rd	Retail theft; multiple thefts within specified period.
812.015(8)(g)	3rd	Retail theft; in concert with five or more other persons within one or more establishments.
812.019(1)	2nd	Stolen property; dealing in or trafficking in.
812.081(3)	2nd	Trafficking in trade secrets.
812.131(2)(b)	3rd	Robbery by sudden snatching.
812.16(2)	3rd	Owning, operating, or conducting a chop shop.
817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to $50,000.
817.234(11)(b)	2nd	Insurance fraud; property value $20,000 or more but less than $100,000.

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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.
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 more persons.
817.611(2)(a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards or related documents.
817.625(2)(b)	2nd	Second or subsequent fraudulent use of

			scanning device, skimming device, or reencoder.
167			
	825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
168			
	827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes child pornography.
169			
	827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes child pornography.
170			
	828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.

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836.14(4)	2nd	Person who willfully promotes for financial gain a sexually explicit image of an identifiable person without consent.
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.
843.01(1)	3rd	Resist officer with violence to person; resist arrest with violence.
847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
847.0138	3rd	Transmission of material

	(2) & (3)		harmful to minors to a minor by electronic device or equipment.
177			
	874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
178			
	874.05(2)(a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
179			
	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. drugs).
180			
	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.
181			
	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.
182			
	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited 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.
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.
893.13(4)(b)	2nd	Use or hire of minor; deliver to minor other controlled substance.
893.1351(1)	3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

(f) LEVEL 6

Florida Statute	Felony Degree	Description
316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.

316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
400.9935(4)(c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
499.0051(2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
499.0051(3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
499.0051(4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
775.0875(1)	3rd	Taking firearm from law enforcement officer.
784.021(1)(a)	3rd	Aggravated assault; deadly weapon without

		intent to kill.
784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
784.041	3rd	Felony battery; domestic battery by strangulation.
784.048(3)	3rd	Aggravated stalking; credible threat.
784.048(5)	3rd	Aggravated stalking of person under 16.
784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
784.081(2)	2nd	Aggravated assault on specified official or

		employee.
784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
784.083(2)	2nd	Aggravated assault on code inspector.
787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
790.164(1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use

		of firearms in violent manner.
790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
794.05(1)	2nd	Unlawful sexual activity with specified minor.
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.
800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
806.031(2)	2nd	Arson resulting in great bodily harm to

			firefighter or any other person.
218			
	810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
219			
	810.145(8)(b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
220			
	812.014(2)(b)1.	2nd	Property stolen $20,000 or more, but less than $100,000, grand theft in 2nd degree.
221			
	812.014(2)(c)5.	3rd	Grand theft; third degree; firearm.
222			
	812.014(6)	2nd	Theft; property stolen $3,000 or more; coordination of others.
223			
	812.015(9)(a)	2nd	Retail theft; property stolen $750 or more; second or subsequent conviction.
224			
	812.015(9)(b)	2nd	Retail theft; aggregated

			property stolen within 45 ~~30~~ days is $3,000 or more; coordination of others.
	812.015(9)(d)	2nd	Retail theft; multiple thefts within specified period.
	812.015(9)(e)	2nd	Retail theft; in concert with five or more other persons within one or more establishments and solicits participation.
	812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
	817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
	817.49(2)(b)2.	2nd	Willful making of a false report of a crime resulting in death.
	817.505(4)(b)	2nd	Patient brokering; 10 or

		more patients.
817.5695(3)(b)	2nd	Exploitation of person 65 years of age or older, value $10,000 or more, but less than $50,000.
825.102(1)	3rd	Abuse of an elderly person or disabled adult.
825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
825.103(3)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than $10,000.
827.03(2)(c)	3rd	Abuse of a child.
827.03(2)(d)	3rd	Neglect of a child.

827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
828.126(3)	3rd	Sexual activities involving animals.
836.05	2nd	Threats; extortion.
836.10	2nd	Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.
843.12	3rd	Aids or assists person to escape.
847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
847.012	3rd	Knowingly using a minor in the production of

			materials harmful to minors.
245			
	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
246			
	893.131	2nd	Distribution of controlled substances resulting in overdose or serious bodily injury.
247			
	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
248			
	918.13(2)(b)	2nd	Tampering with or fabricating physical evidence relating to a capital felony.
249			
	944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on

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		community supervision, resulting in great bodily harm.
944.40	2nd	Escapes.
944.46	3rd	Harboring, concealing, aiding escaped prisoners.
944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
951.22(1)(i)	3rd	Firearm or weapon introduced into county detention facility.

(g) LEVEL 7

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.

259			
	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
260			
	316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
261			
	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
262			
	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
263			
	409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; $10,000 or less.
264			
	409.920	2nd	Medicaid provider fraud;

(2)(b)1.b.		more than $10,000, but less than $50,000.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.
462.17	3rd	Practicing naturopathy without a license.

463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(7)	3rd	Practicing medical physics without a license.
484.013(1)(c)	3rd	Preparing or dispensing

		optical devices without a prescription.
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.
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.
560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.
655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less

			than $20,000 by financial institution.
286			
	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
287			
	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
288			
	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
289			
	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
290			
	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).

782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.

784.048(7)	3rd	Aggravated stalking; violation of court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
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.

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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.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass

			destruction.
311			
	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
312			
	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
313			
	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
314			
	796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
315			
	796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
316			
	800.04(5)(c)1.	2nd	Lewd or lascivious

			molestation; victim younger than 12 years of age; offender younger than 18 years of age.
317			
	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.
318			
	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 conviction for specified sex offense.
319			
	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
320			
	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
321			
	810.02(3)(b)	2nd	Burglary of unoccupied

		dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
812.014(2)(a)1.	1st	Property stolen, valued at $100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than $50,000, grand theft in 2nd degree.
812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
812.014(2)(b)4.	2nd	Property stolen, law

		enforcement equipment from authorized emergency vehicle.
812.014(2)(g) ~~812.014(2)(f)~~	2nd	Grand theft; second degree; firearm with previous conviction of s. 812.014(2)(c)5.
812.0145(2)(a)	1st	Theft from person 65 years of age or older; $50,000 or more.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
817.034(4)(a)1.	1st	Communications fraud, value greater than $50,000.

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817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
817.234(11)(c)	1st	Insurance fraud; property value $100,000 or more.
817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
817.418(2)(a)	3rd	Offering for sale or advertising personal protective equipment with intent to defraud.
817.504(1)(a)	3rd	Offering or advertising a vaccine with intent to

			defraud.
340			
	817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
341			
	817.611(2)(b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.
342			
	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
343			
	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.
344			
	827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
345			
	827.04(3)	3rd	Impregnation of a child under 16 years of age by

			person 21 years of age or older.
346			
	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
347			
	838.015	2nd	Bribery.
348			
	838.016	2nd	Unlawful compensation or reward for official behavior.
349			
	838.021(3)(a)	2nd	Unlawful harm to a public servant.
350			
	838.22	2nd	Bid tampering.
351			
	843.0855(2)	3rd	Impersonation of a public officer or employee.
352			
	843.0855(3)	3rd	Unlawful simulation of legal process.
353			
	843.0855(4)	3rd	Intimidation of a public officer or employee.
354			
	847.0135(3)	3rd	Solicitation of a child,

			via a computer service, to commit an unlawful sex act.
847.0135(4)		2nd	Traveling to meet a minor to commit an unlawful sex act.
872.06		2nd	Abuse of a dead human body.
874.05(2)(b)		1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
874.10		1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
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.
893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5., within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)	1st	Use or hire of minor; deliver to minor other controlled substance.
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.

893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(c)2.a.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
893.135 (1)(c)2.b.	1st	Trafficking in hydrocodone, 50 grams or more, less than 100 grams.
893.135 (1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
893.135 (1)(c)3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
893.135 (1)(c)4.b.(I)	1st	Trafficking in fentanyl, 4 grams or more, less than 14 grams.
893.135 (1)(d)1.a.	1st	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.

372	893.135(1)(e)1.	1st	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.
373	893.135(1)(f)1.	1st	Trafficking in amphetamine, 14 grams or more, less than 28 grams.
374	893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
375	893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
376	893.135 (1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
377	893.135 (1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
	893.135	1st	Trafficking in synthetic

	(1)(m)2.a.		cannabinoids, 280 grams or more, less than 500 grams.
378			
	893.135 (1)(m)2.b.	1st	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.
379			
	893.135 (1)(n)2.a.	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.
380			
	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
381			
	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.
382			
	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.

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

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944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or

		conceal a sexual offender.
985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

(h) LEVEL 8

Florida Statute	Felony Degree	Description
316.193 (3)(c)3.a.	2nd	DUI manslaughter.
316.1935(4)(b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
499.0051(6)	1st	Knowing trafficking in contraband prescription drugs.

499.0051(7)	1st	Knowing forgery of prescription labels or prescription drug labels.
560.123(8)(b)2.	2nd	Failure to report currency or payment instruments totaling or exceeding $20,000, but less than $100,000 by money transmitter.
560.125(5)(b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding $20,000, but less than $100,000.
655.50(10)(b)2.	2nd	Failure to report financial transactions totaling or exceeding $20,000, but less than $100,000 by financial institutions.
777.03(2)(a)	1st	Accessory after the fact, capital felony.

782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.
782.051(2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
782.071(1)(b)	1st	Committing vehicular homicide and failing to render aid or give information.
782.072(2)	1st	Committing vessel homicide and failing to render aid or give information.

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787.06(3)(a)1.	1st	Human trafficking for labor and services of a child.
787.06(3)(b)	1st	Human trafficking using coercion for commercial sexual activity of an adult.
787.06(3)(c)2.	1st	Human trafficking using coercion for labor and services of an unauthorized alien adult.
787.06(3)(e)1.	1st	Human trafficking for labor and services by the transfer or transport of a child from outside Florida to within the state.
787.06(3)(f)2.	1st	Human trafficking using coercion for commercial sexual activity by the transfer or transport of any adult from outside Florida to within the state.

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790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
794.011(5)(a)	1st	Sexual battery; victim 12 years of age or older but younger than 18 years; offender 18 years or older; offender does not use physical force likely to cause serious injury.
794.011(5)(b)	2nd	Sexual battery; victim and offender 18 years of age or older; offender does not use physical force likely to cause serious injury.
794.011(5)(c)	2nd	Sexual battery; victim 12 years of age or older; offender younger than 18 years; offender does not use physical force likely to cause injury.
794.011(5)(d)	1st	Sexual battery; victim 12 years of age or older;

			offender does not use physical force likely to cause serious injury; prior conviction for specified sex offense.
794.08(3)		2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
800.04(4)(b)		2nd	Lewd or lascivious battery.
800.04(4)(c)		1st	Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.
806.01(1)		1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
810.02(2)(a)		1st,PBL	Burglary with assault or battery.

810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or $1,000 or more property damage.
812.014(2)(a)2.	1st	Property stolen; cargo valued at $50,000 or more, grand theft in 1st degree.
812.015(11)(b)	1st	Retail theft; possession of a firearm during commission of offense.
812.13(2)(b)	1st	Robbery with a weapon.
812.135(2)(c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
817.418(2)(b)	2nd	Offering for sale or advertising personal protective equipment with

			intent to defraud; second or subsequent offense.
434			
	817.504(1)(b)	2nd	Offering or advertising a vaccine with intent to defraud; second or subsequent offense.
435			
	817.505(4)(c)	1st	Patient brokering; 20 or more patients.
436			
	817.535(2)(b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.
437			
	817.535(3)(a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.
438			
	817.535(4)(a)1.	2nd	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.
439			
	817.535(5)(a)	2nd	Filing false lien or

			other unauthorized document; owner of the property incurs financial loss as a result of the false instrument.
440			
	817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
441			
	817.611(2)(c)	1st	Traffic in or possess 50 or more counterfeit credit cards or related documents.
442			
	825.102(2)	1st	Aggravated abuse of an elderly person or disabled adult.
443			
	825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
444			
	825.103(3)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at $50,000 or more.

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837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
860.16	1st	Aircraft piracy.
893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).

893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135 (1)(c)2.c.	1st	Trafficking in hydrocodone, 100 grams or more, less than 300 grams.
893.135 (1)(c)3.c.	1st	Trafficking in oxycodone, 25 grams or more, less than 100 grams.
893.135	1st	Trafficking in fentanyl,

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(1)(c)4.b.(II)		14 grams or more, less than 28 grams.
893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, 200 grams or more, less than 400 grams.
893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, 5 kilograms or more, less than 25 kilograms.
893.135 (1)(f)1.b.	1st	Trafficking in amphetamine, 28 grams or more, less than 200 grams.
893.135 (1)(g)1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
893.135 (1)(h)1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.

464	893.135 (1)(j)1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
465	893.135 (1)(k)2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
466	893.135 (1)(m)2.c.	1st	Trafficking in synthetic cannabinoids, 1,000 grams or more, less than 30 kilograms.
467	893.135 (1)(n)2.b.	1st	Trafficking in n-benzyl phenethylamines, 100 grams or more, less than 200 grams.
468	893.1351(3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
	895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.

895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
896.101(5)(b)	2nd	Money laundering, financial transactions totaling or exceeding $20,000, but less than $100,000.
896.104(4)(a)2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding $20,000 but less than $100,000.

By Senator Trumbull

2-01220C-24 20241222__

A bill to be entitled

An act relating to theft; amending s. 812.014, F.S.; reducing the minimum threshold amount for grand theft of the third degree; creating the offense of grand theft of the third degree; providing criminal penalties; creating the offense of grand theft of the second degree; providing criminal penalties; creating the offense of petit theft of the first degree; providing criminal penalties; providing enhanced criminal penalties for committing petit theft of the first degree and having certain previous convictions; amending s. 812.015, F.S.; defining the term "social media platform"; revising specified timeframes, from 30-day periods to 45-day periods, during which there is a lookback period for the commission of specified retail theft offenses; providing criminal penalties for persons committing certain retail theft acts in concert with a certain number of other persons within one or more establishments for specified purposes; providing criminal penalties for persons who commit retail theft and have certain prior retail theft convictions; providing criminal penalties for persons who commit retail theft who possess a firearm during the commission of such offense; making technical changes; amending s. 921.0022, F.S.; ranking offenses on the offense severity ranking chart of the Criminal Punishment Code; conforming provisions to changes made by the act; conforming a cross-reference; amending s. 784.07, F.S.; conforming a cross-reference; making a

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

2-01220C-24 20241222__

correction; providing an effective date.

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

Section 1. Present paragraphs (e) and (f) of subsection (2) of section 812.014, Florida Statutes, are redesignated as paragraphs (f) and (g), respectively, a new paragraph (e) is added to that subsection, and paragraphs (c) and (d) of that subsection are amended, to read:

812.014 Theft.—

(2)

(c) 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:

1. Valued at $750 or more, but less than $5,000.

2. Valued at $5,000 or more, but less than $10,000.

3. Valued at $10,000 or more, but less than $20,000.

4. A will, codicil, or other testamentary instrument.

5. A firearm, except as provided in paragraph (g) ~~paragraph (f)~~.

6. A motor vehicle, except as provided in paragraph (a).

7. Any commercially farmed animal, including any animal of the equine, avian, bovine, or swine class or other grazing animal; a bee colony of a registered beekeeper; and aquaculture species raised at a certified aquaculture facility. If the property stolen is a commercially farmed animal, including an animal of the equine, avian, bovine, or swine class or other grazing animal; a bee colony of a registered beekeeper; or an aquaculture species raised at a certified aquaculture facility,

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a $10,000 fine shall be imposed.

8. Any fire extinguisher that, at the time of the taking, was installed in any building for the purpose of fire prevention and control. This subparagraph does not apply to a fire extinguisher taken from the inventory at a point-of-sale business.

9. Any amount of citrus fruit consisting of 2,000 or more individual pieces of fruit.

10. Taken from a designated construction site identified by the posting of a sign as provided for in s. 810.09(2)(d).

11. Any stop sign.

12. Anhydrous ammonia.

13. Any amount of a controlled substance as defined in s. 893.02. Notwithstanding any other law, separate judgments and sentences for theft of a controlled substance under this subparagraph and for any applicable possession of controlled substance offense under s. 893.13 or trafficking in controlled substance offense under s. 893.135 may be imposed when all such offenses involve the same amount or amounts of a controlled substance.

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 property is stolen after the declaration of emergency is made, and the perpetration of the theft is facilitated by conditions arising from the emergency, the offender commits a felony of the second

degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property is valued at $5,000 or more, but less than $10,000, as provided under subparagraph 2., or if the property is valued at $10,000 or more, but less than $20,000, as provided under subparagraph 3. As used in this paragraph, the terms "conditions arising from a riot" and "conditions arising from the emergency" have the same meanings as provided in paragraph (b). 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 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)1. 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 $40 ~~$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).

2. 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 $750 or more, 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).

3. 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 taken from more than 20 dwellings as defined in s. 810.011(2) or from the unenclosed curtilage of more than 20 dwellings pursuant to s. 810.09(1), or any combination thereof.

(e)1. It is petit theft of the first degree and a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if the property stolen is valued at less than $40 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).

2. A person who commits a violation of subparagraph 1. and has previously been convicted of any theft commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

3. A person who commits a violation of subparagraph 1. and has previously been convicted two or more times of any theft commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. Present subsection (11) of section 812.015, Florida Statutes, is redesignated as subsection (12), a new subsection (11) is added to that section, and subsections (1), (8), (9), and (10) of that section are amended, to read:

812.015 Retail and farm theft; transit fare evasion; mandatory fine; alternative punishment; detention and arrest; exemption from liability for false arrest; resisting arrest; penalties.—

(1) As used in this section:

(g) ~~(a)~~ "Merchandise" means any personal property, capable of manual delivery, displayed, held, or offered for retail sale

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by a merchant.

(h) ~~(b)~~ "Merchant" means an owner or operator, or the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises or apparatus used for retail purchase or sale of any merchandise.

(n) ~~(c)~~ "Value of merchandise" means the retail sale price of the merchandise at the time it was stolen or otherwise removed, depriving the owner of her or his lawful right to ownership and sale of said item.

(i) ~~(d)~~ "Retail theft" means the taking possession of or carrying away of merchandise, property, money, or negotiable documents; altering or removing a label, universal product code, or price tag; transferring merchandise from one container to another; or removing a shopping cart, with intent to deprive the merchant of possession, use, benefit, or full retail value.

(c) ~~(e)~~ "Farm produce" means livestock or any item grown, produced, or manufactured by a person owning, renting, or leasing land for the purpose of growing, producing, or manufacturing items for sale or personal use, either part time or full time.

(e) ~~(f)~~ "Farmer" means a person who is engaging in the growing or producing of farm produce, milk products, honey, eggs, or meat, either part time or full time, for personal consumption or for sale and who is the owner or lessee of the land or a person designated in writing by the owner or lessee to act as her or his agent. No person defined as a farm labor contractor pursuant to s. 450.28 shall be designated to act as an agent for purposes of this section.

(d) ~~(g)~~ "Farm theft" means the unlawful taking possession of

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any items that are grown or produced on land owned, rented, or leased by another person. The term includes the unlawful taking possession of equipment and associated materials used to grow or produce farm products as defined in s. 823.14(3)(e).

(a) ~~(h)~~ "Antishoplifting or inventory control device" means a mechanism or other device designed and operated for the purpose of detecting the removal from a mercantile establishment or similar enclosure, or from a protected area within such an enclosure, of specially marked or tagged merchandise. The term includes any electronic or digital imaging or any video recording or other film used for security purposes and the cash register tape or other record made of the register receipt.

(b) ~~(i)~~ "Antishoplifting or inventory control device countermeasure" means any item or device which is designed, manufactured, modified, or altered to defeat any antishoplifting or inventory control device.

(l) ~~(j)~~ "Transit fare evasion" means the unlawful refusal to pay the appropriate fare for transportation upon a mass transit vehicle, or to evade the payment of such fare, or to enter any mass transit vehicle or facility by any door, passageway, or gate, except as provided for the entry of fare-paying passengers, and shall constitute petit theft as proscribed by this chapter.

(f) ~~(k)~~ "Mass transit vehicle" means buses, rail cars, or fixed-guideway mover systems operated by, or under contract to, state agencies, political subdivisions of the state, or municipalities for the transportation of fare-paying passengers.

(k) ~~(l)~~ "Transit agency" means any state agency, political subdivision of the state, or municipality which operates mass

transit vehicles.

(m) "Trespass" means the violation as described in s. 810.08.

(j) "Social media platform" has the same meaning as in s. 501.2041(1).

(8) Except as provided in subsection (9) or subsection (11), a person who commits retail theft commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the person:

(a) Individually, or in concert with one or more other persons, coordinates the activities of one or more individuals in committing the offense, which may occur through multiple acts of retail theft, in which the amount of each individual theft is aggregated within a 45-day ~~30-day~~ period to determine the value of the property stolen and such value is $750 or more;

(b) Conspires with another person to commit retail theft with the intent to sell the stolen property for monetary or other gain, and subsequently takes or causes such property to be placed in the control of another person in exchange for consideration, in which the stolen property taken or placed within a 45-day ~~30-day~~ period is aggregated to determine the value of the stolen property and such value is $750 or more;

(c) Individually, or in concert with one or more other persons, commits theft from more than one location within a 45-day ~~30-day~~ period, in which the amount of each individual theft is aggregated to determine the value of the property stolen and such value is $750 or more;

(d) Acts in concert with one or more other individuals within one or more establishments to distract the merchant,

merchant's employee, or law enforcement officer in order to carry out the offense, or acts in other ways to coordinate efforts to carry out the offense and such value is $750 or more;

(e) Commits the offense through the purchase of merchandise in a package or box that contains merchandise other than, or in addition to, the merchandise purported to be contained in the package or box and such value is $750 or more; ~~or~~

(f) Individually, or in concert with one ~~1~~ or more other persons, commits five ~~5~~ or more retail thefts within a 45-day ~~30-day~~ period and in committing such thefts obtains or uses 10 or more items of merchandise, and the number of items stolen during each theft is aggregated within the 45-day ~~30-day~~ period to determine the total number of items stolen, regardless of the value of such merchandise, and two ~~2~~ or more of the thefts occur at different physical merchant locations; or

(g) Acts in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, a merchant's employee, or a law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense.

(9) Except as provided in subsection (11), a person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the person:

(a) Violates subsection (8) and has previously been convicted of a violation of subsection (8) or of this subsection;

(b) Individually, or in concert with one or more other persons, coordinates the activities of one or more persons in committing the offense of retail theft, in which the amount of

each individual theft within a 45-day ~~30-day~~ period is aggregated to determine the value of the stolen property and such value is in excess of $3,000;

(c) Conspires with another person to commit retail theft with the intent to sell the stolen property for monetary or other gain, and subsequently takes or causes such property to be placed in control of another person in exchange for consideration, in which the stolen property taken or placed within a 45-day ~~30-day~~ period is aggregated to have a value in excess of $3,000; ~~or~~

(d) Individually, or in concert with one ~~1~~ or more other persons, commits five ~~5~~ or more retail thefts within a 45-day ~~30-day~~ period and in committing such thefts obtains or uses 20 or more items of merchandise, and the number of items stolen during each theft is aggregated within the 45-day ~~30-day~~ period to determine the total number of items stolen, regardless of the value of such merchandise, and two ~~2~~ or more of the thefts occur at a different physical retail merchant location; or

(e) Acts in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, a merchant's employee, or a law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense and, in the course of organizing or committing the offense, solicits the participation of another person in the offense through the use of a social media platform.

(10) If a person commits retail theft in more than one judicial circuit within a 45-day ~~30-day~~ period, the value of the stolen property resulting from the thefts in each judicial

circuit may be aggregated, and the person must be prosecuted by the Office of the Statewide Prosecutor in accordance with s. 16.56.

(11) A person commits a felony of the first degree if he or she violates subsection (8) or subsection (9) and:

(a) Has two or more previous convictions of violations of either or both of those subsections; or

(b) Possesses a firearm during the commission of such offense.

Section 3. Paragraphs (b), (d), (e), (f), (g), and (h) 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

(b) LEVEL 2

Florida Statute	Felony Degree	Description
379.2431 (1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413(6)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.
590.28(1)	3rd	Intentional burning of lands.
784.03(3)	3rd	Battery during a riot or an aggravated riot.
784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state

		limits.
806.13(1)(b)3.	3rd	Criminal mischief; damage $1,000 or more to public communication or any other public service.
806.13(3)	3rd	Criminal mischief; damage of $200 or more to a memorial or historic property.
810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; $750 or more but less than $5,000.
812.014(2)(d)1. ~~812.014(2)(d)~~	3rd	Grand theft, 3rd degree; $40 ~~$100~~ or more but less than $750, taken

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		from dwelling or its unenclosed curtilage ~~of dwelling~~.
812.014(2)(e)2.	3rd	Petit theft, 1st degree; less than $40 taken from dwelling or its unenclosed curtilage with one prior theft conviction.
812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
817.234(1)(a)2.	3rd	False statement in support of insurance claim.
817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over $300.
817.52(3)	3rd	Failure to redeliver hired vehicle.

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817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
817.60(5)	3rd	Dealing in credit cards of another.
817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
817.61	3rd	Fraudulent use of credit cards over $100 or more within 6 months.
826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
831.01	3rd	Forgery.
831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
831.07	3rd	Forging bank bills,

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		checks, drafts, or promissory notes.
831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
843.01(2)	3rd	Resist police canine or police horse with violence; under certain circumstances.
843.08	3rd	False personation.
843.19(3)	3rd	Touch or strike police, fire, SAR canine or

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police horse.

893.13(2)(a)2.	3rd	Purchase of any 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 other than cannabis.
893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.

(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 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 or associated person of a dealer of securities to register.
784.031	3rd	Battery by strangulation.
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.
784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.

784.075	3rd	Battery on detention or commitment facility staff.
784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
784.081(3)	3rd	Battery on specified official or employee.
784.082(3)	3rd	Battery by detained person on visitor or other detainee.
784.083(3)	3rd	Battery on code inspector.
784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.

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787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
787.07	3rd	Human smuggling.
790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or

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		other weapon on school property.
790.115(2)(c)	3rd	Possessing firearm on school property.
794.051(1)	3rd	Indecent, lewd, or lascivious touching of certain minors.
800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
806.135	2nd	Destroying or demolishing a memorial or historic property.
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 unoccupied conveyance; unarmed; no assault or battery.

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810.06	3rd	Burglary; possession of tools.
810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
812.014(2)(c)3.	3rd	Grand theft, 3rd degree $10,000 or more but less than $20,000.
812.014 (2)(c)4. & 6.-10.	3rd	Grand theft, 3rd degree; specified items.
812.014(2)(d)2.	3rd	Grand theft, 3rd degree; $750 or more taken from dwelling or its unenclosed curtilage.
812.014(2)(e)3.	3rd	Petit theft, 1st degree; less than $40 taken from dwelling or its unenclosed curtilage with two or more prior theft convictions.
812.0195(2)	3rd	Dealing in stolen

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		property by use of the Internet; property stolen $300 or more.
817.505(4)(a)	3rd	Patient brokering.
817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
817.568(2)(a)	3rd	Fraudulent use of personal identification information.
817.5695(3)(c)	3rd	Exploitation of person 65 years of age or older, value less than $10,000.
817.625(2)(a)	3rd	Fraudulent use of scanning device, skimming device, or reencoder.
817.625(2)(c)	3rd	Possess, sell, or deliver skimming device.

828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
836.14(2)	3rd	Person who commits theft of a sexually explicit image with intent to promote it.
836.14(3)	3rd	Person who willfully possesses a sexually explicit image with certain knowledge, intent, and purpose.
837.02(1)	3rd	Perjury in official proceedings.
837.021(1)	3rd	Make contradictory statements in official proceedings.
838.022	3rd	Official misconduct.
839.13(2)(a)	3rd	Falsifying records of an individual in the care

		and custody of a state agency.
839.13(2)(c)	3rd	Falsifying records of the Department of Children and Families.
843.021	3rd	Possession of a concealed handcuff key by a person in custody.
843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
843.19(2)	2nd	Injure, disable, or kill police, fire, or SAR canine or police horse.
847.0135(5)(c)	3rd	Lewd or lascivious exhibition using

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		computer; offender less than 18 years.
870.01(3)	2nd	Aggravated rioting.
870.01(5)	2nd	Aggravated inciting a riot.
874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)5. drugs).
914.14(2)	3rd	Witnesses accepting bribes.
914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.

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916.1085 (2)(c)1.	3rd	Introduction of specified contraband into certain DCF facilities.
918.12	3rd	Tampering with jurors.
934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
944.47(1)(a)6.	3rd	Introduction of contraband (cellular telephone or other portable communication device) into correctional institution.
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.

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(e) LEVEL 5

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.

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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, 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.
379.367(4)	3rd	Willful molestation of a commercial harvester's

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		spiny lobster trap, line, or buoy.
379.407(5)(b)3.	3rd	Possession of 100 or more undersized spiny lobsters.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
440.381(2)	3rd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
624.401(4)(b)2.	2nd	Transacting insurance

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		without a certificate or authority; premium collected $20,000 or more but less than $100,000.
626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
790.01(3)	3rd	Unlawful carrying of a concealed firearm.
790.162	2nd	Threat to throw or discharge destructive device.
790.163(1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of firearms, ammunition, or

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		electronic weapons or devices.
796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.014(2)(d)3.	2nd	Grand theft, 2nd degree; theft from 20 or more dwellings or their unenclosed curtilage, or any combination.
812.0145(2)(b)	2nd	Theft from person 65 years of age or older; $10,000 or more but less than $50,000.

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812.015 (8)(a) & (c)-(e)	3rd	Retail theft; property stolen is valued at $750 or more and one or more specified acts.
812.015(8)(f)	3rd	Retail theft; multiple thefts within specified period.
812.015(8)(g)	3rd	Retail theft; in concert with five or more other persons within one or more establishments.
812.019(1)	2nd	Stolen property; dealing in or trafficking in.
812.081(3)	2nd	Trafficking in trade secrets.
812.131(2)(b)	3rd	Robbery by sudden snatching.
812.16(2)	3rd	Owning, operating, or conducting a chop shop.
817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to

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		$50,000.
817.234(11)(b)	2nd	Insurance fraud; property value $20,000 or more but less than $100,000.
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.
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 more persons.
817.611(2)(a)	2nd	Traffic in or possess 5

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		to 14 counterfeit credit cards or related documents.
817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.
825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes child pornography.
827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes child pornography.

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828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
836.14(4)	2nd	Person who willfully promotes for financial gain a sexually explicit image of an identifiable person without consent.
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.
843.01(1)	3rd	Resist officer with violence to person; resist arrest with violence.
847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.

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847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
874.05(2)(a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
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. drugs).
893.13(1)(c)2.	2nd	Sell, manufacture, or

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		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.
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.
893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6.,

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			(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.
469			
	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.
470			
	893.13(4)(b)	2nd	Use or hire of minor; deliver to minor other controlled substance.
471			
	893.1351(1)	3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.
472			
473	(f) LEVEL 6		
474			

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	Florida Statute	Felony Degree	Description
475			
	316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
476			
	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
477			
	400.9935(4)(c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
478			
	499.0051(2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
479			
	499.0051(3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
480			
	499.0051(4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.

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775.0875(1)	3rd	Taking firearm from law enforcement officer.
784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
784.041	3rd	Felony battery; domestic battery by strangulation.
784.048(3)	3rd	Aggravated stalking; credible threat.
784.048(5)	3rd	Aggravated stalking of person under 16.
784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.

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784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
784.081(2)	2nd	Aggravated assault on specified official or employee.
784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
784.083(2)	2nd	Aggravated assault on code inspector.
787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.

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790.164(1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.
790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
794.05(1)	2nd	Unlawful sexual activity with specified minor.
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.

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800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
810.145(8)(b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
812.014(2)(b)1.	2nd	Property stolen $20,000 or more, but less than $100,000, grand theft in 2nd degree.
812.014(2)(c)5.	3rd	Grand theft; third degree; firearm.
812.014(6)	2nd	Theft; property stolen $3,000 or more; coordination of others.

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812.015(9)(a)	2nd	Retail theft; property stolen $750 or more; second or subsequent conviction.
812.015(9)(b)	2nd	Retail theft; aggregated property stolen within 30 days is $3,000 or more; coordination of others.
812.015(9)(d)	2nd	Retail theft; multiple thefts within specified period.
812.015(9)(e)	2nd	Retail theft; in concert with five or more other persons within one or more establishments and solicits participation.
812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.

817.49(2)(b)2.	2nd	Willful making of a false report of a crime resulting in death.
817.505(4)(b)	2nd	Patient brokering; 10 or more patients.
817.5695(3)(b)	2nd	Exploitation of person 65 years of age or older, value $10,000 or more, but less than $50,000.
825.102(1)	3rd	Abuse of an elderly person or disabled adult.
825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
825.103(3)(c)	3rd	Exploiting an elderly person or disabled adult

		and property is valued at less than $10,000.
827.03(2)(c)	3rd	Abuse of a child.
827.03(2)(d)	3rd	Neglect of a child.
827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
828.126(3)	3rd	Sexual activities involving animals.
836.05	2nd	Threats; extortion.
836.10	2nd	Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.
843.12	3rd	Aids or assists person to escape.
847.011	3rd	Distributing, offering to distribute, or possessing with intent

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		to distribute obscene materials depicting minors.
847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
893.131	2nd	Distribution of controlled substances resulting in overdose or serious bodily injury.
914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
918.13(2)(b)	2nd	Tampering with or fabricating physical evidence relating to a capital felony.

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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.
944.40	2nd	Escapes.
944.46	3rd	Harboring, concealing, aiding escaped prisoners.
944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
951.22(1)(i)	3rd	Firearm or weapon introduced into county detention facility.

(g) LEVEL 7

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent

		disability, or death.
409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; $10,000 or less.
409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than $10,000, but less than $50,000.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.

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461.012(1)	3rd	Practicing podiatric medicine without a license.
462.17	3rd	Practicing naturopathy without a license.
463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel

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		without a license.
483.901(7)	3rd	Practicing medical physics without a license.
484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
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.
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.
560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment

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		instruments exceeding $300 but less than $20,000.
655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less than $20,000 by financial institution.
775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an

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		attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim

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		pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.048(7)	3rd	Aggravated stalking; violation of court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
784.083(1)	1st	Aggravated battery on code

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		inspector.
787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
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.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing

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		or attempting to commit a felony.
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.

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796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
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.
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 conviction for specified sex offense.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.

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810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
812.014(2)(a)1.	1st	Property stolen, valued at $100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than $50,000, grand theft in 2nd degree.

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812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
812.014(2)(g) ~~812.014(2)(f)~~	2nd	Grand theft; second degree; firearm with previous conviction of s. 812.014(2)(c)5.
812.0145(2)(a)	1st	Theft from person 65 years of age or older; $50,000 or more.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
817.034(4)(a)1.	1st	Communications fraud, value greater than $50,000.
817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
817.234(11)(c)	1st	Insurance fraud; property value $100,000 or more.
817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
817.418(2)(a)	3rd	Offering for sale or

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		advertising personal protective equipment with intent to defraud.
817.504(1)(a)	3rd	Offering or advertising a vaccine with intent to defraud.
817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
817.611(2)(b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
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.
827.03(2)(b)	2nd	Neglect of a child causing

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		great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
838.015	2nd	Bribery.
838.016	2nd	Unlawful compensation or reward for official behavior.
838.021(3)(a)	2nd	Unlawful harm to a public servant.
838.22	2nd	Bid tampering.
843.0855(2)	3rd	Impersonation of a public officer or employee.
843.0855(3)	3rd	Unlawful simulation of

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		legal process.
843.0855(4)	3rd	Intimidation of a public officer or employee.
847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
872.06	2nd	Abuse of a dead human body.
874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.

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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.
893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5., within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)	1st	Use or hire of minor; deliver to minor other controlled substance.
893.135(1)(a)1.	1st	Trafficking in cannabis,

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		more than 25 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(c)2.a.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
893.135 (1)(c)2.b.	1st	Trafficking in hydrocodone, 50 grams or more, less than 100 grams.
893.135 (1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
893.135 (1)(c)3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
893.135 (1)(c)4.b.(I)	1st	Trafficking in fentanyl, 4 grams or more, less than

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		14 grams.
893.135 (1)(d)1.a.	1st	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, 14 grams or more, less than 28 grams.
893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135 (1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.

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893.135 (1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
893.135 (1)(m)2.a.	1st	Trafficking in synthetic cannabinoids, 280 grams or more, less than 500 grams.
893.135 (1)(m)2.b.	1st	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.
893.135 (1)(n)2.a.	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.
893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.

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896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.
943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
943.0435(14)	3rd	Sexual offender; failure

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		to report and reregister; failure to respond to address verification; providing false registration information.
944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
985.4815(10)	3rd	Sexual offender; failure to submit to the taking of

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		a digitized photograph.
985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

(h) LEVEL 8

Florida Statute	Felony Degree	Description
316.193 (3)(c)3.a.	2nd	DUI manslaughter.
316.1935(4)(b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
327.35(3)(c)3.	2nd	Vessel BUI manslaughter.

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499.0051(6)	1st	Knowing trafficking in contraband prescription drugs.
499.0051(7)	1st	Knowing forgery of prescription labels or prescription drug labels.
560.123(8)(b)2.	2nd	Failure to report currency or payment instruments totaling or exceeding $20,000, but less than $100,000 by money transmitter.
560.125(5)(b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding $20,000, but less than $100,000.
655.50(10)(b)2.	2nd	Failure to report financial transactions totaling or exceeding $20,000, but less than $100,000 by financial

		institutions.
777.03(2)(a)	1st	Accessory after the fact, capital felony.
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.
782.051(2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
782.071(1)(b)	1st	Committing vehicular homicide and failing to render aid or give information.

782.072(2)	1st	Committing vessel homicide and failing to render aid or give information.
787.06(3)(a)1.	1st	Human trafficking for labor and services of a child.
787.06(3)(b)	1st	Human trafficking using coercion for commercial sexual activity of an adult.
787.06(3)(c)2.	1st	Human trafficking using coercion for labor and services of an unauthorized alien adult.
787.06(3)(e)1.	1st	Human trafficking for labor and services by the transfer or transport of a child from outside Florida to within the state.
787.06(3)(f)2.	1st	Human trafficking using coercion for commercial sexual activity by the

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		transfer or transport of any adult from outside Florida to within the state.
790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
794.011(5)(a)	1st	Sexual battery; victim 12 years of age or older but younger than 18 years; offender 18 years or older; offender does not use physical force likely to cause serious injury.
794.011(5)(b)	2nd	Sexual battery; victim and offender 18 years of age or older; offender does not use physical force likely to cause serious injury.
794.011(5)(c)	2nd	Sexual battery; victim 12 years of age or older; offender younger than 18 years; offender does not

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		use physical force likely to cause injury.
794.011(5)(d)	1st	Sexual battery; victim 12 years of age or older; offender does not use physical force likely to cause serious injury; prior conviction for specified sex offense.
794.08(3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
800.04(4)(b)	2nd	Lewd or lascivious battery.
800.04(4)(c)	1st	Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.
806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive,

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		believing person in structure.
810.02(2)(a)	1st,PBL	Burglary with assault or battery.
810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or $1,000 or more property damage.
812.014(2)(a)2.	1st	Property stolen; cargo valued at $50,000 or more, grand theft in 1st degree.
812.13(2)(b)	1st	Robbery with a weapon.
812.135(2)(c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
812.015(11)(b)	1st	Retail theft; possession of a firearm during

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		commission of offense.
817.418(2)(b)	2nd	Offering for sale or advertising personal protective equipment with intent to defraud; second or subsequent offense.
817.504(1)(b)	2nd	Offering or advertising a vaccine with intent to defraud; second or subsequent offense.
817.505(4)(c)	1st	Patient brokering; 20 or more patients.
817.535(2)(b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.
817.535(3)(a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.
817.535(4)(a)1.	2nd	Filing false lien or other unauthorized

		document; defendant is incarcerated or under supervision.
817.535(5)(a)	2nd	Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the false instrument.
817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
817.611(2)(c)	1st	Traffic in or possess 50 or more counterfeit credit cards or related documents.
825.102(2)	1st	Aggravated abuse of an elderly person or disabled adult.
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.

825.103(3)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at $50,000 or more.
837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
860.16	1st	Aircraft piracy.
893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).

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893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135 (1)(c)2.c.	1st	Trafficking in hydrocodone, 100 grams or more, less than 300 grams.

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893.135 (1)(c)3.c.	1st	Trafficking in oxycodone, 25 grams or more, less than 100 grams.
893.135 (1)(c)4.b.(II)	1st	Trafficking in fentanyl, 14 grams or more, less than 28 grams.
893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, 200 grams or more, less than 400 grams.
893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, 5 kilograms or more, less than 25 kilograms.
893.135 (1)(f)1.b.	1st	Trafficking in amphetamine, 28 grams or more, less than 200 grams.
893.135 (1)(g)1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
893.135	1st	Trafficking in gamma-

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(1)(h)1.b.		hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
893.135 (1)(j)1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
893.135 (1)(k)2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
893.135 (1)(m)2.c.	1st	Trafficking in synthetic cannabinoids, 1,000 grams or more, less than 30 kilograms.
893.135 (1)(n)2.b.	1st	Trafficking in n-benzyl phenethylamines, 100 grams or more, less than 200 grams.
893.1351(3)	1st	Possession of a place used to manufacture controlled substance when minor is present or

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		resides there.
895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
896.101(5)(b)	2nd	Money laundering, financial transactions totaling or exceeding $20,000, but less than $100,000.
896.104(4)(a)2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or

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

Section 4. Paragraph (f) of subsection (1) of section 784.07, Florida Statutes, is amended to read:

784.07 Assault or battery of law enforcement officers and other specified personnel; reclassification of offenses; minimum sentences.—

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

(f) "Public transit employees or agents" means bus operators, train operators, revenue collectors, security personnel, equipment maintenance personnel, or field supervisors, who are employees or agents of a transit agency as defined ~~described~~ in s. 812.015(1) ~~s. 812.015(1)(1)~~.

Section 5. This act shall take effect October 1, 2024.

SB 1222 – Theft

This bill amends multiple statutes, beginning with s. 812.014, F.S. First, it decreases the monetary threshold for taking property from a dwelling or the unenclosed curtilage of a dwelling from $100 or more, but less than $750 to $40 or more, but less than $750. It then adds a **Level 4, 3rd degree felony** for when the value of the property stolen from a dwelling or the unenclosed curtilage of a dwelling is $750 or more. Furthermore, it adds a **Level 5, 2nd degree felony** for when "the property stolen is taken from more than 20 dwellings…or from the unenclosed curtilage of more than 20 dwellings…or any combination thereof." It also adds a **1st degree misdemeanor** for petit theft when the property stolen is valued at less than $40 and is taken from a dwelling…or from the unenclosed curtilage of a dwelling" and a **Level 2, 3rd degree felony** when this act occurs and a person "has previously been convicted of any theft." This then becomes a **Level 4, 3rd degree felony** when "a person…has previously been convicted two or more times of any theft."

This bill also amends s. 812.015(8), F.S. and s. 812.015(9), F.S., increasing the period for aggregating the value of retail theft or numbers of retail thefts/items/locations from acts committed over a 30-day period to acts committed over a 45-day period. This impacts the Level 5, 3rd degree felonies under s. 812.015(8), F.S. and the Level 6, 2nd degree felonies under s. 812.015(9), F.S., as well as the Level 1, 3rd degree felony under s. 812.015(8), F.S. and Level 4, 2nd degree felony under s. 812.015(9), F.S. for conspiring to commit such acts. For s. 812 .015(8), F.S., it also adds to the multiple acts of retail theft the following **Level 5, 3rd degree felony**: "Acts in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, a merchant's employee, or a law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense." For s. 812.015(9), F.S., it also adds to the multiple acts of retail theft the following **Level 6, 2nd degree felony**: "Acts in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, a merchant's employee, or a law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense and, in the course of organizing or committing the offense, solicits the participation of another person in the offense through the use of a social media platform." Finally, this bill adds s. 812.015(11), F.S., increasing the felony to a **Level 8, 1st degree felony** "if he or she violates subsection (8) or subsection (9) and…has two or more previous convictions of violations of either or both of those subsections…or…possesses a firearm during the commission of such offense."

Per FDLE, in FY 22-23, for petit theft as a 2nd degree misdemeanor, there were 11,313 arrests, 4,186 guilty/convicted, and 1,494 adjudications withheld. It is not known how many of these offenses would be impacted by decreasing the threshold value of the property stolen from a dwelling or the unenclosed curtilage of a dwelling. Additionally, it is not known how many of these offenses were after a prior theft conviction, or second or more, which could increase them to felonies when under $40. With this act now becoming a Level 4, 3rd degree felony for when the value of the property is at least

$750, it could increase prison admissions for offenders currently committing grand theft with the value at least $750, but less than $10,000, when the felony level and degrees are once again the same ($10,000 or more, but less than $20,000). Per DOC, in FY 22-23, there were 432 new commitments for property stolen valued at $750 or more, but less than $10,000. It is not known how many of these new commitments fit this criteria, nor is it known how many additional offenders would be impacted. Furthermore, for $20,000 or more, there were 92 new commitments, with these felonies actually having greater levels and degrees than the new dwelling/unenclosed curtilage of a dwelling felony, and could potentially have a downward pull on admissions. Finally, it is not known how many of these offenses involved 20 or more dwellings or unenclosed curtilage of dwellings.

Per FDLE, since October, 2022, when this these subsections were added, there have been 70 arrests for violations of s. 812.015(8)(f), F.S. and s. 812.015(9)(d), F.S., which aggregate retail theft by number of thefts/items/locations, 3 guilty/convictions, and 2 adjudications withheld.

Per DOC, in FY 22-23, there were 14 new commitments to prison under s. 812.015(8), F.S. and 16 new commitments to prison under s. 812.015(9), F.S. There were 2 new commitments for a 2nd conviction. All of these involved monetary thresholds, rather than the recently added number of thefts/items/locations.

It is not known how many of these arrests and admissions involved five or more other persons within one or more establishments for the purposes of overwhelming the response of a merchant/law enforcement officer, or how many additional offenders would be included under this new language. Furthermore, it is not known how many involved the possession of a firearm.

In FY 22-23, the incarceration rate for a Level 2, 3rd degree felony was 10.1%, while it was 20.5% for a Level 4, 3rd degree felony and 18.1% for a Level 5, 3rd degree felony. It was 36.9% for a Level 5, 2nd degree felony and 40.0% for a Level 6, 2nd degree felony. It was 69.8% for a Level 8, 1st degree felony.

EDR PROPOSED ESTIMATE: Positive Indeterminate

Requested by: Senate

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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1/23/24
Meeting Date

CRIM JUSTICE
Committee

1222
Bill Number or Topic

~~904-705-4322~~
Amendment Barcode (if applicable)

Name JOHN FRANK

Phone 904-705-4322

Address 1552 Greenridge Cir W
Street

St Johns FL 32259
City State Zip

Email JwFrank904@gmail.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:
PAL Christi Florida

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)

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S-001 (08/10/2021)

The Florida Senate

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1/23
Meeting Date

SENATE Crim Justice
Committee

1222
Bill Number or Topic

Amendment Barcode (if applicable)

Name LIBBY GUZZO

Phone 850-245-0155

Address CAPITOL PL-01
Street

Email LIBBY.GUZZO@MYFLORIDALEGAL.COM

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:
OFC OF ATTORNEY GENERAL

☐ 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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1/23/24
Meeting Date

Criminal Justice
Committee

1222
Bill Number or Topic

Amendment Barcode (if applicable)

Name Angela Bonds

Phone 8503452277

Address 227 S. Adams
Street

Email angela@frf.org

Tall 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: Florida Retail 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

APPEARANCE RECORD

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1/23/24
Meeting Date

Criminal Justice
Committee

SB 1222
Bill Number or Topic

Amendment Barcode (if applicable)

Name Aurelie Colon

Phone 9548818595

Address 403 Washington Ave
Street

Email aurelie.colon@splcenter.org

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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Commerce and Tourism, *Chair*
Appropriations Committee on Transportation, Tourism, and Economic Development, *Vice Chair*
Appropriations Committee on Agriculture, Environment, and General Government
Banking and Insurance
Fiscal Policy
Judiciary
Transportation

SELECT COMMITTEE:
Select Committee on Resiliency

SENATOR JAY TRUMBULL
2nd District

January 10, 2024

Re: SB 1222

Dear Chair Martin,

I am respectfully requesting that Senate Bill 1222, related Theft, be placed on the agenda for your next meeting of the Criminal Justice Committee.

I appreciate your consideration of this bill. If there are any questions or concerns, please do not hesitate to call my office at (850) 487-5002.

Thank you,

Senator Jay Trumbull
District 2

REPLY TO:
❒ 840 West 11th Street, Panama City, Florida 32401 (850) 747-5454
❒ 320 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002

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 1230
INTRODUCER:	Senator Bradley
SUBJECT:	Sexual Predators and Sexual Offenders
DATE:	January 22, 2024
REVISED:	

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

I. Summary:

SB 1230 amends both ss. 775.21 (sexual predators), and 943.0435, F.S. (sexual offenders), to:

- Remove references to "a sanction" in the definition of the terms conviction and convicted.
- Specify that certain sexual predators and sexual offenders must provide the registration number for a vessel, live-aboard vessel, or houseboat.
- Authorize sexual predators and sexual offenders to report to the Department of Law Enforcement (FDLE) or through the FDLE's online system within a specified timeframe after changes to vehicle information.
- Require sexual predators and sexual offenders to register all changes in vehicles owned.
- Require that a sexual predator or sexual offender report in person to the sheriff's office in the county of current residence *at least 48 hours* before the date the person intends to leave this state to establish residence in another state or jurisdiction, or at least 21 days before the intended travel date for any travel outside the United States. Any travel not known at least 48 hours before the person intends to establish a residence in another state or jurisdiction or 21 days before departure for travel outside the United States must be reported to the sheriff's office as soon as possible before departure.
- Specify that the FDLE must notify the intended country of travel of such travel.
- Establish that transient check-in information shall be gathered by each sheriff's office in a manner set forth by the FDLE, rather than each sheriff's office determining how to conduct check-ins. The sheriff's office must electronically submit such information within 2 business days after the sexual predator or sexual offender provides it to the sheriff's office.
- Require sexual predators and offenders to respond to any address verification correspondence from FDLE or from county or local law enforcement agencies within three weeks after the date of the correspondence, rather than only from FDLE.
- Specify that each instance of failure to register or report changes to the required information specified constitutes a separate offense.

The bill amends s. 775.21, F.S., to amend the definitions of the terms "permanent residence," "temporary residence," and "transient residence" to specify the number of days a person is required to be in a place for each type of residence.

The bill further amends s. 775.21, F.S., to specify that certain sexual predators must meet criteria provided in s. 943.0435, F.S., to qualify for removal of certain registration requirements.

The bill amends s. 943.0435, F.S., to require the FDLE be notified of a petition for relief and may present evidence at a hearing. A person eligible for relief from registration must show that they do not meet any qualifying criteria.

The bill amends s. 943.0435, F.S., to:
- Require the local jail to register sexual offenders in their custody within certain time frames;
- Require jail custodians to take digital photographs of sexual offenders in their custody, provide those photographs to the FDLE, and notify the FDLE if the sexual offender escapes or dies.

The bill may have an indeterminate impact on state and local law enforcement agencies, but there is no information available at present to indicate that the impact on local agencies cannot be absorbed within existing resources. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Sexual Predators and Offenders

The Florida Department of Law Enforcement is the state agency responsible for Florida's sex offender registry. The information contained in the sex offender registry is reported directly to FDLE by the Florida Department of Corrections (DOC), the Florida Department of Highway Safety and Motor Vehicles (DHSMV), and law enforcement officials.[1] Florida's sexual offender and sexual predator registration laws were implemented in 1993 and 1997.[2] The sex offender registry database is a statewide system that collects and disseminates sex offender information to the public and law enforcement agencies through the Sexual Offender Predator System (SOPS). The designation of a person as a sexual offender is not a sentence or a punishment but is simply the status of the offender which is the result of a conviction for having committed certain crimes.[3]

Florida's Sexual Predator and Sexual Offender Registration Laws

Florida law requires registration of any person who has been convicted or adjudicated delinquent of a specified sex offense or offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender.[4] The

[1] FDLE, *Sexual Offender and Predator System*, https://offender.fdle.state.fl.us/offender.sops.home.jsf, (last visited on January 11, 2024).
[2] Sections 775.21 and 943.0435, F.S.
[3] *State v. McKenzie*, 331 So.3d 666 (Fla. 2021).
[4] Sections 775.21 and 943.0435, F.S.

registration laws also require reregistration and provide for public and community notification of certain information about sexual predators and sexual offenders. The laws span several different chapters and numerous statutes[5] and are implemented through the combined efforts of the FDLE, all Florida sheriffs, the Department of Corrections (DOC), the Department of Juvenile Justice (DJJ), the DHSMV, and the Department of Children and Families.

A person is designated as a sexual predator by a court if the person:

- Has been convicted of a qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;[6]
- Has been convicted of a qualifying sex offense committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Was found to be a sexually violent predator in a civil commitment proceeding.[7]

A person is classified as a sexual offender if the person:

- Has been convicted of a qualifying sex offense and has been released on or after October 1, 1997, from the sanction imposed for that offense;
- Establishes or maintains a Florida residence and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the juvenile was 14 years of age or older.[8]

Requirements for registration and reregistration are similar for sexual predators and sexual offenders, but the frequency of reregistration may differ.[9] Registration requirements may also differ based on a special status, e.g., the sexual predator or sexual offender is in the DOC's control or custody, under the DOC's or the DJJ's supervision, or in a residential commitment program under the DJJ.

Sexual predators and sexual offenders are required to report at registration and reregistration certain information, including but not limited to, physical characteristics, relevant sex offense history, and information on residence, vehicles/vessels owned, and travel. The FDLE, through its

[5] Sections 775.21-775.25, 943.043-943.0437, 944.606, 944.607, and 985.481-985.4815, F.S.

[6] Examples of qualifying sex offenses are sexual battery by an adult on a child under 12 years of age (s. 794.011(2)(a), F.S.) and lewd battery by an adult on a child 12 years of age or older but under 16 years of age (s. 800.04(4)(a), F.S.).

[7] Section 775.21(4) and (5), F.S. The Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act, part V, ch. 394, F.S., provides for the civil confinement of a group of sexual offenders who, due to their criminal history and the presence of mental abnormality, are found likely to engage in future acts of sexual violence if they are not confined in a secure facility for long-term control, care, and treatment.

[8] Sections 943.0435(1)(h) and 985.4815(1)(h), F.S. Sections 944.606(1)(f) and 944.607(1)(f), F.S., which address sexual offenders in the custody of or under the DOC's supervision, also define the term "sexual offender."

[9] All sexual predators, sexual offenders convicted for offenses specified in s. 943.0435(14)(b), F.S., and juvenile sexual offenders required to register per s. 943.0435(1)(h)1.d., F.S., for certain offenses must reregister four times per year (on the birth month of the sexual predator or qualifying sexual offender and every third month thereafter). Sections 775.21(8)(a), 943.0435(14)(b), 944.607(13)(a), and 985.4815(13)(a), F.S. All other sexual offenders are required to reregister two times per year (on the birth month of the qualifying sexual offender and during the sixth month following the sexual offender's birth month). Section 943.0435(14)(a), F.S.

agency website, provides a searchable database that includes some of this information.[10] Further, local law enforcement agencies may also provide access to this information, such as providing a link to the state public registry webpage.

FDLE's Online System

The FDLE is required to establish an online system through which sexual predators and sexual offenders may securely access, submit, and update all electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home telephone numbers and cellular telephone numbers; employment information; and institution of higher education information.[11]

A sexual predator or sexual offender must register all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, with the FDLE through the FDLE's online system or in person at the sheriff's office within 48 hours after using such electronic mail addresses and Internet identifiers. If the sexual predator or sexual offender is in the custody or control, or under the supervision, of the DOC, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the DOC before using such electronic mail addresses or Internet identifiers. If the sexual predator or sexual offender is in the custody or control, or under the supervision, of the DJJ, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the DJJ before using such electronic mail addresses or Internet identifiers.[12]

A sexual predator or sexual offender must register all changes to home telephone numbers and cellular telephone numbers, including added and deleted numbers, all changes to employment information, and all changes in status related to enrollment, volunteering, or employment at institutions of higher education in the same manner previously described.[13]

Currently, the law does not specify that a sexual predator and sexual offender may report changes to vehicles owned through FDLE's online system. The FDLE notes that "[c]urrent law requires sexual offenders and predators to report in-person to the sheriff's office within 48 hours after any change in vehicle owned. While vehicle information is incredibly important to law enforcement, the mandate to have every change to this information reported in-person to the sheriff's office has created a significant burden."[14] Further, according to the FDLE, "[a]llowing

[10] The FDLE is the central repository for registration information. The department also maintains the state public registry and ensures Florida's compliance with federal laws. The Florida sheriffs handle in-person registration and reregistration. The FDLE maintains a database that allows members of the public to search for sexual offenders and sexual predators through a variety of search options, including name, neighborhood, and enrollment, employment, or volunteer status at an institute of higher education. *See* http://offender.fdle.state.fl.us/offender/Search.jsp (last visited on Mar. 4, 2021).
[11] Sections 775.21(6)(g)5.c. and 943.0435(4)(e)3., F.S.
[12] Sections 775.21(6)(g)5.a. and 943.0435(4)(e)1., F.S.
[13] Sections 775.21(6)(g)5.b. and 943.0435(4)(e)2., F.S.
[14] *Registry Amendments – Talking Points*, Florida Department of Law Enforcement (on file with the Senate Committee on Criminal Justice).

registrants the option to report their vehicle information and address changes online will facilitate faster access to this critical information and reduce the impact on sheriff's offices."[15]

Reporting when Driver License or State Identification is Renewed and Reporting Change of Residence or Name

Within 48 hours after initial registration with the sheriff's office, a sexual predator or sexual offender who is not incarcerated and who resides in the community, including a sexual predator under the supervision of the DOC, must register in person at a driver license office of the DHSMV and present proof of registration unless a driver license or an identification card that complies with the requirements of s. 322.141(3), F.S., was previously secured or updated under s. 944.607, F.S.[16]

At the driver license office the sexual predator or sexual offender must do all of the following:

- If otherwise qualified, secure a Florida driver license, renew a Florida driver license, or secure an identification card.
- Identify himself or herself as a sexual predator or sexual offender who is required to register, provide his or her place of permanent, temporary, or transient residence, including a rural route address and a post office box, and submit to the taking of a photograph for use in issuing a driver license, a renewed license, or an identification card, and for use by the FDLE in maintaining current records of sexual predators. (There are registration requirements for other places of residence such as mobile homes and vessels.)
- Pay the costs assessed by the DHSMV for issuing or renewing a driver license or an identification card.
- Provide, upon request, any additional information necessary to confirm the identity of the sexual predator, including a set of fingerprints.[17]

Each time a sexual predator's or sexual offender's driver license or identification card is subject to renewal, and, without regard to the status of the predator's or offender's driver license or identification card, within 48 hours after any change of the predator's or offender's residence or change in the predator's or offender's name by reason of marriage or other legal process, the predator or offender must report in person to a driver license office and is subject to the requirements previously described. The DHSMV must forward to the FDLE and the DOC all photographs and information provided by sexual predators or sexual offenders.[18]

A sexual predator or sexual offender who is unable to secure or update a driver license or an identification card with the DHSMV as previously described must also report any change of the predator's or offender's residence or change in the predator's or offender's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the predator resides or is located and provide confirmation that he or she reported such information to the DHSMV. These reporting requirements do not negate the requirement for a sexual predator or sexual offender to obtain a Florida driver license or identification card.[19]

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[15] *Id.*
[16] Section 775.021(6)(f) and 943.0435(3), F.S.
[17] *Id.*
[18] Sections 775.021(6)(g)1. and 943.0435(4), F.S.
[19] *Id.*

Reporting Residence in Another State or Jurisdiction and Travel

A sexual predator or sexual offender who intends to establish a permanent, temporary, or transient residence in another state or jurisdiction other than Florida must report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or at least 21 days before the date he or she intends to travel if the intended residence of 5 days or more is outside of the United States. Any travel that is not known by the sexual predator or sexual offender 21 days before the departure date must be reported to the sheriff's office as soon as possible before departure.[20]

The sexual predator or sexual offender must provide to the sheriff the address, municipality, county, state, and country of intended residence. For international travel, the sexual predator or sexual offender must also provide travel information, including, but not limited to, expected departure and return dates, flight number, airport of departure, cruise port of departure, or any other means of intended travel.[21]

The sheriff must promptly provide to the FDLE the information received from the sexual predator or sexual offender. The FDLE must notify the statewide law enforcement agency, or a comparable agency, in the intended state, jurisdiction, or country of residence of the sexual predator's or sexual offender's intended residence. The failure of a sexual predator or sexual offender to provide his or her intended place of residence is a third degree felony.[22]

A sexual predator or sexual offender who indicates his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than Florida, or another country and later decides to remain in this state must, within 48 hours after the date upon which the sexual predator or sexual offender indicated he or she would leave this state, report in person to the sheriff to which the sexual predator or sexual offender reported the intended change of residence, and report his or her intent to remain in this state. If the sheriff is notified by the sexual predator or sexual offender that he or she intends to remain in this state, the sheriff must promptly report this information to the FDLE. A sexual predator or sexual offender who reports his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than Florida, or another country, but who remains in this state without reporting to the sheriff as previously described commits a second degree felony.[23]

Residence Definitions

Section 775.21, F.S., defines the terms "permanent residence," "temporary residence," and "transient residence" for the purpose of reporting residence information. Section 943.0435, F.S., also uses these definitions.[24]

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[20] Sections 775.21(6)(i) and 943.0435(7), F.S.
[21] *Id.*
[22] *Id.* A third degree felony is punishable by up to 5 years in state prison and a $5,000 fine. Sections 775.082 and 775.083, F.S.
[23] Sections 775.21(6)(j) and (10) and 943.0435(8), F.S. A second degree felony is punishable by up to 15 years in state prison and a $10,000 fine. Sections 775.082 and 775.083, F.S.
[24] Sections 775.21(2)(k), (n), and (o) and 943.0435(1)(f), F.S.

"Permanent residence" means a place where the person abides, lodges, or resides for 3 or more consecutive days.[25]

"Temporary residence" means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 3 or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state.[26]

"Transient residence" means a county where a person lives, remains, or is located for a period of 3 or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.[27]

Section 775.21, F.S., refers to "days" when addressing "permanent residence," "temporary residence," and "transient residence," however the current law does not specify how "a day" is calculated.

Removal Requirements and Sexual Offender Registration Based on Out-of-State Conviction for Offense Not Similar to Florida Offense Requiring Registration and Not Public in Other State

A sexual predator must maintain registration with the FDLE for the duration of his or her life, unless the sexual predator has received a full pardon or has had a conviction set aside in a postconviction proceeding.[28]

Except as provided in s. 943.04354, F.S., a sexual offender must maintain registration with the FDLE for the duration of his or her life unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding. However, a sexual offender must be considered for removal of the registration requirement if he or she has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 25 years and has not been arrested for any felony or misdemeanor offense since release, and the requirement to register was not based on an adult conviction for specified crimes.[29]

A sexual offender may petition the court to remove the requirement and the court may grant or deny relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release. The requested relief must comply with the U.S. Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current

[25] Section 775.21(2)(k), F.S.
[26] Section 775.21(2)(n), F.S.
[27] Section 775.21(2)(o), F.S
[28] Section 775.21(6)(l), F.S.
[29] Section 943.0435(11)(a)1., F.S.

or potential threat to public safety.[30] This relief does not require the court or the offender to notify FDLE of the petitions.

As previously noted, for purposes of sexual offender registration, the definition of "sexual offender" includes, but is not limited to, a person who establishes or maintains a residence in Florida and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender.[31]

According to the FDLE, the criteria previously described apply to a person "based solely upon a requirement to register in another state for an offense that is *not* similar to a conviction offense requiring registration in Florida and whose registration in that other state is held confidential, not for public release, and for criminal justice purposes only."[32]

The FDLE has indicated concerns about the application of these criteria to such person. "As Florida does not have a non-public registry, such an individual's registration information would be publicly available."[33]

III. Effect of Proposed Changes:

Section 775.21, F.S., The Florida Sexual Predators Act

The bill amends s. 775.21, F.S., by clarifying definitions of "permanent residence,"[34] "temporary residence,"[35] and "transient residence"[36] by specifying how days are calculated for each type of residence. For each of the above definitions for residence, the first day that a person lives, remains, or is located in a county for the purpose of abiding, lodging, or residing is excluded and each subsequent day is counted. A day includes any part of a calendar day.

The definition for qualifications of transient residence was clarified to include the county where the person is located for the purpose of abiding, lodging, or residing.

The bill removes reference to a "sanction" in the definition of "convicted."

The bill clarifies that the removal of registration requirements for persons who have not yet been designated a sexual predator by a court, but has the sexual predator, sexually violent predator, or another sexual offender designation in another state or jurisdiction, must meet the criteria for removal in s. 943.0435, F.S.

[30] Section 943.0435(11)(a)3., F.S.
[31] Section 943.0435(1)(h)1.b., F.S.
[32] *Registry Amendments – Talking Points*, Florida Department of Law Enforcement (on file with the Senate Committee on Criminal Justice).
[33] *Id.*
[34] Section 775.21(2)(k), F.S.
[35] Section 775.21(2)(n), F.S.
[36] Section 775.21(2)(o), F.S.

Registration and Verification

Section 775.21(6)(d), F.S., is amended to allow a sexual predator to report to the FDLE through their online system or in person to the sheriff's office within 48 hours after any change in vehicles owned. The bill requires a sexual predator to register all changes to vehicles owned.

Section 775.21(6), F.S, specifies the timeframe for sexual predators who intend to establish permanent, temporary, or transient residence in another state or jurisdiction to report to the sheriff *at least* 48 hours before the date intended to leave. If travel is not known to the offender 48 hours prior to departure, it must be reported to the sheriff's office as soon as possible.

All travel outside of the United States must also be reported to the sheriff's office 21 days before the departure date. If travel is not known to the offender 21 days prior to departure, it must be reported as soon as possible before departure.

The FDLE must provide notification of intent to travel.

The bill amends s. 775.21, F.S., to specify if the sexual predator's place of residence is a vessel, live aboard vessel, or house boat, he or she must provide the registration number for the vessel, live-aboard vessel, or houseboat.

Penalties

Section 775.21(10), F.S., adds or clarifies the following reporting requirements for sexual predators:

- Change of name information;
- Employment changes;
- Vehicle ownership, including new vehicles, changes to the make, model, or color, vehicle identification number, and license and tag numbers of previously reported vehicles; and
- Address verification from county or local law enforcement agencies.

The bill also adds language to clarify that each instance of failure to register or report constitutes a separate offense.

Section 943.0435, F.S., Sexual Offenders Required to Register

Section 943.0435, F.S., is amended to allow a sexual offender to report to the FDLE through their online system or in person to the sheriff's office within 48 hours after any change in vehicles owned. The bill requires a sexual offender to register all changes to vehicles owned.

The bill amends s. 943.0435, F.S., to specify if the sexual predator's place of residence is a vessel, live aboard vessel, or houseboat, he or she must provide the registration number for the vessel, live-aboard vessel, or houseboat.

The bill amends s. 943.0435, F.S., to:

- Require the local jail to register sexual offenders in their custody within certain time frames; and

- Require jail custodians to take digital photographs of sexual offenders in their custody, provide those photographs to the FDLE, and notify the FDLE if the sexual offender escapes or dies.

Section 943.0435, F.S, specifies the timeframe for sexual offenders who intend to establish permanent, temporary, or transient residence in another state or jurisdiction to report to the sheriff *at least* 48 hours before the date intended to leave. If travel is not known to the offender 48 hours prior to departure, it must be reported to the sheriff's office as soon as possible.

All travel outside of the United States must also be reported to the sheriff's office 21 days before the departure date. If travel is not known to the offender 21 days prior to departure, it must be reported as soon as possible before departure.

The bill amends s. 943.0435(9)(a), F.S., to specify requirements for reporting and provides that failure to report each instance constitutes a separate offense. It is a third degree felony,[37] for a sexual offender to fail:

- To register;
- After registration, to maintain, acquire, or renew a driver license or ID card;
- To provide required location information;
- To provide change-of-name information;
- To provide electronic mail addresses, internet identifiers, and each Internet identifier's corresponding website homepage or application software name;
- To provide all home telephone numbers and cellular telephone numbers;
- To report any changes to employment information;
- To report changes in status at an institution of higher education;
- To report any changes to vehicles owned, including the addition of new vehicles and changes to the make, model, color, vehicle identification number (VIN), and license tag numbers of previously reported vehicles;
- To make a required report in connection with vacating a permanent residence;
- To reregister as required;
- To respond to any address verification correspondence from the department or from county or local law enforcement agencies within three weeks after the date of the correspondence; and
- To knowingly provide false registration information by act or omission; or who otherwise fails, by act or omission, to comply with the requirements of this section.

The FDLE must be notified of a petition for relief under s. 943.0435(11), F.S. The bill clarifies that a person eligible for relief from registration must show that they do not meet any of the qualifying criteria under the entirety of sub-subparagraph (1)(h)1.

The bill amends definitions by providing clarification for "educational" institution when referring to an institution of higher education, and by removing references to "a sanction" in the definition of the term convicted. The term sanction referred to a fine, probation, community

[37] Section 893.13(1), F.S. A third degree felony is punishable by up to five years imprisonment and a $5,000 fine. Sections 775.082 and 775.083, F.S.

control, parole, conditional release, control release, or incarceration in state, federal or private prison or local detention facility.

The bill amends both s. 775.21 and s. 943.0435, F.S., by restructuring and reorganizing the language, and making technical changes throughout the bill.

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 FDLE reports this bill requires changes to existing databases with an estimated cost of $15,000.[38]

The bill may have an indeterminate impact on local law enforcement agencies, but there is no information available at present to indicate that this impact cannot be absorbed

[38] 2024 FDLE Legislative Bill Analysis, January 5, 2024 (on file with the Senate Committee on Criminal Justice).

within existing resources. Staff contacted the Florida Sheriffs Association (FSA) for any input they may have regarding the fiscal impact of the bill.[39]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 775.21 and 943.0435.

The bill reenacts the following sections of the Florida Statutes: 944.606, 1012.467, 320.02, 775.25, 938.10, 944.607, 985.481, and 985.4815.

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.

[39] E-mail to Matt Dunagan, Deputy Executive Director of Operations, Florida Sheriffs Association, dated January 5, 2024 (on file with the Senate Committee on Criminal Justice).

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/23/2024	.	
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The Committee on Criminal Justice (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 1036 - 1602

and insert:

constitutes a separate offense. A sexual predator may be charged with a separate offense for each vehicle for which he or she failed to register as required or failed to report changes to the vehicle.

(b) A sexual predator who has been convicted of or found to have committed, or has pled nolo contendere or guilty to,

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regardless of adjudication, any violation, or attempted violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 827.071; s. 847.0133; s. 847.0135(5); s. 847.0145; or s. 985.701(1); or a violation of a similar law of another jurisdiction when the victim of the offense was a minor, and who works, whether for compensation or as a volunteer, at any business, school, child care facility, park, playground, or other place where children regularly congregate, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) For a felony violation of this section, excluding paragraph (g), committed on or after July 1, 2018, if the court does not impose a prison sentence, the court shall impose a mandatory minimum term of community control, as defined in s. 948.001, as follows:

1. For a first offense, a mandatory minimum term of 6 months with electronic monitoring.

2. For a second offense, a mandatory minimum term of 1 year with electronic monitoring.

3. For a third or subsequent offense, a mandatory minimum term of 2 years with electronic monitoring.

(d) Any person who misuses public records information relating to a sexual predator, as defined in this section, or a sexual offender, as defined in s. 943.0435 or s. 944.607, to secure a payment from such a predator or offender; who knowingly distributes or publishes false information relating to such a predator or offender which the person misrepresents as being

public records information; or who materially alters public records information with the intent to misrepresent the information, including documents, summaries of public records information provided by law enforcement agencies, or public records information displayed by law enforcement agencies on websites or provided through other means of communication, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(e) A sexual predator who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, in the county of the last registered address of the sexual predator, in the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator, in the county where the sexual predator was released from incarceration, or in the county of the intended address of the sexual predator as reported by the sexual predator prior to his or her release from incarceration. In addition, a sexual predator may be prosecuted for any such act or omission in the county in which he or she was designated a sexual predator.

(f) An arrest on charges of failure to register, the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register when the predator has been provided and advised of his or her statutory obligation to register under subsection (6). A sexual predator's failure to immediately register as required by this section following such arrest, service, or arraignment

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constitutes grounds for a subsequent charge of failure to register. A sexual predator charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual predator who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register. Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual predator of criminal liability for the failure to register.

(g) Any person who has reason to believe that a sexual predator is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual predator in eluding a law enforcement agency that is seeking to find the sexual predator to question the sexual predator about, or to arrest the sexual predator for, his or her noncompliance with the requirements of this section:

1. Withholds information from, or does not notify, the law enforcement agency about the sexual predator’s noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual predator;

2. Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual predator;

3. Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual predator; or

4. Provides information to the law enforcement agency regarding the sexual predator which the person knows to be false

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information,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This paragraph does not apply if the sexual predator is incarcerated in or is in the custody of a state correctional facility, a private correctional facility, a local jail, or a federal correctional facility.

Section 2. Section 943.0435, Florida Statutes, is amended to read:

943.0435 Sexual offenders required to register with the department; penalty.—

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

(a) "Change in status at an institution of higher education" has the same meaning as provided in s. 775.21.

(b) "Convicted" means that there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, and includes an adjudication of delinquency of a juvenile as specified in this section. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere ~~resulting in a sanction~~ in any state of the United States or other jurisdiction. ~~A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.~~

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(c) "Electronic mail address" has the same meaning as provided in s. 668.602.

(d) "Institution of higher education" has the same meaning as provided in s. 775.21.

(e) "Internet identifier" has the same meaning as provided in s. 775.21.

(f) "Permanent residence," "temporary residence," and "transient residence" have the same meaning as provided in s. 775.21.

(g) "Professional license" has the same meaning as provided in s. 775.21.

(h)1. "Sexual offender" means a person who meets the criteria in sub-subparagraph a., sub-subparagraph b., sub-subparagraph c., or sub-subparagraph d., as follows:

a.(I) Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-sub-subparagraph or at least one offense listed in this sub-sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or any similar offense

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committed in this state which has been redesignated from a former statute number to one of those listed in this sub-sub-subparagraph; and

(II) Has been released on or after October 1, 1997, from a sanction imposed for any conviction of an offense described in sub-sub-subparagraph (I) and does not otherwise meet the criteria for registration as a sexual offender under chapter 944 or chapter 985. For purposes of this sub-sub-subparagraph, a sanction imposed in this state or in any other jurisdiction means probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility. If no sanction is imposed, the person is deemed to be released upon conviction;

b. Establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or <u>any other</u> ~~by another~~ sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender;

c. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following

statutes or similar offense in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph; or

d. On or after July 1, 2007, has been adjudicated delinquent for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction when the juvenile was 14 years of age or older at the time of the offense:

(I) Section 794.011, excluding s. 794.011(10);

(II) Section 800.04(4)(a)2. where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion;

(III) Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals;

(IV) Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals; or

(V) Any similar offense committed in this state which has

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been redesignated from a former statute number to one of those listed in this sub-subparagraph.

2. For all qualifying offenses listed in sub-subparagraph 1.d., the court shall make a written finding of the age of the offender at the time of the offense.

For each violation of a qualifying offense listed in this subsection, except for a violation of s. 794.011, the court shall make a written finding of the age of the victim at the time of the offense. For a violation of s. 800.04(4), the court shall also make a written finding indicating whether the offense involved sexual activity and indicating whether the offense involved force or coercion. For a violation of s. 800.04(5), the court shall also make a written finding that the offense did or did not involve unclothed genitals or genital area and that the offense did or did not involve the use of force or coercion.

(i) "Vehicles owned" has the same meaning as provided in s. 775.21.

(2) Upon initial registration, a sexual offender shall:

(a) Report in person at the sheriff's office:

1. In the county in which the offender establishes or maintains a permanent, temporary, or transient residence within 48 hours after:

a. Establishing permanent, temporary, or transient residence in this state; or

b. Being released from the custody, control, or supervision of the Department of Corrections or from the custody of a private correctional facility; or

2. In the county where he or she was convicted within 48

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hours after being convicted for a qualifying offense for registration under this section if the offender is not in the custody or control of, or under the supervision of, the Department of Corrections, or is not in the custody of a private correctional facility.

Any change in the information required to be provided pursuant to paragraph (b), including, but not limited to, any change in the sexual offender's permanent, temporary, or transient residence; name; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home telephone numbers and cellular telephone numbers; employment information; and any change in status at an institution of higher education after the sexual offender reports in person at the sheriff's office must be reported in the manner provided in subsections (4), (7), and (8).

(b) Provide his or her name; date of birth; social security number; race; sex; height; weight; tattoos or other identifying marks; hair and eye color; ~~tattoos or other identifying marks;~~ fingerprints; palm prints; photograph; employment information; address of permanent or legal residence or address of any current temporary residence, within this ~~the~~ state or out of state, including a rural route address and a post office box; if he or she has no permanent or temporary address, any transient residence within this ~~the~~ state; ~~,~~ address, location or description, and dates of any current or known future temporary residence within this ~~the~~ state or out of state; the make, model, color, vehicle identification number (VIN), and license

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tag number of all vehicles owned; home telephone numbers and cellular telephone numbers; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; date and place of each conviction; and a brief description of the crime or crimes committed by the offender. A post office box may not be provided in lieu of a physical residential address. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has.

1. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as those terms are defined in chapter 320, the sexual offender shall also provide to the department through the sheriff's office written notice of the vehicle identification number (VIN); the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as those terms are defined in chapter 327, the sexual offender shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number of the vessel, live-aboard vessel, or houseboat; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. If the sexual offender is enrolled or employed, whether

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for compensation or as a volunteer, at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status. The sheriff, the Department of Corrections, or the Department of Juvenile Justice shall promptly notify each institution of higher education of the sexual offender's presence and any change in the sexual offender's enrollment, volunteer, or employment status.

3. A sexual offender shall report with the department through the department's online system or in person to the sheriff's office within 48 hours after any change in vehicles owned to report those vehicle information changes.

(c) Provide any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers, when available.

When a sexual offender reports at the sheriff's office, the sheriff shall take a photograph, a set of fingerprints, and palm prints of the offender and forward the photographs, palm prints, and fingerprints to the department, along with the information ~~provided by~~ the sexual offender is required to provide pursuant to this section. The sheriff shall promptly provide to the department the information received from the sexual offender.

(3) Within 48 hours after the report required under subsection (2), a sexual offender shall report in person at a driver license office of the Department of Highway Safety and

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Motor Vehicles, unless a driver license or identification card that complies with the requirements of s. 322.141(3) was previously secured or updated under s. 944.607. At the driver license office the sexual offender shall:

(a) If otherwise qualified, secure a Florida driver license, renew a Florida driver license, or secure an identification card. The sexual offender shall identify himself or herself as a sexual offender who is required to comply with this section and shall provide proof that the sexual offender reported as required in subsection (2). The sexual offender shall provide any of the information specified in subsection (2), if requested. The sexual offender shall submit to the taking of a photograph for use in issuing a driver license, renewed license, or identification card, and for use by the department in maintaining current records of sexual offenders.

(b) Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver license or identification card as required by this section. The driver license or identification card issued must be in compliance with s. 322.141(3).

(c) Provide, upon request, any additional information necessary to confirm the identity of the sexual offender, including a set of fingerprints.

(4)(a) Each time a sexual offender’s driver license or identification card is subject to renewal, and, without regard to the status of the offender’s driver license or identification card, within 48 hours after any change in the offender’s permanent, temporary, or transient residence or change in the offender’s name by reason of marriage or other legal process,

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the offender shall report in person to a driver license office, and is subject to the requirements specified in subsection (3). The Department of Highway Safety and Motor Vehicles shall forward to the department all photographs and information provided by sexual offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles may release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual offenders as provided in this section and ss. 943.043 and 944.606. A sexual offender who is unable to secure or update a driver license or an identification card with the Department of Highway Safety and Motor Vehicles as provided in subsection (3) and this subsection shall also report any change in the sexual offender's permanent, temporary, or transient residence or change in the offender's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the offender resides or is located and provide confirmation that he or she reported such information to the Department of Highway Safety and Motor Vehicles. The reporting requirements under this paragraph do not negate the requirement for a sexual offender to obtain a Florida driver license or an identification card as required in this section.

(b)1. A sexual offender who vacates a permanent, temporary, or transient residence and fails to establish or maintain another permanent, temporary, or transient residence shall, within 48 hours after vacating the permanent, temporary, or transient residence, report in person to the sheriff's office of the county in which he or she is located. The sexual offender

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shall specify the date upon which he or she intends to or did vacate such residence. The sexual offender must provide or update all of the registration information required under paragraph (2)(b). The sexual offender must provide an address for the residence or other place where ~~that~~ he or she is or will be located during the time in which he or she fails to establish or maintain a permanent or temporary residence.

2. A sexual offender shall report in person at the sheriff's office in the county in which he or she is located within 48 hours after establishing a transient residence and thereafter must report in person every 30 days to the sheriff's office in the county in which he or she is located while maintaining a transient residence. The sexual offender must provide the addresses and locations where he or she maintains a transient residence. Each sheriff's office shall report ~~establish procedures for reporting~~ transient residence information in a manner prescribed by the department and provide notice to transient registrants to report transient residence information as required in this subparagraph. Reporting to the sheriff's office as required by this subparagraph does not exempt registrants from any reregistration requirement. The sheriff may coordinate and enter into agreements with police departments and other governmental entities to facilitate additional reporting sites for transient residence registration required in this subparagraph. The sheriff's office shall~~,~~ ~~within 2 business days,~~ electronically submit to and update with the department all such information within 2 business days after ~~provided by~~ the sexual offender provides it to the sheriff's office ~~department~~.

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(c) A sexual offender who remains at a permanent, temporary, or transient residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the offender indicated he or she would or did vacate such residence, report in person to the agency to which he or she reported pursuant to paragraph (b) for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. A sexual ~~An~~ offender who makes a report as required under paragraph (b) but fails to make a report as required under this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) The failure of a sexual offender who maintains a transient residence to report in person to the sheriff's office every 30 days as required in subparagraph (b)2. is punishable as provided in subsection (9).

(e)1. A sexual offender shall register all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, with the department through the department's online system or in person at the sheriff's office within 48 hours after using such electronic mail addresses or ~~and~~ Internet identifiers. If the sexual offender is in the custody or control, or under the supervision, of the Department of Corrections, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the Department of Corrections before using such electronic mail

addresses or Internet identifiers. If the sexual offender is in the custody or control, or under the supervision, of the Department of Juvenile Justice, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the Department of Juvenile Justice before using such electronic mail addresses or Internet identifiers.

2. A sexual offender shall register all changes to vehicles owned, all changes to home telephone numbers and cellular telephone numbers, including added and deleted numbers, all changes to employment information, and all changes in status related to enrollment, volunteering, or employment at institutions of higher education, through the department's online system; in person at the sheriff's office; in person at the Department of Corrections if the sexual offender is in the custody or control, or under the supervision, of the Department of Corrections; or in person at the Department of Juvenile Justice if the sexual offender is in the custody or control, or under the supervision, of the Department of Juvenile Justice. All changes required to be reported under this subparagraph must be reported within 48 hours after the change.

3. The department shall establish an online system through which sexual offenders may securely access, submit, and update all changes in status to vehicles owned; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home telephone numbers and cellular telephone numbers; employment information; and institution of higher education

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information.

(f) If the sexual offender is in the custody of a local jail, the custodian of the local jail shall register the sexual offender within 3 business days after intake of the sexual offender for any reason and upon release, and shall forward the registration information to the department. The custodian of the local jail shall also take a digitized photograph of the sexual offender while the sexual offender remains in custody and shall provide the digitized photograph to the department. The custodian shall notify the department if the sexual offender escapes from custody or dies.

(5) This section does not apply to a sexual offender who is also a sexual predator, as defined in s. 775.21. A sexual predator must register as required under s. 775.21.

(6) County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual offenders who are not under the care, custody, control, or supervision of the Department of Corrections, and may verify the addresses of sexual offenders who are under the care, custody, control, or supervision of the Department of Corrections, in a manner that is consistent with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. Local law enforcement agencies shall report to the department any failure by a sexual offender to comply with registration requirements.

(7) A sexual offender who intends to establish a permanent, temporary, or transient residence in another state or

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jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence at least ~~within~~ 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or at least 21 days before the date he or she intends to travel ~~if the intended residence of 5 days or more is~~ outside of the United States. Any travel that is not known by the sexual offender 48 hours before he or she intends to establish a residence in another state or jurisdiction, or 21 days before the departure date for travel outside of the United States, must be reported in person to the sheriff's office as soon as possible before departure. The sexual offender shall provide to the sheriff the address, municipality, county, state, and country of intended residence. For international travel, the sexual offender shall also provide travel information, including, but not limited to, expected departure and return dates, flight number, airport of departure, cruise port of departure, or any other means of intended travel. The sheriff shall promptly provide to the department the information received from the sexual offender. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state, jurisdiction, or country of residence or the intended country of travel of the sexual offender's intended residence or intended travel. The failure of a sexual offender to provide his or her intended place of residence or intended travel is punishable as provided in subsection (9).

(8) A sexual offender who indicates his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida,

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or intent to travel to another country and later decides to remain in this state shall, within 48 hours after the date upon which the sexual offender indicated he or she would leave this state, report in person to the sheriff's office ~~sheriff~~ to which the sexual offender reported the intended change of ~~permanent, temporary, or transient~~ residence or intended international travel, and report his or her intent to remain in this state. The sheriff shall promptly report this information to the department. A sexual offender who reports his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida, or intent to travel to another country, but who remains in this state without reporting to the sheriff in the manner required by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9)(a) Except as otherwise specifically provided, a sexual offender who fails to register; who fails, after registration, to maintain, acquire, or renew a driver license or an identification card; who fails to provide required location information or change-of-name information; who fails to provide electronic mail addresses, Internet identifiers, and each Internet identifier's corresponding website homepage or application software name; who fails to provide all home telephone numbers and cellular telephone numbers; who fails to report any changes to employment information or changes in status at an institution of higher education; who fails to report any changes to vehicles owned, including the addition of new vehicles and changes to the make, model, color, vehicle identification number (VIN), and license tag numbers of

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previously reported vehicles; who fails to make a required report in connection with vacating a permanent residence; who fails to reregister as required; who fails to respond to any address verification correspondence from the department or from county or local law enforcement agencies within 3 weeks after the date of the correspondence; who knowingly provides false registration information by act or omission; or who otherwise fails, by act or omission, to ~~A sexual offender who does not~~ comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each instance of a failure to register or report changes to the required information specified in this paragraph constitutes a separate offense. A sexual offender may be charged with a separate offense for each vehicle for which he or she failed to register as required or failed to report changes to the vehicle.

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

And the title is amended as follows:

Delete lines 38 - 72

and insert:

specifying that a sexual predator may be charged for each vehicle that he or she fails to register or report changes; conforming provisions to changes made by the act; making technical changes; amending s. 943.0435, F.S.; revising the definition of the term "convicted"; authorizing sexual offenders to report to the department through the department's online system

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within a specified timeframe required vehicle information changes after any change in vehicles owned; requiring sheriffs' offices to report to the department transient residence information in a manner prescribed by the department; requiring sheriffs' offices to electronically submit to and update with the department specified information within a specified timeframe after the sexual offender provides it to the sheriff's office; requiring sexual offenders to register all changes to vehicles owned through the department's online system; requiring the department to establish an online system through which sexual offenders may securely access, submit, and update all vehicles owned; requiring that, if a sexual offender is in the custody of a local jail, the custodian of the local jail register a sexual offender within a specified timeframe after intake of the sexual offender for any reason and upon release; requiring the custodian to take a digitized photograph of the sexual offender and forward the photograph and such registration information to the department; revising the reporting requirements and applicable timeframes with which a sexual offender must comply if he or she intends to establish a certain permanent, temporary, or transient residence or to travel; revising the list of requirements for which a sexual offender's failure to comply constitutes a criminal offense; specifying that each instance of a failure to register or report changes to specified required information constitutes

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a separate offense; specifying that a sexual offender may be charged for each vehicle that he or she fails to register or report changes; specifying that, in order to

By Senator Bradley

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A bill to be entitled

An act relating to sexual predators and sexual offenders; amending s. 775.21, F.S.; revising the definitions of the terms "conviction," "permanent residence," "temporary residence," and "transient residence"; specifying that, in order to qualify for removal of certain registration requirements, certain sexual offenders must meet specified criteria; authorizing sexual predators to report to the Department of Law Enforcement through the department's online system within a specified timeframe required vehicle information changes after any change in vehicles owned; requiring sheriffs' offices to report to the department transient residence information in a manner prescribed by the department; requiring sheriffs' offices to electronically submit to and update with the department specified information within a specified timeframe after the sexual predator provides it to the sheriff's office; requiring sexual predators to register all changes to vehicles owned through the department's online system; requiring the department to establish an online system through which sexual predators may securely access, submit, and update all vehicles owned; revising the reporting requirements and applicable timeframes with which a sexual predator must comply if he or she intends to establish a certain permanent, temporary, or transient residence or to travel; requiring sheriffs' offices to electronically submit to and update with the

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department, in a manner specified by the department, specified information within a specified timeframe after the sexual predator provides it to the sheriff's office; revising the list of requirements for which a sexual predator's failure to comply constitutes a criminal offense; specifying that each instance of a failure to register or report changes to specified required information constitutes a separate offense; conforming provisions to changes made by the act; making technical changes; amending s. 943.0435, F.S.; revising the definition of the term "convicted"; authorizing sexual offenders to report to the department through the department's online system within a specified timeframe required vehicle information changes after any change in vehicles owned; requiring sheriffs' offices to report to the department transient residence information in a manner prescribed by the department; requiring sheriffs' offices to electronically submit to and update with the department specified information within a specified timeframe after the sexual offender provides it to the sheriff's office; requiring sexual offenders to register all changes to vehicles owned through the department's online system; requiring the department to establish an online system through which sexual offenders may securely access, submit, and update all vehicles owned; requiring that, if a sexual offender is in the custody of a local jail, the custodian of the local jail register a sexual offender within a

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specified timeframe after intake of the sexual offender for any reason and upon release; requiring the custodian to take a digitized photograph of the sexual offender and forward the photograph and such registration information to the department; revising the reporting requirements and applicable timeframes with which a sexual offender must comply if he or she intends to establish a certain permanent, temporary, or transient residence or to travel; revising the list of requirements for which a sexual offender's failure to comply constitutes a criminal offense; specifying that each instance of a failure to register or report changes to specified required information constitutes a separate offense; specifying that, in order to qualify for removal of certain registration requirements, certain sexual offenders must meet specified criteria; requiring sheriffs' offices to electronically submit to and update with the department, in a manner specified by the department, specified information within a specified timeframe after the sexual offender provides it to the sheriff's office; conforming provisions to changes made by the act; making technical changes; reenacting s. 944.606(1)(d), F.S., relating to the definitions of the terms "permanent residence," "temporary residence," and "transient residence," to incorporate the amendment made to s. 775.21, F.S., in a reference thereto; reenacting s. 1012.467(1)(b), F.S., relating to the definition of the term "convicted," to

incorporate the amendment made to s. 943.0435, F.S., in a reference thereto; reenacting ss. 320.02(4), 775.25, 938.10(1), 944.607(4)(a) and (9), 985.481(1)(a) and (d), and 985.4815(1)(b) and (f) and (9), F.S., relating to registration required, application for registration, and forms; prosecutions for acts or omissions; additional court cost imposed in cases of certain crimes; notification to department of information on sexual offenders; sexual offenders adjudicated delinquent and notification upon release; and notification to department of information on juvenile sexual offenders, respectively, to incorporate the amendments by to ss. 775.21 and 943.0435, F.S., in references thereto; providing an effective date.

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

Section 1. Section 775.21, Florida Statutes, is amended to read:

775.21 The Florida Sexual Predators Act.—

(1) SHORT TITLE.—This section may be cited as "The Florida Sexual Predators Act."

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

(a) "Change in status at an institution of higher education" means the commencement or termination of enrollment, including, but not limited to, traditional classroom setting or online courses, or employment, whether for compensation or as a volunteer, at an institution of higher education or a change in

location of enrollment or employment, whether for compensation or as a volunteer, at an institution of higher education.

(b) "Chief of police" means the chief law enforcement officer of a municipality.

(c) "Child care facility" has the same meaning as provided in s. 402.302.

(d) "Community" means any county where the sexual predator lives or otherwise establishes or maintains a permanent, temporary, or transient residence.

(e) "Conviction" means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. A conviction for a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere ~~resulting in a sanction~~ in any state of the United States or other jurisdiction. ~~A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.~~

(f) "Department" means the Department of Law Enforcement.

(g) "Electronic mail address" has the same meaning as provided in s. 668.602.

(h) "Entering the county" includes being discharged from a correctional facility or jail or secure treatment facility within the county or being under supervision within the county for the commission of a violation enumerated in subsection (4).

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(i) "Institution of higher education" means a career center, a community college, a college, a state university, or an independent postsecondary educational institution.

(j) "Internet identifier" means any designation, moniker, screen name, username, or other name used for self-identification to send or receive social Internet communication. Internet identifier does not include a date of birth, social security number, personal identification number (PIN), or password. A sexual offender's or sexual predator's use of an Internet identifier that discloses his or her date of birth, social security number, PIN ~~personal identification number (PIN)~~, password, or other information that would reveal the identity of the sexual offender or sexual predator waives the disclosure exemption in this paragraph for such personal information.

(k) "Permanent residence" means a place where the person abides, lodges, or resides for 3 or more consecutive days. For the purpose of calculating a permanent residence under this paragraph, the first day that a person abides, lodges, or resides at a place is excluded and each subsequent day is counted. A day includes any part of a calendar day.

(l) "Professional license" means the document of authorization or certification issued by an agency of this state for a regulatory purpose, or by any similar agency in another jurisdiction for a regulatory purpose, to a person to engage in an occupation or to carry out a trade or business.

(m) "Social Internet communication" means any communication through a commercial social networking website as defined in s. 943.0437, or application software. The term does not include any

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of the following:

1. Communication for which the primary purpose is the facilitation of commercial transactions involving goods or services;

2. Communication on an Internet website for which the primary purpose of the website is the dissemination of news; or

3. Communication with a governmental entity.

As used in ~~For purposes of~~ this paragraph, the term "application software" means any computer program designed to run on a mobile device such as a smartphone or tablet computer, that allows users to create web pages or profiles that provide information about themselves and are available publicly or to other users, and that offers a mechanism for communication with other users through a forum, a chatroom, electronic mail, or an instant messenger.

(n) "Temporary residence" means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 3 or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state. For the purpose of calculating a temporary residence under this paragraph, the first day that a person abides, lodges, or resides at a place is excluded and each subsequent day is counted. A day includes any part of a calendar day.

(o) "Transient residence" means a county where the ~~a~~ person

lives, remains, or is located for the purpose of abiding, lodging, or residing for a period of 3 or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address. For the purpose of calculating a transient residence under this paragraph, the first day that a person lives, remains, or is located in a county for the purpose of abiding, lodging, or residing is excluded and each subsequent day is counted. A day includes any part of a calendar day.

(p) "Vehicles owned" means any motor vehicle as defined in s. 320.01, which is registered, coregistered, leased, titled, or rented by a sexual predator or sexual offender; a rented vehicle that a sexual predator or sexual offender is authorized to drive; or a vehicle for which a sexual predator or sexual offender is insured as a driver. The term also includes any motor vehicle as defined in s. 320.01, which is registered, coregistered, leased, titled, or rented by a person or persons residing at a sexual predator's or sexual offender's permanent residence for 5 or more consecutive days.

(3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE INTENT.—

(a) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their

crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(b) The high level of threat that a sexual predator presents to the public safety, and the long-term effects suffered by victims of sex offenses, provide the state with sufficient justification to implement a strategy that includes:

1. Incarcerating sexual predators and maintaining adequate facilities to ensure that decisions to release sexual predators into the community are not made on the basis of inadequate space.

2. Providing for specialized supervision of sexual predators who are in the community by specially trained probation officers with low caseloads, as described in ss. 947.1405(7) and 948.30. The sexual predator is subject to specified terms and conditions implemented at sentencing or at the time of release from incarceration, with a requirement that those who are financially able must pay all or part of the costs of supervision.

3. Requiring the registration of sexual predators, with a requirement that complete and accurate information be maintained and accessible for use by law enforcement authorities, communities, and the public.

4. Providing for community and public notification concerning the presence of sexual predators.

5. Prohibiting sexual predators from working with children, either for compensation or as a volunteer.

(c) The state has a compelling interest in protecting the public from sexual predators and in protecting children from predatory sexual activity, and there is sufficient justification

for requiring sexual predators to register and for requiring community and public notification of the presence of sexual predators.

(d) It is the purpose of the Legislature that, upon the court's written finding that an offender is a sexual predator, in order to protect the public, it is necessary that the sexual predator be registered with the department and that members of the community and the public be notified of the sexual predator's presence. The designation of a person as a sexual predator is neither a sentence nor a punishment but simply a status resulting from the conviction of certain crimes.

(e) It is the intent of the Legislature to address the problem of sexual predators by:

1. Requiring sexual predators supervised in the community to have special conditions of supervision and to be supervised by probation officers with low caseloads;

2. Requiring sexual predators to register with the ~~Florida~~ department ~~of Law Enforcement~~, as provided in this section; and

3. Requiring community and public notification of the presence of a sexual predator, as provided in this section.

(4) SEXUAL PREDATOR CRITERIA.—

(a) For a current offense committed on or after October 1, 1993, upon conviction, an offender shall be designated as a "sexual predator" under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

1. The felony is:

a. A capital, life, or first degree felony violation, or any attempt thereof, of s. 787.01 or s. 787.02, where the victim

is a minor, or s. 794.011, s. 800.04, or s. 847.0145, or a violation of a similar law of another jurisdiction; or

b. Any felony violation, or any attempt thereof, of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8)(b); s. 825.1025; s. 827.071; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction;

2. The offender has not received a pardon for any felony or

similar law of another jurisdiction that is necessary for the operation of this paragraph; and

3. A conviction of a felony or similar law of another jurisdiction necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(b) In order to be counted as a prior felony for purposes of this subsection, the felony must have resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense and sentenced or adjudicated separately from any other felony conviction that is to be counted as a prior felony regardless of the date of offense of the prior felony.

(c) If an offender has been registered as a sexual predator by the Department of Corrections, the department, or any other law enforcement agency and if:

1. The court did not, for whatever reason, make a written finding at the time of sentencing that the offender was a sexual predator; or

2. The offender was administratively registered as a sexual predator because the Department of Corrections, the department, or any other law enforcement agency obtained information that indicated that the offender met the criteria for designation as a sexual predator based on a violation of a similar law in another jurisdiction,

the department shall remove that offender from the department's list of sexual predators and, for an offender described under subparagraph 1., shall notify the state attorney who prosecuted the offense that met the criteria for administrative designation

as a sexual predator, and, for an offender described under this paragraph, shall notify the state attorney of the county where the offender establishes or maintains a permanent, temporary, or transient residence. The state attorney shall bring the matter to the court's attention in order to establish that the offender meets the criteria for designation as a sexual predator. If the court makes a written finding that the offender is a sexual predator, the offender must be designated as a sexual predator, must register or be registered as a sexual predator with the department as provided in subsection (6), and is subject to the community and public notification as provided in subsection (7). If the court does not make a written finding that the offender is a sexual predator, the offender may not be designated as a sexual predator with respect to that offense and is not required to register or be registered as a sexual predator with the department.

(d) An offender who has been determined to be a sexually violent predator pursuant to a civil commitment proceeding under chapter 394 shall be designated as a "sexual predator" under subsection (5) and subject to registration under subsection (6) and community and public notification under subsection (7).

(5) SEXUAL PREDATOR DESIGNATION.—An offender is designated as a sexual predator as follows:

(a)1. An offender who meets the sexual predator criteria described in paragraph (4)(d) is a sexual predator, and the court shall make a written finding at the time such offender is determined to be a sexually violent predator under chapter 394 that such person meets the criteria for designation as a sexual predator for purposes of this section. The clerk shall transmit

a copy of the order containing the written finding to the department within 48 hours after the entry of the order;

2. An offender who meets the sexual predator criteria described in paragraph (4)(a) who is before the court for sentencing for a current offense committed on or after October 1, 1993, is a sexual predator, and the sentencing court must make a written finding at the time of sentencing that the offender is a sexual predator, and the clerk of the court shall transmit a copy of the order containing the written finding to the department within 48 hours after the entry of the order; or

3. If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender who establishes or maintains a permanent, temporary, or transient residence in this state meets the sexual predator criteria described in paragraph (4)(a) or paragraph (4)(d) because the offender was civilly committed or committed a similar violation in another jurisdiction on or after October 1, 1993, the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney of the county where the offender establishes or maintains a permanent, temporary, or transient residence of the offender's presence in the community. The state attorney shall file a petition with the criminal division of the circuit court for the purpose of holding a hearing to determine if the offender's criminal record or record of civil commitment from another jurisdiction meets the sexual predator criteria. If the court finds that the offender meets the sexual predator criteria because the offender has violated a similar law or similar laws in another jurisdiction, the court shall make a written finding that the

offender is a sexual predator.

When the court makes a written finding that an offender is a sexual predator, the court shall inform the sexual predator of the registration and community and public notification requirements described in this section. Within 48 hours after the court designates ~~designating~~ an offender as a sexual predator, the clerk of the circuit court shall transmit a copy of the court's written sexual predator finding to the department. If the offender is sentenced to a term of imprisonment or supervision, a copy of the court's written sexual predator finding must be submitted to the Department of Corrections.

(b) If a sexual predator is not sentenced to a term of imprisonment, the clerk of the court shall ensure that the sexual predator's fingerprints are taken and forwarded to the department within 48 hours after the court renders its written sexual predator finding. The fingerprints shall be clearly marked, "Sexual Predator Registration." The clerk of the court that convicts and sentences the sexual predator for the offense or offenses described in subsection (4) shall forward to the department and to the Department of Corrections a certified copy of any order entered by the court imposing any special condition or restriction on the sexual predator that restricts or prohibits access to the victim, if the victim is a minor, or to other minors.

(c) If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender meets the sexual predator criteria

but the court did not make a written finding that the offender is a sexual predator as required in paragraph (a), the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney who prosecuted the offense for offenders described in subparagraph (a)1., or the state attorney of the county where the offender establishes or maintains a residence upon first entering the state for offenders described in subparagraph (a)3. The state attorney shall bring the matter to the court's attention in order to establish that the offender meets the sexual predator criteria. If the state attorney fails to establish that an offender meets the sexual predator criteria and the court does not make a written finding that an offender is a sexual predator, the offender is not required to register with the department as a sexual predator. The Department of Corrections, the department, or any other law enforcement agency shall not administratively designate an offender as a sexual predator without a written finding from the court that the offender is a sexual predator.

(d) A person who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or any other ~~by another~~ sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person was a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender, shall

register in the manner provided in s. 943.0435 or s. 944.607 and shall be subject to community and public notification as provided in s. 943.0435 or s. 944.607. A person who meets the criteria of this section is subject to the requirements and penalty provisions of s. 943.0435 or s. 944.607 until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or any other ~~by another~~ sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, ~~and~~ provided that such person no longer meets the criteria for registration as a sexual offender under the laws of this state. To qualify for removal of the registration requirements under this paragraph, a sexual offender described in this paragraph must meet the criteria for removal under s. 943.0435.

(6) REGISTRATION.—

(a) A sexual predator shall register with the department through the sheriff's office by providing the following information to the department:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; photograph; address of legal residence and address of any current temporary residence, within this ~~the~~ state or out of state, including a rural route address and a post office box; if he or she has no permanent or temporary

address, any transient residence within this ~~the~~ state; address, location or description, and dates of any current or known future temporary residence within this ~~the~~ state or out of state; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home telephone numbers and cellular telephone numbers; employment information; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; date and place of each conviction; fingerprints; palm prints; and a brief description of the crime or crimes committed by the offender. A post office box may not be provided in lieu of a physical residential address. The sexual predator shall produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual predator shall also provide information about any professional licenses he or she has.

a. Any change that occurs after the sexual predator registers in person at the sheriff's office as provided in this subparagraph in any of the following information related to the sexual predator must be reported as provided in paragraphs (g), (i), and (j): permanent, temporary, or transient residence; name; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home and cellular telephone numbers; employment information; and status at an institution of higher education.

b. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as those

terms are defined in chapter 320, the sexual predator shall also provide to the department written notice of the vehicle identification number (VIN); the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as those terms are defined in chapter 327, the sexual predator shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number of the vessel, live-aboard vessel, or houseboat; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

c. If the sexual predator is enrolled or employed, whether for compensation or as a volunteer, at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment, volunteer, or employment status. The sheriff, the Department of Corrections, or the Department of Juvenile Justice shall promptly notify each institution of higher education of the sexual predator's presence and any change in the sexual predator's enrollment, volunteer, or employment status.

d. A sexual predator shall report to the department through the department's online system or in person to the sheriff's office within 48 hours after any change in vehicles owned to report those vehicle information changes.

2. Any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers when available.

(b) If the sexual predator is in the custody or control of, or under the supervision of, the Department of Corrections, or is in the custody of a private correctional facility, the sexual predator shall register with the Department of Corrections. A sexual predator who is under the supervision of the Department of Corrections but who is not incarcerated shall register with the Department of Corrections within 3 business days after the court finds the offender to be a sexual predator. The Department of Corrections shall provide to the department registration information and the location of, and local telephone number for, any Department of Corrections office that is responsible for supervising the sexual predator. In addition, the Department of Corrections shall notify the department if the sexual predator escapes or absconds from custody or supervision or if the sexual predator dies.

(c) If the sexual predator is in the custody of a local jail, the custodian of the local jail shall register the sexual predator within 3 business days after intake of the sexual predator for any reason and upon release, and shall forward the registration information to the department. The custodian of the local jail shall also take a digitized photograph of the sexual predator while the sexual predator remains in custody and shall provide the digitized photograph to the department. The custodian shall notify the department if the sexual predator escapes from custody or dies.

(d) If the sexual predator is under federal supervision, the federal agency responsible for supervising the sexual predator may forward to the department any information regarding the sexual predator which is consistent with the information provided by the Department of Corrections under this section, and may indicate whether use of the information is restricted to law enforcement purposes only or may be used by the department for purposes of public notification.

(e)1. If the sexual predator is not in the custody or control of, or under the supervision of, the Department of Corrections or is not in the custody of a private correctional facility, the sexual predator shall register in person:

a. At the sheriff's office in the county where he or she establishes or maintains a residence within 48 hours after establishing or maintaining a residence in this state; and

b. At the sheriff's office in the county where he or she was designated a sexual predator by the court within 48 hours after such finding is made.

2. Any change that occurs after the sexual predator registers in person at the sheriff's office as provided in subparagraph 1. in any of the following information related to the sexual predator must be reported as provided in paragraphs (g), (i), and (j): permanent, temporary, or transient residence; name; vehicles owned; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home and cellular telephone numbers; employment information; and change in status at an institution of higher education. When a sexual predator registers with the sheriff's office, the sheriff shall take a

photograph, a set of fingerprints, and palm prints of the sexual predator and forward the photographs, palm prints, and fingerprints to the department, along with the information that the sexual predator is required to provide pursuant to this section.

(f) Within 48 hours after the registration required under paragraph (a) or paragraph (e), a sexual predator who is not incarcerated and who resides in the community, including a sexual predator under the supervision of the Department of Corrections, shall register in person at a driver license office of the Department of Highway Safety and Motor Vehicles and shall present proof of registration unless a driver license or an identification card that complies with the requirements of s. 322.141(3) was previously secured or updated under s. 944.607. At the driver license office the sexual predator shall:

1. If otherwise qualified, secure a Florida driver license, renew a Florida driver license, or secure an identification card. The sexual predator shall identify himself or herself as a sexual predator who is required to comply with this section, provide his or her place of permanent, temporary, or transient residence, including a rural route address and a post office box, and submit to the taking of a photograph for use in issuing a driver license, a renewed license, or an identification card, and for use by the department in maintaining current records of sexual predators. A post office box may not be provided in lieu of a physical residential address. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as those terms are defined in chapter 320, the sexual predator shall also provide to the Department of

Highway Safety and Motor Vehicles the vehicle identification number (VIN); the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as those terms are defined in chapter 327, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number of the vessel, live-aboard vessel, or houseboat; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver license or an identification card as required by this section. The driver license or identification card issued to the sexual predator must comply with s. 322.141(3).

3. Provide, upon request, any additional information necessary to confirm the identity of the sexual predator, including a set of fingerprints.

(g)1. Each time a sexual predator's driver license or identification card is subject to renewal, and, without regard to the status of the sexual predator's driver license or identification card, within 48 hours after any change of the sexual predator's residence or change in the sexual predator's name by reason of marriage or other legal process, the sexual predator shall report in person to a driver license office and is subject to the requirements specified in paragraph (f). The

Department of Highway Safety and Motor Vehicles shall forward to the department and to the Department of Corrections all photographs and information provided by sexual predators. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles may release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual predators as provided in this section. A sexual predator who is unable to secure or update a driver license or an identification card with the Department of Highway Safety and Motor Vehicles as provided in paragraph (f) and this paragraph shall also report any change in ~~of~~ the sexual predator's permanent, temporary, or transient residence or change in the sexual predator's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the sexual predator resides or is located and provide confirmation that he or she reported such information to the Department of Highway Safety and Motor Vehicles. The reporting requirements under this subparagraph do not negate the requirement for a sexual predator to obtain a Florida driver license or identification card as required by this section.

2.a. A sexual predator who vacates a permanent, temporary, or transient residence and fails to establish or maintain another permanent, temporary, or transient residence shall, within 48 hours after vacating the permanent, temporary, or transient residence, report in person to the sheriff's office of the county in which he or she is located. The sexual predator shall specify the date upon which he or she intends to or did

vacate such residence. The sexual predator shall provide or update all of the registration information required under paragraph (a). The sexual predator shall provide an address for the residence or other place where ~~that~~ he or she is or will be located during the time in which he or she fails to establish or maintain a permanent or temporary residence.

b. A sexual predator shall report in person at the sheriff's office in the county in which he or she is located within 48 hours after establishing a transient residence and thereafter must report in person every 30 days to the sheriff's office in the county in which he or she is located while maintaining a transient residence. The sexual predator must provide the addresses and locations where he or she maintains a transient residence. Each sheriff's office shall report ~~establish procedures for reporting~~ transient residence information in a manner prescribed by the department and provide notice to transient registrants to report transient residence information as required in this sub-subparagraph. Reporting to the sheriff's office as required by this sub-subparagraph does not exempt registrants from any reregistration requirement. The sheriff may coordinate and enter into agreements with police departments and other governmental entities to facilitate additional reporting sites for transient residence registration required in this sub-subparagraph. The sheriff's office shall~~,~~ ~~within 2 business days,~~ electronically submit to and update with the department all such information within 2 business days after ~~provided by~~ the sexual predator provides it to the sheriff's office ~~department~~.

3. A sexual predator who remains at a permanent, temporary,

or transient residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the sexual predator indicated he or she would or did vacate such residence, report in person to the sheriff's office to which he or she reported pursuant to subparagraph 2. for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. A sexual predator ~~An offender~~ who makes a report as required under subparagraph 2. but fails to make a report as required under this subparagraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. The failure of a sexual predator who maintains a transient residence to report in person to the sheriff's office every 30 days as required by sub-subparagraph 2.b. is punishable as provided in subsection (10).

5.a. A sexual predator shall register all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, with the department through the department's online system or in person at the sheriff's office within 48 hours after using such electronic mail addresses or ~~and~~ Internet identifiers. If the sexual predator is in the custody or control, or under the supervision, of the Department of Corrections, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the Department of Corrections before using such electronic mail addresses or Internet identifiers. If the sexual predator is in

the custody or control, or under the supervision, of the Department of Juvenile Justice, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the Department of Juvenile Justice before using such electronic mail addresses or Internet identifiers.

b. A sexual predator shall register all changes to vehicles owned, all changes to home telephone numbers and cellular telephone numbers, including added and deleted numbers, all changes to employment information, and all changes in status related to enrollment, volunteering, or employment at institutions of higher education, through the department's online system; in person at the sheriff's office; in person at the Department of Corrections if the sexual predator is in the custody or control, or under the supervision, of the Department of Corrections; or in person at the Department of Juvenile Justice if the sexual predator is in the custody or control, or under the supervision, of the Department of Juvenile Justice. All changes required to be reported in this sub-subparagraph shall be reported within 48 hours after the change.

c. The department shall establish an online system through which sexual predators may securely access, submit, and update all vehicles owned; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home telephone numbers and cellular telephone numbers; employment information; and institution of higher education information.

(h) The department shall notify the sheriff and the state

attorney of the county and, if applicable, the police chief of the municipality, where the sexual predator maintains a residence.

(i) A sexual predator who intends to establish a permanent, temporary, or transient residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence at least ~~within~~ 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or at least 21 days before the date he or she intends to travel ~~if the intended residence of 5 days or more is~~ outside of the United States. Any travel that is not known by the sexual predator 48 hours before he or she intends to establish a residence in another state or jurisdiction, or 21 days before the departure date for travel outside of the United States, must be reported to the sheriff's office as soon as possible before departure. The sexual predator shall provide to the sheriff the address, municipality, county, state, and country of intended residence. For international travel, the sexual predator shall also provide travel information, including, but not limited to, expected departure and return dates, flight number, airport of departure, cruise port of departure, or any other means of intended travel. The sheriff shall promptly provide to the department the information received from the sexual predator. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state, jurisdiction, or country of residence or the intended country of travel of the sexual predator's intended residence or intended travel. The failure of a sexual predator

to provide his or her intended place of residence or intended travel is punishable as provided in subsection (10).

(j) A sexual predator who indicates his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida, or intent to travel to another country, and later decides to remain in this state shall, within 48 hours after the date upon which the sexual predator indicated he or she would leave this state, report in person to the sheriff's office ~~sheriff~~ to which the sexual predator reported the intended change of residence or intended international travel, and report his or her intent to remain in this state. If the sheriff is notified by the sexual predator that he or she intends to remain in this state, the sheriff shall promptly report this information to the department. A sexual predator who reports his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida, or intent to travel to another country, but who remains in this state without reporting to the sheriff in the manner required by this paragraph, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(k)1. The department is responsible for the online maintenance of current information regarding each registered sexual predator. The department shall maintain hotline access for state, local, and federal law enforcement agencies to obtain instantaneous locator file and offender characteristics information on all released registered sexual predators for purposes of monitoring, tracking, and prosecution. The photograph, palm prints, and fingerprints do not have to be

stored in a computerized format.

2. The department's sexual predator registration list, containing the information described in subparagraph (a)1., is a public record, unless otherwise made exempt or confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The department may disseminate this public information by any means deemed appropriate, including operating a toll-free telephone number for this purpose. When the department provides information regarding a registered sexual predator to the public, department personnel shall advise the person making the inquiry that positive identification of a person believed to be a sexual predator cannot be established unless a fingerprint comparison is made, and that it is illegal to use public information regarding a registered sexual predator to facilitate the commission of a crime.

3. The department shall adopt guidelines as necessary regarding the registration of sexual predators and the dissemination of information regarding sexual predators as required by this section.

(l) A sexual predator shall maintain registration with the department for the duration of his or her life, unless the sexual predator has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that met the criteria for the sexual predator designation.

(7) COMMUNITY AND PUBLIC NOTIFICATION.—

(a) Law enforcement agencies must inform members of the community and the public of a sexual predator's presence. Upon notification of the presence of a sexual predator, the sheriff

of the county or the chief of police of the municipality where the sexual predator establishes or maintains a permanent or temporary residence shall notify members of the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police. Within 48 hours after receiving notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator temporarily or permanently resides shall notify each licensed child care facility, elementary school, middle school, and high school within a 1-mile radius of the temporary or permanent residence of the sexual predator of the presence of the sexual predator. Information provided to members of the community and the public regarding a sexual predator must include:

1. The name of the sexual predator;

2. A description of the sexual predator, including a photograph;

3. The sexual predator's current permanent, temporary, and transient addresses, and descriptions of registered locations that have no specific street address, including the name of the county or municipality if known;

4. The circumstances of the sexual predator's offense or offenses; and

5. Whether the victim of the sexual predator's offense or offenses was, at the time of the offense, a minor or an adult.

This paragraph does not authorize the release of the name of any victim of the sexual predator.

(b) The sheriff or the police chief may coordinate the

community and public notification efforts with the department. Statewide notification to the public is authorized, as deemed appropriate by local law enforcement personnel and the department.

(c) The department shall notify the public of all designated sexual predators through the Internet. The Internet notice shall include the information required by paragraph (a).

(d) The department shall adopt a protocol to assist law enforcement agencies in their efforts to notify the community and the public of the presence of sexual predators.

(8) VERIFICATION.—The department and the Department of Corrections shall implement a system for verifying the addresses of sexual predators. The system must be consistent with the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. The Department of Corrections shall verify the addresses of sexual predators who are not incarcerated but who reside in the community under the supervision of the Department of Corrections and shall report to the department any failure by a sexual predator to comply with registration requirements. County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual predators who are not under the care, custody, control, or supervision of the Department of Corrections, and may verify the addresses of sexual predators who are under the care, custody, control, or supervision of the Department of Corrections. Local law enforcement agencies shall report to the department any failure by a sexual predator to comply with

registration requirements.

(a) A sexual predator shall report in person each year during the month of the sexual predator's birthday and during every third month thereafter to the sheriff's office in the county in which he or she resides or is otherwise located to reregister. The sheriff's office may determine the appropriate times and days for reporting by the sexual predator, which must be consistent with the reporting requirements of this paragraph. Reregistration must include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; address of any permanent residence and address of any current temporary residence, within this ~~the~~ state or out of state, including a rural route address and a post office box; if he or she has no permanent or temporary address, any transient residence within this ~~the~~ state including the address, location or description of the transient residences, and dates of any current or known future temporary residence within this ~~the~~ state or out of state; all electronic mail addresses; all Internet identifiers and each Internet identifier's corresponding website homepage or application software name; all home telephone numbers and cellular telephone numbers; date and place of any employment; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; fingerprints; palm prints; and photograph. A post office box may not be provided in lieu of a physical residential address. The sexual predator shall also produce his or her passport, if he or she has a passport, and, if he or she

is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual predator shall also provide information about any professional licenses he or she has.

2. If the sexual predator is enrolled or employed, whether for compensation or as a volunteer, at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment, volunteer, or employment status.

3. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as those terms are defined in chapter 320, the sexual predator shall also provide the vehicle identification number (VIN); the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as those terms are defined in chapter 327, the sexual predator shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number of the vessel, live-aboard vessel, or houseboat; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

(b) The sheriff's office shall~~, within 2 working days,~~ electronically submit to and update with the department, in a manner prescribed by the department, all such information within 2 business days after ~~provided by~~ the sexual predator provides it to the sheriff's office ~~department in a manner prescribed by~~

~~the department~~.

(9) IMMUNITY.—The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual predator fails to report or falsely reports his or her current place of permanent or temporary residence.

(10) PENALTIES.—

(a) Except as otherwise specifically provided, a sexual predator who fails to register; who fails, after registration, to maintain, acquire, or renew a driver license or an identification card; who fails to provide required location information or change-of-name information; who fails to provide electronic mail addresses, Internet identifiers, and each

Internet identifier's corresponding website homepage or application software name; who fails to provide all home telephone numbers and cellular telephone numbers; who fails to report any changes to~~,~~ employment information or changes~~, change~~ in status at an institution of higher education~~, or change of name information~~; who fails to report any changes to vehicles owned, including the addition of new vehicles and changes to the make, model, color, vehicle identification number (VIN), and license tag numbers of previously reported vehicles; who fails to make a required report in connection with vacating a permanent residence; who fails to reregister as required; who fails to respond to any address verification correspondence from the department or from county or local law enforcement agencies within 3 weeks after ~~of~~ the date of the correspondence; who knowingly provides false registration information by act or omission; or who otherwise fails, by act or omission, to comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each instance of a failure to register or report changes to the required information specified in this paragraph constitutes a separate offense.

(b) A sexual predator who has been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation, or attempted violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 827.071; s. 847.0133; s. 847.0135(5); s. 847.0145; or s. 985.701(1); or a violation of a similar law of another

jurisdiction when the victim of the offense was a minor, and who works, whether for compensation or as a volunteer, at any business, school, child care facility, park, playground, or other place where children regularly congregate, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) For a felony violation of this section, excluding paragraph (g), committed on or after July 1, 2018, if the court does not impose a prison sentence, the court shall impose a mandatory minimum term of community control, as defined in s. 948.001, as follows:

1. For a first offense, a mandatory minimum term of 6 months with electronic monitoring.

2. For a second offense, a mandatory minimum term of 1 year with electronic monitoring.

3. For a third or subsequent offense, a mandatory minimum term of 2 years with electronic monitoring.

(d) Any person who misuses public records information relating to a sexual predator, as defined in this section, or a sexual offender, as defined in s. 943.0435 or s. 944.607, to secure a payment from such a predator or offender; who knowingly distributes or publishes false information relating to such a predator or offender which the person misrepresents as being public records information; or who materially alters public records information with the intent to misrepresent the information, including documents, summaries of public records information provided by law enforcement agencies, or public records information displayed by law enforcement agencies on websites or provided through other means of communication,

commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(e) A sexual predator who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, in the county of the last registered address of the sexual predator, in the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator, in the county where the sexual predator was released from incarceration, or in the county of the intended address of the sexual predator as reported by the sexual predator prior to his or her release from incarceration. In addition, a sexual predator may be prosecuted for any such act or omission in the county in which he or she was designated a sexual predator.

(f) An arrest on charges of failure to register, the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register when the predator has been provided and advised of his or her statutory obligation to register under subsection (6). A sexual predator's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual predator charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual predator who is charged with a subsequent failure to

register may not assert the defense of a lack of notice of the duty to register. Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual predator of criminal liability for the failure to register.

(g) Any person who has reason to believe that a sexual predator is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual predator in eluding a law enforcement agency that is seeking to find the sexual predator to question the sexual predator about, or to arrest the sexual predator for, his or her noncompliance with the requirements of this section:

1. Withholds information from, or does not notify, the law enforcement agency about the sexual predator's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual predator;

2. Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual predator;

3. Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual predator; or

4. Provides information to the law enforcement agency regarding the sexual predator which the person knows to be false information,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This paragraph does not apply if the sexual predator is incarcerated in or is in the custody of a state correctional facility, a private correctional

facility, a local jail, or a federal correctional facility.

Section 2. Section 943.0435, Florida Statutes, is amended to read:

943.0435 Sexual offenders required to register with the department; penalty.—

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

(a) "Change in status at an institution of higher education" has the same meaning as provided in s. 775.21.

(b) "Convicted" means that there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, and includes an adjudication of delinquency of a juvenile as specified in this section. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere ~~resulting in a sanction~~ in any state of the United States or other jurisdiction. ~~A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.~~

(c) "Electronic mail address" has the same meaning as provided in s. 668.602.

(d) "Institution of higher education" has the same meaning as provided in s. 775.21.

(e) "Internet identifier" has the same meaning as provided in s. 775.21.

(f) "Permanent residence," "temporary residence," and "transient residence" have the same meaning as provided in s. 775.21.

(g) "Professional license" has the same meaning as provided in s. 775.21.

(h)1. "Sexual offender" means a person who meets the criteria in sub-subparagraph a., sub-subparagraph b., sub-subparagraph c., or sub-subparagraph d., as follows:

a.(I) Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-sub-subparagraph or at least one offense listed in this sub-sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-sub-subparagraph; and

(II) Has been released on or after October 1, 1997, from a sanction imposed for any conviction of an offense described in sub-sub-subparagraph (I) and does not otherwise meet the

criteria for registration as a sexual offender under chapter 944 or chapter 985. For purposes of this sub-sub-subparagraph, a sanction imposed in this state or in any other jurisdiction means probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility. If no sanction is imposed, the person is deemed to be released upon conviction;

b. Establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or any other ~~by another~~ sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender;

c. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes or similar offense in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133;

s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph; or

d. On or after July 1, 2007, has been adjudicated delinquent for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction when the juvenile was 14 years of age or older at the time of the offense:

(I) Section 794.011, excluding s. 794.011(10);

(II) Section 800.04(4)(a)2. where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion;

(III) Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals;

(IV) Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals; or

(V) Any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph.

2. For all qualifying offenses listed in sub-subparagraph 1.d., the court shall make a written finding of the age of the offender at the time of the offense.

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For each violation of a qualifying offense listed in this subsection, except for a violation of s. 794.011, the court shall make a written finding of the age of the victim at the time of the offense. For a violation of s. 800.04(4), the court shall also make a written finding indicating whether the offense involved sexual activity and indicating whether the offense involved force or coercion. For a violation of s. 800.04(5), the court shall also make a written finding that the offense did or did not involve unclothed genitals or genital area and that the offense did or did not involve the use of force or coercion.

(i) "Vehicles owned" has the same meaning as provided in s. 775.21.

(2) Upon initial registration, a sexual offender shall:

(a) Report in person at the sheriff's office:

1. In the county in which the offender establishes or maintains a permanent, temporary, or transient residence within 48 hours after:

a. Establishing permanent, temporary, or transient residence in this state; or

b. Being released from the custody, control, or supervision of the Department of Corrections or from the custody of a private correctional facility; or

2. In the county where he or she was convicted within 48 hours after being convicted for a qualifying offense for registration under this section if the offender is not in the custody or control of, or under the supervision of, the Department of Corrections, or is not in the custody of a private correctional facility.

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Any change in the information required to be provided pursuant to paragraph (b), including, but not limited to, any change in the sexual offender's permanent, temporary, or transient residence; name; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home telephone numbers and cellular telephone numbers; employment information; and any change in status at an institution of higher education after the sexual offender reports in person at the sheriff's office must be reported in the manner provided in subsections (4), (7), and (8).

(b) Provide his or her name; date of birth; social security number; race; sex; height; weight; tattoos or other identifying marks; hair and eye color; ~~tattoos or other identifying marks;~~ fingerprints; palm prints; photograph; employment information; address of permanent or legal residence or address of any current temporary residence, within this ~~the~~ state or out of state, including a rural route address and a post office box; if he or she has no permanent or temporary address, any transient residence within this ~~the~~ state~~;~~ ~~,~~ address, location or description, and dates of any current or known future temporary residence within this ~~the~~ state or out of state; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; home telephone numbers and cellular telephone numbers; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; date and place of each conviction; and a brief description of the crime or crimes committed by the offender. A post office box may not be provided

in lieu of a physical residential address. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has.

1. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as those terms are defined in chapter 320, the sexual offender shall also provide to the department through the sheriff's office written notice of the vehicle identification number (VIN); the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as those terms are defined in chapter 327, the sexual offender shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number of the vessel, live-aboard vessel, or houseboat; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. If the sexual offender is enrolled or employed, whether for compensation or as a volunteer, at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status. The sheriff, the Department of Corrections, or the Department of

Juvenile Justice shall promptly notify each institution of higher education of the sexual offender's presence and any change in the sexual offender's enrollment, volunteer, or employment status.

3. A sexual offender shall report with the department through the department's online system or in person to the sheriff's office within 48 hours after any change in vehicles owned to report those vehicle information changes.

(c) Provide any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers, when available.

When a sexual offender reports at the sheriff's office, the sheriff shall take a photograph, a set of fingerprints, and palm prints of the offender and forward the photographs, palm prints, and fingerprints to the department, along with the information ~~provided by~~ the sexual offender is required to provide pursuant to this section. The sheriff shall promptly provide to the department the information received from the sexual offender.

(3) Within 48 hours after the report required under subsection (2), a sexual offender shall report in person at a driver license office of the Department of Highway Safety and Motor Vehicles, unless a driver license or identification card that complies with the requirements of s. 322.141(3) was previously secured or updated under s. 944.607. At the driver license office the sexual offender shall:

(a) If otherwise qualified, secure a Florida driver license, renew a Florida driver license, or secure an

identification card. The sexual offender shall identify himself or herself as a sexual offender who is required to comply with this section and shall provide proof that the sexual offender reported as required in subsection (2). The sexual offender shall provide any of the information specified in subsection (2), if requested. The sexual offender shall submit to the taking of a photograph for use in issuing a driver license, renewed license, or identification card, and for use by the department in maintaining current records of sexual offenders.

(b) Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver license or identification card as required by this section. The driver license or identification card issued must be in compliance with s. 322.141(3).

(c) Provide, upon request, any additional information necessary to confirm the identity of the sexual offender, including a set of fingerprints.

(4)(a) Each time a sexual offender's driver license or identification card is subject to renewal, and, without regard to the status of the offender's driver license or identification card, within 48 hours after any change in the offender's permanent, temporary, or transient residence or change in the offender's name by reason of marriage or other legal process, the offender shall report in person to a driver license office, and is subject to the requirements specified in subsection (3). The Department of Highway Safety and Motor Vehicles shall forward to the department all photographs and information provided by sexual offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and

Motor Vehicles may release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual offenders as provided in this section and ss. 943.043 and 944.606. A sexual offender who is unable to secure or update a driver license or an identification card with the Department of Highway Safety and Motor Vehicles as provided in subsection (3) and this subsection shall also report any change in the sexual offender's permanent, temporary, or transient residence or change in the offender's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the offender resides or is located and provide confirmation that he or she reported such information to the Department of Highway Safety and Motor Vehicles. The reporting requirements under this paragraph do not negate the requirement for a sexual offender to obtain a Florida driver license or an identification card as required in this section.

(b)1. A sexual offender who vacates a permanent, temporary, or transient residence and fails to establish or maintain another permanent, temporary, or transient residence shall, within 48 hours after vacating the permanent, temporary, or transient residence, report in person to the sheriff's office of the county in which he or she is located. The sexual offender shall specify the date upon which he or she intends to or did vacate such residence. The sexual offender must provide or update all of the registration information required under paragraph (2)(b). The sexual offender must provide an address for the residence or other place where ~~that~~ he or she is or will be located during the time in which he or she fails to establish

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or maintain a permanent or temporary residence.

2. A sexual offender shall report in person at the sheriff's office in the county in which he or she is located within 48 hours after establishing a transient residence and thereafter must report in person every 30 days to the sheriff's office in the county in which he or she is located while maintaining a transient residence. The sexual offender must provide the addresses and locations where he or she maintains a transient residence. Each sheriff's office shall report ~~establish procedures for reporting~~ transient residence information in a manner prescribed by the department and provide notice to transient registrants to report transient residence information as required in this subparagraph. Reporting to the sheriff's office as required by this subparagraph does not exempt registrants from any reregistration requirement. The sheriff may coordinate and enter into agreements with police departments and other governmental entities to facilitate additional reporting sites for transient residence registration required in this subparagraph. The sheriff's office shall~~,~~ ~~within 2 business days,~~ electronically submit to and update with the department all such information within 2 business days after ~~provided by~~ the sexual offender provides it to the sheriff's office ~~department~~.

(c) A sexual offender who remains at a permanent, temporary, or transient residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the offender indicated he or she would or did vacate such residence, report in person to the agency to which he or she reported pursuant to paragraph (b) for the purpose of

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reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. A sexual ~~An~~ offender who makes a report as required under paragraph (b) but fails to make a report as required under this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) The failure of a sexual offender who maintains a transient residence to report in person to the sheriff's office every 30 days as required in subparagraph (b)2. is punishable as provided in subsection (9).

(e)1. A sexual offender shall register all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, with the department through the department's online system or in person at the sheriff's office within 48 hours after using such electronic mail addresses or ~~and~~ Internet identifiers. If the sexual offender is in the custody or control, or under the supervision, of the Department of Corrections, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the Department of Corrections before using such electronic mail addresses or Internet identifiers. If the sexual offender is in the custody or control, or under the supervision, of the Department of Juvenile Justice, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the Department of Juvenile Justice

before using such electronic mail addresses or Internet identifiers.

2. A sexual offender shall register all changes to vehicles owned, all changes to home telephone numbers and cellular telephone numbers, including added and deleted numbers, all changes to employment information, and all changes in status related to enrollment, volunteering, or employment at institutions of higher education, through the department's online system; in person at the sheriff's office; in person at the Department of Corrections if the sexual offender is in the custody or control, or under the supervision, of the Department of Corrections; or in person at the Department of Juvenile Justice if the sexual offender is in the custody or control, or under the supervision, of the Department of Juvenile Justice. All changes required to be reported under this subparagraph must be reported within 48 hours after the change.

3. The department shall establish an online system through which sexual offenders may securely access, submit, and update all changes in status to vehicles owned; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home telephone numbers and cellular telephone numbers; employment information; and institution of higher education information.

(f) If the sexual offender is in the custody of a local jail, the custodian of the local jail shall register the sexual offender within 3 business days after intake of the sexual offender for any reason and upon release, and shall forward the registration information to the department. The custodian of the

local jail shall also take a digitized photograph of the sexual offender while the sexual offender remains in custody and shall provide the digitized photograph to the department. The custodian shall notify the department if the sexual offender escapes from custody or dies.

(5) This section does not apply to a sexual offender who is also a sexual predator, as defined in s. 775.21. A sexual predator must register as required under s. 775.21.

(6) County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual offenders who are not under the care, custody, control, or supervision of the Department of Corrections, and may verify the addresses of sexual offenders who are under the care, custody, control, or supervision of the Department of Corrections, in a manner that is consistent with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. Local law enforcement agencies shall report to the department any failure by a sexual offender to comply with registration requirements.

(7) A sexual offender who intends to establish a permanent, temporary, or transient residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence at least ~~within~~ 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or at least 21 days before the date he or she intends to travel ~~if the intended residence of 5 days or more is~~

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outside of the United States. Any travel that is not known by the sexual offender 48 hours before he or she intends to establish a residence in another state or jurisdiction, or 21 days before the departure date for travel outside of the United States, must be reported in person to the sheriff's office as soon as possible before departure. The sexual offender shall provide to the sheriff the address, municipality, county, state, and country of intended residence. For international travel, the sexual offender shall also provide travel information, including, but not limited to, expected departure and return dates, flight number, airport of departure, cruise port of departure, or any other means of intended travel. The sheriff shall promptly provide to the department the information received from the sexual offender. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state, jurisdiction, or country of residence or the intended country of travel of the sexual offender's intended residence or intended travel. The failure of a sexual offender to provide his or her intended place of residence or intended travel is punishable as provided in subsection (9).

(8) A sexual offender who indicates his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida, or intent to travel to another country and later decides to remain in this state shall, within 48 hours after the date upon which the sexual offender indicated he or she would leave this state, report in person to the sheriff's office ~~sheriff~~ to which the sexual offender reported the intended change of ~~permanent, temporary, or transient~~ residence or intended international

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travel, and report his or her intent to remain in this state. The sheriff shall promptly report this information to the department. A sexual offender who reports his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida, or intent to travel to another country, but who remains in this state without reporting to the sheriff in the manner required by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9)(a) Except as otherwise specifically provided, a sexual offender who fails to register; who fails, after registration, to maintain, acquire, or renew a driver license or an identification card; who fails to provide required location information or change-of-name information; who fails to provide electronic mail addresses, Internet identifiers, and each Internet identifier's corresponding website homepage or application software name; who fails to provide all home telephone numbers and cellular telephone numbers; who fails to report any changes to employment information or changes in status at an institution of higher education; who fails to report any changes to vehicles owned, including the addition of new vehicles and changes to the make, model, color, vehicle identification number (VIN), and license tag numbers of previously reported vehicles; who fails to make a required report in connection with vacating a permanent residence; who fails to reregister as required; who fails to respond to any address verification correspondence from the department or from county or local law enforcement agencies within 3 weeks after the date of the correspondence; who knowingly provides false

registration information by act or omission; or who otherwise fails, by act or omission, to ~~A sexual offender who does not~~ comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each instance of a failure to register or report changes to the required information specified in this paragraph constitutes a separate offense.

(b) For a felony violation of this section, excluding subsection (13), committed on or after July 1, 2018, if the court does not impose a prison sentence, the court shall impose a mandatory minimum term of community control, as defined in s. 948.001, as follows:

1. For a first offense, a mandatory minimum term of 6 months with electronic monitoring.

2. For a second offense, a mandatory minimum term of 1 year with electronic monitoring.

3. For a third or subsequent offense, a mandatory minimum term of 2 years with electronic monitoring.

(c) A sexual offender who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, in the county of the last registered address of the sexual offender, in the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual offender, in the county where the sexual offender was released from incarceration, or in the county of the intended address of the sexual offender as reported by the offender prior to his or her release from incarceration.

(d) An arrest on charges of failure to register when the offender has been provided and advised of his or her statutory obligations to register under subsection (2), the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register. A sexual offender's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual offender charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register. Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual offender of criminal liability for the failure to register.

(10) The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting,

or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual offender fails to report or falsely reports his or her current place of permanent, temporary, or transient residence.

(11) Except as provided in s. 943.04354, a sexual offender shall maintain registration with the department for the duration of his or her life unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that meets the criteria for classifying the person as a sexual offender for purposes of registration. However, a sexual offender shall be considered for removal of the requirement to register as a sexual offender only if the person:

(a)1. Has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 25 years and has not been arrested for any felony or misdemeanor offense since release, provided that the sexual offender's requirement to register was not based upon an adult conviction:

a. For a violation of s. 787.01 or s. 787.02;

b. For a violation of s. 794.011, excluding s. 794.011(10);

c. For a violation of s. 800.04(4)(a)2. where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

d. For a violation of s. 800.04(5)(b);

e. For a violation of s. 800.04(5)(c)2. where the court finds the offense involved the use of force or coercion and unclothed genitals or genital area;

f. For a violation of s. 825.1025(2)(a);

g. For any attempt or conspiracy to commit any such offense;

h. For a violation of similar law of another jurisdiction; or

i. For a violation of a similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subparagraph.

2. If the sexual offender meets the criteria in subparagraph 1., the sexual offender may, for the purpose of removing the requirement for registration as a sexual offender, petition the criminal division of the circuit court of the circuit:

a. Where the conviction or adjudication occurred, for a conviction in this state;

b. Where the sexual offender resides, for a conviction of a violation of similar law of another jurisdiction; or

c. Where the sexual offender last resided, for a sexual offender with a conviction of a violation of similar law of another jurisdiction who no longer resides in this state.

3. The court may grant or deny relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release; the requested relief complies with the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to the removal of

registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public safety. The department and the state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The department and the state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief, subject to the standards for relief provided in this subsection.

4. The department shall remove an offender from classification as a sexual offender for purposes of registration if the offender provides to the department a certified copy of the court's written findings or order that indicates that the offender is no longer required to comply with the requirements for registration as a sexual offender.

5. To qualify for removal of the registration requirements under this paragraph, the sexual offender must establish the requisite criteria to be considered for removal and establish that they do not meet the criteria for registration under any other sub-subparagraph under subparagraph (1)(h)1.

(b) Maintains ~~As defined in sub-subparagraph (1)(h)1.b. must maintain~~ registration with the department as described in sub-subparagraph (1)(h)1.b. for the duration of his or her life until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a

sexually violent predator, or any other ~~by another~~ sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, ~~and~~ provided that such person no longer meets the criteria for registration as a sexual offender under the laws of this state. To qualify for removal of the registration requirements under this paragraph, a sexual offender described in sub-subparagraph (1)(h)1.b. must establish that his or her designation has been removed and establish that he or she does not meet the criteria for registration under any other sub-subparagraph under subparagraph (1)(h)1.

(12) The Legislature finds that sexual offenders, especially those who have committed offenses against minors, often pose a high risk of engaging in sexual offenses even after being released from incarceration or commitment and that protection of the public from sexual offenders is a paramount government interest. Sexual offenders have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Releasing information concerning sexual offenders to law enforcement agencies and to persons who request such information, and the release of such information to the public by a law enforcement agency or public agency, will further the governmental interests of public safety. The designation of a person as a sexual offender is not a sentence or a punishment but is simply the status of the offender which is the result of a conviction for having

committed certain crimes.

(13) Any person who has reason to believe that a sexual offender is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual offender in eluding a law enforcement agency that is seeking to find the sexual offender to question the sexual offender about, or to arrest the sexual offender for, his or her noncompliance with the requirements of this section:

(a) Withholds information from, or does not notify, the law enforcement agency about the sexual offender's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual offender;

(b) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual offender; ~~or~~

(c) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual offender; or

(d) Provides information to the law enforcement agency regarding the sexual offender that the person knows to be false information,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(14)(a) A sexual offender must report in person each year during the month of the sexual offender's birthday and during the sixth month following the sexual offender's birth month to the sheriff's office in the county in which he or she resides or is otherwise located to reregister.

(b) However, a sexual offender who is required to register as a result of a conviction for:

1. Section 787.01 or s. 787.02 where the victim is a minor;

2. Section 794.011, excluding s. 794.011(10);

3. Section 800.04(4)(a)2. where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

4. Section 800.04(5)(b);

5. Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals or genital area;

6. Section 800.04(5)(c)2. where the court finds molestation involving the use of force or coercion and unclothed genitals or genital area;

7. Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals or genital area;

8. Section 825.1025(2)(a);

9. Any attempt or conspiracy to commit such offense;

10. A violation of a similar law of another jurisdiction; or

11. A violation of a similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this paragraph,

must reregister each year during the month of the sexual offender's birthday and every third month thereafter.

(c) The sheriff's office may determine the appropriate times and days for reporting by the sexual offender, which must be consistent with the reporting requirements of this subsection. Reregistration must include any changes to the

following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; address of any permanent residence and address of any current temporary residence, within this ~~the~~ state or out of state, including a rural route address and a post office box; if he or she has no permanent or temporary address, any transient residence within this ~~the~~ state; address, location or description, and dates of any current or known future temporary residence within this ~~the~~ state or out of state; all electronic mail addresses or Internet identifiers and each Internet identifier's corresponding website homepage or application software name; all home telephone numbers and cellular telephone numbers; employment information; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; fingerprints; palm prints; and photograph. A post office box may not be provided in lieu of a physical residential address. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has.

2. If the sexual offender is enrolled or employed, whether for compensation or as a volunteer, at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status.

3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as those terms are defined in chapter 320, the sexual offender shall also provide the vehicle identification number (VIN); the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as those terms are defined in chapter 327, the sexual offender shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number of the vessel, live-aboard vessel, or houseboat; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

~~4. Any sexual offender who fails to report in person as required at the sheriff's office, who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence, who fails to report all electronic mail addresses and all Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, or who knowingly provides false registration information by act or omission commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(d) The sheriff's office shall~~, within 2 working days,~~ electronically submit to and update with the department, in a manner prescribed by the department, all such information within 2 business days after ~~provided by~~ the sexual offender provides it to the sheriff's office ~~department in a manner prescribed by the department~~.

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Section 3. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, paragraph (d) of subsection (1) of section 944.606, Florida Statutes, is reenacted to read:

944.606 Sexual offenders; notification upon release.—

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

(d) "Permanent residence," "temporary residence," and "transient residence" have the same meaning as provided in s. 775.21.

Section 4. For the purpose of incorporating the amendment made by this act to section 943.0435, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 1012.467, Florida Statutes, is reenacted to read:

1012.467 Noninstructional contractors who are permitted access to school grounds when students are present; background screening requirements.—

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

(b) "Convicted" has the same meaning as in s. 943.0435.

Section 5. For the purpose of incorporating the amendments made by this act to sections 775.21 and 943.0435, Florida Statutes, in references thereto, subsection (4) of section 320.02, Florida Statutes, is reenacted to read:

320.02 Registration required; application for registration; forms.—

(4) Except as provided in ss. 775.21, 775.261, 943.0435, 944.607, and 985.4815, the owner of any motor vehicle registered in the state shall notify the department in writing of any change of address within 30 days of such change. The

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notification shall include the registration license plate number, the vehicle identification number (VIN) or title certificate number, year of vehicle make, and the owner's full name.

Section 6. For the purpose of incorporating the amendments made by this act to sections 775.21 and 943.0435, Florida Statutes, in references thereto, section 775.25, Florida Statutes, is reenacted to read:

775.25 Prosecutions for acts or omissions.—A sexual predator or sexual offender who commits any act or omission in violation of s. 775.21, s. 943.0435, s. 944.605, s. 944.606, s. 944.607, or former s. 947.177 may be prosecuted for the act or omission in the county in which the act or omission was committed, in the county of the last registered address of the sexual predator or sexual offender, in the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator or sexual offender, in the county where the sexual predator or sexual offender was released from incarceration, or in the county of the intended address of the sexual predator or sexual offender as reported by the predator or offender prior to his or her release from incarceration. In addition, a sexual predator may be prosecuted for any such act or omission in the county in which he or she was designated a sexual predator.

Section 7. For the purpose of incorporating the amendments made by this act to sections 775.21 and 943.0435, Florida Statutes, in references thereto, subsection (1) of section 938.10, Florida Statutes, is reenacted to read:

938.10 Additional court cost imposed in cases of certain

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crimes.—

(1) If a person pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, any offense against a minor in violation of s. 784.085, chapter 787, chapter 794, former s. 796.03, former s. 796.035, s. 800.04, chapter 827, s. 847.012, s. 847.0133, s. 847.0135(5), s. 847.0138, s. 847.0145, s. 893.147(3), or s. 985.701, or any offense in violation of s. 775.21, s. 823.07, s. 847.0125, s. 847.0134, or s. 943.0435, the court shall impose a court cost of $151 against the offender in addition to any other cost or penalty required by law.

Section 8. For the purpose of incorporating the amendments made by this act to sections 775.21 and 943.0435, Florida Statutes, in references thereto, paragraph (a) of subsection (4) and subsection (9) of section 944.607, Florida Statutes, are reenacted to read:

944.607 Notification to Department of Law Enforcement of information on sexual offenders.—

(4) A sexual offender, as described in this section, who is under the supervision of the Department of Corrections but is not incarcerated shall register with the Department of Corrections within 3 business days after sentencing for a registrable offense and otherwise provide information as required by this subsection.

(a) The sexual offender shall provide his or her name; date of birth; social security number; race; sex; height; weight; hair and eye color; tattoos or other identifying marks; all electronic mail addresses and Internet identifiers required to be provided pursuant to s. 943.0435(4)(e); employment information required to be provided pursuant to s.

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943.0435(4)(e); all home telephone numbers and cellular telephone numbers required to be provided pursuant to s. 943.0435(4)(e); the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; permanent or legal residence and address of temporary residence within the state or out of state while the sexual offender is under supervision in this state, including any rural route address or post office box; if no permanent or temporary address, any transient residence within the state; and address, location or description, and dates of any current or known future temporary residence within the state or out of state. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has. The Department of Corrections shall verify the address of each sexual offender in the manner described in ss. 775.21 and 943.0435. The department shall report to the Department of Law Enforcement any failure by a sexual predator or sexual offender to comply with registration requirements.

(9) A sexual offender, as described in this section, who is under the supervision of the Department of Corrections but who is not incarcerated shall, in addition to the registration requirements provided in subsection (4), register and obtain a distinctive driver license or identification card in the manner provided in s. 943.0435(3), (4), and (5), unless the sexual offender is a sexual predator, in which case he or she shall register and obtain a distinctive driver license or

identification card as required under s. 775.21. A sexual offender who fails to comply with the requirements of s. 943.0435 is subject to the penalties provided in s. 943.0435(9).

Section 9. For the purpose of incorporating the amendments made by this act to sections 775.21 and 943.0435, Florida Statutes, in references thereto, paragraphs (a) and (d) of subsection (1) of section 985.481, Florida Statutes, are reenacted to read:

985.481 Sexual offenders adjudicated delinquent; notification upon release.—

(1) As used in this section:

(a) "Convicted" has the same meaning as provided in s. 943.0435.

(d) "Permanent residence," "temporary residence," and "transient residence" have the same meaning as provided in s. 775.21.

Section 10. For the purpose of incorporating the amendments made by this act to sections 775.21 and 943.0435, Florida Statutes, in references thereto, paragraphs (b) and (f) of subsection (1) and subsection (9) of section 985.4815, Florida Statutes, are reenacted to read:

985.4815 Notification to Department of Law Enforcement of information on juvenile sexual offenders.—

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

(b) "Conviction" has the same meaning as provided in s. 943.0435.

(f) "Permanent residence," "temporary residence," and "transient residence" have the same meaning as provided in s. 775.21.

(9) A sexual offender, as described in this section, who is under the care, jurisdiction, or supervision of the department but who is not incarcerated shall, in addition to the registration requirements provided in subsection (4), register in the manner provided in s. 943.0435(3), (4), and (5), unless the sexual offender is a sexual predator, in which case he or she shall register as required under s. 775.21. A sexual offender who fails to comply with the requirements of s. 943.0435 is subject to the penalties provided in s. 943.0435(9).

Section 11. This act shall take effect July 1, 2024.

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2024 FDLE LEGISLATIVE BILL ANALYSIS

BILL INFORMATION	
BILL NUMBER:	SB1230
BILL TITLE:	Sexual Offenders and Sexual Predators
BILL SPONSOR:	Senator Bradley
EFFECTIVE DATE:	July 1, 2024

COMMITTEES OF REFERENCE
1)
2)
3)
4)
5)

CURRENT COMMITTEE

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION	
BILL NUMBER:	SB1932
SPONSOR:	Hooper
YEAR:	2022
LAST ACTION:	Died in committee

IDENTICAL BILLS	
BILL NUMBER:	HB1235
SPONSOR:	Representative Baker

Is this bill part of an agency package?
Yes

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	January 5, 2024
LEAD AGENCY ANALYST:	Lori Mizell
ADDITIONAL ANALYST(S):	Jeff Watson, Heather Faulkner
LEGAL ANALYST:	Jim Martin, Phil Lindley
FISCAL ANALYST:	Elizabeth Martin

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Sexual Predators and Sexual Offenders; Revising the definitions of the terms “conviction,” “permanent residence,” “temporary residence,” and “transient residence”; specifying that, in order to qualify for removal of certain registration requirements, certain sexual offenders must meet specified criteria; authorizing sexual predators to report to the Florida Department of Law Enforcement (FDLE) through FDLE’s online system within a specified timeframe required vehicle information changes after any change in vehicles owned, etc.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** Currently, s. 775.21, F.S., does not specify how permanent, temporary, or transient residence are calculated.

   Currently, ss. 775.21 and 943.0435, F.S., require updates to a sexual predator’s or sexual offender’s “vehicles owned” to be done in person to the sheriff’s office within 48 hours after any change. These sections also require a sexual predator or a sexual offender to report in person to the sheriff’s office in the county of current residency within 48 hours before the date they intend to leave the state and at least 21 days before the date they intend to travel outside the United States if the intended residence is 5 days or more.

   Additionally, ss. 775.21 and 943.0435, F.S., require a sexual predator or a sexual offender to respond to any address verification correspondence from FDLE within 3 weeks of the date of the correspondence and allows sheriff’s office to establish procedures for reporting transient residence check-in information.

2. **EFFECT OF THE BILL:** The bill amends s. 775.21, F.S., clarifying definitions of “permanent residence,” “temporary residence,” and “transient residence” by specifying how days are calculated for each definition.

   The bill amends s. 943.0435, F.S., to require FDLE be notified of a petition for relief under s. 943.0435(11), F.S., and clarifies that a person eligible for relief from registration must show that they do not meet any of the qualifying criteria under the entirety of sub-subparagraph (1)(h)1. In addition, the proposal adds language from s. 944.606, F.S., which requires the local jail to register sexual offenders in their custody within certain time frames.

   The bill amends both ss. 775.21 and 943.0435, F.S., as such:
   - Removes references to “a sanction” in the definition of the term conviction.
   - Allows sexual predators and sexual offenders to update any changes to “vehicles owned” with FDLE through FDLE’s online system in lieu of reporting this information in person to the sheriff’s office.
   - Requires that a sexual predator or sexual offender report in person to the sheriff’s office in the county of current residence at least 48 hours before the date the person intends to leave this state to establish residence in another state or jurisdiction or at least 21 days before the intended travel date for any travel outside the United States. Any travel not known at least 48 hours before the person intends to establish a residence in another state or jurisdiction or 21 days before departure for travel outside the United States must be reported to the sheriff’s office as soon as possible before departure.
   - Establishes that transient check-in information shall be gathered in a manner prescribed by the department, rather than each sheriff’s office determining how to conduct check-ins.
   - Requires sexual predators and offenders to respond to any address verification correspondence from the department or from county or local law enforcement agencies within 3 weeks of the date of the correspondence.
   - Specifies that each instance of failure to register or report changes to the required information specified constitutes a separate offense.

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:	The proposed changes may require local Florida sheriff's offices and police departments to update sexual offender/predator documentation, policies and procedures, and training materials.
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:	
Expenditures:	The proposed changes will require FDLE to update sexual offender/predator registration forms and e-forms, the Florida Sexual Offender/Predator Public Registry website, the CJNet website, and training materials. See Technology Impact section.
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.	This will require changes to existing systems. Estimated programming will take three months to complete and total $15,000. This will be accomplished utilizing existing staff resources. The department requests the effective date be moved to 10/01/202 to allow for programming changes.

FEDERAL IMPACT

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

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

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	

ADDITIONAL COMMENTS

- Regarding clarifications to the definitions of permanent, temporary, and transient residences, the proposed language does not alter the definition of permanent, temporary or transient residence. Rather, it specifies existing protocols and practices utilized under Florida registration laws for over two decades. The definitions for what qualify as a permanent and temporary residence remain the same. The definition for what qualifies as transient residence was clarified to include the county where the person is located for the purpose of abiding, lodging or residing.

- Current law requires sexual offenders and predators to report in-person to the sheriff's office within 48 hours after any change in vehicles owned. While vehicle information is incredibly important to law enforcement, the mandate to have every change to this information reported in-person to the sheriff's office has significantly burdened our criminal justice partners. In addition, since 2007, registrants have had the ability to electronically report and update certain supplemental registration information, such as email addresses, Internet identifiers, and phone numbers, through a secure online system. This bill would allow registrants to update required vehicle information through that secure online system.

- The addition of language from s. 944.606, F.S., which requires the local jail to register sexual offenders in their custody within certain time frames, currently applies to sexual offenders under s. 943.0435, F.S., but is currently only housed in section s. 944.606, F.S. Copying this language to s. 943.0435, F.S., clarifies for local jail custodians that it applies to those in jail who are registering under s. 943.0435, F.S.

- The language adds that sexual predators and sexual offenders must not only respond to address verification correspondence from FDLE within three weeks, but must also respond to such correspondence from county or local law enforcement agencies. This addition will allow local agencies to mail their own address verification correspondence should they choose to. They will no longer be required to ask FDLE to do so. This will assist local law enforcement in confirming that a registrant resides as their registered address.

- The language establishes that transient check-in information shall be gathered in a manner prescribed by the department, rather than each sheriff's office determining how to conduct check-ins. This will ensure that all counties are consistent in how they report transient information. Currently, all counties that have a transient population use the department's provided transient check-in form, so this would not be a change for them, but would ensure the consistency remains. It will also allow state attorney's offices to rely on transient check in forms provided by the department for prosecutions on failure to complete a transient check-in.

FLORIDA DEPARTMENT OF LAW ENFORCEMENT
F.Y. 24-25 LEGISLATIVE TALKING POINTS

SEXUAL OFFENDER/PREDATOR ACT

The department is proposing changes to the Sexual Offender and Predator Acts to improve public safety in Florida, including:

- Restructure s. 943.0435, F.S., and s. 775.21, F.S., to improve the efficiency of both statutes.

- Remove references to "a sanction." Failure to remove this language could preclude an out-of-state offender from registration if they received a sanction not listed in statute.

- Allow online registration of vehicle information and address changes in the sexual offender/predator registry to facilitate access to this critical information and reduce the impact on sheriff's offices. Current law requires sexual offenders and predators to report in person to the sheriff's office within 48 hours after any change in vehicle ownership. While vehicle information is critical to law enforcement, the mandate to have every change to this information reported in person to the sheriff's office has created a significant burden for them. Since 2007, registrants have been able to electronically report and update supplemental registration information, such as email addresses, Internet identifiers, and phone numbers, through a secure online system.

- Clarify registration requirements relating to the timing of reporting of change of residence to another state by changing "*within 48 hours before the date*…" to "*at least 48 hours before the date*." This removes any possibility of misinterpretation or argument about when the reporting is required.

- Remove the requirement to register a threshold of *"5 days or more…"* for international travel. Registrants will be required to notify the department of any international travel, regardless of length. This assists the department in complying with Federal Sex Offender Registration and Notification Act requirements.

- Clarify permanent, temporary, and transient residence definitions to minimize misinterpretation by registrants and local sheriff's offices. The proposed language does not alter the definition of permanent, temporary, or transient residence. Instead, it specifies existing protocols and practices utilized under Florida registration laws for over two decades. The definitions for what qualifies as a permanent, temporary, and transient residence remain the same.

- Establishes that transient check-in information shall be gathered in a manner prescribed by the department rather than each sheriff's office determining how to conduct check-ins. This will ensure that all counties are consistent in how they report transient information. Currently, all counties with a transient population use the department's provided transient check-in form, so this would not be a change for them but would ensure the consistency remains. It will also allow state attorney's offices to rely on transient check-in forms provided by the department for prosecutions on failure to complete a transient check-in.

- Specifies that each instance of failure to register or report changes to the required information specified constitutes a separate offense.

- Amends language to ensure the department is notified of a petition for relief of registration requirement and clarifies criteria for petition of relief of registration requirement.

- Requires that sexual offenders and predators respond to address verification correspondence from county or local law enforcement agencies (in addition to the department). This addition will allow local agencies to mail their own address verification correspondence should they choose to. They will no longer be required to ask FDLE to do so. This will assist local law enforcement in confirming that a registrant resides as their registered address.

- Fiscal impact is being determined and will be presented in an LBR.

From: Matt Dunagan <mdunagan@flsheriffs.org>
Sent: Friday, January 5, 2024 2:42 PM
To: Vaughan, Scotti <VAUGHAN.SCOTTI@flsenate.gov>
Cc: Allie McNair <amcnair@flsheriffs.org>
Subject: RE: Bill analysis

Scotti,

We have not reviewed this bill yet but will add it to our legislative committee call next Friday.

Matt Dunagan, Deputy Executive Director of Operations
(850) 877-2165 x. 5807 (office)
(850) 274-3599 (cell)
FLORIDA SHERIFFS ASSOCIATION | Protecting, Leading & Uniting Since 1893.

From: Vaughan, Scotti <VAUGHAN.SCOTTI@flsenate.gov>
Sent: Friday, January 5, 2024 9:55 AM
To: Matt Dunagan <mdunagan@flsheriffs.org>
Subject: Bill analysis

You don't often get email from vaughan.scotti@flsenate.gov. Learn why this is important

CAUTION: This email originated from outside of FSA. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning Matt!
I hope all is well with you and your family. Will you please provide a bill analysis or any concerns for SB 1230 Sexual Predators and Offenders?

As always, thank you!

Scotti

Scotti P. Vaughan
Chief Legislative Analyst
Criminal Justice Committee
510 Knott Building

The Florida Senate

APPEARANCE RECORD

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

1-23-24
Meeting Date

Criminal justice
Committee

SB 1230
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jennifer Blasdel

Phone 941-875-5037

Address 143 Hourglass Dr
Street

Email jennifer@floridaaction committee.org

Venice FL 34293
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. 2020-2022JointRules.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

1/23/2024
Meeting Date

Senate Criminal Justice
Committee

SB 1230
Bill Number or Topic

Amendment Barcode (if applicable)

Name Bobbie Smith

Phone 850-251-6392

Address 2331 Phillips Road
Street

Email bobbiesmith@fdle.state.fl.us

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 Department of Law Enforcement

☐ 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)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

January 23, 2024
Meeting Date

Criminal Justice
Committee

SB 1230
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jennifer Cook Pritt

Phone 8502193631

Address 2636 Mitcham Drive
Street

Email jpritt@fpca.com

Tallahassee FL 32308
City *State* *Zip*

Reset Form

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 Police Chiefs 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. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Committee on Criminal and Civil Justice, *Chair*
Criminal Justice, *Vice Chair*
Appropriations
Children, Families, and Elder Affairs
Community Affairs
Regulated Industries

SELECT COMMITTEE:
Select Committee on Resiliency

SENATOR JENNIFER BRADLEY
6th District

January 9, 2024

Senator Jonathan Martin, Chairman
Senate Committee on Criminal Justice
315 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Martin:

I respectfully request that Senate Bill 1230 be placed on the committee's agenda at your earliest convenience. This bill relates to sexual predators and sexual offenders.

Thank you for your consideration.

Sincerely,

Jennifer Bradley

Jennifer Bradley

cc: Amanda Stokes, Staff Director
Sue Arnold, Administrative Assistant

REPLY TO:
❒ 1845 East West Parkway, Suite 5, Fleming Island, Florida 32003 (904) 278-2085
❒ 124 Northwest Madison Street, Lake City, Florida 32055 (386) 719-2708
❒ 408 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

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 1278
INTRODUCER:	Senator Martin
SUBJECT:	Department of Corrections
DATE:	January 22, 2024
REVISED:	

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

I. Summary:

SB 1278 amends s. 944.31, F.S., to authorize the Office of the Inspector General (OIG) law enforcement officers to conduct any criminal investigations involving matters over which the Department of Corrections (DOC) has jurisdiction at private correctional facilities. Such law enforcement officers may arrest, with or without a warrant, any prisoner, visitor, or staff member, including a contract employee, subcontractor, or volunteer of any state correctional institution and private correctional facilities, for any violation of criminal laws of the state involving matters over which the DOC has jurisdiction.

The bill amends s. 957.04, F.S., to broaden methods of solicitation of contracts for the operation of private correctional facilities to include competitive solicitation as provided in ch. 287, F.S. The bill specifies that contracts entered into under ch. 957, F.S., are not exempt from the requirements of ch. 287, F.S. However, if there is a conflict, the provisions of ch. 957, F.S., control.

The bill clarifies contracts entered into under this chapter for the operation of private correctional facilities are not considered to be an "outsource" as defined in s. 287.012, F.S.

The bill amends s. 957.07, F.S., to eliminate the Prison Per Diem Workgroup and allow for the DOC's procurement process to include competitive solicitation.

The bill amends s. 957.12, F.S., to clarify that a bidder or potential bidder may have written contact with the procurement office. Additionally, language is removed that permits contact in a noticed meeting.

The bill amends s. 957.15, F.S., to remove language prohibiting the DOC from having authority over funds appropriated for the operation, maintenance, and lease-purchase of private correctional facilities.

The bill removes language in multiple sections of law relating to *request for proposals* and replaces it with *competitive solicitation.*

The bill may have an indeterminate fiscal impact on the DOC. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2024.

II. Present Situation:

As of October 1, 2023, all powers, duties, functions, records, personnel, associated administrative support, positions, property, administrative authority, and administrative rules relating to private correctional facilities as defined in s. 944.710(3), F.S.,[1] were transferred from the Department of Management Services to the Department of Corrections.[2]

Solicitations of Contracts

Section 957.04, F.S., outlines requirements of contracts entered for the operation of private correctional facilities. Contracts must be negotiated with the most qualified firm. A contract for private correctional services may not be entered into by the DOC unless the DOC determines the contractor has:[3]

- The qualifications, experience, and management personnel necessary to carry out the terms of the contract;
- The ability to expedite the siting, design, and construction of correctional facilities; and
- The ability to comply with applicable laws, court orders, and national correctional standards.

Additionally, a contract entered into for the operation of a private correctional facility must:

- Indemnify the state and the DOC against any and all liability;[4]
- Require the contractor seek, obtain, and maintain accreditation by the American Correctional Association for the facility under that contract;[5]
- Require the proposed facilities and the management plans for the inmates meet applicable American Correctional Association standards;[6]
- Establish operations standards for correctional facilities subject to the contract;[7]
- Require the contractor to be responsible for a range of dental, medical, and psychological services; diet; education; and work programs at least equal to those provided by the department in comparable facilities;[8]

[1] "Private correctional facility" means any facility, which is not operated by the DOC, for the incarceration of adults or juveniles who have been sentenced by a court and committed to the custody of the DOC. Section 944.710, F.S.
[2] Chapter 2023-268, L.O.F.
[3] Section 957.04(1)(a), F.S.
[4] Section 957.04(1(b), F.S.
[5] Section 957.04(1)(c), F.S.
[6] Section 957.04(1)(d), F.S.
[7] Section 957.04(1)(e), F.S.
[8] Section 957.04(1)(f), F.S.

- Require the selection and appointment of a full-time contract monitor appointed and supervised by the DOC;[9] and
- Be for a period of 3 years and may be renewed for successive 2-year periods thereafter.[10]

Procurements

Section 957.07, F.S., prohibits the DOC from entering into a contract or series of contracts unless the DOC determines that the contract or series of contracts in the total for the facility will result in cost savings to the state of at least seven percent over the public provision of a similar facility. Such cost savings, determined and certified by the Auditor General, must be based upon the actual costs associated with the construction and operation of similar facilities or services as determined by the DOC. The DOC calculates all of the cost components that determine the inmate per diem, including administrative costs, in correctional facilities that are substantially similar and operated by the DOC.[11] The DOC is required to provide a report detailing the state cost to design, finance, acquire, lease, construct, and operate a facility similar to the private correctional facility on a per diem basis. This report is provided to the Auditor General in sufficient time to be certified to be included in the request for proposals.[12]

The Prison Per-Diem Workgroup must develop consensus per diem rates for use by the Legislature. The Office of Program Policy Analysis and Government Accountability and staff of the appropriations committees of both the Senate and the House of Representatives are the principals of the workgroup.[13] When developing the consensus per diem rates, the workgroup must:[14]

- Use data provided by the DOC from the most recent fiscal year to determine per diem cost for the following:
  - Custody and control;
  - Health services;
  - Substance abuse programs; and
  - Educational programs
- Include the costs of departmental, regional, institutional, and program administration and any other fixed costs of the DOC;
- Calculate average per diem rates for the adult male, youthful offender male, and female offender populations; and
- Make per diem adjustments, as appropriate, to account for variations in size and location of correctional facilities.

The consensus per diem rates may be used to assist the Legislature in determining the level of funding provided to privately operated prisons to meet the seven percent savings required.[15]

[9] Section 957.04(1)(g), F.S.
[10] Section 957.04(1)(h), F.S.
[11] Section 957.07(1), F.S.
[12] Section 957.07(4), F.S.
[13] Section 957.07(5)(a), F.S.
[14] Section 957.07(5)(b), F.S.
[15] Section 957.07(5)(c), F.S.

Section 957.12, F.S., prohibits a bidder or potential bidder from having any contact with any member or employee of or consultant to the DOC regarding a request for proposal, a proposal, or the evaluation or selection process from the time a request for proposals for a private correctional facility is issued until the time a notification of intent to award is announced, unless such contract is in writing or in a meeting for which notice was provided in the Florida Administrative Register.

Section 957.15, F.S., requires the request for appropriation of funds to make payments of the contracts entered into by the DOC for the operation, maintenance, and lease-purchase of the private correctional facilities must be included in its budget request to the Legislature as a separately identified item. After an appropriation is made to the DOC for private correctional facilities, the DOC has no authority other than to pay the appropriate private vendor the amounts certified for payment.

Arrest Authority

Currently under s. 944.31, F.S., the OIG has the duty of inspecting the penal and correctional systems of the state and are responsible for criminal and administrative investigations of matters relating to the DOC. The secretary of the DOC may designate persons within the OIG as law enforcement officers. Such officers must be certified pursuant to s. 943.1395, F.S., and must have a minimum of 3 years' experience as an inspector in the OIG's office or as a law enforcement officer.

Office of the Inspector General law enforcement inspectors have the authority to:
- Conduct any criminal investigation that occurs on property owned or leased by the DOC;
- Arrest, with or without a warrant, inmates and visitors of state correctional institutions for felonies committed on the DOC's owned or leased property;
- Arrest offenders who have escaped or absconded from custody; and
- Arrest, with or without a warrant, the DOC staff including any contract employee for felony violations listed under chs. 944 and 893, F.S.

The arrested person is surrendered to the sheriff of the county with a formal complaint.

According to the DOC's analysis, the OIG law enforcement inspectors lack the authority to arrest individuals who have committed a misdemeanor in their presence without a warrant. Warrantless misdemeanor arrests are currently handled by the local law enforcement agency with jurisdiction.[16]

III. Effect of Proposed Changes:

The bill amends s. 944.31, F.S., to authorize the Office of the Inspector General (OIG) law enforcement officers to conduct any criminal investigations involving matters over which the DOC has jurisdiction at private correctional facilities. Such law enforcement officers may arrest, with or without a warrant, any prisoner, visitor, or staff member, including a contract employee, subcontractor or volunteer of any state correctional institution and private correctional facilities,

[16] *See* DOC, *2024 Legislative Bill Analysis SB 1278,* (on file with the Senate committee on Criminal Justice).

for any violation of criminal laws of the state involving matters over which the DOC has jurisdiction.

The bill amends s. 957.04, F.S., to broaden methods of solicitation of contracts for the operation of private correctional facilities beyond requests for proposal to include all methods provided for in ch. 287, F.S. Any competitive solicitation is available to all vendors, and includes the time and date for receipt of bids, proposals, or replies of the public opening, and must include all contractual terms and conditions. The following are competitive solicitation processes:[17]

- Invitation to bid, which is used when the agency is capable of specifically defining the scope of work for which a contractual service is required or when the agency is capable of establishing precise specification defining the commodities required.[18]
- Request for proposals, which is used when the purposes and uses for which the commodity or contractual service being sought can be specifically defined and the agency is capable of identifying necessary deliverables.[19]
- Invitation to negotiate, which is used by an agency which is intended to determine the best method for achieving a specific goal or solving a particular problem and identifies one or more responsive vendors which the agency may negotiate with to receive the best value.[20]

The bill specifies that contracts entered into under ch. 957, F.S., are not exempt from the requirements of ch. 287, F.S. However, if there is a conflict, the provisions of ch. 957, F.S., control.

The bill clarifies contracts entered into under this chapter for the operation of private correctional facilities are not considered to be an "outsource" as defined in s. 287.012, F.S.[21]

The bill amends s. 957.07, F.S., to eliminate the Prison Per Diem Workgroup and allow for the DOC's procurement process to include competitive solicitation.

The bill amends s. 957.12, F.S., to clarify that a bidder or potential bidder may have written contact with the procurement office. Additionally, language is removed that permits contact in a noticed meeting.

The bill amends s. 957.15, F.S., to remove language prohibiting the DOC from having authority over funds appropriated for the operation, maintenance, and lease-purchase of private correctional facilities.

The bill removes language in multiple sections of law relating to *request for proposals* and replaces it with *competitive solicitation*.

The bill is effective July 1, 2024.

[17] Section 287.057(1), F.S
[18] Section 287.057(1)(a), F.S.
[19] Section 287.057(1)(b), F.S.
[20] Section 287.057(1)(c), F.S.
[21] "Outsource" means the process of contracting with a vendor to provide a service, in whole or part, or an activity while the state agency retains the responsibility and accountability for the service or activity and there is a transfer of management responsibility for the delivery of resources and the performance of those resources. Section 287.012, F.S.

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:

This bill may have a positive indeterminate impact on county detention facilities due to OIG officers having the authority to make arrests for misdemeanor offenses.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 944.31, 957.04, 957.07, 957.12, and 957.15.

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 Martin

33-00969-24 20241278__

A bill to be entitled

An act relating to Department of Corrections; amending s. 944.31, F.S.; providing additional authority for law enforcement officers of the office of the inspector general concerning department and private correctional facilities; amending s. 957.04, F.S.; providing that correctional privatization contracts are not exempt from specified state contracting provisions unless otherwise specified; providing construction; amending s. 957.07, F.S.; revising terminology; removing provisions concerning development of consensus per diem rates by the Prison Per-Diem Workgroup; amending s. 957.12, F.S.; revising provisions concerning contact with the department by specified persons; amending s. 957.15, F.S.; removing a provision concerning department control over certain funds appropriated for private correctional facilities; providing an effective date.

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

Section 1. Section 944.31, Florida Statutes, is amended to read:

944.31 Inspector general; inspectors; power and duties.—

(1) The inspector general shall be responsible for prison inspection and investigation, internal affairs investigations, and management reviews. The office of the inspector general shall be charged with the duty of inspecting the penal and correctional systems of the state.

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

33-00969-24 20241278__

(2) The office of the inspector general shall inspect each correctional institution or any place in which state prisoners are housed, worked, or kept within the state, with reference to its physical conditions, cleanliness, sanitation, safety, and comfort; the quality and supply of all bedding; the quality, quantity, and diversity of food served and the manner in which it is served; the number and condition of the prisoners confined therein; and the general conditions of each institution.

(3) The office of inspector general shall see that all the rules and regulations issued by the department are strictly observed and followed by all persons connected with the correctional systems of the state. The office of the inspector general shall coordinate and supervise the work of inspectors throughout the state.

(4) The inspector general and inspectors may enter any place where prisoners in this state are kept and shall be immediately admitted to such place as they desire and may consult and confer with any prisoner privately and without molestation.

(5)(a) The inspector general and inspectors shall be responsible for criminal and administrative investigation of matters relating to the Department of Corrections.

(b) The secretary may designate persons within the office of the inspector general as law enforcement officers to conduct any criminal investigation that occurs on property owned or leased by the department or involves matters over which the department has jurisdiction. All criminal investigations, involving matters over which the department has jurisdiction at private correctional facilities, as defined in s. 944.710, may

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

be conducted by the law enforcement officers of the office of the inspector general.

(c) A person designated as a law enforcement officer must be certified pursuant to s. 943.1395 and must have a minimum of 3 years' experience as an inspector in the inspector general's office or as a law enforcement officer.

(d) The department shall maintain a memorandum of understanding with the Department of Law Enforcement for the notification and investigation of mutually agreed-upon predicate events that shall include, but are not limited to, suspicious deaths and organized criminal activity.

(e) During investigations, the inspector general and inspectors may consult and confer with any prisoner or staff member privately and without molestation and persons designated as law enforcement officers under this section shall have the authority to arrest, with or without a warrant, any prisoner of or visitor to a state correctional institution for a violation of the criminal laws of the state. Law enforcement officers under this section shall have the authority to arrest, with or without a warrant, any prisoner of or visitor to any state correctional institution, as defined in s. 944.02, including all private correctional facilities, for any violation of the criminal laws of the state involving matters over which the department has jurisdiction, ~~involving an offense classified as a felony that occurs on property owned or leased by the department~~ and may arrest offenders who have escaped or absconded from custody.

(f) Persons designated as law enforcement officers have the authority to arrest with or without a warrant a staff member of

the department, including any contract employee, subcontractor, or volunteer, for a violation of the criminal laws of the state that occurs ~~involving an offense classified as a felony under this chapter or chapter 893~~ on property owned or leased by the department, or any private correctional facility staff member, contract employee, subcontractor, or volunteer, for a violation of the criminal laws of the state involving matters over which the department has jurisdiction at any private correctional facility. A person designated as a law enforcement officer under this section may make arrests of persons against whom arrest warrants have been issued, including arrests of offenders who have escaped or absconded from custody. The arrested person shall be surrendered without delay to the sheriff of the county in which the arrest is made, with a formal complaint subsequently made against her or him in accordance with law.

Section 2. Present paragraphs (a) through (h) of subsection (1) of section 957.04, Florida Statutes, are redesignated as paragraphs (b) through (i), respectively, a new paragraph (a) is added to that subsection, and present paragraphs (a) and (e) of that subsection are amended, to read:

957.04 Contract requirements.—

(1) A contract entered into under this chapter for the operation of private correctional facilities shall maximize the cost savings of such facilities and ~~shall~~:

(a) Unless otherwise specified herein, contracts entered into under this chapter are not exempt from chapter 287, including the competitive solicitation requirements thereof. However, to the extent of a direct conflict between this chapter and chapter 287, the provisions of this chapter shall control.

Contracts entered into under this chapter for the operation of private correctional facilities are not considered to be an outsource as defined in s. 287.012. The specific outsourcing requirements in s. 287.0571 are not required under this section.

(b) ~~(a)~~ Be executed ~~negotiated~~ with the contractor ~~firm~~ found most qualified. However, a contract for private correctional services may not be entered into by the department unless the department determines that the contractor has demonstrated that it has:

1. The qualifications, experience, and management personnel necessary to carry out the terms of the contract.

2. The ability to expedite the siting, design, and construction of correctional facilities.

3. The ability to comply with applicable laws, court orders, and national correctional standards.

(f) ~~(c)~~ Establish operations standards for correctional facilities subject to the contract. However, if the department and the contractor disagree with an operations standard, the contractor may propose to waive any rule, policy, or procedure of the department related to the operations standards of correctional facilities which is inconsistent with the mission of the contractor to establish cost-effective, privately operated correctional facilities. The department shall be responsible for considering all requests ~~proposals~~ from the contractor to waive any rule, policy, or procedure and shall render a final decision granting or denying such request.

Section 3. Subsections (4) and (5) of section 957.07, Florida Statutes, are amended to read:

957.07 Cost-saving requirements.—

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

(4) The department shall provide a report detailing the state cost to design, finance, acquire, lease, construct, and operate a facility similar to the private correctional facility on a per diem basis. This report shall be provided to the Auditor General in sufficient time that it may be certified to be included in the competitive solicitation ~~request for proposals~~.

~~(5)(a) At the request of the Speaker of the House of Representatives or the President of the Senate, the Prison Per-Diem Workgroup shall develop consensus per diem rates for use by the Legislature. The Office of Program Policy Analysis and Government Accountability and the staffs of the appropriations committees of both the Senate and the House of Representatives are the principals of the workgroup. The workgroup may consult with other experts to assist in the development of the consensus per diem rates. All meetings of the workgroup shall be open to the public as provided in chapter 286.~~

~~(b) When developing the consensus per diem rates, the workgroup must:~~

~~1. Use data provided by the department from the most recent fiscal year to determine per diem costs for the following activities:~~

~~a. Custody and control;~~

~~b. Health services;~~

~~c. Substance abuse programs; and~~

~~d. Educational programs;~~

~~2. Include the cost of departmental, regional, institutional, and program administration and any other fixed costs of the department;~~

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

~~3. Calculate average per diem rates for the following offender populations: adult male, youthful offender male, and female; and~~

~~4. Make per diem adjustments, as appropriate, to account for variations in size and location of correctional facilities.~~

~~(c) The consensus per diem rates determined by the workgroup may be used to assist the Legislature in determining the level of funding provided to privately operated prisons to meet the 7-percent savings required of private prisons by this chapter.~~

~~(d) If a private vendor chooses not to renew the contract at the appropriated level, the department shall terminate the contract as provided in s. 957.14.~~

Section 4. Section 957.12, Florida Statutes, is amended to read:

957.12 Prohibition on contact.—Except in writing to the procurement office or as provided in the solicitation documents, a bidder or potential bidder is not permitted to have any contact with any member or employee of or consultant to the department regarding a competitive solicitation ~~request for proposal~~, a proposal, or the evaluation or selection process from the time a request for proposals for a private correctional facility is issued until the time a notification of intent to award is announced~~, except if such contact is in writing or in a meeting for which notice was provided in the Florida Administrative Register~~.

Section 5. Section 957.15, Florida Statutes, is amended to read:

957.15 Funding of contracts for operation, maintenance, and

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

lease-purchase of private correctional facilities.—The request for appropriation of funds to make payments pursuant to contracts entered into by the department for the operation, maintenance, and lease-purchase of the private correctional facilities authorized by this chapter shall be included in its budget request to the Legislature as a separately identified item. ~~After an appropriation has been made by the Legislature to the department for the private correctional facilities, the department shall have no authority over such funds other than to pay from such appropriation to the appropriate private vendor such amounts as are certified for payment by the department.~~

Section 6. This act shall take effect July 1, 2024.

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

2024 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Corrections

BILL INFORMATION	
BILL NUMBER:	SB 1278
BILL TITLE:	Department of Corrections
BILL SPONSOR:	Senator Martin
EFFECTIVE DATE:	July 1, 2024

COMMITTEES OF REFERENCE
1) Criminal Justice
2) Appropriations Committee on Criminal and Civil Justice
3) Fiscal Policy
4)
5)

CURRENT COMMITTEE
Criminal Justice

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

IDENTICAL BILLS	
BILL NUMBER:	HB 1337
SPONSOR:	Representative Stark

Is this bill part of an agency package?
Yes.

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	January 19, 2024
LEAD AGENCY ANALYST:	Kenneth Sumpter, Debra Arrant, Melissa McDaniel, Andrew Stover
ADDITIONAL ANALYST(S):	Greg Prescott
LEGAL ANALYST:	Ryan Orbe, Andrew Stover
FISCAL ANALYST:	Tommy Milito, Lavitta Stanford, Sharon McNeal

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Section 1: This bill amends s. 944.31, F.S., to grant statutory authority to Florida Department of Corrections (FDC) Office of the Inspector General (OIG) Law Enforcement Inspectors to arrest individuals for all violations of the criminal laws of the state of Florida involving matters over which the Department has jurisdiction on property owned or leased by the FDC, and at all private correctional facilities as defined in s. 944.710(3), F.S.

Section 2: This bill amends s. 957.04, F.S., to broaden what methods of solicitation of private prison contracts the department may engage in to procure a private prison contract beyond requests for proposal, to include all methods provided for in Chapter 287, F.S.

Section 3: This bill amends s. 957.07, F.S., to clarify language that the procurement is not statutorily a request for proposal and the amendment strikes s. 957.07(5)(a)-(d), F.S., as the Prison Per Diem Workgroup has not existed for 20+ years, and the Department has provided all per diem comparison calculations.

Section 4: This bill amends s. 957.12, F.S., to provide further clarification as Chapter 287, F.S., already has a prohibition on contact, and replaces “request for proposal” and “proposal” with the statutorily accurate “competitive solicitation.”

Section 5: This bill amends s. 957.15, F.S., removing language prohibiting the Department from having authority over funds appropriated for the operation, maintenance, and lease-purchase of the private correctional facilities.

Section 6: provides an effective date of July 1, 2024.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Section 1: Under the current version of s. 944.31, F.S., FDC OIG Law Enforcement Inspectors have authority to arrest inmates and visitors to state correctional institutions for felonies committed on Department owned or leased property, and have authority to arrest FDC staff members and contract employees for felony violations of chapters 944 and 893, F.S.

FDC OIG Law Enforcement Inspectors lack the authority to arrest individuals who commit misdemeanors in their presence without a warrant, within their current arrest jurisdiction (i.e., on property owned or leased by FDC), in conflict with s. 901.15, F.S. FDC OIG Law Enforcement Inspectors may be the only Law Enforcement Officers in the state with such a statutory impediment. Warrantless misdemeanor arrests are currently handled by the local law enforcement agency with jurisdiction (i.e., the county sheriff or the municipal police department where the FDC owned or leased property is located.)

As of October 1, 2023, FDC has contract oversight of private correctional facilities as defined in s. 944.710(3), F.S., also commonly referred to as “private prisons,” whose contracts were formerly overseen by the Florida Department of Management Services. Currently, FDC OIG Law Enforcement Inspectors may only investigate crimes over which FDC has jurisdiction occurring in private correctional facilities, whereas arrests in those cases are currently handled by the local law enforcement agency with arrest jurisdiction, or by FDC OIG Law Enforcement Officers with signed arrest warrants.

Additionally, FDC Law Enforcement Inspectors may arrest offenders who have escaped or absconded from custody, with or without a warrant, anywhere in Florida, and may also arrest any person who has an active warrant for an FDC OIG investigated case anywhere in Florida.

Regardless of the type of arrest, FDC OIG Law Enforcement Inspectors must surrender, without delay, any arrested person to the sheriff of the county in which the arrest occurred.

Section 2: Under the current version of s. 957.15, F.S., FDC is limited to requests for proposal to procure private prison contracts, which are exempt from the provisions of chapter 287, F.S.

Section 3: Under the current version of s. 957.07, F.S., and as indicated in Section 2 above, FDC does not employ competitive solicitations when procuring private prison contracts. Although FDC now provides all per diem comparison calculations, the defunct Prison Per Diem Workgroup statute, found in s. 957.07(5)(a)-(d), F.S., is still current law despite being more than two decades out-of-date.

Section 4: Since chapter 287, F.S., does not currently apply to private prison procurement contracts, the current version of s. 957.12, F.S., contains the sole relevant prohibition on contact between bidders or potential bidders, and FDC’s procurement professionals, although exceptions exist for written contacts or for meetings where notice was provided in the Florida Administrative Register.

Section 5: Under the current version of s. 957.15, F.S., after an appropriation has been made by the Legislature to FDC for private correctional facilities, FDC lacks authority over the funds appropriated for the operation, maintenance, and lease-purchase of the private correctional facilities, except to make certified payments to the appropriate private vendor.

2. EFFECT OF THE BILL:

Section 1: This bill resolves the current conflict between s. 901.15, F.S., and s. 944.31, F.S., and provides the Secretary of Corrections greater law enforcement capability on FDC owned or leased property, as well as better policing of the care, custody, and control of department inmates in private correctional facilities.

This bill harmonizes FDC OIG Law Enforcement Inspectors' investigative jurisdiction and arrest jurisdiction, in line with that of other Florida Law Enforcement Officers. FDC OIG Law Enforcement Inspectors will no longer have to call the local law enforcement agency with jurisdiction to arrest suspects that have committed a misdemeanor in their presence, or limit arrests of Department staff or contract employees to felonies under chapters 893 and 944, F.S. This bill also eliminates the current impediment of FDC OIG Law Enforcement Inspectors being unable to effect arrests, of suspects they have already investigated criminally regarding matters over which FDC has jurisdiction, at private correctional facilities.

As FDC OIG Law Enforcement Inspectors have investigative jurisdiction over all of these matters where FDC has jurisdiction, the resources necessary to make on sight misdemeanor arrests, arrests of FDC staff and contract employees, subcontractors, and volunteers for all relevant felonies, and arrests at private correctional facilities for all relevant criminal violations by private correctional facility staff members, contract employees, subcontractors, and volunteers, currently exist within the FDC OIG Bureau of Criminal Investigations. No additional equipment, personnel, IT resources, or funding will likely be needed by FDC OIG to enforce this bill's updated version of s. 944.31, F.S.

This bill will not likely increase the workload of FDC OIG Law Enforcement Inspectors who, as mentioned above, already investigate misdemeanor crimes as nonarrest cases, or as additional offenses in felony cases, and who already investigate criminal activity regarding matters over which FDC has jurisdiction at private correctional facilities.

This bill will not result in FDC OIG Law Enforcement Inspectors making arrests for traffic crimes (misdemeanor or felony) on either Department owned or leased property, or at private correctional facilities, as traffic crimes are not matters over which FDC has jurisdiction. Moreover, this bill will not result in FDC OIG Law Enforcement Inspectors investigating any crime beyond their statutory investigative authority (matters over which FDC has jurisdiction) at private correctional facilities.

This bill will not change the current jurisdiction of FDC OIG Law Enforcement Inspectors regarding warrant arrests, or arrests of offenders who have escaped or absconded from custody.

Section 2: By amending s. 957.04, F.S., this bill will broaden what methods of solicitation of private prison contracts the Department may engage in to procure a private prison contract beyond requests for proposal, to include all methods provided for in chapter 287, F.S. This bill also clarifies that private prison procurement contracts are not outsourcing, as defined in s. 286.012, F.S., by FDC, nor are the specific outsourcing requirements of s. 286.0571, F.S., required.

Section 3: By amending s. 957.07, F.S., this bill will clarify language that private prison procurement is not statutorily a request for proposal; instead, all methods provided for in chapter 287 F.S., are available to FDC. This bill also eliminates the superfluous s. 957.07(5)(a)-(d), F.S., as the Prison Per Diem Workgroup no longer exists. FDC will continue to provide all per diem comparison calculations.

Section 4: This bill clarifies s. 957.12, F.S., providing complimentary language to the prohibition on contact in chapter 287, F.S., by excepting written communication to the procurement office or as provided in the solicitation documents, and replaces the inaccurate terms "request for proposal" and "proposal" with the statutorily accurate "competitive solicitation" for private prison procurement contracts.

Section 5: This bill updates s. 957.15, F.S., to reflect FDC's contract monitoring authority over private correctional facilities as of October 1, 2023, by removing the language prohibiting FDC from having authority over funds appropriated for the operation, maintenance, and lease-purchase of the private correctional facilities.

Section 6: Provides an effective date of July 1, 2024.

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):	

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, 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:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Does the legislation contain a State Government appropriation?	Click or tap here to enter text.
If yes, was this appropriated last year?	

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

Revenues:	
Expenditures:	Click or tap here to enter text.
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 no technology 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:	Section 1: This bill narrowly expands arrest jurisdiction for FDC OIG Law Enforcement Inspectors to misdemeanors and felonies over which the Department has jurisdiction, and only those committed on Department owned or leased property, and at private correction facilities as defined in s. 944.710(3), F.S. The resulting arrest jurisdiction mirrors FDC OIG Law Enforcement Inspectors' current investigative jurisdiction, which this bill does not impact. Sections 2-5: This bill eliminates out-of-date language within chapter 957, F.S., and updates chapter 957, F.S. to harmonize with FDC's October 1, 2023, private prison contract authority transfer from the Department of Management Services. Sections 1-6: This bill does not present any issues of constitutionality with respect to the Florida or U.S. Constitution.

The Florida Senate

APPEARANCE RECORD

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

January 23, 2024
Meeting Date

Criminal Justice
Committee

1278
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 1454 Vieux Carre Drive
Street

Email Barney@BarneyBishop.com

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 Smart Justice Alliance

☐ 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

1/23/24
Meeting Date

CS
Committee

1278
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jake Felder

Phone 8507285707

Address 501 Scallon St
Street

Email 8507285707

Tallahassee FL 32399
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 Dep. of Corrections

☐ 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

1/23/24
Meeting Date

Criminal Justice
Committee

SB 1278
Bill Number or Topic

Amendment Barcode (if applicable)

Name Laurette Philipsen

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Email advocatephilipsen@gmail.com

Port Richey FL 34668
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:

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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 1284
INTRODUCER:	Senator Martin
SUBJECT:	Health Care for Inmates
DATE:	January 22, 2024
REVISED:	

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

I. Summary:

SB 1284 revises ss. 945.40-945.49, F.S., the Corrections Mental Health Act to provide updated, clarifying, or technical language, as well as, provide substantial changes to the procedure for placement and treatment of inmates.

The bill amends s. 945.41, F.S., to revise legislative intent by clarifying technical language in regards to inmates *who have a mental illness* and provide that services received by those inmates are offered as outpatient and inpatient mental health treatment and services. The Department of Corrections (DOC) is authorized to purchase treatment materials and equipment for specified purposes and to contract with entities, persons, or agencies qualified to provide mental health treatment and services. The bill requires inmates in the custody of the DOC to be offered the opportunity to participate in the development of a written individualized treatment plan.

A mentally competent inmate must give his or her express and informed consent for mental health treatment, and any consent given for treatment may be revoked orally or in writing before or during the treatment by the inmate or a person legally authorized to make such decisions. Inmates who are incompetent to consent must receive treatment deemed necessary for their appropriate care and for the safety of the inmate or others.

The bill authorizes nonpsychiatric, emergency surgical treatment, and routine medical treatment for an inmate placed in a mental health treatment facility under certain circumstances.

The bill amends s. 945.42, F.S., to define the terms “chief,” “express and informed consent,” “gravely disabled,” “incompetent to consent to treatment,” “involuntary examination,” “likelihood of serious harm,” and “treatment,” and revises current terms.

The bill substantially rewords s. 945.43, F.S., to provide a process for involuntary examination.

The bill substantially rewords s. 945.44, F.S., to provide the criteria, hearing procedures for petitions, orders for treatment, status hearings, copies of orders, and dismissal of petitions relating to the placement and treatment of an inmate in a mental health treatment facility.

The bill repeals s. 945.45, F.S., relating to the continued placement of inmates in mental health facilities. Language related to continued placement is described in s. 945.44, F.S, under the bill.

The bill amends s. 945.46, F.S., to provide the process for involuntary placement court proceedings when an inmate continues to be mentally ill and in need of care and treatment but is scheduled for release from custody. The bill adds language to ensure a fee may not be charged for the filing of the petition.

The bill amends s. 945.47, F.S., to specify that any time that an inmate who has received mental health treatment while in the custody of the DOC becomes eligible for release, a record of the treatment may be provided to the Florida Commission on Offender Review and the Department of Children and Families for the purpose of *arranging post release aftercare placement and to prospective recipient inpatient health care or residential facilities* upon request.

The bill substantially rewords s. 945.48, F.S., to authorize the DOC to involuntary administer psychotropic medication to an inmate on an emergency basis without following the procedure outlined in s. 945.43, F.S. The use of force is permitted when and to the extent that it reasonably appears necessary to effectuate the treatment of an inmate, to effectuate clinically necessary hygiene of an inmate, for the application of physical restraint, or pursuant to a valid court order. Such force must be in accordance with requirements described in s. 944.35, F.S.

The bill creates s. 945.485, F.S., to provide procedures for when an inmate is engaging in active or ongoing self-injurious behavior and has refused to provide express and informed consent. If an inmate is incompetent to consent, the inmate's treating physician must proceed as set forth in s. 945.6042, F.S. The bill provides proceedings for when an inmate is competent, refusing necessary surgical or medical treatment, and engaging in active or ongoing self-injurious behavior that presents a threat to the safety of the DOC staff or other inmates or the security, internal order, or discipline of the institution.

The bill amends s. 945.49, F.S., to remove the requirement for the DOC to work in cooperation with the Mental Health Program Office of the Department of Children and Families to adopt rules necessary to administer sections under the Corrections Mental Health Act.

The bill creates s. 945.6042, F.S., to provide the DOC must offer inmates the opportunity to execute an advance directive as defined in s. 765.101, F.S. The bill provides definitions for "health care facility", "incapacity," "informed consent," "inmate," "ombudsman," "proxy," and "proxy review team." The bill provides procedure relating to the capacity of an inmate. The bill creates a process for a DOC ombudsman to serve as a proxy for an inmate that has not executed an advance directive. The bill authorizes the use of force and provides immunity from liability.

The bill may have an indeterminate fiscal impact on the DOC. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2024.

II. Present Situation:

Under the Corrections Mental Health Act, ss. 945.40-945.49, F.S., it is the intent of the Legislature for mentally ill inmates in the custody of the DOC to receive an evaluation and appropriate treatment for their mental illness through a continuum of services. The DOC must provide mental health services to inmates committed to the DOC and may contract with entities, persons, or agencies qualified to provide such services.[1] Mental health treatment facilities are required to be secure, adequately equipped and staffed, and provide services in the least restrictive manner consistent with optimum improvement of the inmate's condition.[2]

The Corrections Mental Health Act provides key terminology necessary in determining criteria is met for crisis stabilization care[3] such as: defining mentally ill,[4] an inmate in immediate need of care and treatment,[5] in need of care and treatment,[6] and transitional mental health care.[7]

[1] Section 945.41(1), F.S.
[2] Section 945.41(2), F.S.
[3] "Crisis Stabilization Care" means a level of care that is less restrictive and intense than care provided in a mental health treatment facility, that includes a broad range of evaluation and treatment services provided within a highly structured setting or locked residential setting, and that is intended for inmates who are experiencing acute emotional distress and who cannot be adequately evaluated and treated in a transitional care unit and is devoted principally toward rapid stabilization of acute symptoms and conditions. Section 945.42(2), F.S.
[4] "Mentally ill" means an impairment of the mental or emotional processes that exercise conscious control of one's actions or the ability to perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living. However, for the purposes of transferring an inmate to a mental health treatment facility, the term does not include a developmental disability as defined in s. 393.063, F.S., simple intoxication, or conditions manifested only by antisocial behavior or substance abuse addiction. However, an individual who is developmentally disabled may also have a mental illness. Section 945.42(9), F.S.
[5] "In immediate need of care and treatment" means that an inmate is apparently mentally ill and is not able to be appropriately cared for in the institution where he or she is confined and that, but for being isolated in a more restrictive and secure housing environment, because of the apparent mental illness: the inmate is demonstrating a refusal to care for himself or herself and without immediate treatment intervention is likely to continue to refuse to care for himself or herself, and such refusal poses an immediate, real, and present threat of substantial harm to his or her well-being; or there is an immediate, real, and present threat that the inmate will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior involving causing, attempting, or threatening such harm; the inmate is unable to determine for himself or herself whether placement is necessary; and all available less restrictive treatment alternatives that would offer an opportunity for improvement of the inmate's condition have been clinically determined to be inappropriate. Section 945.42(5), F.S.
[6] "In need of care and treatment" means that an inmate has a mental illness for which inpatient services in a mental health treatment facility are necessary and that, but for being isolated in a more restrictive and secure housing environment, because of the mental illness: the inmate is demonstrating a refusal to care for himself or herself and without treatment is likely to continue to refuse to care for himself or herself, and such refusal poses a real and present threat of substantial harm to his or her well-being; or there is a substantial likelihood that in the near future the inmate will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior causing, attempting, or threatening such harm; The inmate is unable to determine for himself or herself whether placement is necessary; and all available less restrictive treatment alternatives that would offer an opportunity for improvement of the inmate's condition have been clinically determined to be inappropriate. Section 945.42(6), F.S.
[7] "Transitional mental health care" means a level of care that is more intensive than outpatient care, but less intensive than crisis stabilization care, and is characterized by the provision of traditional mental health treatments such as group and individual therapy, activity therapy, recreational therapy, and psychotropic medications in the context of a structured residential setting. Transitional mental health care is indicated for a person with chronic or residual symptomatology who does not require crisis stabilization care or acute psychiatric care, but whose impairment in functioning nevertheless renders him or her incapable of adjusting satisfactorily within the general inmate population. Section 945.42(13), F.S.

The DOC is authorized to contract with appropriate entities to provide health services. The DOC is required to work in cooperation with the Mental Health Program Office of the Department of Children and Families to adopt rules necessary for administration of ss. 945.40-945.49, F.S.

Correctional officers employed by a mental health treatment facility must receive specialized training above and beyond basic certification.

An inmate receiving mental health treatment shall be subject to the same standards applied to other inmates in the department, including, but not limited to, consideration for parole, release by reason of gain-time allowances, and release by expiration of sentence.[8]

Procedure for Placement

If an inmate is deemed mentally ill and in need of care and treatment, he or she may be placed in a mental health treatment facility after notice and hearing, and upon recommendation of the warden. The procedure for placement in a mental health treatment facility is as follows:[9]

- The warden files a petition with the court in the county where the inmate is housed. The petition must include the warden's recommendation supported by the expert opinion of a psychiatrist and the second opinion of a psychiatrist or psychological professional.
- A copy of the petition must be served to the inmate, accompanied by a written notice that an inmate may apply to have an attorney appointed if the inmate cannot afford one. The attorney must have access to the inmate and any records that are relevant to the representation of the inmate.
- The hearing must be held in the same county and one of the inmate's physicians at the facility must appear as a witness at the hearing.
- If the inmate is found mentally ill and in need of care, the court must order the inmate be placed in a mental health treatment facility or, if the inmate is at a mental health treatment facility, that he or she be retained there. The court must authorize the facility to retain the inmate for up to six months. If continued placement is necessary, the warden shall apply to the Division of Administrative Hearings, for an order authorizing continued placement.

The current procedure for a hearing on the placement of an inmate in a mental health treatment facility provides:[10]

- The court must serve notice on the warden of the facility where the inmate is confined and serve the allegedly mentally ill inmate. The notice must specify the date, time, and place of the hearing; the basis for the allegation of mental illness; and the names of the examining experts. The hearing shall be held within 5 days, and the court may appoint a general or special magistrate to preside. One of the experts whose opinion supported the petition for placement must be present at the hearing.
- If, at the hearing, the court finds that the inmate is mentally ill and in need of care and treatment, the court must order that he or she be placed in a mental health treatment facility. The court must provide a copy of the order and all supporting documentation relating to the

[8] Section 945.49, F.S.
[9] Section 945.43(2), F.S.
[10] Section 945.43(3), F.S.

inmate's condition to the warden of the treatment facility. If the court finds that the inmate is not mentally ill, the petition for placement is dismissed.

The court may waive the presence of the inmate at the hearing if it is in the best interests of the inmate and the inmate's counsel does not object. The department may transport the inmate to the location of the hearing if it is not conducted at the facility or electronically.[11] The warden of an institution in which a mental health treatment facility is located may refuse to place any inmate in that treatment facility who is not accompanied by adequate court orders and documentation, as required in these sections.[12]

Procedure for Emergency Placement

An inmate may be placed in a mental health treatment facility on an emergency basis if he or she is mentally ill and in immediate need of care and treatment. If such care and treatment cannot be provided at the institution where the inmate is confined, he or she may be placed immediately in a mental health treatment facility accompanied by the recommendation of the warden of the institution where the inmate is confined. The recommendation must state the need for the emergency placement and include a written opinion of a physician verifying the need. Upon placement, the inmate shall be evaluated, if the inmate is determined to be in need of treatment or care, the warden initiates proceedings for placement.[13]

Procedure for Continued Placement

An inmate may be retained in a mental health treatment facility if he or she is mentally ill and continues to be in need of care and treatment. The procedure for continued placement is as follows:

- Prior to expiration of the period in which the inmate is being housed in a mental health treatment facility, the warden must file a petition with the Division of Administrative Hearings accompanied by a statement from the inmate's physician justifying the petition and providing a summary of the inmate's treatment and the individualized plan for the inmate.[14]
- Notification is mailed to the inmate, along with a waiver-of-hearing form and the completed petition, requesting the inmate's signature. The waiver-of-hearing form shall require express and informed consent and shall state the inmate is entitled to be represented by an attorney.[15]
- The hearing is an administrative hearing and conducted in accordance with ch. 120, F.S.,[16] except that an order entered by the administrative law judge is final and subject to judicial review. An administrative law judge shall be assigned by the Division of Administrative Hearings.[17]

[11] Section 945.43(3)(a), F.S.
[12] Section 945.43(4), F.S.
[13] Section 945.44, F.S.
[14] Section 945.45(2)(a), F.S.
[15] If the inmate does not sign the petition, or if the inmate does not sign a waiver within 15 days, the administrative law judge must notice a hearing with regard to the inmate involved in accordance with ss. 120.569 and 120.57(1), F.S. Section 945.45(2)(b), F.S.
[16] Chapter 120, F.S., provides procedure for all administrative hearings.
[17] Section 945.45(3)(a), F.S.

- If the administrative law judge finds the inmate no longer meets the criteria for placement, the inmate will be transferred out of the mental health treatment facility.[18]
- If the inmate waives the hearing or if the administrative law judge finds the inmate is in need of continued placement, the administrative law judge will order continued placement for a period not to exceed one year. This procedure shall be repeated prior to the expiration of each additional one year period.[19]

The administrative law judge may appoint a private pro bono attorney in the circuit in which the treatment facility is located to represent the inmate.[20] The presence of the inmate at the hearing may be waived if such waiver is consistent with the best interest of the inmate and the inmate's counsel does not object.[21]

Involuntary Placement with Respect to Scheduled Release

If an inmate who is receiving mental health treatment is scheduled for release through expiration of sentence or any other means, but continues to be mentally ill and in need of care and treatment, the warden is authorized to initiate procedures for involuntary placement 60 days prior to release.[22] Additionally, the warden may initiate procedures for involuntary examination for any inmate who has a mental illness and meets the criteria under s. 394.463(1), F.S.[23,24]

The department may transport an individual who is being released from its custody to a receiving or treatment facility for involuntary examination or placement. Transport must be made to a facility specified by the Department of Children and Families, or the nearest receiving facility if not specified.[25]

Discharge of an Inmate from Mental Health Treatment

An inmate must be discharged from mental health treatment under the following conditions:[26]

- The inmate is no longer in need of care and treatment, he or she may be transferred out of the mental health treatment facility and provided with appropriate mental health services; or
- If the inmate's sentence expires during his or her treatment, but he or she is no longer in need of care as an inpatient, the inmate may be released with a recommendation for outpatient treatment.

[18] Section 945.45(3)(d), F.S.
[19] Section 945.45(3)(e), F.S.
[20] Section 945.45(3)(b), F.S.
[21] Section 945.45(3)(c), F.S.
[22] Section 945.46(1), F.S.
[23] The Florida Mental Health Act finds a person may be ordered for involuntary inpatient placement for treatment if he or she has a mental illness and because of that illness has either refused voluntary placement or is unable to determine whether inpatient placement is necessary and is incapable for surviving alone or with the help of willing friends or family and is likely to suffer from neglect, refuse to take care of themselves, or there is substantial likelihood that in the near future he or she will inflict serious bodily harm on self or others.
[24] Section 945.46(2), F.S.
[25] Section 945.46(3), F.S.
[26] Section 945.47(1), F.S.

At any time that an inmate who has received mental health treatment becomes eligible for release under supervision or upon end of sentence, a record of the inmate's mental health treatment may be provided to the Florida Commission on Offender Review and to the Department of Children and Families upon request.[27]

Involuntary Treatment

An inmate in a mental health treatment facility has the right to receive treatment that is suited to his or her needs and that is provided in a humane psychological environment. Such treatment must be administered skillfully, safely, and humanely with respect for the inmate's dignity and personal integrity. An inmate must be asked to give his or her express and informed written consent for such treatment.[28]

If an inmate has refused to give express and informed consent for treatment, the warden of the mental health treatment facility must petition the circuit court serving the county in which the facility is located for an order authorizing the treatment of the inmate. The inmate must be provided a copy of the petition along with the proposed treatment, basis for treatment, names of examining experts, and the date, time, and location of the hearing.[29]

The hearing on the petition for involuntary treatment must be held within five days after the petition is filed. The inmate may have an attorney represent him or her, or if indigent, the court must appoint the office of the public defender. The inmate may testify or not, may cross-examine witnesses testifying on behalf of the facility, and may present his or her own witnesses. The inmate's presence may be waived. One of the inmate's physicians whose opinion supported the petition shall appear as a witness.[30]

The court must determine by *clear and convincing evidence* whether the inmate is mentally ill, whether such treatment is essential to the care of the inmate, and whether the treatment is experimental or presents an unreasonable risk of serious, hazardous, or irreversible side effects. The court must consider at least the following:[31]

- The inmate's expressed preference regarding treatment;
- The probability of adverse side effects;
- The prognosis for the inmate without treatment; and
- The prognosis for the inmate with treatment.

An order authorizing involuntary treatment authorizes treatment for a period not to exceed 90 days following the date of the order. If the inmate is still in need of treatment, the warden must petition the court for an order authorizing the continuation of treatment for another 90-day

[27] Section 945.47(2), F.S.
[28] The "right to express and informed consent" as listed in s. 945.48, F.S., means to consent voluntarily given in writing after conscientious and sufficient explanation and disclosure of the purpose of the proposed treatment; common side effects of the treatment, if any; the expected duration of the treatment; and the alternative treatment available. The explanation shall enable the inmate to make a knowing and willful decision without any element of fraud, deceit, or duress or any other form of constraint or coercion. Section 945.48(2), F.S.
[29] Section 945.48(3), F.S.
[30] Section 945.48(4)(a), F.S.
[31] Section 945.48(4)(b), F.S.

period. This process is repeated until the inmate provides express and informed consent or is no longer in need of treatment.[32]

Emergency Treatment

In an emergency situation in which there is immediate danger to the health and safety of an inmate or other inmates, emergency treatment may be provided at a mental health treatment facility upon the written order of a physician for a period not to exceed 48 hours.

If, after the 48-hour period, the inmate has not given express and informed consent to the treatment initially refused, the warden must petition the circuit court within 48 hours, excluding weekends and legal holidays, for an order authorizing the continued treatment of the inmate.

In the interim, treatment may be continued upon the written order of a physician who has determined that the emergency situation continues to present a danger to the safety of the inmate or others. If an inmate must be isolated for mental health purposes, that decision must be reviewed within 72 hours by a different psychological professional or a physician other than the one making the original placement.[33]

Additionally, when the consent of an inmate cannot be obtained, the warden of a mental health treatment facility, or his or her designated representative, with the concurrence of the inmate's attending physician, may authorize emergency surgical or nonpsychiatric medical treatment if deemed lifesaving or there is a situation threating serious bodily harm to the inmate.[34]

Health Care Advance Directives

Health care advance directives as defined in ch. 765, F.S., do not directly address inmates in custody of the DOC.

III. Effect of Proposed Changes:

The bill revises ss. 945.40-945.49, F.S., the Corrections Mental Health Act to provide updated, clarifying, or technical language, as well as, provide substantial changes to the procedure for placement and treatment of inmates.

The bill amends s. 945.41, F.S., to revise legislative intent by clarifying technical language in regards to inmates *who have a mental illness* and provide that services received by those inmates are offered as outpatient and inpatient mental health treatment and services. The DOC is authorized to purchase treatment materials and equipment, and contract with entities, persons, or agencies qualified to provide mental health treatment and services to support inmate rehabilitation.

Inmates in the custody of the DOC must be offered the opportunity to participate in the development of a written individualized treatment plan. The bill requires that inmates who have mental illnesses that require intensive mental health inpatient treatment or services be offered an

[32] Section 945.48(4)(c), F.S.
[33] Section 945.48(5), F.S.
[34] Section 945.48(6), F.S.

inpatient setting designated for that purpose, and inmates who require intensive hospitalization to be transferred to a DOC mental health treatment facility. Inmates must be offered the least restrictive appropriate available treatment and services based on their assessed needs and best interests.

A mentally competent inmate must give his or her express and informed consent[35] for mental health treatment. The bill requires that before such consent is given, details of treatment must be explained in plain language to the inmate and that any consent given for treatment may be revoked orally or in writing before or during the treatment by the inmate or a person legally authorized to make those health care decisions. Inmates who are incompetent to consent must receive treatment deemed necessary for their appropriate care and for the safety of the inmate or others. The bill authorizes nonpsychiatric, emergency surgical treatment or routine medical treatment for an inmate placed in a mental health treatment facility when the express and informed consent cannot be obtained or the inmate is incompetent to consent to treatment if such treatment is deemed lifesaving or there is a situation threatening serious bodily harm to the inmate.

The bill amends s. 945.42, F.S., to define the terms "chief,"[36] "express and informed consent,"[37] "gravely disabled,"[38] "incompetent to consent to treatment,"[39] "involuntary examination,"[40] "likelihood of serious harm,"[41] and treatment,[42] and removes the definition and procedure for inmates that are "in immediate need of care and treatment."

[35] The following is required to be explained in plain language: the proposed treatment, purpose of the treatment, the common risks, benefits, and side effects of treatment and specific dosage of medication if applicable, alternative treatment modalities, the approximate length of treatment, the potential effects of stopping treatment, and how treatment will be monitored.
[36] "Chief" means the Chief of Mental Health Services of the Department of Corrections or his or her designee.
[37] "Express and informed consent" means consent voluntarily given in writing, by a competent inmate, after sufficient explanation and disclosure of the subject matter involved, to enable the inmate to make a knowing and willful decision without any element of force, fraud, deceit, duress, or other form of constraint or coercion.
[38] "Gravely disabled" means a condition in which an inmate, as a result of a diagnosed mental illness is either in danger of serious physical harm resulting from the inmates failure to provide for his or her essential physical needs of food, clothing, hygiene, health, or safety without the assistance of others, or experiencing a substantial deterioration in behavioral functioning evidenced by the inmate's unremitting decline in volitional control over his or her actions.
[39] "Incompetent to consent to treatment" means a state in which an inmate's judgement is so affected by mental illness that he or she lacks the capacity to make a well-reasoned, willful, and knowing decision concerning his or her medical or mental health treatment and services. The term only refers to an inmate's inability to provide express and informed consent for medical and mental health treatment and services.
[40] "Involuntary examination" means a psychiatric examination performed at a mental health treatment facility to determine whether an inmate should be placed in the mental health treatment facility for inpatient mental health treatment and services.
[41] "Likelihood of serious harm" means the following: a substantial risk that the inmate will inflict serious physical harm upon his or her own person, as evidenced by threats or attempts to commit suicide or the actual infliction of serious physical harm on self; a substantial risk that the inmate will inflict physical harm upon another person, as evidenced by behavior which has caused such harm or which places any person in reasonable fear of sustaining such harm; or a reasonable degree of medical certainty that the inmate will suffer serious physical or mental harm as evidenced by the inmate's recent behavior demonstrating an inability to refrain from engaging in self-harm behavior.
[42] "Treatment" means psychotropic medication prescribed by a medical practitioner licensed pursuant to ch. 458 or 459, F.S., including those laboratory tests and related medical procedures that are essential for the safe and effective administration of psychotropic medication and psychological interventions and services such as group and individual psychotherapy, activity therapy, recreational therapy, and music therapy.

Involuntary Examination

The bill substantially rewords s. 945.43, F.S., to provide a process for involuntary examination. An inmate's treating clinician may refer the inmate to a mental health facility for an involuntary examination if there is reason to believe the inmate has a mental illness and is in need of care and treatment. Upon arrival, the inmate must be examined by a psychiatrist and a second psychiatrist or psychological professional to determine whether the inmate is in need of care and treatment. If there is a need for treatment, the psychiatrist will propose a recommended course of treatment and the warden will initiate proceedings for placement and for involuntary treatment as specified in s. 945.44, F.S.

If the inmate is not in need of care and treatment, the inmate must be transferred out of the mental health treatment facility and provided with appropriate mental health services.

The involuntary exam and initiation of court proceedings must be completed within 10 calendar days after arrival.

The inmate may remain in the mental health treatment facility pending a hearing after the timely filing of a petition as described in s. 945.44, F.S. Pending such, necessary treatment may be provided as described in s. 945.44, F.S.

Placement and Treatment of an Inmate in a Mental Health Treatment Facility

The bill substantially rewords s. 945.44, F.S., to provide the criteria, hearing procedures for petitions, orders for treatment, status hearings, copies of orders, and dismissal of petitions relating to the placement and treatment of an inmate in a mental health treatment facility.

This bill authorizes the DOC to place an inmate in a mental health treatment facility if he or she is mentally ill and is in need of care and treatment. An inmate may receive involuntary mental health treatment that is deemed to be essential for the appropriate care and safety of the inmate or others if the inmate is either gravely disabled or presents a likelihood of serious harm.

An inmate may be placed and involuntarily treated in a mental health treatment facility after notice and hearing. The procedure for petitions for placement and treatment is as follows:

- The warden must petition the court for an order authorizing the placement and treatment. Such petition must be supported by the expert opinion of at least one of the inmate's treating psychiatrists.
- The inmate must be provided with a copy of the petition, and other specified information.
- A hearing may be conducted electronically, in person at the facility, or at another location designated by the court after considering public safety and security concerns. Such hearing must be held as expeditiously as possible after the petition is filed, but no later than 14 calendar days after filing.
- The inmate is entitled to have an attorney and the court may appointment the public defender or private counsel to represent an indigent inmate.

The bill provides that the court must find by clear and convicting evidence that the inmate is mentally ill and in need of care and treatment in order to place the inmate in a mental health

treatment facility. The bill provides the court must make additional specified findings to administer treatment.

The bill authorizes status hearings and the continuation of placement until an inmate is no longer in need of care and treatment. The bill authorizes the court to dismiss the petition and transfer the inmate out of the mental health treatment facility if the criteria for placement and treatment are not satisfied.

The bill repeals s. 945.45, F.S., relating to the continued placement of inmates in mental health facilities. Language pertaining to continued placement is described in s. 945.44, F.S., under the bill.

Initiation of Involuntary Placement Proceedings with Inmates Scheduled for Release

The bill amends s. 945.46, F.S., to provide the process for involuntary placement when an inmate continues to be mentally ill and in need of care and treatment but is scheduled for release.

The warden must file a petition for involuntary inpatient placement for inmates scheduled to be released in the court in the county where the inmate is located. Upon filing, the clerk must provide copies of the petition to the Department of Children and Families, the inmate, the state attorney and the public defender. The bill adds language to ensure a fee may not be charged for the filing of the petition.

The bill requires within one court working day after the filing of the petition for a public defender to be appointed, unless the inmate is otherwise represented. The state attorney for the circuit in which the inmate is located will represent the state in these proceedings rather than the warden. The bill provides the proceedings are governed by ch. 394, F.S.

The court may order that the hearing be conducted by electronic means, at the facility in person, or at another location.

Discharge of an Inmate from Mental Health Treatment

The bill substantially rewords s. 945.47, F.S., to specify that at any time an inmate who has received mental health treatment while in the custody of the DOC becomes eligible for release, a record of the treatment may be provided to the Florida Commission on Offender Review and the Department of Children and Families *for the purpose of arranging post release aftercare placement and to prospective recipient inpatient health care or residential facilities* upon request.

Emergency Treatment Orders and Use of Force

The bill amends s. 945.48, F.S., to authorize the DOC to involuntary administer psychotropic medication to an inmate on an emergency basis without following the procedure outlined in s. 945.43, F.S. Psychotropic medication may be administered only when the medication constitutes an appropriate treatment for a mental illness and its symptoms and alternative treatments are not available or indicated, or would not be effective.

An emergency exists when the inmate with a mental illness presents an immediate threat of:

- Bodily harm to self or others; or
- Extreme deterioration in behavior functioning secondary to the mental illness.

The bill authorizes the administration of psychotropic medication not to exceed 72 hours, after which the treating physician must refer the inmate for an involuntary examination in accordance with s. 945.43 and s. 945.44, F.S. The warden must transfer the inmate to a mental health treatment facility within 48 hours, excluding weekends and legal holidays.

The DOC may use force when and to the extent that it reasonably appears necessary to effectuate the treatment, effectuate clinically necessary hygiene of an inmate, for the application of physical restraint, or pursuant to a valid court order.

Management and Treatment of Self-Injurious Behaviors

The bill creates s. 945.485, F.S., to provide procedures for when an inmate is engaging in active or ongoing self-injurious behavior and has refused to provide express and informed consent.

If an inmate is determined incompetent to consent to treatment, the inmate's treating physician is required to proceed as set forth in s. 945.6042, F.S. The bill provides proceedings for when an inmate is competent, refusing necessary surgical or medical treatment, and engaging in active or ongoing self-injurious behavior that presents a threat to the safety of the DOC staff or other inmates or the security, internal order, or discipline of the institution.

The warden must petition the court for an order compelling the inmate to submit to intervention to the extent necessary to remedy the threat. An inmate must be provided with a copy of the petition and other specified information. The inmate is entitled to representation and the court may appoint the public defender or private counsel to represent the inmate. The hearing must be held as expeditiously as possible, but no later than five calendar days after filing.

The bill provides considerations for the court and requires the court to determine whether the warden has established by clear and convincing evidence that the state interest is sufficient to outweigh the inmate's right to refuse treatment.

Inmate Health Care Advance Directives

The bill creates s. 945.6042, F.S., to provide the DOC must offer inmates an opportunity to sign an advance health care directive. The bill provides definitions for "health care facility,"[43]

[43] "Health care facility" has the same meaning as in s. 765.101, F.S., and includes any correctional institution or facility where health care is provided.

"incapacity,"[44] "informed consent,"[45] "inmate,"[46] ombudsman[47], proxy[48], and proxy review team.[49]

The bill provides procedure relating to the capacity of an inmate. An inmate's treating physician must evaluate the inmate's capacity and enter the evaluation in the inmate's medical record if the inmate lacks capacity. A second opinion is required if the evaluating physician has a question as to whether the inmate lacks capacity and both evaluations must be entered in the medical record. Incapacity cannot be inferred from an inmate's involuntary hospitalization for mental illness or from his or her intellectual disability.

If the inmate is found to be incapacitated and has a designated health care surrogate in accordance with ch. 765, F.S., the surrogate must be notified. If the inmate has not designated a health care surrogate, the facility must appoint a proxy to make health care decisions.

The bill requires the DOC to provide each inmate written information concerning advance directives and necessary forms to execute an advance directive, and document such in the inmate's medical records. An advance directive may be amended or revoked at any time by a competent inmate through various means such as written and spoken communication.

If the inmate has not designated a health care surrogate, health care decisions may be made for the inmate by any individuals specified in the priority order provided in s. 765.401(1)(a)-(g), F.S.,[50] as a proxy. If there are no individuals available, willing, or competent, the warden must notify the Assistant Secretary for Health Services or designee to appoint a DOC ombudsman to serve as a proxy until the inmate regains capacity or is no longer incarcerated in the custody of the DOC. The proxy must make any health care decision based on informed consent and that the proxy reasonable believes the inmate would have made that decision. If there is no indication of what decision the inmate would make, the proxy may consider the inmate's best interests.

[44] "Incapacity" or "Incompetent" means an inmate is physically or mentally unable to communicate a willful and knowing health care decision.
[45] "Informed consent" means consent voluntarily given by an inmate after a sufficient explanation and disclosure of the subject matter involved to enable the inmate to have a general understanding of the treatment or procedure and the medically acceptable alternatives, including the substantial risks and hazards inherent in the proposed treatment or procedures, and to make a knowing health care decision without coercion or undue influence.
[46] "Inmate" means any person committed to the custody of the DOC.
[47] "Ombudsman" means an individual designated and specifically trained by the department to identify conditions that may pose a threat to the rights, health, safety, and welfare of inmates in a health care facility and who may be appointed to serve as a proxy for an inmate who is physically or mentally unable to communicate a willful and knowing health care decision.
[48] "Proxy" means a competent adult who has not been expressly designated to make health care decisions for a particular incapacitated inmate, but who, nevertheless, is authorized pursuant to s. 765.401, F.S., to make health care decisions for such inmate.
[49] "Proxy review team" means a team of at least five members, appointed by the Assistant Secretary for Health Services. The team is composed of, at a minimum, one physician licensed pursuant to ch. 458 or ch. 459, F.S., one psychologist licensed pursuant to ch. 490, F.S., one nurse licensed pursuant to ch. 464, F.S., and one department chaplain.
[50] A judicially appointed guardian; spouse; adult child of the patient or a majority of adult children; a parent; the adult sibling or a majority of the adult siblings; an adult relative who has exhibited special care and concern and has maintained regular contact and is familiar with the patients activities, health, and religious or moral beliefs; or a close friend is authorized under this section to make health care decisions.

The bill authorizes the use of force to administer medical treatment only by or under the clinical supervision of a physician or his or her designee and provides immunity from liability for a DOC health care provider, ombudsman, or other employees who act under the direction of a health care provider.

The bill amends s. 945.49, F.S., to remove the requirement for the DOC to work in cooperation with the Mental Health Program Office of the Department of Children and Families to adopt rules necessary to administer sections under the Corrections Mental Health Act.

The 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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill may have an indeterminate fiscal impact on the Department of Corrections due to an increase in mental health services and treatment as well as transporting inmates to facilities to meet those needs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 945.41, 945.42, 945.43, 945.44, 945.46, 945.47, 945.48, and 945.49.

This bill creates the following sections of the Florida Statutes: 945.485 and 945.6042.

This bill repeals section 945.45 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 Martin

33-00971A-24 20241284__

A bill to be entitled

An act relating to health care for inmates; amending s. 945.41, F.S.; revising and providing legislative intent; providing construction; providing for individual dignity and treatment; providing for express and informed consent and emergency medical treatment; amending s. 945.42, F.S.; defining, revising, and deleting terms; amending s. 945.43, F.S.; substantially rewording provisions concerning involuntary examinations of inmates and providing requirements therefor; amending s. 945.44, F.S.; substantially rewording provisions relating to placement and treatment of an inmate in a mental health treatment facility and providing requirements therefor; repealing s. 945.45, F.S., relating to continued placement of inmates in mental health treatment facilities; amending s. 945.46, F.S.; providing requirements for filing petitions for involuntary inpatient placement for certain inmates; authorizing the court to order alternative means and venues for certain hearings; requiring, rather than authorizing, inmates to be transported to the nearest receiving facility in certain circumstances; amending s. 945.47, F.S.; specifying purposes for which an inmate's mental health treatment records may be provided to the Florida Commission on Offender Review and the Department of Children and Families; authorizing such records to be provided to certain facilities upon request; amending s. 945.48, F.S.;

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

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substantially rewording provisions relating to emergency treatment orders and use of force and providing requirements therefor; providing requirements for emergency and psychotropic medications and use of force; creating s. 945.485, F.S.; providing legislative findings; providing requirements for management and treatment for self-injurious behaviors; requiring facility wardens to consult with an inmate's treating physician in certain circumstances and make certain determinations; providing for petitions to compel an inmate to submit to medical treatment in certain circumstances; providing construction; amending s. 945.49, F.S.; deleting a requirement that the Department of Corrections adopt certain rules in cooperation with the Mental Health Program Office of the Department of Children and Families; creating s. 945.6042, F.S.; providing definitions; providing legislative findings and intent; providing requirements for inmate capacity, health care advance directives, and proxies; authorizing use of force on incapacitated inmates in certain circumstances; providing immunity from liability for certain persons in certain circumstances; providing an effective date.

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

Section 1. Section 945.41, Florida Statutes, is amended to read:

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

945.41 Mental health treatment for inmates; legislative intent of ss. 945.40-945.49.—

(1) INTENT.—It is the intent of the Legislature that:

(a) ~~mentally ill~~ Inmates in the custody of the department who have a mental illness ~~of Corrections~~ receive an evaluation and appropriate treatment for their mental illness through a continuum of outpatient and inpatient mental health treatment and services.

(b) The department is authorized to purchase treatment materials and equipment to support inmate rehabilitation; to ameliorate disabling mental symptoms associated with impairment in behavioral functioning, sensory and motor skills, and impulse control; and to improve adaptive coping skills consistent with the department's jurisdiction as defined in s. 945.025.

(c) Sections 945.40-945.49 do not supplement, amend, or change the responsibilities of the Department of Children and Families pursuant to chapter 916, the Forensic Client Services Act, which governs forensic services for persons who are incompetent to proceed as defined in s. 916.106.

(2) INDIVIDUAL DIGNITY AND TREATMENT.—

(a) An inmate in the custody of the department shall be offered treatment that is suited to his or her needs as determined by health care staff and that is provided in a humane psychological environment. Such treatment shall be administered skillfully, safely, and humanely with respect for the inmate's dignity and personal integrity.

(b) The department shall provide mental health treatment and services to inmates and may contract with any entities, persons, or agencies qualified to provide such treatment and

services.

(c) Inmates receiving mental health treatment and services shall be offered the opportunity to participate in the development of a written individualized treatment plan and provided a copy of such plan before its implementation. ~~It is further the intent of the Legislature that:~~

(d) ~~(1)~~ Inmates ~~in the custody of the department~~ who have mental illnesses that require ~~hospitalization and~~ intensive mental health ~~psychiatric~~ inpatient treatment and services or care shall be offered ~~receive~~ appropriate treatment or care in an inpatient setting ~~Department of Corrections mental health treatment facilities~~ designated for that purpose. Inmates who have mental illnesses that require intensive hospitalization-level mental health inpatient treatment and services shall be transferred to a department mental health treatment facility designated for that purpose ~~The Department of Corrections shall provide mental health services to inmates committed to it and may contract with any entities, persons, or agencies qualified to provide such services~~.

(e) ~~(2)~~ Mental health treatment facilities shall be secure and adequately equipped and staffed for the provision of mental health treatment and services. Inmates shall be offered the least restrictive appropriate available treatment and services based on their assessed needs and best interests and consistent with improvement of their condition for facilitation of appropriate adjustment within the correctional environment ~~and that, to the extent possible, such services be provided in the least restrictive manner consistent with optimum improvement of the inmate's condition~~.

(3) EXPRESS AND INFORMED CONSENT.—

(a) A mentally competent inmate offered mental health treatment within the department shall give his or her express and informed consent for such treatment. Before giving such consent, the following information shall be provided and explained in plain language to the inmate:

1. The proposed treatment.

2. The purpose of the treatment.

3. The common risks, benefits, and side effects of the treatment and the specific dosage range for a medication, if applicable.

4. Alternative treatment modalities.

5. The approximate length of treatment.

6. The potential effects of stopping treatment.

7. How treatment will be monitored.

8. That any consent given for treatment may be revoked orally or in writing before or during the treatment period by the inmate or by a person legally authorized to make health care decisions on behalf of the inmate.

(b) Inmates who are determined to be incompetent to consent to treatment shall receive treatment deemed to be necessary for their appropriate care and for the safety of the inmate or others in accordance with the procedures established in ss. 945.40-945.49.

(4) ~~(3)~~ PAROLE.—Inmates who are transferred to any facility for the purpose of mental health treatment and services shall be given consideration for parole and be eligible for release by reason of gain-time allowances as provided in s. 944.291 and release by expiration of sentence, consistent with guidelines

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established for that purpose by the department.

(5) ~~(4)~~ YOUTHFUL OFFENDERS.—Any inmate sentenced as a youthful offender, or designated as a youthful offender by the department under chapter 958, who is transferred pursuant to this act to a mental health treatment facility shall be separated from other inmates, if necessary, as determined by the warden of the mental health treatment facility.

(6) ~~(5)~~ TREATMENT FACILITIES.—The department may designate mental health treatment facilities for adult, youthful, and female offenders or may contract with other appropriate entities, persons, or agencies for such services.

(7) EMERGENCY MEDICAL TREATMENT.—Notwithstanding any other provision of this section, when the express and informed consent of an inmate placed in a mental health treatment facility in accordance with s. 945.44 cannot be obtained or the inmate is incompetent to consent to treatment, the warden of a mental health treatment facility, or his or her designated representative, under the direction of the inmate's attending physician, may authorize nonpsychiatric, emergency surgical treatment or other routine medical treatment if such treatment is deemed lifesaving or there is a situation threatening serious bodily harm to the inmate.

Section 2. Section 945.42, Florida Statutes, is amended to read:

945.42 Definitions; ss. 945.40-945.49.—As used in ss. 945.40-945.49, the following terms shall have the meanings ascribed to them, unless the context shall clearly indicate otherwise:

(1) "Chief" means the Chief of Mental Health Services of

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the Department of Corrections or his or her designee.

(2) ~~(1)~~ "Court" means the circuit court.

(3) ~~(2)~~ "Crisis stabilization care" means an inpatient ~~a~~ level of care that is less restrictive and intensive ~~intense~~ than care provided in a mental health treatment facility, that includes a broad range of evaluation and treatment and services provided within a secure and highly structured residential setting ~~or locked residential setting~~, and that is intended for inmates who are experiencing acute psychological ~~emotional~~ distress and who cannot be adequately evaluated and treated in a transitional care unit or infirmary isolation management room. Such treatment and services are ~~is also~~ more intense than treatment and services provided in a transitional care unit and are ~~is~~ devoted principally toward rapid stabilization of acute symptoms and conditions.

(4) ~~(3)~~ "Department" means the Department of Corrections.

(5) "Express and informed consent" means consent voluntarily given in writing, by a competent inmate, after sufficient explanation and disclosure of the subject matter involved, to enable the inmate to make a knowing and willful decision without any element of force, fraud, deceit, duress, or other form of constraint or coercion.

(6) "Gravely disabled" means a condition in which an inmate, as a result of a diagnosed mental illness, is:

(a) In danger of serious physical harm resulting from the inmate's failure to provide for his or her essential physical needs of food, clothing, hygiene, health, or safety without the assistance of others; or

(b) Experiencing a substantial deterioration in behavioral

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functioning evidenced by the inmate's unremitting decline in volitional control over his or her actions.

(7) "Incompetent to consent to treatment" means a state in which an inmate's judgment is so affected by mental illness that he or she lacks the capacity to make a well-reasoned, willful, and knowing decision concerning his or her medical or mental health treatment and services. The term is distinguished from the term "incompetent to proceed," as defined in s. 916.106, and only refers to an inmate's inability to provide express and informed consent for medical or mental health treatment and services.

~~(4) "Director" means the Director for Mental Health Services of the Department of Corrections or his or her designee.~~

~~(5) "In immediate need of care and treatment" means that an inmate is apparently mentally ill and is not able to be appropriately cared for in the institution where he or she is confined and that, but for being isolated in a more restrictive and secure housing environment, because of the apparent mental illness:~~

~~(a)1. The inmate is demonstrating a refusal to care for himself or herself and without immediate treatment intervention is likely to continue to refuse to care for himself or herself, and such refusal poses an immediate, real, and present threat of substantial harm to his or her well-being; or~~

~~2. There is an immediate, real, and present threat that the inmate will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior involving causing, attempting, or threatening such harm;~~

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~~(b) The inmate is unable to determine for himself or herself whether placement is necessary; and~~

~~(c) All available less restrictive treatment alternatives that would offer an opportunity for improvement of the inmate's condition have been clinically determined to be inappropriate.~~

(8)~~(6)~~ "In need of care and treatment" means that an inmate has a mental illness for which inpatient services in a mental health treatment facility are necessary and ~~that, but for being isolated in a more restrictive and secure housing environment,~~ because of the mental illness:

(a) But for being isolated in a more restrictive and secure housing environment:

1. The inmate is demonstrating a refusal to care for himself or herself and without treatment is likely to continue to refuse to care for himself or herself, and such refusal poses a real and present threat of substantial harm to his or her well-being.~~; or~~

2. There is a substantial likelihood that in the near future, without treatment, the inmate will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior causing, attempting, or threatening such harm.~~;~~

(b) The inmate is incompetent to consent to treatment and is unable or is refusing to provide express and informed consent to treatment.

(c)~~(b)~~ The inmate is unable to determine for himself or herself whether placement is necessary.~~; and~~

(d)~~(c)~~ All available less restrictive treatment alternatives that would offer an opportunity for improvement of

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the inmate's condition have been clinically determined to be inappropriate.

(9)~~(7)~~ "Inmate" means any person committed to the custody of the department ~~of Corrections~~.

(10) "Involuntary examination" means a psychiatric examination performed at a mental health treatment facility to determine whether an inmate should be placed in the mental health treatment facility for inpatient mental health treatment and services.

(11) "Likelihood of serious harm" means:

(a) A substantial risk that the inmate will inflict serious physical harm upon his or her own person, as evidenced by threats or attempts to commit suicide or the actual infliction of serious physical harm on self;

(b) A substantial risk that the inmate will inflict physical harm upon another person, as evidenced by behavior which has caused such harm or which places any person in reasonable fear of sustaining such harm; or

(c) A reasonable degree of medical certainty that the inmate will suffer serious physical or mental harm as evidenced by the inmate's recent behavior demonstrating an inability to refrain from engaging in self-harm behavior.

(12)~~(8)~~ "Mental health treatment facility" means any extended treatment or hospitalization-level unit within the corrections system which the Assistant Secretary for Health Services of the department specifically designates by rule to provide acute mental health ~~psychiatric~~ care and which may include involuntary treatment and therapeutic intervention in contrast to less intensive levels of care such as outpatient

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mental health care, transitional mental health care, or crisis stabilization care. The term does not include a forensic facility as defined in s. 916.106.

(13)~~(9)~~ "Mental illness" or "mentally ill" means an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living. However, for the purposes of transferring an inmate to a mental health treatment facility, the term does not include a developmental disability as defined in s. 393.063, simple intoxication, or conditions manifested only by antisocial behavior or substance abuse addiction. However, an individual who is developmentally disabled may also have a mental illness.

(14)~~(10)~~ "Psychiatrist" means a medical practitioner licensed pursuant to chapter 458 or chapter 459 ~~who has primarily diagnosed and treated nervous and mental disorders~~ for a period of not less than 3 years inclusive of psychiatric residency.

(15)~~(11)~~ "Psychological professional" means a behavioral practitioner who has an approved doctoral degree in psychology as defined in s. 490.003(3)(b) ~~s. 490.003(3)~~ and is employed by the department or who is licensed as a psychologist pursuant to chapter 490.

(16)~~(12)~~ "Secretary" means the Secretary of Corrections.

(17)~~(13)~~ "Transitional mental health care" means a level of care that is more intensive than outpatient care, but less intensive than crisis stabilization care, and is characterized by the provision of traditional mental health treatment and

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services ~~treatments~~ such as group and individual therapy, activity therapy, recreational therapy, and psychotropic medications in the context of a secure, structured residential setting. Transitional mental health care is indicated for an inmate ~~a person~~ with chronic or residual symptomatology who does not require crisis stabilization care or acute mental health ~~psychiatric~~ care, but whose impairment in functioning nevertheless renders him or her incapable of adjusting satisfactorily within the general inmate population.

(18) "Treatment" means psychotropic medications prescribed by a medical practitioner licensed pursuant to chapter 458 or chapter 459, including those laboratory tests and related medical procedures that are essential for the safe and effective administration of a psychotropic medication and psychological interventions and services such as group and individual psychotherapy, activity therapy, recreational therapy, and music therapy. The term does not include forensic services for inmate defendants who are incompetent to proceed as defined in s. 916.106.

(19)~~(14)~~ "Warden" means the warden of a state corrections facility or his or her designee.

Section 3. Section 945.43, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 945.43, F.S., for present text.)

945.43 Involuntary examination.—

(1) If there is reason to believe that an inmate has a mental illness and the inmate is in need of care and treatment, the inmate's treating clinician may refer the inmate to a mental

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health treatment facility for an involuntary examination. Upon referral, the warden of the facility where the inmate is housed shall transfer the inmate to a mental health treatment facility.

(2) Upon arrival to the mental health treatment facility, the inmate shall be examined by a psychiatrist and a second psychiatrist or psychological professional to determine whether the inmate is in need of care and treatment.

(3) If, after the examination, the inmate is determined to be in need of care and treatment, the psychiatrist shall propose a recommended course of treatment that is essential to the care of the inmate and the warden shall initiate proceedings for placement of the inmate in the mental health treatment facility and for involuntary treatment of the inmate as specified in s. 945.44. If the inmate is not in need of care and treatment, he or she shall be transferred out of the mental health treatment facility and provided with appropriate mental health services.

(4) The involuntary examination and initiation of court proceedings for the placement and applicable involuntary treatment of the inmate in the mental health treatment facility shall be completed within 10 calendar days after arrival.

(5) The inmate may remain in the mental health treatment facility pending a hearing after the timely filing of a petition as described in s. 945.44. Pending a hearing, necessary emergency treatment may be provided in the mental health treatment facility upon the written order of a physician as provided in s. 945.48.

Section 4. Section 945.44, Florida Statutes, is amended to read:

(Substantial rewording of section. See

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s. 945.44, F.S., for present text.)

945.44 Placement and treatment of an inmate in a mental health treatment facility.—

(1) CRITERIA.—An inmate may be placed in a mental health treatment facility if he or she is mentally ill and is in need of care and treatment. Involuntary mental health treatment that is deemed to be essential for the appropriate care of the inmate and the safety of the inmate or others may be provided at the mental health treatment facility if the inmate is either gravely disabled or presents a likelihood of serious harm.

(2) HEARING PROCEDURES FOR PETITIONS FOR PLACEMENT AND TREATMENT.—

(a) An inmate may be placed and involuntarily treated in a mental health treatment facility after notice and hearing upon the recommendation of the warden of the facility where the inmate is confined. The warden of the institution where the mental health treatment facility is located shall petition the circuit court serving the county for an order authorizing the placement and treatment of the inmate. The petition must be supported by the expert opinion of at least one of the inmate's treating psychiatrists.

(b) The inmate shall be provided with a copy of the petition along with the proposed treatment, the basis for the proposed treatment, the names of the examining experts, and the date, time, and location of the hearing. After considering the public safety and security concerns presented by transporting the inmate or in conducting onsite hearings, the court may order that the hearing be conducted by electronic means or in person at the facility or at another location designated by the court.

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If the hearing is ordered by the court to be conducted at a location other than the facility, the department is authorized to transport the inmate to the location of the hearing.

(c) The inmate may have an attorney represent him or her at the hearing, and, if the inmate is indigent, the court shall appoint the office of the public defender or private counsel pursuant to s. 27.40(1) to represent the inmate at the hearing. An attorney representing the inmate shall have access to the inmate and any records, including medical or mental health records, which are relevant to the representation of the inmate.

(d) The hearing on the petition for involuntary placement and treatment shall be held as expeditiously as possible after the petition is filed, but no later than 14 calendar days after filing. The court may appoint a general or special magistrate to preside. The inmate may testify or not, as he or she chooses, may cross-examine witnesses testifying on behalf of the facility, and may present his or her own witnesses.

(e) The court may waive the presence of the inmate at the hearing if the waiver is consistent with the best interests of the inmate and the inmate's counsel does not object. One of the inmate's physicians whose opinion supported the petition shall appear as a witness at the hearing.

(f) If the court finds by clear and convincing evidence that the inmate is mentally ill and in need of care and treatment, the court shall order that he or she be placed in the mental health treatment facility for a period not to exceed 6 months.

(g) On the issue of whether the court should authorize treatment for which an inmate is unable or has refused to

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provide express and informed consent, the court shall determine by clear and convincing evidence whether:

1. The inmate is mentally ill.

2. The treatment is essential to the care of the inmate.

3. The treatment is not experimental and does not present an unreasonable risk of serious, hazardous, or irreversible side effects.

4. The inmate is gravely disabled or poses a likelihood of serious harm.

5. The inmate is incompetent to consent to treatment.

(h) The court must consider at least all of the following:

1. The inmate's expressed preference regarding treatment, if the inmate is able to express a preference.

2. The probability of adverse side effects.

3. The prognosis for the inmate without treatment.

4. The prognosis for the inmate with treatment.

(3) ORDERS FOR TREATMENT.—If the court finds by clear and convincing evidence that the inmate is mentally ill and that the inmate meets the criteria in subsection (2), the court shall order that the inmate be involuntarily treated for a period not to exceed 6 months, concurrent with an order for placement in the mental health treatment facility.

(4) STATUS HEARINGS AND CONTINUING JURISDICTION.—An order authorizing involuntary placement and treatment shall allow such placement and treatment for a period not to exceed 6 months following the date of the order. Unless the court is notified in writing that the inmate has been discharged from the mental health treatment facility because he or she is no longer in need of care and treatment, has been transferred to another

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institution of the department, or has been released from the department's custody, the warden shall, before the expiration of the initial order, file a notice with the court to set a status hearing for an order authorizing the continuation of placement and treatment for another period not to exceed 6 months. This procedure shall be repeated until the inmate is no longer in need of care and treatment. Placement and treatment may be continued pending a hearing after the timely filing of any petition.

(5) COPIES OF ORDERS.—The court shall provide a copy of its order authorizing placement and treatment along with all supporting documentation relating to the inmate's condition to the warden of the mental health treatment facility.

(6) DISMISSAL OF PETITIONS.—If the court finds that criteria for placement and treatment are not satisfied, it shall dismiss the petition and the inmate shall be transferred out of the mental health treatment facility and provided with appropriate mental health services.

Section 5. Section 945.45, Florida Statutes, is repealed.

Section 6. Present subsection (3) of section 945.46, Florida Statutes, is redesignated as subsection (5) and amended, and a new subsection (3) and subsection (4) are added to that section, to read:

945.46 Initiation of involuntary placement proceedings with respect to a mentally ill inmate scheduled for release.—

(3) The warden shall file petitions for involuntary inpatient placement for inmates scheduled to be released in the court in the county where the inmate is located. Upon filing, the clerk of the court shall provide copies to the Department of

Children and Families, the inmate, and the state attorney and public defender of the judicial circuit in which the inmate is located. A fee may not be charged for the filing of a petition under chapter 394. Within 1 court working day after the filing of a petition for involuntary inpatient placement, the court shall appoint the public defender to represent the inmate who is the subject of the petition, unless the inmate is otherwise represented by counsel. The clerk of the court shall immediately notify the public defender of such appointment. Any attorney representing the inmate shall have access to the inmate, witnesses, and records relevant to the presentation of the patient's case and shall represent the interests of the inmate, regardless of the source of payment to the attorney. The state attorney for the circuit in which the inmate is located shall represent the state, rather than the petitioning warden, as the real party in interest in the proceeding. The remainder of the proceedings shall be governed by chapter 394.

(4) After considering the public safety and security concerns presented by transporting a mentally ill inmate to court, the court may order that the hearing be conducted by electronic means, at the facility in person, or at another location designated by the court. If the hearing is ordered by the court to be conducted at a location other than the facility, the department is authorized to transport the inmate to the location of the hearing.

(5) ~~(3)~~ The department may transport an individual who is being released from its custody to a receiving or mental health treatment facility for involuntary examination or placement. Such transport shall be made to a facility that is specified by

the Department of Children and Families as able to meet the specific needs of the individual. If the Department of Children and Families does not specify a facility, transport shall ~~may~~ be made to the nearest receiving facility.

Section 7. Section 945.47, Florida Statutes, is amended to read:

945.47 Discharge of inmate from mental health treatment.—

(1) An inmate who has been placed in a mental health treatment facility ~~transferred~~ for the purpose of mental health treatment shall be discharged from treatment by the warden under the following conditions:

(a) If the inmate is no longer in need of care and treatment, as defined in s. 945.42, he or she may be transferred out of the mental health treatment facility and provided with appropriate mental health services; or

(b) If the inmate's sentence expires during his or her treatment, but he or she is no longer in need of care and treatment as an inpatient, the inmate may be released with a recommendation for outpatient treatment, pursuant to ~~the provisions of~~ ss. 945.40-945.49.

(2) At any time that an inmate who has received mental health treatment while in the custody of the department becomes eligible for release under supervision or upon end of sentence, a record of the inmate's mental health treatment may be provided to the Florida Commission on Offender Review and ~~to~~ the Department of Children and Families to arrange postrelease aftercare placement and to prospective recipient inpatient health care or residential facilities upon request. The record shall include, at a minimum, a summary of the inmate's

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diagnosis, length of stay in treatment, clinical history, prognosis, prescribed medication, treatment plan, and recommendations for aftercare services.

Section 8. Section 945.48, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 945.48, F.S., for present text.)

945.48 Emergency treatment orders and use of force.—

(1) EMERGENCY MEDICATION.—The department is authorized to involuntarily administer psychotropic medication to an inmate on an emergency basis without following the procedure outlined in s. 945.43 only as specified in this section. An emergency treatment order for psychotropic medication may be provided to the inmate upon the written order of a physician licensed pursuant to chapter 458 or chapter 459 in an emergency not exceeding 72 hours, excluding weekends and legal holidays. An emergency exists when an inmate with a mental illness presents an immediate threat of:

(a) Bodily harm to self or others; or

(b) Extreme deterioration in behavioral functioning secondary to the mental illness.

(2) PSYCHOTROPIC MEDICATION.—Psychotropic medication may be administered only when the medication constitutes an appropriate treatment for a mental illness and its symptoms and alternative treatments are not available or indicated, or would not be effective. If after the 72-hour period the inmate has not given express and informed consent to the medication initially refused, the inmate's treating physician shall refer the inmate to a mental health treatment facility for an involuntary

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examination in accordance with the procedures described in s. 945.43. Upon such referral, the warden shall, within 48 hours, excluding weekends and legal holidays, transfer the inmate to a mental health treatment facility. Upon transfer of the inmate for an involuntary examination, the emergency treatment order may be continued upon the written order of a physician as long as the physician has determined that the emergency continues to present a danger to the safety of the inmate or others and the criteria described in this subsection are satisfied. If psychotropic medication is still recommended after the emergency, it may only be administered after following the procedures outlined in s. 945.44.

(3) USE OF FORCE.—An employee or agent of the department is authorized to apply physical force upon an inmate when and to the extent that it reasonably appears necessary to effectuate the treatment of an inmate as described in this section, for the application of psychiatric restraint, to effectuate clinically necessary hygiene, or pursuant to a valid court order issued under s. 945.44 or s. 945.485. The requirements of s. 944.35 shall be followed when using force to effectuate such treatment, apply such restraint, or effectuate such hygiene.

Section 9. Section 945.485, Florida Statutes, is created to read:

945.485 Management and treatment for self-injurious behaviors.—

(1) The Legislature finds that nonsuicidal self-injurious behaviors in correctional institutions, or acts intended to cause bodily harm but not death, have increased in the correctional environment. Self-injurious behavior may include

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nonsuicidal self-injury or self-mutilation, such as cutting, reopening wounds, and ingesting or inserting foreign objects or dangerous instruments into the body. These behaviors pose a significant threat to inmates, staff, and, in many cases, the safe and secure operation of the correctional institution. In addition, self-injurious behaviors, coupled with repeated refusals to provide express and informed consent for medical treatment and care, are a significant challenge for correctional medical and mental health professionals, resulting in higher costs for medical services, and may result in inadvertent mortality in the incarcerated population.

(2) In accordance with s. 945.6042, the Legislature finds that an inmate retains the fundamental right of self-determination regarding decisions pertaining to his or her own health, including the right to choose or refuse medical treatment or life-saving medical procedures. However, the inmate's right to privacy and decisionmaking regarding medical treatment may be outweighed by compelling state interests.

(3) When an inmate is engaging in active or ongoing self-injurious behavior and has refused to provide express and informed consent for treatment related to the self-injurious behavior, the warden of the facility where the inmate is housed shall consult with the inmate's treating physician regarding the inmate's medical and mental health status, current medical and mental health treatment needs, and competency to provide express and informed consent for treatment. The warden shall also determine whether the inmate's self-injurious behavior presents a danger to the safety of department staff or other inmates or the security, internal order, or discipline of the institution.

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(a) If the inmate's treating physician determines that the inmate has a mental illness and is incompetent to consent to treatment, the physician shall proceed in accordance with s. 945.6042 for any necessary surgical or medical services. If the inmate is in need of care and treatment as defined in s. 945.42, the inmate shall be referred to a mental health treatment facility for an involuntary examination in accordance with s. 945.44.

(b) If the inmate is competent, refusing necessary surgical or medical treatment, and engaging in active or ongoing self-injurious behavior that presents a threat to the safety of department staff or other inmates or the security, internal order, or discipline of the institution, the warden shall follow the procedure set forth in subsection (4).

(4)(a) The warden, or his or her designated representative, shall, on behalf of the state, petition the circuit court of the county in which the inmate is residing or the county in which the inmate is hospitalized for an order compelling the inmate to submit to emergency surgical intervention or other medical services to the extent necessary to remedy the threat to the safety of staff or other inmates or the security, internal order, or discipline of the institution. The petition must be supported by the expert opinion of at least one of the inmate's treating physicians and may be supported by other staff as necessary.

(b) The inmate shall be provided with a copy of the petition along with the proposed intervention, the basis for the proposed intervention, the names of the testifying experts and witnesses, and the date, time, and location of the hearing.

After considering the medical status of the inmate, public safety, and security concerns presented by transporting the inmate, the court may order that the hearing be conducted by electronic means or in person at the institution or at another location designated by the court. If the hearing is ordered by the court to be conducted at a location other than the institution, the department is authorized to transport the inmate to the location of the hearing.

(c) The inmate may have an attorney represent him or her at the hearing, and, if the inmate is indigent, the court shall appoint the office of the public defender or private counsel pursuant to s. 27.40(1) to represent the inmate at the hearing. An attorney representing the inmate shall have access to the inmate and any records, including medical or mental health records, which are relevant to the representation of the inmate.

(d) The hearing on the petition shall be held as expeditiously as possible after the petition is filed, but no later than 5 calendar days after filing. The court may appoint a general or special magistrate to preside. The inmate may testify or not, as he or she chooses, may cross-examine witnesses testifying on behalf of the institution, and may present his or her own witnesses.

(e) The court may waive the presence of the inmate at the hearing if the waiver is consistent with the best interests of the inmate and the inmate's counsel does not object.

(f) The court shall determine whether the warden has established, by clear and convincing evidence, a compelling state interest sufficient to outweigh the inmate's right to refuse treatment. The court shall consider all of the following:

1. Preservation of the life of the inmate.

2. Prevention of suicide.

3. Protection of innocent third parties.

4. Maintenance of the ethical integrity of the medical profession.

5. Preservation of the security, internal order, or discipline of the institution.

6. Rehabilitation of the inmate.

7. Any other compelling state interest.

(g) If the court determines that there are compelling state interests sufficient to override the inmate's right to refuse treatment, the court shall enter an order authorizing emergency surgical intervention or other medical services, narrowly tailored and in the least intrusive manner possible, only as necessary to remedy the threat to the safety of third parties or the security, internal order, or discipline of the institution. Emergency surgical intervention or other medical services authorized by the court may be carried out at the institution or at a licensed hospital, as applicable.

(5) This section does not repeal by implication any provision of s. 766.103, the Florida Medical Consent Law, or s. 768.13, the Good Samaritan Act. For all purposes, the Florida Medical Consent Law and the Good Samaritan Act shall be considered an alternative to this section.

Section 10. Subsection (2) of section 945.49, Florida Statutes, is amended to read:

945.49 Operation and administration.—

(2) RULES.—The department~~, in cooperation with the Mental Health Program Office of the Department of Children and~~

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~~Families,~~ shall adopt rules necessary for administration of ss. 945.40-945.49 in accordance with chapter 120.

Section 11. Section 945.6042, Florida Statutes, is created to read:

945.6042 Inmate health care advance directives.—

(1) DEFINITIONS.—The terms used in this section have the same meanings as in s. 765.101 unless otherwise specified in this section. For purposes of this section, the term:

(a) "Health care facility" has the same meaning as in s. 765.101 and includes any correctional institution or facility where health care is provided.

(b) "Incapacity" or "incompetent" means an inmate is physically or mentally unable to communicate a willful and knowing health care decision.

(c) "Informed consent" means consent voluntarily given by an inmate after a sufficient explanation and disclosure of the subject matter involved to enable the inmate to have a general understanding of the treatment or procedure and the medically acceptable alternatives, including the substantial risks and hazards inherent in the proposed treatment or procedures, and to make a knowing health care decision without coercion or undue influence.

(d) "Inmate" means any person committed to the custody of the department.

(e) "Ombudsman" means an individual designated and specifically trained by the department to identify conditions that may pose a threat to the rights, health, safety, and welfare of inmates in a health care facility and who may be appointed to serve as a proxy for an inmate who is physically or

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mentally unable to communicate a willful and knowing health care decision.

(f) "Proxy" means a competent adult who has not been expressly designated to make health care decisions for a particular incapacitated inmate, but who, nevertheless, is authorized pursuant to s. 765.401 and as specified in this section to make health care decisions for such inmate.

(g) "Proxy review team" means a team of at least five members, appointed by the Assistant Secretary for Health Services. The team shall be composed of, at a minimum, one physician licensed pursuant to chapter 458 or chapter 459, one psychologist licensed pursuant to chapter 490, one nurse licensed pursuant to chapter 464, and one department chaplain.

(2) LEGISLATIVE FINDINGS AND INTENT.-

(a) In accordance with chapter 765, the Legislature finds that an inmate retains the fundamental right of self-determination regarding decisions pertaining to his or her own health, including the right to choose or refuse medical treatment. In accordance with chapter 765, this right is subject to certain institutional interests including the protection of human life, the preservation of ethical standards in the medical profession, and, for inmates committed to the custody of the department, the security and good order of the institutional setting.

(b) To ensure that such right is not lost or diminished by virtue of later physical or mental incapacity, the Legislature intends that the procedures specified in chapter 765, and as modified in this section for the institutional health care setting, apply to incarcerated inmates. These procedures should

be less expensive and less restrictive than guardianship and allow an inmate to plan for incapacity by executing a document or orally designating another person to direct the course of his or her health care or receive his or her health information, or both, upon his or her incapacity. These procedures permit a previously incapacitated inmate to exercise his or her full right to make health care decisions as soon as the capacity to make such decisions has been regained.

(c) In order to ensure that the rights and intentions of an inmate are respected when the inmate is not able to participate actively in decisions concerning himself or herself, and to encourage communication among such inmate, his or her family, and his or her treating physicians, the Legislature declares that the laws of this state recognize the right of a competent incarcerated adult to make an advance directive instructing his or her physicians to provide, withhold, or withdraw life-prolonging procedures or to designate another person to make the health care decision for him or her in the event that such incarcerated person should become incapacitated and unable to personally direct his or her health care. It is further the intent of the Legislature that the department provide the opportunity for inmates to make advance directives as specified in this section.

(d) The Legislature further recognizes that incarcerated inmates may not avail themselves of the opportunity to make an advance directive or, because of incarceration, may not have a surrogate, as defined in s. 765.101, willing, able, or reasonably available to make health care decisions on his or her behalf. Additionally, because of incarceration, the individuals

designated in s. 765.401 who are eligible to serve as an appointed proxy may not be reasonably available, willing, or competent to make health care decisions for the inmate in the event of incapacity. Thus, it is the intent of the Legislature that the department have an efficient process that is less expensive and less restrictive than guardianship for the appointment of a proxy to allow for the expedient delivery of necessary health care to an incarcerated inmate.

(e) This section does not supersede the process for inmate involuntary mental health treatment in ss. 945.40-945.49.

(3) CAPACITY OF INMATE; PROCEDURE.—

(a) An inmate is presumed to be capable of making health care decisions for himself or herself unless he or she is determined to be incapacitated. When an inmate has decisionmaking capacity, the inmate's wishes are controlling. Each physician or health care provider must clearly communicate the treatment plan and any change to the treatment plan before implementation of the plan or any change to the plan. Incapacity may not be inferred from an inmate's involuntary hospitalization for mental illness or from his or her intellectual disability.

(b) If an inmate's capacity to make health care decisions for himself or herself or provide informed consent is in question, the inmate's treating physician at the health care facility where the inmate is located shall evaluate the inmate's capacity and, if the evaluating physician concludes that the inmate lacks capacity, enter that evaluation in the inmate's medical record. If the evaluating physician has a question as to whether the inmate lacks capacity, another physician shall also evaluate the inmate's capacity, and if the second physician

finds that the inmate lacks the capacity to make health care decisions for himself or herself or provide informed consent, both physicians' evaluations shall be entered in the inmate's medical record.

(c) If the inmate is found to be incapacitated and has designated a health care surrogate in accordance with chapter 765, the institution's or facility's health care staff shall notify the surrogate and proceed as specified in chapter 765. If the incapacitated inmate has not designated a health care surrogate, the health care facility shall appoint a proxy to make health care decisions for the inmate as specified in this section.

(d) A determination made pursuant to this section that an inmate lacks the capacity to make health care decisions for himself or herself may not be construed as a finding that an inmate lacks capacity for any other purpose.

(4) HEALTH CARE ADVANCE DIRECTIVE; PROCEDURE.—

(a) In accordance with chapter 765, the department shall offer inmates the opportunity to execute an advance directive as defined in s. 765.101.

(b) The department shall provide to each inmate written information concerning advance directives and necessary forms to allow inmates to execute an advance directive. The department and its health care providers shall document in the inmate's medical records whether the inmate has executed an advance directive. Neither the department nor its health care providers may require an inmate to execute an advance directive using the department's forms. The inmate's advance directive shall travel with the inmate within the department as part of the inmate's

medical record.

(c) An advance directive may be amended or revoked at any time by a competent inmate by means of:

1. A signed, dated writing of intent to amend or revoke;

2. The physical cancellation or destruction of the advance directive by the inmate or by another person in the inmate's presence and at the inmate's direction;

3. An oral expression of intent to amend or revoke; or

4. A subsequently executed advance directive that is materially different from a previously executed advance directive.

(5) PROXY.—

(a) If an incapacitated inmate has not executed an advance directive, or designated a health care surrogate in accordance with the procedures specified in chapter 765 or the designated health care surrogate is no longer available to make health care decisions, health care decisions may be made for the inmate by any of the individuals specified in the priority order provided in s. 765.401(1)(a)-(g) as proxy. Documentation of the efforts to locate a proxy from the classes specified in s. 765.401(1)(a)-(g) shall be recorded in the inmate's medical file.

(b) If there are no individuals as specified in s. 765.401(1)(a)-(g) available, willing, or competent to act on behalf of the inmate, and the inmate is housed in a correctional institution or facility where health care is provided in a nonhospital setting, the warden of the institution where the inmate is housed, or the warden's designee, shall consult with the Assistant Secretary for Health Services or his or her

designee who shall appoint a department ombudsman to serve as the proxy. This appointment terminates when the inmate regains capacity or is no longer incarcerated in the custody of the department. In accordance with chapter 765 and as provided in this section, decisions to withhold or withdraw life-prolonging procedures will be reviewed by the department's proxy review team for compliance with chapter 765 and the requirements of this section.

(c) The ombudsman appointed to serve as the proxy is authorized to request the assistance of the treating physician and, upon request, a second physician not involved in the inmate's care to assist the proxy in evaluating the inmate's treatment.

(d) In accordance with chapter 765, any health care decision made by any appointed proxy under this section must be based on the proxy's informed consent and on the decision that the proxy reasonably believes the inmate would have made under the circumstances. If there is no indication of what decision the inmate would have made, the proxy may consider the inmate's best interest in deciding that proposed treatments are to be withheld or that treatments currently in effect are to be withdrawn.

(e) Before exercising the incapacitated inmate's rights to select or decline health care, the proxy must comply with ss. 765.205 and 765.305, except that any proxy's decision to withhold or withdraw life-prolonging procedures must be supported by clear and convincing evidence that the decision would have been the one the inmate would have made had he or she been competent or, if there is no indication of what decision

the inmate would have made, that the decision is in the inmate's best interest.

(f) Notwithstanding s. 456.057 and pursuant to s. 945.10 and 45 C.F.R. part 164, subpart E, relevant protected health information and mental health and medical records of an incapacitated inmate may be disclosed to a proxy appointed to make health care decisions for an inmate.

(6) USE OF FORCE.—In addition to s. 944.35(1), an employee of the department may apply reasonable physical force upon an incapacitated inmate to administer medical treatment only by or under the clinical supervision of a physician or his or her designee and only to carry out a health care decision made in accordance with this section and chapter 765.

(7) IMMUNITY FROM LIABILITY.—A department health care provider, ombudsman, or other employee who acts under the direction of a health care provider as authorized in this section or chapter 765 is not subject to criminal prosecution or civil liability and may not be deemed to have engaged in unprofessional conduct as a result of carrying out a health care decision made in accordance with this section or chapter 765 on an inmate's behalf.

Section 12. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

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

1/23/24
Meeting Date

Crim Justice.
Committee

1284
Bill Number or Topic

Amendment Barcode (if applicable)

Name JOHN FRANK

Phone 904-705-4322

Address 1552 Greenridge Cir. W
Street

St. Johns FL 32259
City State Zip

Email jwfrank94@gmail.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:
Pat Christ of Florida

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

1/23/24
Meeting Date

Senate CJ
Committee

SB 1284
Bill Number or Topic

Amendment Barcode (if applicable)

Name JACKIE DUNN DATA4CHANGE Phone 4047234778

Address PO BOX 170946
Street

FB FL 32035
City State Zip

Email DATA4CHANGE@OUTLOOK.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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

January 23, 2024
Meeting Date

Criminal Justice
Committee

1284
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 1454 Vieux Carre Drive
Street

Email Barney@BarneyBishop.com

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 Smart Justice Alliance

☐ 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

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1/23/24
Meeting Date

CJ
Committee

1284
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jake Felder

Phone 850 738 5207

Address 501 S Calhoun St
Street

Email JakeFelder@FDC.MyFlorida.com

Tallahassee FL 32399
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 Dep. of Corrections

☐ 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

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

01/23/24
Meeting Date

CRIMINAL JUSTICE
Committee

SB 1284
Bill Number or Topic

Amendment Barcode (if applicable)

Name FRANK A. SIMMONS

Phone 3142496411

Address 3360 S. ATLANTIC AVE #107
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Email FRANKASIMMONS@AOL.COM

COCOA BEACH FL 32931
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

January 23, 2024
Meeting Date

Criminal Justice
Committee

SB 1284
Bill Number or Topic

Amendment Barcode (if applicable)

Name Shirley Ovletrea

Phone 321-720-3820

Address 3360 S. Atlantic Ave #107
Street

Email sovletrea@gmail.com

Cocoa Beach FL 32931
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:

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

S-001 (08/10/2021)

CourtSmart Tag Report

Room: SB 37 **Case No.:** **Type:**
Caption: Senate Criminal Justice Committee **Judge:**

Started: 1/23/2024 1:03:35 PM
Ends: 1/23/2024 3:15:09 PM **Length: 02:11:35**

1:03:34 PM Meeting called to order, roll call
1:03:48 PM Quorum is present
1:03:53 PM Chair Martin makes opening remarks
1:04:39 PM Tab 2, SB 232- Driving Under the Influence by Senator Wright
1:04:49 PM Chair Martin hands the chair to Vice Chair Bradley
1:05:02 PM Senator Wright explains the bill
1:06:37 PM Questions:
1:06:39 PM Senator Powell
1:06:54 PM Senator Wright
1:07:07 PM Senator Powell
1:07:16 PM Senator Wright
1:07:26 PM Senator Powell
1:07:44 PM Senator Wright
1:07:49 PM Senator Powell
1:08:41 PM Senator Wright
1:09:04 PM Amendment 953686
1:09:12 PM Senator Martin explains the amendment
1:09:49 PM Chair Bradley reads appearance cards waiving
1:09:54 PM Senator Martin waives close
1:09:59 PM Chair Bradley reports the amendment
1:10:04 PM Amendment 613870
1:10:08 PM Senator Martin explains the amendment
1:11:01 PM Questions:
1:11:03 PM Senator Pizzo
1:11:19 PM Senator Martin
1:11:36 PM Senator Martin waives close
1:11:45 PM Chair Bradley reports the amendment
1:11:50 PM Public Testimony:
1:12:01 PM Aaron Wayt, Florida Association of Criminal Defense Lawyers
1:13:23 PM Questions:
1:13:23 PM Senator Powell
1:13:32 PM Aaron Wayt
1:13:58 PM Senator Martin
1:14:10 PM Aaron Wayt
1:14:16 PM Chair Bradley reads appearance cards waiving
1:14:38 PM Debate:
1:14:40 PM Senator Pizzo
1:15:10 PM Senator Bradley
1:15:10 PM Senator Pizzo
1:15:50 PM Senator Wright closes on the bill
1:16:28 PM Roll call on SB 232
1:16:44 PM Chair Bradley reports the bill
1:16:49 PM Vice Chair Bradley passes the chair back to Chair Martin
1:16:52 PM Tab 12, SB 1230- Sexual Predators and Sexual Offenders by Senator Bradley
1:16:58 PM Senator Bradley explains the bill
1:17:54 PM Public Testimony:
1:17:58 PM Jennifer Blasdel
1:20:41 PM Chair Martin reads appearance cards waiving
1:20:49 PM Senator Bradley closes on the bill
1:20:52 PM Roll call on SB 1230
1:21:08 PM Chair Martin reports the bill
1:21:13 PM Tab 4, SB 260- Refusal to Submit a Breath, Urine, or Blood Test by Senator DiCeglie

1:21:17 PM Amendment 724064
1:21:30 PM Senator DiCeglie explains the amendment
1:22:04 PM Senator DiCeglie waives close
1:22:12 PM Chair Martin reports the amendment
1:22:20 PM Public testimony:
1:22:27 PM Aaron Wayt
1:24:13 PM Questions:
1:24:15 PM Senator Perry
1:24:26 PM Aaron Wayt
1:24:27 PM Senator Perry
1:24:33 PM Aaron Wayt
1:24:37 PM Senator Perry
1:24:54 PM Aaron Wayt
1:24:58 PM Senator Perry
1:25:03 PM Aaron Wayt
1:25:30 PM Kristen Allen, Mothers Against Drunk Driving
1:26:46 PM Chris Konschak, Responsibility.org
1:27:52 PM Chair Martin reads appearance cards waiving
1:28:27 PM Barney Bishop III, Florida Smart Justice Alliance
1:29:06 PM Debate:
1:29:07 PM Senator Pizzo
1:30:17 PM Senator DiCeglie closes on the bill
1:30:50 PM Roll call on SB 260
1:31:08 PM Chair Martin reports bill
1:31:12 PM Tab 7, SB 808- Treatment by a Medical Specialist by Senator DiCeglie
1:31:14 PM Senator DiCeglie explains the bill
1:31:39 PM Amendment 951398
1:31:43 PM Senator DiCeglie explains the amendment
1:32:09 PM Chair Martin reads appearance cards waiving
1:32:20 PM Senator DiCeglie waives close
1:32:23 PM Chair Martin reports the amendment
1:32:34 PM Chair Martin reads appearance cards waiving
1:32:53 PM Senator DiCeglie closes on the bill
1:33:07 PM Roll call on SB 808
1:33:23 PM Chair Martin reports the bill
1:33:30 PM Tab 1, SB 208- Alzheimer's Disease and Related Dementia Training for Law Enforcement Officers by Senator Burgess
1:33:34 PM Amendment 740482
1:33:42 PM Senator Burgess explains the amendment
1:34:11 PM Senator Burgess waives close
1:34:15 PM Chair Martin reports the amendment
1:34:20 PM Questions:
1:34:22 PM Senator Powell
1:34:37 PM Senator Burgess
1:35:04 PM Senator Powell
1:35:34 PM Senator Burgess
1:36:17 PM Senator Powell
1:37:04 PM Senator Burgess
1:38:07 PM Public testimony:
1:38:35 PM Olivia Babis Keller, Disability Rights Florida
1:39:52 PM Questions:
1:39:53 PM Senator Pizzo
1:40:06 PM Olivia Babis Keller
1:40:16 PM Cheryl Anne Haley
1:42:29 PM Laurette Philipsen
1:43:36 PM Chair Martin reads appearance cards waiving
1:43:56 PM Senator Burgess closes on the bill
1:44:51 PM Roll call on SB 208
1:45:06 PM Chair Martin reports the bill
1:45:12 PM Tab 3, SB 258- Interstate Safety by Senator Perry
1:45:21 PM Senator Perry explains the bill
1:46:30 PM Questions:

1:46:32 PM Senator Powell
1:46:58 PM Senator Perry
1:47:09 PM Senator Powell
1:47:22 PM Senator Perry
1:47:34 PM Debate:
1:47:44 PM Senator Powell
1:49:18 PM Senator Pizzo
1:49:34 PM Senator Perry closes on the bill
1:50:58 PM Roll call on SB 258
1:51:14 PM Chair Martin reports the bill
1:51:19 PM Chair Martin hands the chair to Senator Yarborough
1:51:25 PM Tab 10, SB 1220- Schemes to Defraud by Senator Martin
1:51:33 PM Senator Martin explains the bill
1:52:42 PM Questions:
1:52:43 PM Senator Ingoglia
1:53:23 PM Senator Martin
1:54:05 PM Senator Ingoglia
1:54:28 PM Senator Martin
1:54:37 PM Chair Yarborough reads appearance cards waiving
1:54:51 PM Senator Powell
1:54:51 PM Debate:
1:55:58 PM Senator Martin closes on the bill
1:56:42 PM Roll call on SB 1220
1:57:02 PM Chair Yarborough reports on the bill
1:57:13 PM Senator Yarborough hands the chair to Vice Chair Bradley
1:57:26 PM Tab 13, SB 1278- Department of Corrections by Senator Martin
1:57:29 PM Senator Martin explains the bill
1:58:36 PM Chair Bradley reads appearance cards waiving
1:58:54 PM Senator Martin waives close
1:58:56 PM Roll call on SB 1278
1:59:10 PM Chair Bradley reports the bill
1:59:20 PM Tab 14, SB 1248- Health Care for Inmates by Senator Martin
1:59:26 PM Senator Martin explains the bill
2:00:23 PM Chair Bradley reads appearance cards waiving
2:00:51 PM Senator Martin Waive close
2:00:56 PM Roll call on SB 1284
2:01:07 PM Chair Bradley reports the bill
2:01:15 PM Vice Chair Bradley hands the chair to Chair Martin
2:01:24 PM Tab 9, SB 1190- Online Sting Operations Grant Program by Senator Ingoglia
2:01:32 PM Senator Ingoglia explains the bill
2:02:12 PM Chair Martin reads appearance cards waiving
2:02:19 PM Senator Ingoglia waives close
2:02:23 PM Roll call on SB 1190
2:02:34 PM Chair Martin reports the bill
2:02:40 PM Tab 5, SB 576- Investigation of Complaints Against Law Enforcement and Correctional Officers by Senator Ingoglia
2:02:50 PM Senator Ingoglia explains the bill
2:04:46 PM Questions:
2:04:47 PM Senator Powell
2:05:30 PM Senator Ingoglia
2:06:33 PM Senator Powell
2:06:56 PM Senator Ingoglia
2:07:06 PM Senator Powell
2:07:24 PM Senator Ingoglia
2:07:43 PM Senator Pizzo
2:08:24 PM Senator Ingoglia
2:08:36 PM Senator Pizzo
2:08:49 PM Senator Ingoglia
2:10:42 PM Senator Pizzo
2:10:58 PM Senator Ingoglia
2:12:11 PM Senator Perry
2:12:37 PM Senator Ingoglia

2:13:20 PM Senator Powell
2:14:10 PM Senator Ingoglia
2:14:23 PM Public testimony:
2:14:36 PM Shannon Copeland
2:17:55 PM NR Hines, ACLU of Florida
2:20:18 PM Laurette Philipsen
2:22:06 PM Lisa Henning, Fraternal Order of Police
2:25:49 PM Gwendolyn McDaniel
2:29:14 PM Chair Martin reads appearance cards waiving
2:29:39 PM Debate:
2:29:42 PM Senator Pizzo
2:32:44 PM Senator Powel
2:32:50 PM Chair Martin hands the chair to Vice Chair Bradley
2:37:47 PM Senator Ingoglia closes on the bill
2:42:45 PM Roll call on SB 576
2:43:11 PM Tab 11, SB 1222- Theft by Senator Trumbull
2:43:15 PM Senator Trumbull explains the bill
2:44:36 PM Amendment 646978
2:44:40 PM Senator Trumbull explains the amendment
2:44:56 PM Senator Trumbull waives close
2:45:00 PM Chair Bradley reports the amendment
2:45:07 PM Questions:
2:45:08 PM Senator Powell
2:45:30 PM Senator Trumbull
2:45:45 PM Senator Powell
2:46:02 PM Senator Trumbull
2:46:24 PM Senator Powell
2:47:33 PM Senator Trumbull
2:47:56 PM Senator Powell
2:48:17 PM Senator Trumbull
2:48:29 PM Public Testimony:
2:48:55 PM Aurelie Colon, SLP Action Fund
2:50:07 PM Questions:
2:50:14 PM Senator Martin
2:50:29 PM Aurelie Colon
2:50:46 PM Chair Bradley reads appearance cards waiving
2:51:00 PM Debate:
2:51:02 PM Senator Powell
2:52:47 PM Senator Trumbull closes on the bill
2:53:03 PM Roll call on SB 1222
2:53:18 PM Chair Bradley reports the bill
2:53:23 PM Vice Chair Bradley hands the chair back to Chair Martin
2:53:28 PM Under Rule 2.10 (2), the President authorizes the continuation of the meeting until 3:15
2:53:37 PM Tab 6, SB 718- Exposures of First Responders to Fentanyl by Senator Collins
2:53:46 PM Amendment 738808
2:53:49 PM Senator Collins explains the amendment
2:55:39 PM Amendment 290480
2:55:40 PM Senator Collins explains the amendment
2:56:01 PM Questions:
2:56:02 PM Senator Pizzo
2:56:13 PM Amanda Stokes, Staff Director of the Senate Criminal Justice Committee
2:56:40 PM Senator Pizzo
2:56:43 PM Amanda Stokes
2:56:55 PM Senator Collins waives close
2:57:00 PM Chair Martin reports the amendment
2:57:02 PM Amendment 738808 as amended
2:57:09 PM Senator Collins waives close
2:57:20 PM Senator Martin reports the amendment
2:57:30 PM Pubic testimony:
2:57:50 PM Robert Palmer
3:01:36 PM Aurelie Colon
3:02:27 PM Chair Martin reads appearance cards waiving

3:02:53 PM Debate:
3:02:58 PM Senator Pizzo
3:04:45 PM Senator Polsky
3:05:37 PM Senator Collins closes on the bill
3:08:31 PM Roll call on SB 718
3:08:49 PM Chair Martin reports the bill
3:09:06 PM Tab 8, SB 864- Autism Spectrum Disorder Training for Law Enforcement Officers by Senator Collins
3:09:31 PM Amendment 892168
3:09:36 PM Senator Collins explains the bill
3:09:53 PM Senator Collins waives close
3:09:56 PM Chair Martin reports the amendment
3:10:04 PM Public testimony:
3:10:11 PM Olivia Babis Keller, Disability Rights Florida
3:10:49 PM Maxine Evans
3:12:15 PM Mónica M. Carretero
3:13:22 PM Chair Martin reads appearance cards waiving
3:13:41 PM Senator Collins closes on the bill
3:14:06 PM Roll call on SB 864
3:14:18 PM Chair Martin reports the bill
3:14:26 PM Senator Bradley moves to record missed votes
3:14:33 PM Senator Polsky moves to record missed votes
3:14:47 PM Senator Martin moves to record missed votes
3:14:59 PM Meeting Adjourned