

Tab 2	SB 270 by Berman; (Identical to H 00259) Discharging a Firearm in Residential Areas						
134914	D	S	L	RCS	CJ, Berman	Delete everything after	01/30 01:00 PM
Tab 3	SB 350 by Osgood (CO-INTRODUCERS) Martin, Powell, Polsky, Garcia, Berman, Thompson, Yarborough; (Identical to H 00837) Cold Case Murders						
592664	D	S		RCS	CJ, Osgood	Delete everything after	01/30 01:00 PM
Tab 4	SB 682 by Martin; (Compare to CS/H 00487) Lost or Abandoned Property						
Tab 5	SB 1036 by Ingoglia; (Identical to H 01449) Reclassification of Criminal Penalties						
535754	A	S		RCS	CJ, Ingoglia	Delete L.29 - 62:	01/30 01:00 PM
Tab 6	SB 1238 by Martin; (Compare to CS/H 01135) Lewd or Lascivious Grooming						
652162	D	S		RCS	CJ, Martin	Delete everything after	01/30 01:00 PM
Tab 7	SB 1274 by Martin; (Similar to CS/H 01181) Juvenile Justice						
563204	D	S		RCS	CJ, Martin	Delete everything after	01/30 01:00 PM
Tab 8	SB 1352 by Bradley; (Similar to H 01425) Juvenile Justice						
Tab 9	SB 1512 by Brodeur; (Identical to H 01595) Controlled Substances						
Tab 10	SB 1590 by Grall; (Similar to H 01385) Prostitution and Related Acts						
854338	D	S		RCS	CJ, Grall	Delete everything after	01/30 01:00 PM
Tab 11	SB 1618 by Martin; (Compare to CS/H 01281) Interception and Disclosure of Oral Communications						
Tab 12	SB 1656 by Martin; (Similar to CS/H 01545) Child Exploitation Offenses						
Tab 13	SB 1690 by Yarborough (CO-INTRODUCERS) Perry; (Identical to H 01379) Human Trafficking						
435824	A	S		RCS	CJ, Yarborough	Delete L.164 - 169:	01/30 01:00 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Martin, Chair
Senator Bradley, Vice Chair

MEETING DATE: Tuesday, January 30, 2024

TIME: 9:00—11:00 a.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	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
-----	------------------------------------	-----------------	------------------

Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.

Florida Commission on Offender Review

1	Wyant, David A. ()	06/30/2028	Recommend Confirm Yeas 8 Nays 0
---	--------------------	------------	------------------------------------

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
-----	-------------------------	--	------------------

2	SB 270 Berman (Identical H 259)	Discharging a Firearm in Residential Areas; Revising prohibitions on the discharge of a firearm in residential areas; providing criminal penalties; removing exceptions, etc. CJ 01/30/2024 Fav/CS JU RC	Fav/CS Yeas 5 Nays 3
---	--	--	-------------------------

3	SB 350 Osgood (Identical H 837)	Cold Case Murders; Citing this act as the “Decker-Backmann Act”; requiring the heads of law enforcement agencies or their designees to review certain cold cases upon receiving a written application from a designated person; providing requirements for such reviews; requiring law enforcement agencies to provide specified training; requiring law enforcement agencies, by a specified date and periodically thereafter, to report certain data to the Global Forensic and Justice Center at Florida International University, etc. CJ 01/30/2024 Fav/CS ACJ FP	Fav/CS Yeas 8 Nays 0
---	--	--	-------------------------

4	SB 682 Martin (Compare CS/H 487)	Lost or Abandoned Property; Revising the timeframe after which a law enforcement agency may take certain actions relating to abandoned property or specified vessels if the owner has not taken specified actions; making technical changes, etc. EN 01/10/2024 Favorable CJ 01/30/2024 Favorable RC	Favorable Yeas 8 Nays 0
---	---	---	----------------------------

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Tuesday, January 30, 2024, 9:00—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 1036 Ingoglia (Identical H 1449)	Reclassification of Criminal Penalties; Requiring reclassification of the penalty for the commission of a new felony committed by a person who unlawfully reenters the United States and while remaining unlawfully present after having been deported or removed from the United States under federal immigration proceedings for committing a felony, or who has departed the United States while such an order of deportation or removal was outstanding; defining the term “transnational crime organization”; authorizing reclassification of the penalty for any felony or misdemeanor offenses or certain other acts or violations upon a specified finding by the factfinder, etc. CJ 01/30/2024 Fav/CS ACJ FP	Fav/CS Yeas 8 Nays 0
6	SB 1238 Martin (Compare CS/H 1135)	Lewd or Lascivious Grooming; Creating the offense of lewd or lascivious grooming; providing criminal penalties, etc. CJ 01/30/2024 Fav/CS ACJ FP	Fav/CS Yeas 6 Nays 2
7	SB 1274 Martin (Similar CS/H 1181)	Juvenile Justice; Revising penalties for minors committing specified firearms violations; redesignating civil citation programs as prearrest delinquency citation programs; revising program requirements; requiring that youths who are arrested for certain electronic monitoring or supervised release violations be placed in secure detention until a detention hearing; requiring conditional release conditions for children released after confinement for specified firearms offenses; requiring the Department of Juvenile Justice to establish a specified class for firearms offenders, etc. CJ 01/30/2024 Fav/CS ACJ FP	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Tuesday, January 30, 2024, 9:00—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 1352 Bradley (Similar H 1425, Compare H 7025)	Juvenile Justice; Authorizing personnel of the Department of Juvenile Justice and of certain contracted providers to possess, store, and administer emergency opioid antagonists and providing immunity from civil or criminal liability for such personnel; deleting a provision requiring the juvenile justice circuit advisory board to establish certain community service programs; requiring sheriffs' offices to submit an annual report regarding certain received proceeds to the department, rather than the juvenile justice circuit advisory board; requiring the public safety coordinating council to cooperate with the department, rather than the juvenile justice circuit advisory board, to prepare a comprehensive public safety plan, etc. CJ 01/30/2024 Favorable ACJ FP	Favorable Yeas 8 Nays 0
9	SB 1512 Brodeur (Identical H 1595)	Controlled Substances; Adding tianeptine to the list of Schedule I controlled substances, etc. CJ 01/30/2024 Favorable ACJ FP	Favorable Yeas 8 Nays 0
10	SB 1590 Grall (Similar H 1385)	Prostitution and Related Acts; Prohibiting adults from offering to commit, committing, or engaging in prostitution, lewdness, or assignation; providing criminal penalties; prohibiting the owning, establishing, maintaining, operating, using, letting, or renting of a building, residence, place, or structure, in whole or in part, or a trailer or any other conveyance, with knowledge or reckless disregard that it will be used for the purpose of commercial sex; prohibiting the receiving, or offering or agreeing to receive, a person into a building, residence, place, or structure, or a trailer or any other conveyance, for the purpose of commercial sexual activity or to allow a person to remain there for such purpose, etc. CJ 01/30/2024 Fav/CS ACJ FP	Fav/CS Yeas 5 Nays 3

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Tuesday, January 30, 2024, 9:00—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	SB 1618 Martin (Compare CS/H 1281)	Interception and Disclosure of Oral Communications; Authorizing the interception and recording of an oral communication by the parent or legal guardian of a child under a specified age under certain circumstances; requiring that the recording be provided to a law enforcement agency; prohibiting any further dissemination or sharing of the recording, etc. CJ 01/30/2024 Favorable JU RC	Favorable Yeas 8 Nays 0
12	SB 1656 Martin (Similar CS/H 1545)	Child Exploitation Offenses; Revising penalties for specified offenses involving children; ranking offenses and revising offense ranking levels for purposes of the offense severity ranking chart of the Criminal Punishment Code, etc. CJ 01/30/2024 Favorable ACJ FP	Favorable Yeas 8 Nays 0
13	SB 1690 Yarborough (Identical H 1379)	Human Trafficking; Prohibiting the employment of persons younger than 21 years of age in adult entertainment establishments; providing criminal penalties, etc CJ 01/30/2024 Fav/CS ACJ FP	Fav/CS Yeas 6 Nays 2
Other Related Meeting Documents			



RON DESANTIS
GOVERNOR

RECEIVED
DEPARTMENT OF STATE
2023 OCT 31 AM 9:32
DIVISION OF ELECTIONS
TALLAHASSEE, FL

September 19, 2023

Secretary Cord Byrd
Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Byrd:

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

Mr. David Wyant

as a member of the Florida Commission on Offender Review, subject to confirmation by the Senate. This appointment is effective September 19, 2023, for a term ending June 30, 2028.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis
Governor

RD/ch

HAND DELIVERED

RECEIVED

OATH OF OFFICE

(Art. II. § 5(b), Fla. Const.)

2023 OCT 31 AM 11:25

DIVISION OF ELECTIONS
TALLAHASSEE, FL

STATE OF FLORIDA

County of Leon

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Commissioner at the Florida Commission on Offender Review

(Full Name of Office – Abbreviations Not Accepted)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

David A. Wyant
Signature

(Affix Seal Below)

Sworn to and subscribed before me by means of ☒ physical presence

Or ☐ online notarization this 31st day of October, 2023.



RYAN C SCHENCK
Notary Public
State of Florida
Comm# HH402919
Expires 5/24/2027

Ryan C Schenck
Signature of Officer Administering Oath or of Notary Public

Ryan C Schenck
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ or Produced Identification ☐

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home ☐ Office ☒

Street or Post Office Box

City, State, Zip Code

David A. Wyant

Print Name

David A. Wyant
Signature

1705

STATE OF FLORIDA
DEPARTMENT OF STATE

Division of Elections

I, Cord Byrd, Secretary of State,
do hereby certify that

David A. Wyant

is duly appointed a member of the

Florida Commission on Offender Review

for a term beginning on the Nineteenth day of September, A.D.,
2023, until the Thirtieth day of June, A.D., 2028 and is subject
to be confirmed by the Senate during the next regular session of
the Legislature.

Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the First day of November, A.D., 2023.



[Signature]
Secretary of State

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

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

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

David A. Wyant

WITNESS'S NAME: Florida Commission on Offender Review

ANSWER: I do

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

COMMITTEE NAME: Senate Criminal Justice Committee

DATE: January 30, 2024

APPEARANCE RECORDon Offender ReviewJan 30, 2024

Meeting Date

Criminal Justice

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Jennifer C Pritt

Phone

850 219 3631

Address

2636 Mitcham Drive

Email

jpritt@fpcr.com

Street

Tallahassee FL32308

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

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

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

S-001 (08/10/2021)

APPEARANCE RECORD

Confirmation - Com. Wyatt

Bill Number or Topic

1/30/24

Meeting Date

Criminal Justice

Committee

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

Amendment Barcode (if applicable)

Name Chair Melinda Coonrod

Phone (850) 487-1980

Address 4070 Esplanade Way

Street

Email melindacoonrod@flor.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:FL Commission on offender
Review☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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

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 270

INTRODUCER: Criminal Justice Committee and Senator Berman

SUBJECT: Discharging a Firearm in Residential Areas

DATE: February 1, 2024

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 270 amends s. 810.09(2)(h), F.S., to revise the third degree felony¹ offense of trespass on property other than a structure or conveyance, by removing provisions relating to taking, or attempting to take an animal, and *adding* the requirement that the trespasser's actions in committing the trespass offense must be *willfully* and knowingly committed.

Under the bill, any person who willfully and knowingly propels or causes to be propelled any potentially lethal projectile over or across private land without authorization commits trespass.

In addition to the statute's current exemption from applicability to any governmental agent or employee acting within the scope of his or her official duties,² the bill creates the following exemptions:

- For a person lawfully defending life or property or performing official duties requiring the discharge of a potentially lethal projectile; or
- If, under the circumstances, the discharge of a potentially lethal projectile does not pose a reasonably foreseeable risk to life, safety, or property.

The bill is effective October 1, 2024.

¹ A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

² Section 810.09(2)(h), F.S.

II. Present Situation:

Discharging a Firearm

Prior to 2012, s. 790.15(1), F.S., did not address discharging a firearm on private property except that it was a first degree misdemeanor to knowingly discharge a firearm over any occupied premises.³

In 2012, the Legislature amended s. 790.15(1), F.S., to prohibit “recklessly or negligently discharging a firearm” outdoors on any property used primarily as the site of a dwelling as defined in s. 776.013, F.S., or zoned exclusively for residential use.⁴

Backyard Gun Ranges

In 2015, the Legislature created s. 790.15(4), F.S., to address safety issues surrounding the use of backyard gun ranges in residential areas. Section 790.15(4), F.S., states: Any person who recreationally discharges a firearm outdoors, including target shooting, in an area that the person knows or reasonably should know is primarily residential in nature and that has a residential density of one or more dwelling units per acre, commits a misdemeanor of the first degree.⁵ This section of the law does not apply:

- To a person lawfully defending life or property or performing official duties requiring the discharge of a firearm;
- If, under the circumstances, the discharge does not pose a reasonably foreseeable risk to life, safety, or property; or
- To a person who accidentally discharges a firearm.⁶

Now, based on more recent news accounts, it appears there may be additional and more recent concerns about backyard shooting ranges.⁷

Trespass on Property Other than a Structure or Conveyance

Section 810.09, F.S., prohibits trespass by a person who willfully enters upon or remains in any property other than a structure or conveyance:

³ Section 790.15(1), F.S., also provides that it is a first degree misdemeanor to knowingly discharge a firearm in any public place or on the right-of-way of any paved public road, highway, or street or over the right-of-way of any paved public road, highway, or street.

⁴ Chapter 2012-108, L.O.F. The term “dwelling” is defined in s. 776.013, F.S., as a building or conveyance of any kind, including any attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed to be occupied by people lodging therein at night.

⁵ A first degree misdemeanor is punishable by up to 1 year in the county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

⁶ Section 790.15(4), F.S.

⁷ Patrick Riley, Naples Daily News, May 27, 2019, *Backyard shooting ranges spark debate in Golden Gate Estate*, available at <https://www.naplesnews.com/story/news/local/2019/03/15/golden-gate-estates-backyard-shooting-ranges-spark-debate/2549089002/> (last visited January 26, 2024); Cheryl S. Grant, Naples Daily News, December 31, 2019, *Reasons Florida deputies can't shut down most backyard shooting ranges*, available at <https://www.naplesnews.com/story/news/local/florida/2019/12/31/why-deputies-cant-shut-down-most-backyard-shooting-ranges-florida/2784051001/> (last visited January 26, 2024).

- As to which notice against entering or remaining is given, either by actual communication to the offender or by posting, fencing, or cultivation as described in s. 810.01, F.S.; or
- If the property is the unenclosed curtilage of a dwelling⁸ and the offender enters or remains with the intent to commit an offense thereon, other than the offense of trespass.

Section 810.09(2)(h), F.S., provides that any person who, in taking or attempting to take any animal described in s. 379.101(19) or (20) F.S., or in killing, attempting to kill, or endangering any animal described in s. 585.01(13), F.S., and who knowingly propels or causes to be propelled any potentially lethal projectile over or across private land without authorization commits a third degree felony of trespass.⁹

This crime does not apply to any governmental agent or employee acting within the scope of his or her official duties.

The term “potentially lethal projectile” includes any projectile launched from any firearm, bow, crossbow, or similar tensile device.¹⁰

An “authorized person” or “person authorized” means any owner, his or her agent, or a community association authorized as an agent for the owner, or any law enforcement officer whose department has received written authorization from the owner, his or her agent, or a community association authorized as an agent for the owner, to communicate an order to leave the property in the case of a threat to public safety or welfare.¹¹

The following descriptions of animals are cross-referenced in s. 810.09(2)(h), F.S.:

- “Fur-bearing animals” means muskrat, mink, raccoon, otter, civet cat, skunk, red and gray fox, and opossum.¹²
- “Game” means deer, bear, squirrel, rabbits, and, where designated by commission rules, wild hogs, ducks, geese, rails, coots, gallinules, snipe, woodcock, wild turkeys, grouse, pheasants, quail, and doves.¹³
- “Livestock” means grazing animals, such as cattle, horses, sheep, swine, goats, other hoofed animals, ostriches, emus, and rheas which are raised for private use or commercial purposes.¹⁴

⁸ The term “unenclosed curtilage” means the unenclosed land or grounds, and any outbuildings, that are directly and intimately adjacent to and connected with the dwelling and necessary, convenient, and habitually used in connection with that dwelling. Section 810.09(1)(b), F.S.

⁹ A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

¹⁰ Section 810.09(2)(h), F.S. In s. 790.333(2)(d), F.S., relating to sport shooting and training ranges, the term “projectile” is defined as any object expelled, propelled, discharged, shot, or otherwise released from a firearm, BB gun, airgun, or similar device, including, but not limited to, gunpowder, ammunition, lead, shot, skeet, and trap targets and associated chemicals, derivatives, and constituents thereof.

¹¹ Section 810.09(3), F.S.

¹² Section 379.101(19), F.S.

¹³ Section 379.101(20), F.S.

¹⁴ Section 585.01(13), F.S.

III. Effect of Proposed Changes:

The bill amends s. 810.09(2)(h), F.S., to revise the third degree felony¹⁵ offense of trespass on property other than a structure or conveyance, by removing provisions relating to taking, or attempting to take an animal, and *adding* the requirement that the trespasser's actions in committing the trespass offense must be *willfully* and knowingly committed.

Under the bill, any person who willfully and knowingly propels or causes to be propelled any potentially lethal projectile over or across private land without authorization commits trespass.

In addition to the statute's current exemption from applicability to any governmental agent or employee acting within the scope of his or her official duties,¹⁶ the bill creates the following exemptions:

- For a person lawfully defending life or property or performing official duties requiring the discharge of a potentially lethal projectile; or
- If, under the circumstances, the discharge of a potentially lethal projectile does not pose a reasonably foreseeable risk to life, safety, or property.

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.

¹⁵ A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

¹⁶ Section 810.09(2)(h), F.S.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of Economic and Demographic Research has not yet met to consider this bill therefore there is no reportable fiscal impact to the Department of Corrections.

VI. Technical Deficiencies:

None identified.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 810.09 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 30, 2024:

The committee substitute:

- Amends s. 810.09(2)(h), F.S., to remove the provisions relating to taking, or attempting to take any animal described in s. 379.101(19) or (20), F.S.,¹⁷ or s. 585.01(13), F.S.¹⁸
- Retains the third degree felony¹⁹ trespass offense, as it otherwise exists in current law but *adds* the requirement that the person's actions in committing the trespass offense must be *willfully and* knowingly committed.
- Adds exemptions to applicability.

¹⁷ "Fur-bearing animals" or "Game."

¹⁸ "Livestock."

¹⁹ A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. Section 775.082, and s. 775.083, F.S.

B. Amendments:

None.

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



134914

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2024	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1) and paragraph (h) of subsection
(2) of section 810.09, Florida Statutes, is amended to read
810.09 Trespass on property other than structure or
conveyance.—

(1) (a) A person who, without being authorized, licensed, or
invited, willfully enters upon or remains in any property other



134914

than a structure or conveyance:

1. As to which notice against entering or remaining is given, either by actual communication to the offender or by posting, fencing, or cultivation as described in s. 810.011; or

2. If the property is the unenclosed curtilage of a dwelling and the offender enters or remains with the intent to commit an offense thereon, other than the offense of trespass, commits the offense of trespass on property other than a structure or conveyance.

(b) As used in this section, the term "unenclosed curtilage" means the unenclosed land or grounds, and any outbuildings, that are directly and intimately adjacent to and connected with the dwelling and necessary, convenient, and habitually used in connection with that dwelling.

(2)

(h) Any person who ~~in taking or attempting to take any animal described in s. 379.101(19) or (20), or in killing, attempting to kill, or endangering any animal described in s. 585.01(13)~~ willfully and knowingly propels or causes to be propelled any potentially lethal projectile over or across private land without authorization commits trespass, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this paragraph, the term "potentially lethal projectile" includes any projectile launched from any firearm, bow, crossbow, or similar tensile device. This paragraph ~~section~~ does not apply:

1. To any governmental agent or employee acting within the scope of his or her official duties;



134914

2. To a person lawfully defending life or property or performing official duties requiring the discharge of a potentially lethal projectile; or

3. If, under the circumstances, the discharge of a potentially lethal projectile does not pose a reasonably foreseeable risk to life, safety, or property.

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 everything before the enacting clause
and insert:

A bill to be entitled

An act relating to lethal projectiles over or across private lands; amending s. 810.09, F.S.; prohibiting a person from knowingly and willfully propelling a projectile over or across private lands; providing exceptions; providing an effective date.

By Senator Berman

26-00594-24

2024270__

1 A bill to be entitled
2 An act relating to discharging a firearm in
3 residential areas; amending s. 790.15, F.S.; revising
4 prohibitions on the discharge of a firearm in
5 residential areas; providing criminal penalties;
6 removing exceptions; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Subsection (4) of section 790.15, Florida
11 Statutes, is amended to read:
12 790.15 Discharging firearm in public or on residential
13 property.—
14 (4) (a) Any person who recreationally discharges a firearm
15 outdoors, including target shooting, in an area that the person
16 knows or reasonably should know:
17 1. Is primarily residential in nature; or and that has a
18 residential density of one or more dwelling units per acre,
19 2. Has a residential density of 1.25 or more acres per
20 dwelling unit, and the firearm discharge by the person does not
21 remain within the boundaries of the property in which the
22 discharge takes place,
23
24 commits a misdemeanor of the first degree, punishable as
25 provided in s. 775.082 or s. 775.083.
26 (b) This subsection does not apply+
27 ~~to a person lawfully defending life or property or~~
28 ~~performing official duties requiring the discharge of a firearm;~~
29 ~~(b) If, under the circumstances, the discharge does not~~

Page 1 of 2

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

26-00594-24

2024270__

30 ~~pose a reasonably foreseeable risk to life, safety, or property;~~
31 ~~or~~
32 ~~(c) To a person who accidentally discharges a firearm.~~
33 Section 2. This act shall take effect October 1, 2024.

Page 2 of 2

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

The Florida Senate

APPEARANCE RECORD

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

1/30/24

Meeting Date

Criminal Justice

Committee

SB 270

Bill Number or Topic

Amendment Barcode (if applicable)

Name Sean Pittman

Phone 850-216-1002

Address 1028 E. Park Ave.

Email sean@pittman-law.com

Street

Tallahassee

City

FL

State

32301

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Palm Beach County

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

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

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

S-001 (08/10/2021)

APPEARANCE RECORD

SB-270

1/30/2024

Meeting Date

Criminal Justice

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Gerald "Jed" Carroll**Phone **703-321-8585**Address **8001 Forbes Place - Suite 202**Email **jed.carroll@gunowners.org**

Street

Springfield**VA****22151**

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

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

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

S-001 (08/10/2021)

1/30/2024

The Florida Senate
APPEARANCE RECORD

SB-270

Meeting Date

Criminal Justice

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Luis Valdes**

Phone **703-321-8585**

Address **8001 Forbes Place - Suite 202**

Email **luis.valdes@gunowners.org**

Street

Springfield

VA

22151

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:

Gun Owners of America

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 350

INTRODUCER: Criminal Justice Committee and Senator Osgood and others

SUBJECT: Cold Case Murders

DATE: January 31, 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 350 creates s. 782.41, F.S., to require law enforcement agencies to review certain cold cases upon receiving a written application from a designated person if the murder occurred on or after January 1, 1970. The bill provides definitions for terms used in this section such as “cold case,” “designated person,” and “probative lead.”

The bill provides criteria for the review of a cold case, and requires a law enforcement agency to conduct a full reinvestigation if the review concludes that a reinvestigation may result in previously unidentified probative leads or in the identification of a likely perpetrator.

The bill requires each law enforcement agency to develop a written application. The head of each law enforcement agency must adopt procedures by July 1, 2025. Law enforcement employees and officers must be trained on the procedures. The bill requires the law enforcement agency to issue a confirmation of receipt of the written application. A cold case that does not meet the specifications may be denied and a written explanation be given to the designated person.

A review must take place no later than 1 year after receipt of a written application but allows a one-time only 6 month extension if the law enforcement agency finds that the number of cases to review makes compliance with this time limit impracticable without diverting resources from other law enforcement activities.

The bill requires each law enforcement agency to submit a report by October 1, 2025, and at least quarterly thereafter to the Global Forensic and Justice Center at Florida International University. The bill requires the Global Forensic and Justice Center to establish and maintain a case tracking system and provides criteria for such system. The Global Forensic and Justice Center must include a list of resources for persons who have submitted an application which must include system-based and community-based cold case advocacy services.

The bill requires law enforcement agencies to coordinate a review or reinvestigation if more than one agency conducted the initial investigation of a cold case, and prohibits a full reinvestigation to be conducted solely by the person who previously investigated the murder. The bill provides limitations to reinvestigations.

The bill allows for a law enforcement agency to request, in writing, investigative assistance from the Department of Law Enforcement to complete a cold case review or reinvestigation.

The bill is titled the “Decker-Backmann Act.”

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

The bill is effective July 1, 2025.

II. Present Situation:

Experience has shown that cold case programs can solve a substantial number of violent crime cold cases. Advances in DNA technologies have substantially increased the successful DNA analysis of aged, degraded, limited, or otherwise compromised biological evidence. As a result, crime scene samples once thought to be unsuitable for testing may now yield DNA profiles.¹

The Cold Case Advisory Commission, under the Florida Sheriff’s Association, meets quarterly to discuss strategies and hear cold case murder presentations from submitting law enforcement agencies. When cases are presented, advice regarding investigative steps and legal strategy may be offered to the case officer.²

The Commission is comprised of the following members:

- A Chair, who is a sheriff, appointed by the president;
- Two Vice-Chairs, who are sheriffs, appointed by the Chair;
- A medical examiner;
- A medical examiner investigator;
- A DNA scientist;
- 12 homicide investigators, crime scene techs, and other specialists;
- An assistant statewide prosecutor;

¹ See National Institute of Justice, *Cold Case Investigations*, available at <https://nij.ojp.gov/topics/law-enforcement/investigations/cold-case-investigations> (Last accessed January 25, 2024).

² See Florida Sheriff’s Associations, *Cold Case Advisory Commission*, available at <https://www.flsheriffs.org/law-enforcement-programs/cold-case-review-advisory-commission#:~:text=To%20respond%20to%20this%20need,from%20submitting%20law%20enforcement%20agencies> (Last accessed January 25, 2024.)

- A state attorney;
- A representative from the Attorney General's Office;
- An FDLE Missing and Endangered Persons Information Clearinghouse representative;
- A Florida Department of Corrections representative;
- An FDLE Florida Fusion Center representative;
- A forensic anthropologist;
- A judge;
- A legal advisor;
- An FDLE Office of Statewide Intelligence representative; and
- A citizen.³

Currently there is no state-wide procedure in statute regarding cold cases.

III. Effect of Proposed Changes:

The bill creates s. 782.41, F.S., to require law enforcement agencies to review certain cold cases upon receiving a written application from a designated person if the murder occurred on or after January 1, 1970.

The bill provides definitions for cold case,⁴ designated person,⁵ immediate family member,⁶ law enforcement agency,⁷ murder,⁸ probative lead,⁹ and victim.¹⁰

The bill provides criteria for the review of a cold case. A law enforcement agency must conduct a full reinvestigation if the review concludes that a reinvestigation may result in previously unidentified probative leads or in the identification of a likely perpetrator.

A review must include:

- An analysis of any investigative procedures that may have been absent or missed in the initial investigation;
- An assessment of whether witnesses should be interviewed or reinterviewed;
- An examination of physical evidence to determine whether all appropriate forensic testing and analyses were performed in the initial investigation and whether additional testing might produce relevant information; and,

³ *Id.*

⁴ "Cold case" means a murder for which no likely perpetrator has been identified and was committed more than 5 years before the date of the application requesting a review submitted by a designated person, that was previously investigated by a law enforcement agency, and for which all probative leads have been exhausted.

⁵ "Designated person" means an immediate family member or an immediate family member's designated legal representative, which representative must be a member in good standing of The Florida Bar.

⁶ "Immediate family member" means a parent, parent-in-law, grandparent, grandparent-in-law, sibling, spouse, child, or stepchild of a victim, or any person who exercised in loco parentis control over such victim younger than 18 years of age at the time of the murder.

⁷ "Law enforcement agency" means the law enforcement agency having jurisdiction at the time of the murder.

⁸ "Murder" means any criminal offense provided under s. 782.04, s. 782.071, or s. 782.072, F.S.

⁹ "Probative lead" means evidence that is sufficiently useful to prove an element of the crime and that was not identified or determined as part of the previous investigation by a law enforcement agency.

¹⁰ "Victim" means an individual who was murdered and whose case has been designated as a cold case.

- An update of the case file using the most current investigative standards, if such standards may help develop probative leads.

The bill prohibits a full reinvestigation to be conducted solely by the person who previously investigated the murder, and limits reinvestigations to only one full reinvestigation undertaken at any time with respect to the same victim. If a full reinvestigation is completed and a likely perpetrator is not identified, an additional review or full investigation is not required to be undertaken for a period of 5 years beginning from the date of the conclusion of the reinvestigation, unless materially significant evidence is discovered.

The bill requires each law enforcement agency to develop a written application. The head of each law enforcement agency must adopt procedures by July 1, 2025. The bill requires law enforcement employees and officers to be trained on the procedures.

The law enforcement agency must issue a confirmation of receipt of the written application.¹¹ A cold case that does not meet the specifications may be denied and a written explanation be given to the designated person.

The bill provides a review must take place no later than 1 year after receipt of a written application but allows a one-time only 6 month extension if the law enforcement agency finds that the number of cases to review makes compliance with this time limit impracticable without diverting resources from other law enforcement activities. If extended, the agency must provide notice and explanation of its reasoning for the extension to the designated person.

Each law enforcement agency must submit a report by October 1, 2025, and at least quarterly thereafter to the Global Forensic and Justice Center at Florida International University. The bill requires the Global Forensic and Justice Center to establish and maintain a case tracking system and provides criteria for such system. The Global Forensic and Justice Center must include a list of resources for persons who have submitted an application which must include system-based and community-based cold case advocacy services.

The bill requires law enforcement agencies to coordinate a review or reinvestigation if more than one agency conducted the initial investigation of a cold case.

The bill provides the operation of such is subject to the availability of funds specifically appropriated by the Legislature or other relevant political subdivision of this state.

The bill allows for a law enforcement agency to request, in writing, investigative assistance from the Department of Law Enforcement to complete a cold case review or reinvestigation.

The bill is titled the “Decker-Backmann Act.”

The bill is effective July 1, 2025.

¹¹ Confirmations must include a description of the process for submitting a complaint to, and contact information for, the law enforcement agency’s unit responsible for internal investigations involving allegations of misconduct.

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:

Florida Department of Law Enforcement (FDLE) indicated additional positions and resources will be needed to comply with the new requirements of the bill. At a minimum, the forensic laboratory will be impacted for additional reviews for each case. FDLE has estimated an expenditure of \$4,195,924 (\$2,453,026 recurring funds).¹²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹² See FDLE, *2024 Legislative Bill Analysis SB 350*, (on file with the Senate committee on Criminal Justice).

VIII. Statutes Affected:

This bill creates section 782.41 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 30, 2024:

The committee substitute:

- Clarifies the definition of “law enforcement agency” is the agency having jurisdiction at the time of the murder.
- Removes a restriction for additional case reviews within 5 years of the last reinvestigation.
- Removes the requirement that a case that did not meet the criteria for a cold case be denied.
- Requires the Global Forensic and Justice Center to create and publish a list of resources for immediate family members or designated persons who have submitted an application, which must include system-based and community-based cold case advocacy services.
- Allows for a law enforcement agency to request, in writing, investigative assistance from the Department of Law Enforcement to complete a cold case review or reinvestigation.
- Removes language authorizing a medical examiner to issue a death certificate with a nonspecific cause of death and manner of murder if the medical examiner determines that the release of such information would not hinder the investigation.

B. Amendments:

None.



592664

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2024	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. This act may be cited as the "Decker-Backmann Act."

Section 2. Section 782.41, Florida Statutes, is created to
read:

782.41 Cold case murder; review; reinvestigation.—

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



592664

11 (a) "Cold case" means a murder, for which:
12 1. No likely perpetrator has been identified; and
13 2. At least 5 years have passed since it was committed,
14 including the date of an application requesting a review
15 submitted by a designated person, and the murder was previously
16 investigated by a law enforcement agency and all probative leads
17 have been exhausted.

18 (b) "Designated person" means an immediate family member or
19 an immediate family member's designated legal representative,
20 which representative must be a member in good standing of The
21 Florida Bar.

22 (c) "Immediate family member" means a parent, parent-in-
23 law, grandparent, grandparent-in-law, sibling, spouse, child, or
24 stepchild of a victim, or any person who exercised in loco
25 parentis control over such victim younger than 18 years of age
26 at the time of the murder.

27 (d) "Law enforcement agency" means the law enforcement
28 agency having jurisdiction at the time of the murder.

29 (e) "Murder" means any criminal offense provided under s.
30 782.04, s. 782.071, or s. 782.072.

31 (f) "Probative lead" means evidence that is sufficiently
32 useful to prove an element of the crime and that was not
33 identified or determined as part of the previous investigation
34 by a law enforcement agency.

35 (g) "Victim" means an individual who was murdered and whose
36 case has been designated as a cold case.

37 (2) The head of a law enforcement agency or his or her
38 designee shall review a cold case upon receiving a written
39 application from a designated person to determine if a full



592664

reinvestigation would result in any of the following:

(a) The identification of new probative leads.

(b) The identification of a likely perpetrator.

(3) A review conducted pursuant to subsection (2) must include all of the following:

(a) An analysis of any investigative procedures that may have been absent or missed in the initial investigation.

(b) An assessment of whether witnesses should be interviewed or reinterviewed.

(c) An examination of physical evidence to determine whether all appropriate forensic testing and analyses were performed in the initial investigation and whether additional testing might produce information relevant to the investigation.

(d) An update of the case file using the most current investigative standards as of the date of the review, if such standards may help develop probative leads.

(4) (a) The law enforcement agency must conduct a full reinvestigation of the cold case if the review pursuant to subsection (2) concludes that such reinvestigation may result in previously unidentified probative leads or in the identification of a likely perpetrator.

(b) A full reinvestigation must include a review of all available evidence and an analysis of those items that may contain forensic value which were collected for the purpose of developing probative leads or identifying a likely perpetrator.

(5) (a) A full reinvestigation required pursuant to subsection (4) may not be conducted solely by the person who previously investigated the murder.

(b) Only one full reinvestigation may be undertaken at any



592664

time with respect to the same victim.

(c) If a full reinvestigation is completed and a likely perpetrator is not identified as a result, an additional case file review or full reinvestigation is not required for that cold case for a period of 5 years beginning on the date of the conclusion of the reinvestigation, unless materially significant evidence is discovered.

(6) (a) Each law enforcement agency shall develop a written application to be used by a designated person to request a cold case review under subsection (2).

(b) No later than July 1, 2025, the head of each law enforcement agency or his or her designee shall adopt procedures to ensure compliance with this section.

(c) Each law enforcement agency shall train the appropriate law enforcement employees and officers of that law enforcement agency on the procedures required and the responsibilities and obligations imposed under this section.

(7) The law enforcement agency shall, as soon as practicable, provide to the designated person who submitted the application requesting review of a cold case a written confirmation of receipt of the application. Such confirmation must include a description of the process for submitting a complaint to, and contact information for, the law enforcement agency's unit responsible for internal investigations involving allegations of misconduct.

(8) An application for review of a case that does not meet the criteria for a cold case specified in paragraph (1) (a) may be denied. If an application is denied, the head of the law enforcement agency or his or her designee must issue to the



592664

designated person who submitted the application a written explanation of the reason or reasons for the denial of the review.

(9) No later than 1 year after receipt of a written application requesting a cold case review, the law enforcement agency must complete the case file review and conclude, pursuant to subsection (2), whether a full reinvestigation as provided in subsection (4) is warranted.

(10) The law enforcement agency may, one time only, extend the time limit provided under subsection (9) for a period not to exceed 6 months if the law enforcement agency finds that the number of case files to be reviewed makes compliance with the time limit impracticable without diverting resources from other law enforcement activities. If the time limit is extended, the law enforcement agency must provide notice and an explanation of its reasoning for the extension to the designated person who submitted the written application for review.

(11) By October 1, 2025, and at least quarterly thereafter, each law enforcement agency shall report data as described in subsection (12) to the Global Forensic and Justice Center at Florida International University.

(12) The Global Forensic and Justice Center shall establish and maintain a case tracking system and searchable public website that includes all of the following information about cold case investigations covered under this section:

(a) The number of written applications for cold case reviews filed with each law enforcement agency as provided under subsection (2).

(b) The number of full reinvestigations initiated and



592664

closed under subsection (9).

(c) The total number of cases in which the time for review was extended and a summary of the reasons for any such extensions under subsection (10).

(d) Statistical information on the aggregate number of cold cases, defendants, arrests, indictments, and convictions.

(13) The Global Forensic and Justice Center shall create and publish on its searchable public website a list of resources for immediate family members or designated persons who have submitted an application for a cold case review pursuant to subsection (2). The resources must, at a minimum, include system-based and community-based cold case advocacy services.

(14) If more than one law enforcement agency conducted the initial investigation of a cold case, each law enforcement agency must coordinate the case file review or full reinvestigation such that there is only one joint case file review or full reinvestigation occurring at a time as required by paragraph (5) (b).

(15) A law enforcement agency may request investigative assistance from the Department of Law Enforcement to complete a cold case review or reinvestigation under this section. The request must be submitted in writing.

(16) The operation of this section is subject to the availability of funds specifically appropriated by the Legislature or other relevant political subdivision of this state for this purpose.

(17) This section applies to any cold case in which the murder occurred on or after January 1, 1970.

Section 3. This act shall take effect July 1, 2025.



592664

===== 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 cold case murders; providing a
short title; creating s. 782.41, F.S.; defining terms;
requiring the heads of law enforcement agencies or
their designees to review certain cold cases upon
receiving a written application from a designated
person; requiring the heads of law enforcement
agencies or their designees to make a specified
determination upon receiving such application;
providing requirements for such reviews; requiring law
enforcement agencies to conduct a full reinvestigation
of a cold case under certain circumstances; providing
requirements for such reinvestigations; requiring law
enforcement agencies to develop certain written
applications; requiring the heads of law enforcement
agencies or their designees to adopt certain
procedures to ensure compliance with specified
provisions; requiring law enforcement agencies to
provide specified training; requiring law enforcement
agencies to provide written confirmation to a
designated person of receipt of an application to
review a cold case; authorizing the denial of an
application for review of a cold case that does not
satisfy certain criteria; requiring the head of the



592664

law enforcement agency or his or her designee to issue to the designated person a written explanation of the reason or reasons for the denial; providing timeframe and notice requirements for law enforcement agencies' cold case reviews after receipt of a written application; requiring law enforcement agencies, by a specified date and periodically thereafter, to report certain data to the Global Forensic and Justice Center at Florida International University; requiring the center to establish and maintain a case tracking system and searchable public website that includes specified information; requiring the center to create and publish on its searchable public website a list of certain resources; requiring coordination between law enforcement agencies if more than one law enforcement agency conducted the initial investigation; authorizing law enforcement agencies to request investigative assistance from the Department of Law Enforcement to complete cold case reviews or reinvestigations; requiring that such requests be in writing; providing that specified provisions are subject to appropriations; providing applicability; providing an effective date.

By Senator Osgood

32-00103C-24

2024350__

1 A bill to be entitled
 2 An act relating to cold case murders; providing a
 3 short title; creating s. 782.41, F.S.; defining terms;
 4 requiring the heads of law enforcement agencies or
 5 their designees to review certain cold cases upon
 6 receiving a written application from a designated
 7 person; requiring the heads of law enforcement
 8 agencies or their designees to make a specified
 9 determination upon receiving such application;
 10 providing requirements for such reviews; requiring law
 11 enforcement agencies to conduct a full reinvestigation
 12 of a cold case under certain circumstances; providing
 13 requirements for such reinvestigations; requiring law
 14 enforcement agencies to develop certain written
 15 applications; requiring the heads of law enforcement
 16 agencies or their designees to adopt certain
 17 procedures to ensure compliance with specified
 18 provisions; requiring law enforcement agencies to
 19 provide specified training; requiring law enforcement
 20 agencies to provide written confirmation to a
 21 designated person of receipt of an application to
 22 review a cold case; requiring that an application for
 23 review of a cold case that does not satisfy certain
 24 criteria be denied; requiring the head of the law
 25 enforcement agency or his or her designee to issue to
 26 the designated person a written explanation of the
 27 reason or reasons for the denial; providing timeframe
 28 and notice requirements for law enforcement agencies'
 29 cold case reviews after receipt of a written

Page 1 of 7

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

32-00103C-24

2024350__

30 application; requiring law enforcement agencies, by a
 31 specified date and periodically thereafter, to report
 32 certain data to the Global Forensic and Justice Center
 33 at Florida International University; requiring the
 34 center to establish and maintain a case tracking
 35 system and searchable public website that includes
 36 specified information; requiring coordination between
 37 law enforcement agencies if more than one law
 38 enforcement agency conducted the initial
 39 investigation; providing that specified provisions are
 40 subject to appropriations; providing applicability;
 41 authorizing a medical examiner to issue death
 42 certificates with nonspecific causes of death and
 43 manner of murder under certain circumstances;
 44 providing an effective date.

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

48 Section 1. This act may be cited as the "Decker-Backmann
 49 Act."

50 Section 2. Section 782.41, Florida Statutes, is created to
 51 read:

52 782.41 Cold case murder; review; reinvestigation.—

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

54 (a) "Cold case" means a murder:

55 1. For which no likely perpetrator has been identified; and

56 2. That was committed more than 5 years before the date of

57 an application requesting a review submitted by a designated

58 person, that was previously investigated by a law enforcement

Page 2 of 7

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

32-00103C-24

2024350

agency, and for which all probative leads have been exhausted.

(b) "Designated person" means an immediate family member or an immediate family member's designated legal representative, which representative must be a member in good standing of The Florida Bar.

(c) "Immediate family member" means a parent, parent-in-law, grandparent, grandparent-in-law, sibling, spouse, child, or stepchild of a victim, or any person who exercised in loco parentis control over such victim younger than 18 years of age at the time of the murder.

(d) "Law enforcement agency" means a law enforcement agency with the jurisdiction to engage in the detection, investigation, or prosecution of a cold case.

(e) "Murder" means any criminal offense provided under s. 782.04, s. 782.071, or s. 782.072.

(f) "Probative lead" means evidence that is sufficiently useful to prove an element of the crime and that was not identified or determined as part of the previous investigation by a law enforcement agency.

(g) "Victim" means an individual who was murdered and whose case has been designated as a cold case.

(2) The head of a law enforcement agency or his or her designee shall review a cold case upon receiving a written application from a designated person to determine if a full reinvestigation would result in any of the following:

(a) The identification of new probative leads.

(b) The identification of a likely perpetrator.

(3) A review conducted pursuant to subsection (2) must include all of the following:

32-00103C-24

2024350

(a) An analysis of any investigative procedures that may have been absent or missed in the initial investigation.

(b) An assessment of whether witnesses should be interviewed or reinterviewed.

(c) An examination of physical evidence to determine whether all appropriate forensic testing and analyses were performed in the initial investigation and whether additional testing might produce information relevant to the investigation.

(d) An update of the case file using the most current investigative standards as of the date of the review, if such standards may help develop probative leads.

(4) (a) The law enforcement agency must conduct a full reinvestigation of the cold case if the review pursuant to subsection (2) concludes that such reinvestigation may result in previously unidentified probative leads or in the identification of a likely perpetrator.

(b) A full reinvestigation must include a review of all available evidence and an analysis of those items that may contain forensic value which were collected for the purpose of developing probative leads or identifying a likely perpetrator.

(5) (a) A full reinvestigation required pursuant to subsection (4) may not be conducted solely by the person who previously investigated the murder.

(b) Only one full reinvestigation may be undertaken at any time with respect to the same victim.

(c) If a full reinvestigation is completed and a likely perpetrator is not identified as a result, an additional case file review or full reinvestigation may not be undertaken for that cold case for a period of 5 years beginning on the date of

32-00103C-24

2024350

the conclusion of the reinvestigation, unless materially significant evidence is discovered.

(6) (a) Each law enforcement agency shall develop a written application to be used by a designated person to request a cold case review under subsection (2).

(b) No later than July 1, 2025, the head of each law enforcement agency or his or her designee shall adopt procedures to ensure compliance with this section.

(c) Each law enforcement agency shall train the appropriate law enforcement employees and officers within that law enforcement agency on the procedures required and the responsibilities and obligations imposed under this section.

(7) The law enforcement agency, as soon as practicable, shall provide to the designated person who submitted the application requesting review of a cold case written confirmation of receipt of the application. Such confirmation must include a description of the process for submitting a complaint to, and contact information for, the law enforcement agency's unit responsible for internal investigations involving allegations of misconduct.

(8) An application for review of a case that does not meet the criteria for a cold case specified in paragraph (1) (a) must be denied. If an application is denied, the head of the law enforcement agency or his or her designee must issue to the designated person who submitted the application a written explanation of the reason or reasons for the denial of the review.

(9) No later than 1 year after receipt of a written application requesting a cold case review, the law enforcement

32-00103C-24

2024350

agency must complete the case file review and conclude, pursuant to subsection (2), whether a full reinvestigation as provided in subsection (4) is warranted.

(10) The law enforcement agency may extend, for one time only, the time limit provided under subsection (9) for a period not to exceed 6 months if the law enforcement agency finds that the number of case files to be reviewed makes compliance with the time limit impracticable without diverting resources from other law enforcement activities. If the time limit is extended, the law enforcement agency must provide notice and an explanation of its reasoning for the extension to the designated person who submitted the written application for review.

(11) By October 1, 2025, and at least quarterly thereafter, each law enforcement agency shall report all data relevant to the review of cold cases to the Global Forensic and Justice Center at Florida International University.

(12) The Global Forensic and Justice Center shall establish and maintain a case tracking system and searchable public website that includes all of the following information about cold case investigations covered under this section:

(a) The number of written applications for cold case reviews filed with each law enforcement agency as provided under subsection (6).

(b) The number of full reinvestigations initiated and closed under subsection (9).

(c) The total number of cases in which the time for review was extended and an explanation of the reasons for any such extensions under subsection (10).

(d) Statistical information on the aggregate number of cold

32-00103C-24

2024350__

175 cases, suspects, arrests, indictments, and convictions.

176 (13) If more than one law enforcement agency conducted the
177 initial investigation of a cold case, each law enforcement
178 agency must coordinate the case file review or full
179 reinvestigation such that there is only one joint case file
180 review or full reinvestigation occurring at a time as required
181 by paragraph (5) (b).

182 (14) The operation of this section is subject to the
183 availability of funds specifically appropriated by the
184 Legislature or other relevant political subdivision of this
185 state for this purpose.

186 (15) This section applies to any cold case in which the
187 murder occurred on or after January 1, 1970.

188 (16) A medical examiner may issue a death certificate with
189 a nonspecific cause of death and manner of murder if the medical
190 examiner determines that the release of such information would
191 not hinder the murder investigation.

192 Section 3. This act shall take effect July 1, 2025.



2024 FDLE LEGISLATIVE BILL ANALYSIS



BILL INFORMATION

BILL NUMBER:	SB0350
BILL TITLE:	Cold Case Murders
BILL SPONSOR:	Senator Osgood
EFFECTIVE DATE:	July 1, 2025

COMMITTEES OF REFERENCE

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

PREVIOUS LEGISLATION

BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

CURRENT COMMITTEE

Criminal Justice

SIMILAR BILLS

BILL NUMBER:

SPONSOR:

IDENTICAL BILLS

BILL NUMBER:

HB0837

SPONSOR:

Rep. Benjamin

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	December 12, 2023
LEAD AGENCY ANALYST:	Lori Mizell
ADDITIONAL ANALYST(S):	Keith Wilmer, Jason Cook, Jennifer Spears, Keesha Nauss, Brannon Sheely, Jason Bundy
LEGAL ANALYST:	Phil Lindley, Jim Martin
FISCAL ANALYST:	Elizabeth Martin

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Citing this act as the “Decker-Backmann Act”; requiring the heads of law enforcement agencies or their designees to review certain cold cases upon receiving a written application from a designated person; providing requirements for such reviews; requiring law enforcement agencies to provide specified training; requiring law enforcement agencies, by a specified date and periodically thereafter, to report certain data to the Global Forensic and Justice Center at Florida International University, etc.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** Currently, the Florida Department of Law Enforcement (FDLE) supports local law enforcement in the review, consideration, and investigation of cold cases. FDLE has a Cold Case Investigations procedure which outlines the following key areas: Purpose, Evaluation Criteria, Review of Case, Resource Considerations and Resolution. Cold cases are currently reviewed and approved for investigation by FDLE regional leadership teams. Forensic Services reviews and collaborates with local agencies to identify additional testing that may produce new results as well as perform the additional testing.
2. **EFFECT OF THE BILL:** Creates s. 782.41, F.S., requiring the head of a law enforcement agency or their designees to review and make a specified determination on certain cold cases upon receiving a written application from a designated person. Requires law enforcement agencies to conduct a full reinvestigation of a cold case under certain circumstances. Requires law enforcement agencies to develop written applications, adopt certain procedures, provide specified training, provide written confirmation of receipt of an application to review a cold case, and issue a written explanation of the reason(s) for the denial. Requires law enforcement agencies to report data to the Global Forensic and Justice Center at Florida International University quarterly by October 1, 2025.

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 122-124: Requires FDLE to adopt procedures to ensure compliance by no later than July 1, 2025.
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:	No
Expenditures:	<p>FDLE is requesting 21 FTE positions [10 Senior Crime Laboratory Analysts; 3 Crime Laboratory Analysts; 1 Special Agent Supervisor; and 7 Special Agents: \$2,995,924 (\$2,253,026 recurring)]</p> <p>Approximately \$1.2 million (\$200,000 recurring) is needed for the FDLE forensic laboratory to be able to handle the additional review and testing.</p> <p>This bill will increase the workload of existing FDLE personnel. Additional positions and resources will be needed to comply with the new requirements. At minimum, the forensic laboratory will be impacted for additional initial reviews and for each case deemed appropriate for additional testing.</p> <p>Total Fiscal: \$4,195,924 (\$2,453,026 recurring)</p>
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	

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

Revenues:	
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 AGENCY 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

- Lines 69-71: The definition of "law enforcement agency" lacks clarity as to whether or not the investigating agency must be the agency with primary jurisdiction. The addition of language is requested to clarify that the request process begins with the agency of primary jurisdiction.

- FDLE has jurisdiction throughout the state. It is unclear if it would become the responsibility of FDLE to conduct reinvestigations where the agency of primary jurisdiction cannot.
- This bill has potential to increase the workload of existing FDLE investigative personnel. Additional positions and resources may be needed to comply with the new requirements.
- Lines 92-95: The forensic review and testing suggested will impact the laboratory system in both initial review and collaboration with law enforcement agencies to determine if the investigation can be aided with additional forensic testing. Review will be required by a forensic member in nearly all cases where a request has been made to identify and recommend potential items for additional forensic testing.
 - The increased workload is the most time-intensive analysis and testing due to the age and historical knowledge needed of past and present testing techniques. An additional 21 FTE will be required: 3 lab supervisors who specialize in the review and collaboration with the agencies and to coordinate testing; 10 analysts to perform the complex additional testing required by the cases; and 1 Special Agent Supervisor to oversee 7 Special Agents who will provide investigative assistance to local law enforcement agencies.
 - Additional equipment will be required, costing approximately one million dollars to purchase the tools for additional members to perform DNA testing; including extraction, quantitation and genetic analysis of aged DNA samples. Recurring supplies of approximately \$200,000 would also be needed.
- Line 115: The language “may not be undertaken” is restrictive and does not allow decision making for other reasons for a period of five years. FDLE respectfully recommends the following beginning at line 113:

(c) If a full reinvestigation is completed and a likely perpetrator is not identified as a result, an additional case file review or full reinvestigation ~~may not be undertaken~~ will not be required for...
- Line 138: The use of the word “must” does not allow leniency for the department to make a determination on the review of a case that does not meet all criteria. For example, if the homicide occurred in 1969 and would otherwise meet the criteria, this language states that it must be denied.
- Lines 144-157: The provided timeframe may create a resource deficit. The time necessary may vary based on the investigative techniques utilized. For example, genetic genealogy can be a time consuming and labor-intensive process.
- Line 159-160: The phrase “all data relevant to” is broad and undefined and could include information not appropriate to share with non-law enforcement entities. FDLE recommends the following beginning at line 159:

“each law enforcement agency shall report all data relevant to the review of cold cases data as described in subsection (12) to the Global Forensic and Justice...”
- Line 172: FDLE recommends replacing “an explanation” with “a summary” as a full explanation may not be appropriate to share with non-law enforcement entities.
- Lines 174-175: FDLE recommends changing “suspects” to “defendants”. A public access website should not publish “suspect” information in ongoing investigations; even cold cases.
- Lines 188-191: The Chair of the Florida Medical Examiners Commissioner strongly recommends for these lines to be omitted due to the following reasons.
 - Classification of murder is not a medical examiner term that is used in pathology.
 - Medical examiners do not make a determination that would hinder law enforcement investigation.
 - Medical examiners already hold back reports when a case is under active criminal investigation until released by the state attorney’s office.



The Florida Senate

Committee Agenda Request

To: Senator Jonathan Martin, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: November 16, 2023

I respectfully request that **Senate Bill #350**, relating to Cold Case Murders, be placed on the:

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

A handwritten signature in blue ink, reading "Rosalind Osgood".

Senator Rosalind Osgood
Florida Senate, District 32

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 682

INTRODUCER: Senator Martin

SUBJECT: Lost or Abandoned Property

DATE: January 29, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Carroll	Rogers	EN	Favorable
2. Cellon	Stokes	CJ	Favorable
3. _____	_____	RC	_____

I. Summary:

SB 682 revises the timeframe during which a law enforcement officer must mail a copy of the notice posted on an article of lost or abandoned property, a derelict vessel, or a public nuisance vessel, so that the notice may be mailed to the owner after the date of posting.

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

II. Present Situation:

Lost or Abandoned Property

Lost property includes all tangible personal property that does not have an identifiable owner and that has been mislaid on public property,¹ on a public conveyance, on premises used at the time for business purposes, or in parks, places of amusement, public recreation areas, or other places open to the public in a substantially operable, functioning condition or which has an apparent intrinsic value to the rightful owner.²

Abandoned property includes all tangible personal property that does not have an identifiable owner and that has been disposed of on public property in a wrecked, inoperative, or partially dismantled condition, or has no apparent intrinsic value to the rightful owner.³ Derelict vessel and vessels declared a public nuisance are abandoned property.⁴

¹ Public property means lands and improvements owned by the Federal Government, the state, the county, or a municipality and includes sovereignty submerged lands located adjacent to the county or municipality, buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way, and other similar property. Section 705.101(5), F.S.

² Section 705.101(4), F.S.

³ Section 705.101(1), F.S.

⁴ *Id.*

Derelict Vessels

A derelict vessel is a vessel that is in a wrecked,⁵ junked,⁶ or substantially dismantled⁷ condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without their consent.⁸ It is unlawful to leave any derelict vessel on waters of this state.⁹ Further, a vessel that is at risk of becoming derelict may not anchor on, moor on, or occupy the waters of this state.¹⁰

A vessel is declared at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater;
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
- The vessel has broken loose or is in danger of breaking loose from its anchor;
- The vessel is listing due to water intrusion;
- The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives notice; or
- The vessel is tied to an unlawful or unpermitted structure or mooring.¹¹

Vessels Declared to be a Public Nuisance

If a vessel is declared at risk of becoming derelict under the same condition three or more times within an 18-month period, and if the determination results in dispositions other than acquittal or dismissal, the vessel is declared to be a public nuisance.¹² A vessel that is declared to be a public nuisance and threatens navigation, or is a danger to the environment, property, or persons, may be relocated, removed, stored, destroyed, or disposed of by Florida Fish and Wildlife Conservation Commission or other law enforcement.¹³

⁵ A vessel is wrecked if it is sunken or sinking; aground without the ability to extricate itself absent mechanical assistance; or remaining after a marine casualty, including, but not limited to, a boating accident, extreme weather, or a fire. Section 823.11(1)(b), F.S.

⁶ A vessel is junked if it has been substantially stripped of vessel components, if vessel components have substantially degraded or been destroyed, or if the vessel has been discarded by the owner or operator. Attaching an outboard motor to a vessel that is otherwise junked will not cause the vessel to no longer be junked if such motor is not an effective means of propulsion. Section 823.11(1)(b), F.S.

⁷ A vessel is substantially dismantled if at least two of the three following vessel systems or components are missing, compromised, incomplete, inoperable, or broken: the steering system, the propulsion system, or the exterior hull integrity. Attaching an outboard motor to a vessel that is otherwise substantially dismantled will not cause the vessel to no longer be substantially dismantled if such motor is not an effective means of propulsion. Section 823.11(1)(b), F.S.

⁸ Section 823.11(1)(b), F.S.

⁹ Section 823.11(2), F.S. The term “leave” means to allow a vessel to remain occupied or unoccupied on waters of this state for more than 24 hours.

¹⁰ Section 327.4107(1), F.S.

¹¹ Section 327.4107(2), F.S.

¹² *Id.*; Section 327.73(1)(aa), F.S.

¹³ Section 327.73(1)(aa), F.S.; s. 823.11(3), F.S.

Procedure for Lost or Abandoned Property

When a law enforcement officer¹⁴ ascertains that an article of lost or abandoned property, other than a derelict vessel or a vessel declared a public nuisance, is present on public property and is unable to be easily removed, the officer must place a notice on the property which states that the property must be removed within five days or it will be removed and disposed of at the expense of the owner.¹⁵

When a derelict vessel or a vessel declared to be a public nuisance is located on the waters of the state, a law enforcement officer must place a notice on the vessel which states that the vessel must be removed within 21 days or it will be removed and disposed of.¹⁶ The owner and other interested parties have the right to a hearing to challenge the determination that the vessel is derelict or a public nuisance. If the vessel is not removed by the owner, the owner or the party determined to be legally responsible for the vessel's presence on waters of the state will be liable for the costs of removal, destruction, and disposal.

In addition to posting a notice on the lost or abandoned property, the law enforcement officer must make a reasonable effort to ascertain the name and address of the owner. If it is reasonably available to the officer, he or she must mail a copy of the notice to the owner on or before the date of posting.

If the property is a motor vehicle or a vessel, the law enforcement agency must contact the Department of Highway Safety and Motor Vehicles to determine the name and address of the owner and any person who has filed a lien on the vehicle or vessel. Upon receipt of the information, the law enforcement agency must mail a copy of the notice to the owner and to any lienholder.¹⁷ If the property is a derelict vessel or a vessel declared a public nuisance, the mailed notice must inform the owner or responsible party that he or she has the right to a hearing.

If, at the end of five days after posting a notice on an article of lost or abandoned property, or at the end of 21 days after posting and mailing the notice on a derelict vessel or vessel declared a public nuisance, the owner has not removed the property or shown reasonable cause for failure to do so, or has not requested a hearing if applicable, the law enforcement agency may retain or dispose of the property as directed by statute.¹⁸

¹⁴ "Law enforcement officer" means any person who is elected, appointed, or employed full-time by any sheriff, 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 definition 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 or auxiliary law enforcement officers, but does not include support personnel employed by the employing agency. Section 705.101(2), F.S.

¹⁵ Section 705.103(2), F.S.

¹⁶ Section 705.103(2), F.S.

¹⁷ *Id.* A law enforcement officer who has issued a citation for a violation of the derelict vessel law to the owner of a derelict vessel is not required to mail a copy of the notice to the owner.

¹⁸ *Id.*

III. Effect of Proposed Changes:

Section 1 amends s. 705.103, F.S., to revise the timeframe during which a law enforcement officer must mail a copy of the applicable notice posted on an article of lost or abandoned property, a derelict vessel, or a vessel declared a public nuisance if the name and address of the owner of the property or vessel is reasonably available to the officer. The revision removes the requirement that the notice must be mailed to the owner on or before the date of posting, allowing the notice to be mailed following the date of posting.

Sections 2 through 11 reenact s. 327.4107(7)(a), F.S., relating to vessels at risk of becoming derelict on waters of this state; s. 327.4108(6)(d), F.S., relating to anchoring vessels in anchoring limitation areas; s. 327.60(5), F.S., relating to local regulations; s. 327.66(2)(a), F.S., relating to carriage of gasoline on vessels; s. 327.73(1)(aa), F.S., relating to noncriminal infractions; s. 379.338(1), F.S., relating to confiscation and disposition of illegally taken wildlife, freshwater fish, and saltwater fish; s. 705.104(1), F.S., relating to the title to lost or abandoned property; s. 705.105(1)(a), F.S., relating to procedure regarding unclaimed evidence; s. 713.585(8), F.S., relating to the enforcement of a lien by sale of a motor vehicle; and s. 823.11(2)(d), F.S., relating to derelict vessels, their relocation or removal, and penalties, to incorporate the amendment made by this bill in a reference to the amended section.

Section 12 provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have a positive fiscal impact on local governments and on the Florida Fish and Wildlife Conservation Commission by reducing the number of required trips by law enforcement to a derelict or public nuisance vessel.¹⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 705.103 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 327.4107, 327.4108, 327.60, 327.66, 327.73, 379.338, 705.104, 705.105, 713.585, and 823.11.

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.

¹⁹ Florida Fish and Wildlife Conservation Commission, *2024 Agency Legislative Bill Analysis: SB 682*, 3-4 (on file with the Senate Committee on Environment and Natural Resources).

By Senator Martin

18-00753-24

2024682__

1 A bill to be entitled
 2 An act relating to lost or abandoned property;
 3 amending s. 705.103, F.S.; revising the timeframe
 4 after which a law enforcement agency may take certain
 5 actions relating to abandoned property or specified
 6 vessels if the owner has not taken specified actions;
 7 making technical changes; reenacting ss.
 8 327.4107(7)(a), 327.4108(6)(d), 327.60(5),
 9 327.66(2)(a), 327.73(1)(aa), 379.338(1), 705.104(1),
 10 705.105(1)(a), 713.585(8), and 823.11(2)(d), F.S.,
 11 relating to a program to remove, relocate, or destroy
 12 vessels at risk of becoming derelict on waters of this
 13 state, the anchoring of vessels with more than three
 14 violations within a 12-month period in anchoring
 15 limitation areas, local regulations for procedures to
 16 remove abandoned or lost vessels affixed to a public
 17 dock or mooring, the removal of specified gasoline and
 18 gasoline containers on vessels and the removal of such
 19 vessels by a law enforcement agency, civil penalties
 20 for violations of specified laws relating to certain
 21 vessels, confiscation and disposition of illegally
 22 taken wildlife, freshwater fish, and saltwater fish,
 23 title to lost or abandoned property, the procedure
 24 regarding certain unclaimed evidence, the proceeds and
 25 disposition from the sale of certain motor vehicles,
 26 and the removal and destruction of specified derelict
 27 vessels, respectively, to incorporate the amendment
 28 made to s. 705.103, F.S., in references thereto;
 29 providing an effective date.

Page 1 of 13

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

18-00753-24

2024682__

30
 31 Be It Enacted by the Legislature of the State of Florida:
 32
 33 Section 1. Paragraph (a) of subsection (2) of section
 34 705.103, Florida Statutes, is amended to read:
 35 705.103 Procedure for abandoned or lost property.—
 36 (2)(a)1. Whenever a law enforcement officer ascertains
 37 that:
 38 a. An article of lost or abandoned property other than a
 39 derelict vessel or a vessel declared a public nuisance pursuant
 40 to s. 327.73(1)(aa) is present on public property and is of such
 41 nature that it cannot be easily removed, the officer shall cause
 42 a notice to be placed upon such article in substantially the
 43 following form:
 44
 45 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
 46 PROPERTY. This property, to wit: ...(setting forth brief
 47 description)... is unlawfully upon public property known as
 48 ...(setting forth brief description of location)... and must be
 49 removed within 5 days; otherwise, it will be removed and
 50 disposed of pursuant to chapter 705, Florida Statutes. The owner
 51 will be liable for the costs of removal, storage, and
 52 publication of notice. Dated this: ...(setting forth the date of
 53 posting of notice)..., signed: ...(setting forth name, title,
 54 address, and telephone number of law enforcement officer)....
 55
 56 b. A derelict vessel or a vessel declared a public nuisance
 57 pursuant to s. 327.73(1)(aa) is present on the waters of this
 58 state, the officer shall cause a notice to be placed upon such

Page 2 of 13

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

18-00753-24

2024682__

vessel in substantially the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED VESSEL. This vessel, to wit: ...(setting forth brief description of location)... has been determined to be ...(derelict or a public nuisance)... and is unlawfully upon the waters of this state ...(setting forth brief description of location)... and must be removed within 21 days; otherwise, it will be removed and disposed of pursuant to chapter 705, Florida Statutes. The owner and other interested parties have the right to a hearing to challenge the determination that this vessel is derelict or otherwise in violation of the law. Please contact ...(contact information for person who can arrange for a hearing in accordance with this section).... The owner or the party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition or as a public nuisance will be liable for the costs of removal, destruction, and disposal if this vessel is not removed by the owner. Dated this: ...(setting forth the date of posting of notice)..., signed: ...(setting forth name, title, address, and telephone number of law enforcement officer)....

2. The notices required under subparagraph 1. may not be less than 8 inches by 10 inches and must be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the law enforcement officer shall make a reasonable effort to ascertain the name and address of the owner, and, if such is reasonably available to the officer, she or he or she must ~~shall~~ mail a copy of the applicable ~~such~~

Page 3 of 13

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

18-00753-24

2024682__

notice to the owner ~~on or before the date of posting~~. If the property is a motor vehicle as defined in s. 320.01(1) or a vessel as defined in s. 327.02, the law enforcement agency must ~~shall~~ contact the Department of Highway Safety and Motor Vehicles in order to determine the name and address of the owner and any person who has filed a lien on the vehicle or vessel as provided in s. 319.27(2) or (3) or s. 328.15. On receipt of this information, the law enforcement agency shall mail a copy of the notice by certified mail, return receipt requested, to the owner and to the lienholder, if any, except that a law enforcement officer who has issued a citation for a violation of s. 823.11 to the owner of a derelict vessel is not required to mail a copy of the notice by certified mail, return receipt requested, to the owner. For a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), the mailed notice must inform the owner or responsible party that he or she has a right to a hearing to dispute the determination that the vessel is derelict or otherwise in violation of the law. If a request for a hearing is made, a state agency must ~~shall~~ follow the processes as set forth in s. 120.569. Local governmental entities shall follow the processes set forth in s. 120.569, except that a local judge, magistrate, or code enforcement officer may be designated to conduct such a hearing. If, at the end of 5 days after posting the notice in sub-subparagraph 1.a., or at the end of 21 days after the posting or mailing of the notice, if required, whichever occurs later, ~~posting the notice~~ in sub-subparagraph 1.b., ~~and mailing such notice, if required~~, the owner or any person interested in the lost or abandoned article or articles described has not removed the article or

Page 4 of 13

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

18-00753-24 2024682__

articles from public property or shown reasonable cause for failure to do so, and, in the case of a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), has not requested a hearing in accordance with this section, the following applies ~~shall apply~~:

a. For abandoned property other than a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), the law enforcement agency may retain any or all of the property for its own use or for use by the state or unit of local government, trade such property to another unit of local government or state agency, donate the property to a charitable organization, sell the property, or notify the appropriate refuse removal service.

b. For a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), the law enforcement agency or its designee may:

(I) Remove the vessel from the waters of this state and destroy and dispose of the vessel or authorize another governmental entity or its designee to do so; or

(II) Authorize the vessel's use as an artificial reef in accordance with s. 379.249 if all necessary federal, state, and local authorizations are received.

A law enforcement agency or its designee may also take action as described in this sub-subparagraph if, following a hearing pursuant to this section, the judge, magistrate, administrative law judge, or hearing officer has determined the vessel to be derelict as provided in s. 823.11 or otherwise in violation of the law in accordance with s. 327.73(1)(aa) and a final order

18-00753-24 2024682__

has been entered or the case is otherwise closed.

Section 2. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, paragraph (a) of subsection (7) of section 327.4107, Florida Statutes, is reenacted to read:

327.4107 Vessels at risk of becoming derelict on waters of this state.—

(7) The commission may establish a derelict vessel prevention program to address vessels at risk of becoming derelict. Such program may, but is not required to, include:

(a) Removal, relocation, and destruction of vessels declared a public nuisance, derelict or at risk of becoming derelict, or lost or abandoned in accordance with s. 327.53(7), s. 327.73(1)(aa), s. 705.103(2) and (4), or s. 823.11(3).

The commission may adopt rules to implement this subsection. Implementation of the derelict vessel prevention program shall be subject to appropriation by the Legislature and shall be funded by the Marine Resources Conservation Trust Fund or the Florida Coastal Protection Trust Fund.

Section 3. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, paragraph (d) of subsection (6) of section 327.4108, Florida Statutes, is reenacted to read:

327.4108 Anchoring of vessels in anchoring limitation areas.—

(6)

(d) A vessel that is the subject of more than three violations within 12 months which result in dispositions other

18-00753-24 2024682__

than acquittal or dismissal shall be declared to be a public nuisance and subject to s. 705.103 or, for a derelict vessel, subject to s. 823.11.

Section 4. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, subsection (5) of section 327.60, Florida Statutes, is reenacted to read:

327.60 Local regulations; limitations.—

(5) A local government may enact and enforce regulations to implement the procedures for abandoned or lost property that allow the local law enforcement agency to remove a vessel affixed to a public dock or mooring within its jurisdiction that is abandoned or lost property pursuant to s. 705.103(1). Such regulation must require the local law enforcement agency to post a written notice at least 24 hours before removing the vessel.

Section 5. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, paragraph (a) of subsection (2) of section 327.66, Florida Statutes, is reenacted to read:

327.66 Carriage of gasoline on vessels.—

(2) (a) Gasoline possessed or transported in violation of this section and all containers holding such gasoline are declared to be a public nuisance. A law enforcement agency discovering gasoline possessed or transported in violation of paragraph (1)(a) shall abate the nuisance by removing the gasoline and containers from the vessel and from the waters of this state. A law enforcement agency that removes gasoline or containers pursuant to this subsection may elect to:

1. Retain the property for the agency's own use;

18-00753-24 2024682__

2. Transfer the property to another unit of state or local government;

3. Donate the property to a charitable organization; or

4. Sell the property at public sale pursuant to s. 705.103.

Section 6. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, paragraph (aa) of subsection (1) of section 327.73, Florida Statutes, is reenacted to read:

327.73 Noncriminal infractions.—

(1) Violations of the following provisions of the vessel laws of this state are noncriminal infractions:

(aa) Section 327.4107, relating to vessels at risk of becoming derelict on waters of this state, for which the civil penalty is:

1. For a first offense, \$100.

2. For a second offense occurring 30 days or more after a first offense, \$250.

3. For a third or subsequent offense occurring 30 days or more after a previous offense, \$500.

A vessel that is the subject of three or more violations issued pursuant to the same paragraph of s. 327.4107(2) within an 18-month period which result in dispositions other than acquittal or dismissal shall be declared to be a public nuisance and subject to ss. 705.103(2) and (4) and 823.11(3). The commission, an officer of the commission, or a law enforcement agency or officer specified in s. 327.70 may relocate, remove, or cause to be relocated or removed such public nuisance vessels from waters of this state. The commission, an officer of the commission, or

18-00753-24 2024682__

a law enforcement agency or officer acting pursuant to this paragraph upon waters of this state shall be held harmless for all damages to the vessel resulting from such relocation or removal unless the damage results from gross negligence or willful misconduct as these terms are defined in s. 823.11.

Any person cited for a violation of this subsection shall be deemed to be charged with a noncriminal infraction, shall be cited for such an infraction, and shall be cited to appear before the county court. The civil penalty for any such infraction is \$100, except as otherwise provided in this section. Any person who fails to appear or otherwise properly respond to a uniform boating citation, in addition to the charge relating to the violation of the boating laws of this state, must be charged with the offense of failing to respond to such citation and, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A written warning to this effect shall be provided at the time such uniform boating citation is issued.

Section 7. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, subsection (1) of section 379.338, Florida Statutes, is reenacted to read:

379.338 Confiscation and disposition of illegally taken wildlife, freshwater fish, and saltwater fish.—

(1) All wildlife, freshwater fish, and saltwater fish seized under the authority of this chapter, any other chapter, or rules of the commission shall, upon conviction of the offender or sooner in accordance with a court order if the court

18-00753-24 2024682__

so orders, be forfeited to the investigating law enforcement agency. The law enforcement agency may elect to retain the wildlife, freshwater fish, or saltwater fish for the agency's official use; transfer it to another unit of state or local government for official use; donate it to a charitable organization; sell it at a public sale pursuant to s. 705.103; or destroy the wildlife, freshwater fish, or saltwater fish if none of the other options is practicable or if the wildlife, freshwater fish, or saltwater fish is unwholesome or otherwise not of appreciable value. All illegally possessed live wildlife, freshwater fish, and saltwater fish that are properly documented as evidence as provided in s. 379.3381 may be returned to the habitat unharmed. Any unclaimed wildlife, freshwater fish, or saltwater fish shall be retained by the investigating law enforcement agency and disposed of in accordance with this subsection.

Section 8. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in references thereto, subsection (1) of section 705.104, Florida Statutes, is reenacted to read:

705.104 Title to lost or abandoned property.—

(1) Title to lost or abandoned property is hereby vested in the finder upon the expiration of the 90-day custodial time period specified in s. 705.103(2)(b), provided the notice requirements of s. 705.103 have been met, unless the rightful owner or a lienholder claims the property within that time.

Section 9. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section

18-00753-24

2024682__

705.105, Florida Statutes, is reenacted to read:

705.105 Procedure regarding unclaimed evidence.—

(1) Title to unclaimed evidence or unclaimed tangible personal property lawfully seized pursuant to a lawful investigation in the custody of the court or clerk of the court from a criminal proceeding or seized as evidence by and in the custody of a law enforcement agency shall vest permanently in the law enforcement agency 60 days after the conclusion of the proceeding.

(a) If the property is of appreciable value, the agency may elect to:

1. Retain the property for the agency's own use;

2. Transfer the property to another unit of state or local government;

3. Donate the property to a charitable organization;

4. Sell the property at public sale, pursuant to the provisions of s. 705.103.

Section 10. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, subsection (8) of section 713.585, Florida Statutes, is reenacted to read:

713.585 Enforcement of lien by sale of motor vehicle.—A person claiming a lien under s. 713.58 for performing labor or services on a motor vehicle may enforce such lien by sale of the vehicle in accordance with the following procedures:

(8) A vehicle subject to lien enforcement pursuant to this section must be sold by the lienor at public sale. Immediately upon the sale of the vehicle and payment in cash of the purchase price, the lienor shall deposit with the clerk of the circuit

Page 11 of 13

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

18-00753-24

2024682__

court the proceeds of the sale less the amount claimed by the lienor for work done and storage, if any, and all reasonable costs and expenses incurred in conducting the sale, including any attorney's fees and costs ordered by the court. Simultaneously with depositing the proceeds of sale remaining after payment to the lienor, the lienor shall file with the clerk a verified report of the sale stating a description of the vehicle sold, including the vehicle identification number; the name and address of the purchaser; the date of the sale; and the selling price. The report shall also itemize the amount retained by the lienor pursuant to this section and shall indicate whether a hearing was demanded and held. All proceeds held by the court shall be held for the benefit of the owner of the vehicle or any lienholder whose lien is discharged by the sale and shall be disbursed only upon order of the court. Unless a proceeding is initiated to validate a claim to such proceeds within 1 year and a day from the date of the sale, the proceeds shall be deemed abandoned property and disposition thereof shall be governed by s. 705.103. The clerk shall receive 5 percent of the proceeds deposited with her or him, not to exceed \$25, for her or his services under this section.

Section 11. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, paragraph (d) of subsection (2) of section 823.11, Florida Statutes, is reenacted to read:

823.11 Derelict vessels; relocation or removal; penalty.—

(2)

(d) Notwithstanding the additional 45 days provided in subparagraph (b)2.b. during which an owner or a responsible

Page 12 of 13

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

18-00753-24 2024682__

349 party may not be charged for a violation of this section, the
350 commission, an officer of the commission, a law enforcement
351 agency or officer specified in s. 327.70, or, during a state of
352 emergency declared by the Governor, the Division of Emergency
353 Management or its designee, may immediately begin the process
354 set forth in s. 705.103(2)(a) and, once that process has been
355 completed and the 45 days provided herein have passed, any
356 vessel that has not been removed or repaired such that it is no
357 longer derelict upon the waters of this state may be removed and
358 destroyed as provided therein.

359 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

1/30/24

Meeting Date

Criminal Justice

Committee

SB 682

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Jess Melkun

Phone

850-363-9072

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

FWC

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1036

INTRODUCER: Criminal Justice Committee and Senator Ingoglia

SUBJECT: Reclassification of Criminal Penalties

DATE: January 30, 2024

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1036 creates s. 775.0848, F.S., reclassifying felony offenses to the next higher level in cases:

- Where a person who has been deported or removed from the United States under federal immigration proceedings for committing a felony, or who has departed the United States while such an order of deportation or removal is outstanding; and
- That person has unlawfully reentered the United States and while remaining unlawfully present has committed a new felony.

The term “removal” includes any agreement in which a person stipulates to removal during a criminal proceeding under federal or state law.

The bill also creates s. 908.12, F.S., providing similar reclassifications of criminal offenses applicable to a defendant who is convicted of committing a crime for the purpose of benefiting, promoting, or furthering the interests of a transnational crime organization.

“Transnational crime organization” is defined as an organization that routinely facilitates the international trafficking of drugs, humans, or weapons or the international smuggling of humans.

The bill may have a positive indeterminate fiscal impact on the Department of Corrections due to an increase in prison beds. See Section V., Fiscal Impact Statement.

The bill becomes effective October 1, 2024.

II. Present Situation:

Recently, the Statewide Grand Jury recommended increases in criminal sentences for:

- Aliens who have been removed from the State, unlawfully reentered, and subsequently committed a new criminal offense;¹ and
- Persons who are proven to be a member of a transnational crime organization and who have committed a related felony offense.²

Federal Law-Unlawful Reentry

Reentry to the United States by aliens³ who have been removed from the U.S. is addressed in 8 U.S.C.A. 1326 as follows:

- Any alien who has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter
 - Enters, attempts to enter, or is at any time found in, the United States...shall be fined under Title 18, or imprisoned not more than 2 years, or both.
- Any alien whose removal was subsequent to a conviction for the commission of three or more misdemeanors involving drugs, crimes against the person, or both, or a felony (other than an aggravated felony⁴), such alien shall be fined under Title 18, imprisoned not more than 10 years, or both.
- Any alien whose removal was subsequent to a conviction for commission of an aggravated felony, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

The term “removal” includes any agreement in which an alien stipulates to removal during (or not during) a criminal trial under either Federal or State law.⁵ The U.S. Department of Homeland Security reports that in Fiscal Year 2022, 79,395 convicted criminals were removed from the United States.⁶

¹ Generally, under federal law any alien who has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter enters, attempts to enter, or is at any time found in, the United States, shall be fined or imprisoned, or both. 8 U.S.C.A. s. 1326.

² Case No. SC 22-796, Florida Supreme Court, Fifth Presentment of the Twenty-First Statewide Grand Jury, November 17, 2023.

³ The term “alien” means any person not a citizen or national of the United States. 8 U.S.C.A. 1101(a)(3).

⁴ “Aggravated felony” is defined in 8 U.S.C.A. 1101(a)(43)(A)-(U). The term applies to a felony offense, whether in violation of Federal or State law, and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years. 8 U.S.C.A. 1101(a).

⁵ 8 U.S.C.A. 1326(b).

⁶ 2022 *Yearbook of Immigration Statistics*, U.S. Department of Homeland Security, Office of Homeland Security Statistics, 2023, available at https://www.dhs.gov/sites/default/files/2023-11/2023_0818_pley_yearbook_immigration_statistics_fy2022.pdf (last visited January 21, 2024).

Transnational Crime Organization

A “transnational crime organization” has been defined as an organization that routinely facilitates the international trafficking of drugs, humans, or weapons, or the international smuggling of humans.⁷

These organizations make money by smuggling humans from place to place, often across the borders of other countries. It can be a lucrative business. For example, a 2010 report by the United Nations Office on Drug Crime estimated that the smuggling of persons from Latin America to the United States generated approximately \$6.6 billion annually in illicit proceeds for human smuggling networks.⁸ A report by the Homeland Security Operational Analysis Center⁹ estimates that the smuggling of unlawful migrants from Guatemala, Honduras, and El Salvador generated between \$200 million and \$2.3 billion for human smugglers in 2017, however a lack of reliable data contributes to substantial uncertainty in both estimates.¹⁰

The U.S. Department of Homeland Security (DHS) reports:

- U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations referred information in dozens of cases to Homeland Security Investigations (HSI), resulting in the arrest of human traffickers and identification of trafficking victims. HSI initiated 1,373 criminal investigations related to sex trafficking and forced labor, leading to 3,655 arrests and 638 convictions.¹¹
- In December, 2023, following an investigation by HSI, the Department of the Treasury’s Office of Foreign Assets Control (OFAC) sanctioned the Malas Mañas transnational criminal organization, a human smuggling and narcotics trafficking organization based in Sonora, Mexico, along with two individuals in its support network.¹²
- In August, 2023, the DHS and its federal partners, including the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), announced the results of increased enforcement efforts to stem the trafficking of firearms from the United States into Mexico for use by

⁷ Although, as the Statewide Grand Jury presentment explains, these organizations may also be involved in financial crimes, firearm and weapon smuggling, and a diverse list of criminal activity. Case No. SC 22-796, Florida Supreme Court, Fifth Presentment of the Twenty-First Statewide Grand Jury, November 17, 2023. *See also* Another “Se Busca Información” criminal target arrested; U.S. Customs and Border Protection, *News Release*, January 2, 2024, available at <https://www.cbp.gov/newsroom/local-media-release/another-se-busca-informacion-criminal-target-arrested> (last visited January 17, 2024).

⁸ The United Nations Office on Drugs and Crime, *The Globalization of Crime: A Transnational Organized Crime Threat Assessment* available at https://www.unodc.org/documents/data-and-analysis/tocta/TOCTA_Report_2010_low_res.pdf (last visited January 13, 2024).

⁹ Operated by the RAND Corporation on behalf of the U.S. Department of Homeland Security.

¹⁰ RAND Corporation News Release, *Human Smuggling Via Central America Generates Hundreds of Millions of Dollars, but Transnational Criminal Groups May Not Be Main Culprits*, April 22, 2019, available at <https://www.rand.org/news/press/2019/04/22.html> (last visited January 17, 2024).

¹¹ U.S. Department of Homeland Security, *DHS Center for Countering Human Trafficking Releases FY 2022 Annual Report*, January 31, 2023, available at <https://www.dhs.gov/news/2023/01/31/dhs-center-countering-human-trafficking-releases-fy-2022-annual-report> (last visited January 19, 2024).

¹² U.S. Department of Homeland Security, *Following DHS Investigation, Treasury Sanctions Human Smuggling and Drug Trafficking Organization Operating on Southwest Border*, Press Release, December 14, 2023, available at <https://www.dhs.gov/news/2023/12/14/following-dhs-investigation-treasury-sanctions-human-smuggling-and-drug-trafficking> (last visited January 20, 2024).

transnational criminal organizations.¹³ The DHS has seized over twice as many firearms in Fiscal Year 2023 than it did in Fiscal Year 2022.¹⁴

Reclassification of Criminal Offenses and Enhancement of Penalties

Reclassification occurs when the Legislature *increases the degree of a conviction*. The reclassification attaches at the time the charges are filed.¹⁵ Reclassification of a criminal conviction from one degree to a higher degree stems from an express and explicit grant of statutory authority.¹⁶

An example of a reclassification statute is s. 775.0863, F.S., Evidencing prejudice while committing offense against person with mental or physical disability; reclassification. The statute states in part:

- The penalty for any felony or misdemeanor shall be reclassified as provided in this subsection if the commission of such felony or misdemeanor evidences prejudice based on a mental or physical disability of the victim:
 - A misdemeanor of the second degree is reclassified to a misdemeanor of the first degree.¹⁷
 - A misdemeanor of the first degree is reclassified to a felony of the third degree.¹⁸
 - A felony of the third degree is reclassified to a felony of the second degree.¹⁹
 - A felony of the second degree is reclassified to a felony of the first degree.²⁰
 - A felony of the first degree is reclassified to a life felony.²¹

Penalty enhancements refer to the authority of a judge to impose a *more severe sentence* for a convicted offense when certain factual findings are made.²²

¹³ U.S. Department of Homeland Security, Press Release, September 1, 2023, *DHS Announces Results of Coordinated Enforcement to Interdict Southbound Firearms “Operation Without a Trace,”* available at <https://www.dhs.gov/news/2023/09/01/dhs-announces-results-coordinated-enforcement-interdict-southbound-firearms> (last visited January 20, 2024).

¹⁴ *Id.*

¹⁵ *Cooper v. State*, 455 So.2d 588 (Fla. 1st DCA 1984); *Jackson v. State*, 515 So.2d 394 (Fla. 1st DCA 1987).

¹⁶ *Cf. Spicer v. State*, 615 So.2d 725, 726 (Fla. 2d DCA 1993) (reversing reclassification of robbery with a mask conviction because “[p]enal statutes must be construed in terms of their literal meaning [I]f the legislature had intended section 775.0845 [Florida Statutes (1989)] to reclassify offenses, it would have so stated”).

¹⁷ A second degree misdemeanor is punishable by up to 60 days in the county jail and a \$500 fine. A first degree misdemeanor is punishable by up to 1 year in the county jail and a \$1,000 fine. (Sections 775.082 and 775.083, F.S.).

¹⁸ A first degree misdemeanor is punishable by up to 1 year in the county jail and a \$1,000 fine. A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. (Sections 775.082 and 775.083, F.S.).

¹⁹ A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. 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.).

²⁰ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. A first degree felony is punishable by up to 30 years to life imprisonment and a \$10,000 fine. (Sections 775.082 and 775.083, F.S.).

²¹ A first degree felony is punishable by up to 30 years or when specifically provided by statute, life imprisonment, and a \$10,000 fine. A life felony is punishable by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment. (Sections 775.082 and 775.083, F.S.).

²² *Cooper v. State*, 455 So.2d 588 (Fla. 1st DCA 1984); *Jackson v. State*, 515 So.2d 394 (Fla. 1st DCA 1987).

A good example of a penalty enhancement statute is the habitual felony offender law found in s. 775.084(1)(a), F.S. “Habitual felony offender” means a defendant for whom the court may impose an extended term of imprisonment if it finds that:

- The defendant has previously been convicted of any combination of two or more felonies in this state or other qualified offenses.
- The felony for which the defendant is to be sentenced was committed:
 - While the defendant was serving a prison sentence or other sentence, or court-ordered or lawfully imposed supervision that is imposed as a result of a prior conviction for a felony or other qualified offense; or
 - Within 5 years of the date of the conviction of the defendant’s last prior felony or other qualified offense, or within 5 years of the defendant’s release from a prison sentence, probation, community control, control release, conditional release, parole or court-ordered or lawfully imposed supervision or other sentence that is imposed as a result of a prior conviction for a felony or other qualified offense, whichever is later.
- The felony for which the defendant is to be sentenced, and one of the two prior felony convictions, is not a violation of s. 893.13, F.S., relating to the purchase or the possession of a controlled substance.
- The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this law.
- A conviction of a felony or other qualified offense necessary to the operation of this law has not been set aside in any postconviction proceeding.

In a separate proceeding, if the court finds that the defendant meets the criteria for imposing such sanction, the court must sentence the defendant as a habitual felony offender unless the court finds that it is not necessary for the protection of the public. The court may sentence the habitual felony offender as follows:

- In the case of a life felony or a felony of the first degree, for life.
- In the case of a felony of the second degree, for a term of years not exceeding 30.
- In the case of a felony of the third degree, for a term of years not exceeding 10.²³

III. Effect of Proposed Changes:

The bill creates two new sections of law relating to the reclassification of criminal penalties under certain circumstances.

The bill creates s. 775.0848, F.S., which provides that a person who has been deported or removed from the United States under federal immigration proceedings for committing a felony, or who has departed the United States while such an order of deportation or removal is outstanding, and has unlawfully reentered the United States and while remaining unlawfully present has committed a new felony, must have the penalty for committing the new felony reclassified as follows:

²³ Sections 775.084(1)(a), (3)(a), and (4)(a), F.S.

- A felony of the third degree is reclassified to a felony of the second degree.²⁴
- A felony of the second degree is reclassified to a felony of the first degree.²⁵
- A felony of the first degree is reclassified to a life felony.²⁶

The term “removal” includes any agreement in which a person stipulates to removal during a criminal proceeding under federal or state law.

The bill also creates s. 908.12, F.S., providing similar reclassifications of criminal penalties applicable to a defendant who is convicted of committing a crime for the purpose of benefiting, promoting, or furthering the interests of a transnational crime organization. The penalty for any misdemeanor or felony may be reclassified as follows:

- A misdemeanor of the second degree is reclassified to a misdemeanor of the first degree.²⁷
- A misdemeanor of the first degree is reclassified to a felony of the third degree.²⁸
- A felony of the third degree is reclassified to a felony of the second degree.²⁹
- A felony of the second degree is reclassified to a felony of the first degree.³⁰
- A felony of the first degree is reclassified to a life felony.³¹

“Transnational crime organization” is defined as an organization that routinely facilitates the international trafficking of drugs, humans, or weapons or the international smuggling of humans.

The bill becomes effective October 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

²⁴ A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. 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.).

²⁵ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. A first degree felony is punishable by up to 30 years to life imprisonment and a \$10,000 fine. (Sections 775.082 and 775.083, F.S.).

²⁶ A first degree felony is punishable by up to 30 years or when specifically provided by statute, life imprisonment, and a \$10,000 fine. A life felony is punishable by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment. (Sections 775.082 and 775.083, F.S.).

²⁷ A second degree misdemeanor is punishable by up to 60 days in the county jail and a \$500 fine. A first degree misdemeanor is punishable by up to 1 year in the county jail and a \$1,000 fine. (Sections 775.082 and 775.083, F.S.).

²⁸ A first degree misdemeanor is punishable by up to 1 year in the county jail and a \$1,000 fine. A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. (Sections 775.082 and 775.083, F.S.).

²⁹ A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. 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.).

³⁰ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. A first degree felony is punishable by up to 30 years to life imprisonment and a \$10,000 fine. (Sections 775.082 and 775.083, F.S.).

³¹ A first degree felony is punishable by up to 30 years or when specifically provided by statute, life imprisonment, and a \$10,000 fine. A life felony is punishable by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment. (Sections 775.082 and 775.083, F.S.).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill.

However, based upon a preliminary analysis, the bill may have a positive indeterminate fiscal impact on the Department of Corrections. The bill reclassifies penalties to the next higher degree which may result in more individuals sentenced to prison for longer periods of time.³²

The term "positive indeterminate" means that while there is a chance that the bill will result in an increase in prison beds, the available data from which to draw a conclusion is uncertain at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

³² EDR, *Preliminary Estimate for SB 1036* (on file with the Senate Committee on Criminal Justice).

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 775.0848 and 908.12.

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 30, 2024:

The committee substitute:

- Expands the definition of the term “removal” by replacing “removal means” with “removal includes,” in order not to limit or eliminate other meanings of the term in federal immigration law.
- Removes language in order to clarify the intent of the bill to *reclassify* the penalty, rather than *enhance* it, for a crime committed for the purpose of benefiting, promoting, or furthering the interests of a transnational crime organization.

B. Amendments:

None.



535754

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2024	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 29 - 62
and insert:

(1) As used in this section, the term "removal" includes any agreement in which a person stipulates to removal during a criminal proceeding under federal or state law.

(2) A person who has been deported or removed from the United States under federal immigration proceedings for committing a felony, or has departed the United States while



535754

such an order of deportation or removal is outstanding, shall have the penalty for committing a new felony after unlawfully reentering the United States and while remaining unlawfully present reclassified in the following manner:

(a) A felony of the third degree is reclassified to a felony of the second degree.

(b) A felony of the second degree is reclassified to a felony of the first degree.

(c) A felony of the first degree is reclassified to a life felony.

Section 2. Section 908.12, Florida Statutes, is created to read:

908.12 Transnational crime organizations; reclassification.—

(1) As used in this section, the term "transnational crime organization" means an organization that routinely facilitates the international trafficking of drugs, humans, or weapons or the international smuggling of humans.

(2) The penalty for any misdemeanor or felony may be reclassified if the commission of such misdemeanor or felony was for the purpose of benefiting, promoting, or furthering the interests of a transnational crime organization. The reclassification is as follows:

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

And the title is amended as follows:

Delete lines 15 - 20
and insert:



535754

40 misdemeanor offenses if the commission of such offense
41 was for specified purposes; providing

By Senator Ingoglia

11-01213B-24

20241036__

A bill to be entitled

An act relating to reclassification of criminal penalties; creating s. 775.0848, F.S.; defining the term "removal"; requiring reclassification of the penalty for the commission of a new felony committed by a person who unlawfully reenters the United States and while remaining unlawfully present after having been deported or removed from the United States under federal immigration proceedings for committing a felony, or who has departed the United States while such an order of deportation or removal was outstanding; creating s. 908.12, F.S.; defining the term "transnational crime organization"; authorizing reclassification of the penalty for any felony or misdemeanor offenses or certain other acts or violations upon a specified finding by the factfinder; specifying that the penalty enhancement affects only the applicable statutory maximum sentence; requiring that each of the findings required as a basis for such sentence be found beyond a reasonable doubt; providing an effective date.

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

Section 1. Section 775.0848, Florida Statutes, is created to read:

775.0848 Commission of a felony after unlawful reentry into the United States; reclassification.-

(1) As used in this section, the term "removal" means any

Page 1 of 3

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

11-01213B-24

20241036__

agreement in which a person stipulates to removal during a criminal proceeding under federal or state law.

(2) A person who has been deported or removed from the United States under federal immigration proceedings for committing a felony, or has departed the United States while such an order of deportation or removal is outstanding, shall have the penalty for committing a new felony after unlawfully reentering the United States and while remaining unlawfully present reclassified in the following manner:

(a) A felony of the third degree is reclassified to a felony of the second degree.

(b) A felony of the second degree is reclassified to a felony of the first degree.

(c) A felony of the first degree is reclassified to a life felony.

Section 2. Section 908.12, Florida Statutes, is created to read:

908.12 Transnational crime organizations; reclassification.-

(1) As used in this section, the term "transnational crime organization" means an organization that routinely facilitates the international trafficking of drugs, humans, or weapons or the international smuggling of humans.

(2) Upon a finding by the factfinder that a defendant committed the charged offense for the purpose of benefiting, promoting, or furthering the interests of a transnational crime organization, the penalty for any felony or misdemeanor, or for any delinquent act or violation of law which would be a felony or misdemeanor if committed by an adult, may be reclassified

Page 2 of 3

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

11-01213B-24

20241036__

59 under this subsection. A penalty enhancement affects only the
60 applicable statutory maximum sentence, and each of the findings
61 required as a basis for such sentence must be found beyond a
62 reasonable doubt. The reclassification is as follows:

63 (a) A misdemeanor of the second degree is reclassified to a
64 misdemeanor of the first degree.

65 (b) A misdemeanor of the first degree is reclassified to a
66 felony of the third degree.

67 (c) A felony of the third degree is reclassified to a
68 felony of the second degree.

69 (d) A felony of the second degree is reclassified to a
70 felony of the first degree.

71 (e) A felony of the first degree is reclassified to a life
72 felony.

73 Section 3. This act shall take effect October 1, 2024.

SB 1036 – Reclassification of Criminal Penalties (Identical HB 1449)

This bill creates multiple statutes. First, it creates s. 775.0848, F.S., reclassifying all felonies for when “a person who has been deported or removed from the United States under federal immigration proceedings for committing a felony, or has departed the United States while such an order of deportation or removal is outstanding” has committed a new felony “after unlawfully reentering the United States and while remaining unlawfully present” as follows:

- 3rd degree felony increased to 2nd degree felony
- 2nd degree felony increased to 1st degree felony
- 1st degree felony increased to life felony

It also creates s. 908.12, F.S., defining “transnational crime organization” as “an organization that routinely facilitates the international trafficking of drugs, humans, or weapons or the international smuggling of humans.” It then states that “upon a finding by the factfinder that a defendant committed the charged offense for the purpose of benefiting, promoting, or furthering the interests of a transnational crime organization, the penalty for any felony or misdemeanor, or for any delinquent act or violation of law which would be a felony or misdemeanor if committed by an adult, may be reclassified under this subsection. A penalty enhancement affects only the applicable statutory maximum sentence, and each of the findings required as a basis for such sentence must be found beyond a reasonable doubt.” They are reclassified as follows:

- 2nd degree misdemeanor increased to 1st degree misdemeanor
- 1st degree misdemeanor increased to Level 2, 3rd degree felony
- 3rd degree felony increased to 2nd degree felony
- 2nd degree felony increased to 1st degree felony
- 1st degree felony increased to life felony

Per DOC, in FY 22-23, 1,131 offenders designated as aliens were admitted to prison. Furthermore, 363 of these aliens were born in Cuba. However, aliens in the DOC database include suspected and confirmed aliens, and are also made up of inmates who were legal and illegal immigrants at the time of their offenses. It is not known how many of these inmates would fit this bill’s criteria. Furthermore, it is not known how many misdemeanor or felony offenders committed their crimes to benefit, promote, or further the interests of a transnational crime organization.

EDR PROPOSED ESTIMATE: Positive Indeterminate

Requested by: Senate

The Florida Senate

APPEARANCE RECORD

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

SB 1036 Reclass. Criminal Penalties

Bill Number or Topic

January 30, 2024

Meeting Date

Criminal Justice

Committee

Name **Jonathan Webber**

Phone **954-593-4449**

Address **400 Washington Ave**

Email **jonathan.webber@splcactionfund.org**

Street

Montgomery

AL

36104

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

SPLC Action Fund

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

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

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

501036

Bill Number or Topic

1/30/24

Meeting Date

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name

David Metellus

Phone

954 798 2555

Address

10800 Biscayne Blvd

Street

Miami

City

FL

State

Zip

Email

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)



THE FLORIDA SENATE

Tallahassee, Florida. 32399-1100

Senator Blaise Ingoglia
11th District

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*

January 9, 2024

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

Re: SB 1036 Reclassification of Criminal Penalties

Chair Martin,

SB 1036 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,

A handwritten signature in blue ink, appearing to read "Blaise Ingoglia", with a stylized flourish extending to the right.

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: CS/SB 1238

INTRODUCER: Criminal Justice Committee and Senator Martin

SUBJECT: Lewd or Lascivious Grooming

DATE: January 31, 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 1238 creates s. 800.045, F.S., to provide that a person 18 years of age or older who engages in a pattern of inappropriate communication or conduct directed toward a person less than 16 years of age for the purpose of preparing, encouraging, or enticing such person to engage in any unlawful sexual activity, sexual conduct, or sexual performance commits lewd or lascivious grooming.

Lewd or lascivious grooming is a third degree felony.¹

The bill amends s. 921.0022, F.S., by adding “Lewd or lascivious grooming” as a 3rd degree felony and ranks the 3rd degree felony as a level 3 in the offense severity ranking chart.

The bill defines the terms “inappropriate communication or conduct,” “sexual activity,” “sexual conduct,” and “sexual performance.”

The bill may have a positive indeterminate fiscal impact due to an increase in prison beds. See Section V. Fiscal Impact Statement.

The bill becomes effective October 1, 2024.

¹ A third degree felony is punishable by a term of imprisonment not exceeding 5 years pursuant to s. 775.082, s. 775.083, and s. 775.084, F.S.

II. Present Situation:

Child Sex Crimes

The prevalence of child sexual abuse is difficult to determine due to underreporting. One study shows that one in five girls and one in twenty boys is a victim of child sex abuse.²

Grooming Children for Sexual Abuse

Child sexual abuse is often effectuated following a period of ‘grooming’ and the sexualization of the relationship.³ “Grooming” refers to deliberate actions taken by a defendant to expose a child to sexual material; the ultimate goal of grooming is the formation of an emotional connection with the child and a reduction of the child’s inhibitions in order to prepare the child for sexual activity.⁴

During the desensitization phase the perpetrator typically introduces sexual content disguised as jokes or discussions, or through exposure to pornography or other explicit material,⁵ and utilizes frequent non-sexual touch to desensitize the victim to physical contact. Post-abuse, the offender may engage in maintenance strategies in order to facilitate future sexual abuse and to prevent disclosure.⁶

While there are several offenses in current law which prohibit a person from encouraging, enticing, soliciting, or inducing a minor to engage in sexual activity, lewd or lascivious behavior, or a sexual performance, current law does not specifically criminalize the preparation of a child to engage in sexual activity, sexual conduct, or a sexual performance through a pattern of inappropriate communication or conduct directed toward the child.

Consent

Florida has various laws with age requirements for offenders and victims. While certain laws permit persons under the age of 24 years old to engage in sexual activity with 16 or 17 year olds, other laws prohibit sexual activity with a person under the age of 16.⁷ A person who is 18 may consent to sexual activity with a person of any age, provided the person is not under the age of 16.

When an individual engages in consensual sexual activity with a minor, even if they are a minor themselves, they may be charged with an offense. In *State v. J.A.S.*, the District Court of Appeal of Florida, Fifth District held that minors cannot consent to sexual activity even in a minor-to-minor situation. The court held that sexual activity between minors is prohibited whether or not

² National Center for Victims of Crime, *Child Sex Abuse Statistics*, available at, <https://victimsofcrime.org/child-sexual-abuse-statistics/> (last visited January 31, 2024).

³ *State v. Brown*, 299 So.3d 561 (5th DCA 2020).

⁴ *United States v. Chambers*, 642 F.3d 588, 593 (7th Cir. 2011).

⁵ Helping Survivors, *Sexual Grooming*, available at, <https://helpingsurvivors.org/grooming/> (last visited January 23, 2024).

⁶ Psychology Today, *How to Recognize the Sexual Grooming of a Minor*, July 7, 2023, available at, <https://www.psychologytoday.com/us/blog/protecting-children-from-sexual-abuse/202010/how-to-recognize-the-sexual-grooming-of-a-minor> (last visited January 23, 2024).

⁷ See ss. 800.04, and 794.05, F.S.,

each of the participants believe that they have consented.⁸ The Florida Supreme Court in *J.A.S.*, ruled that s. 800.04, F.S., was not unconstitutional as applied to two 15-year-old boys who engaged in “consensual” sex with two 12-year-old girls.⁹

The constitutionality of this statute has been upheld, and a minor may be charged with violating the statute.^{10,11}

Lewd and Lascivious Offenses

The Florida Supreme Court has held that the terms “lewd” and “lascivious” mean a wicked, lustful, unchaste, licentious, or sensual intent on the part of the person doing an act.^{12,13}

Neither the victim’s lack of chastity nor the victim’s consent is a defense to lewd or lascivious offenses. Additionally, the perpetrator’s ignorance of the victim’s age, the victim’s misrepresentation of his or her age, or the perpetrator’s bona fide belief of the victim’s age cannot be raised as a defense.^{14,15}

Lewd or Lascivious Offenses Targeting Persons Under 16 Years of Age

Section 800.04, F.S., criminalizes various acts targeting persons under 16 years of age, including: lewd or lascivious battery;¹⁶ lewd or lascivious molestation;¹⁷ lewd or lascivious conduct;¹⁸ and lewd or lascivious exhibition.¹⁹ An individual convicted of violating section 800.04, F.S., is required to register as a sex offender.²⁰

⁸ *State v. J.A.S.*, 686 So.2d 1366, 1369, (Fla. 5th DCA) (1997).

⁹ *Id.*

¹⁰ *Jones v. State*, 640 So.2d 1084 (Fla. 1994).

¹¹ See also, *State v. Metzler*, 791 So.2d 565 (Fla. 5th DCA)(2001).

¹² *Chesebrough v. State*, 255 So.2d 675, 677 (Fla. 1971).

¹³ Whether an act or conduct is lewd or lascivious is a factual issue to be decided on a case -by-case basis. *Andrews v. State*, 130 So. 3d 788, 790 (Fla. 1st DCA 2014).

¹⁴ Section 800.04(2), F.S.

¹⁵ Section 800.04(3), F.S.

¹⁶ Section 800.04(4), F.S., defines lewd or lascivious battery as engaging in sexual activity with a person 12 years or older but less than 16 years of age; or encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity. An offender who commits lewd or lascivious battery commits a felony of the second degree.

¹⁷ Section 800.04(5), F.S., defines lewd or lascivious molestation as a person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.

¹⁸ Section 800.04(6), F.S.

¹⁹ Section 800.04(7), F.S.

²⁰ Section 943.0435, F.S., provides that “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, F.S., 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), F.S.; or any similar offense

Lewd or Lascivious Conduct

A person who intentionally touches a person under 16 years of age in a lewd or lascivious manner²¹ or solicits a person under 16 years of age to commit a lewd or lascivious act commits lewd or lascivious conduct.²²

An offender who is:

- Eighteen years of age or older who commits lewd or lascivious conduct commits a second degree felony.²³
- Less than 18 years of age who commits lewd or lascivious conduct commits a third degree felony.²⁴

The Florida Standard Jury Instructions for soliciting a person under 16 years of age to commit a lewd or lascivious act provides that to “solicit” means to command, encourage, hire, or request another person to engage in specific conduct.²⁵

Lewd or Lascivious Battery

A person commits lewd or lascivious battery by:

- Engaging in sexual activity with a person 12 years of age or older but less than 16 years of age;²⁶ or
- Encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity.²⁷

An offender who commits Lewd or Lascivious Battery commits a second degree felony.

Lewd or Lascivious Molestation

A person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.²⁸

committed in this state which has been redesignated from a former statute number to one of those listed in this sub-sub-paragraph.

²¹ Section 800.04(6)(a)1., F.S.

²² Section 800.04(6)(a)2., F.S.

²³ A felony of the second degree is generally punishable by a term of imprisonment not exceeding 15 years, as provided in s. 775.082, s. 775.083, and s. 775.084, F.S.

²⁴ A felony of the third degree is generally punishable by a term of imprisonment not exceeding 5 years, as provided in s. 775.082, s. 775.083, and s. 775.084, F.S.

²⁵ Fla. Std. Jury Instr. (Crim.) 11.10(d), Lewd or Lascivious Conduct, s. 800.04(6), F.S.

²⁶ Section 800.04(4)(a)1., F.S.

²⁷ Section 800.04(4)(a)2., F.S.

²⁸ Section 800.04(5)(a), F.S.

A person who commits Lewd or Lascivious Molestation commits a second degree felony if the person is 18 years of age or older against a victim 12 years of age or older but less than 16 years of age.²⁹

An offender who is 18 years of age or older who commits lewd or lascivious molestation against a victim less than 12 year of age commits a life felony.

Lewd or Lascivious Exhibition

A person commits lewd or lascivious exhibition by performing any of the following acts in the presence of a person under 16:

- Intentionally masturbating;
- Intentionally exposing the genitals in a lewd or lascivious manner; or
- Intentionally committing any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity.³⁰

An offender 18 years of age or older who commits lewd or lascivious conduct commits a second degree felony.

An offender less than 18 years of age who commits lewd or lascivious conduct commits a third degree felony.

Lewd or Lascivious Written Solicitation of Certain Minors

A person 24 years of age or older who solicits a person who is 16 or 17 years of age in writing to commit a lewd or lascivious act commits a third degree felony.³¹

Transmission of Material Harmful to Minors

Section 847.0138, F.S., prohibits a person, in this state or in any jurisdiction other than this state, from knowingly transmitting or believing that he or she is transmitting an image, information, or data that is harmful to minors to a specific individual known by the defendant to be a minor, as a third-degree felony.

Section 847.001(7), F.S., defines “harmful to minors” as any reproduction, imitation, characterization, description, exhibition, presentation, or representation, of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement³² when it:

- Predominantly appeals to a prurient, shameful, or morbid interest;
- Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and
- Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

²⁹ A felony of the first degree is punishable by a term of imprisonment not exceeding 30 years, pursuant to s. 775.082, s. 775.083, or s. 775.084, F.S.

³⁰ Section 800.04(7)(a), F.S.

³¹ Section 794.053, F.S.

³² Section 847.001(20), F.S., defines “sexual excitement” as the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

Prohibited Computer Usage

Any 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, ch. 800, or ch. 827, 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;³³ 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 third degree.³⁴

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:

- 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;³⁵ 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.³⁶

III. Effect of Proposed Changes:

The bill creates s. 800.045, F.S., to provide that a person 18 years of age or older who engages in a pattern of inappropriate communication or conduct directed toward a person less than 16 years of age for the purpose of preparing, encouraging, or enticing such person to engage in any unlawful sexual activity, sexual conduct, or sexual performance commits lewd or lascivious grooming.

Lewd or lascivious grooming is a third degree felony.³⁷

³³ Section 847.0135(3)(a), F.S.

³⁴ Section 847.0135(3)(b), F.S.

³⁵ Section 847.0135(4)(a), F.S.

³⁶ Section 847.0135(4)(b), F.S.

³⁷ A third degree felony is punishable by a term of imprisonment not exceeding 5 years pursuant to s. 775.082, s. 775.083, and s. 775.084, F.S.

The bill defines the term “inappropriate communication or conduct,” to mean any verbal, written, or electronic communication or any conduct in which a person describes, depicts, or demonstrates sexual conduct or sexual excitement.

The bill defines the following terms:

- “Sexual activity” has the same meaning as in s. 800.04(1), F.S.³⁸
- “Sexual conduct”³⁹ has the same meaning as in s. 847.001, F.S.
- “Sexual excitement”⁴⁰ have the same meanings as in s. 847.001, F.S.
- “Sexual performance”⁴¹ has the same meaning as in s. 827.071(1), F.S.

The bill amends s. 921.0022, F.S., to rank the 3rd degree felony as a level 3 in the offense severity ranking chart.

The bill becomes 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.

³⁸ Section 800.04(1), F.S., “Sexual activity” means the oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object; however, sexual activity does not include an act done for a bona fide medical purpose.

³⁹ Section 847.001(19), F.S., “Sexual conduct” means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual or simulated lewd exhibition of the genitals; actual physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother’s breastfeeding of her baby does not under any circumstance constitute “sexual conduct.”

⁴⁰ Section 847.001, F.S., “Sexual excitement” means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

⁴¹ Section 827.071(1)(m), F.S., “Sexual performance” means any performance or part thereof which includes sexual conduct by a child.

E. Other Constitutional Issues:

The First Amendment of the U.S. Constitution prevents the government from creating laws that restrict the speech of citizens.⁴² “Congress shall make no law ... abridging the freedom of speech.” The rights guaranteed by the First Amendment apply with equal force to state governments through the due process clause of the Fourteenth Amendment.⁴³

The state has a compelling interest in protecting the physical and psychological well-being of children. Courts have recognized that speech used to further the sexual exploitation of children does not enjoy constitutional protection.⁴⁴ The state also has a compelling interest in protecting minors from being seduced to perform sexual actions, and no legitimate commerce is burdened by penalizing the transmission of harmful sexual material to known minors in order to seduce them.⁴⁵

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have a positive indeterminate impact on jail and prison beds by expanding the scope of prohibited conduct under s. 800.04, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 800.045 of the Florida Statutes.

⁴² U.S. Const., amend I.

⁴³ U.S. Const. amend XIV. *See also* Art. I, Fla. Const.

⁴⁴ *Cashatt v. State*, 873 So.3d 430, (1st DCA 2004).

⁴⁵ *Pike v. Bruce Church*, 397 U.S. 137, 90 S.Ct. 844, 25 L.Ed.2d 174 (1970).

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 30, 2024:

The committee substitute:

- Revises the crime of lewd or lascivious grooming to prohibit a person 18 years or older from engaging in a pattern of inappropriate communication or conduct directed toward a person less than 16 years of age.
- Reduces the penalty for violation from a 2nd degree felony to a 3rd degree felony and ranks the 3rd degree felony as a level 3 on the offense severity ranking chart.
- Defines the terms “inappropriate communication or conduct,” “sexual activity,” “sexual conduct,” and “sexual performance.”

- B. **Amendments:**

None.



652162

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2024	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 800.045, Florida Statutes, is created to
read:

800.045 Lewd or lascivious grooming.-

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

(a) "Inappropriate communication or conduct" means any
verbal, written, or electronic communication or any conduct in



652162

which a person describes, depicts, or demonstrates sexual
conduct or sexual excitement.

(b) "Sexual activity" has the same meaning as in s.
800.04(1).

(c) "Sexual conduct" and the term "sexual excitement" have
the same meanings as in s. 847.001.

(d) "Sexual performance" has the same meaning as in s.
827.071(1).

(2) A person 18 years of age or older who engages in a
pattern of inappropriate communication or conduct directed
toward a person less than 16 years of age for the purpose of
preparing, encouraging, or enticing such person to engage in any
unlawful sexual activity, sexual conduct, or sexual performance
commits lewd or lascivious grooming, a felony of the third
degree, punishable as provided in s. 775.082, s. 775.083, or s.
775.084.

Section 2. Paragraph (c) of subsection (3) of section
921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking
chart.—

(3) OFFENSE SEVERITY RANKING CHART

(c) LEVEL 3

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police



652162

reports.

316.066 3rd Unlawfully obtaining or using
(3) (b) - (d) confidential crash reports.

316.193 (2) (b) 3rd Felony DUI, 3rd conviction.

316.1935 (2) 3rd Fleeing or attempting to elude
law enforcement officer in
patrol vehicle with siren and
lights activated.

319.30 (4) 3rd Possession by junkyard of motor
vehicle with identification
number plate removed.

319.33 (1) (a) 3rd Alter or forge any certificate
of title to a motor vehicle or
mobile home.

319.33 (1) (c) 3rd Procure or pass title on stolen
vehicle.

319.33 (4) 3rd With intent to defraud,
possess, sell, etc., a blank,
forged, or unlawfully obtained
title or registration.

327.35 (2) (b) 3rd Felony BUI.



652162

44	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
45	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
46	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
47	379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
48	379.2431 (1)(e)6.	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection



652162

Act.

379.2431
(1) (e) 7.

3rd Soliciting to commit or
conspiring to commit a
violation of the Marine Turtle
Protection Act.

400.9935 (4) (a)
or (b)

3rd Operating a clinic, or offering
services requiring licensure,
without a license.

400.9935 (4) (e)

3rd Filing a false license
application or other required
information or failing to
report information.

440.1051 (3)

3rd False report of workers'
compensation fraud or
retaliation for making such a
report.

501.001 (2) (b)

2nd Tamper with a consumer product
or the container using
materially false/misleading
information.

624.401 (4) (a)

3rd Transacting insurance without a
certificate of authority.



652162

624.401(4)(b)1. 3rd Transacting insurance without a
certificate of authority;
premium collected less than
\$20,000.

626.902(1)(a) & 3rd Representing an unauthorized
(b) insurer.

697.08 3rd Equity skimming.

790.15(3) 3rd Person directs another to
discharge firearm from a
vehicle.

794.053 3rd Lewd or lascivious written
solicitation of a person 16 or
17 years of age by a person 24
years of age or older.

800.045(2) 3rd Lewd or lascivious grooming.

806.10(1) 3rd Maliciously injure, destroy, or
interfere with vehicles or
equipment used in firefighting.

806.10(2) 3rd Interferes with or assaults
firefighter in performance of
duty.



652162

64	810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
65	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
66	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
67	812.015(8)(b)	3rd	Retail theft with intent to sell; conspires with others.
68	812.081(2)	3rd	Theft of a trade secret.
69	815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
70	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
71	817.233	3rd	Burning to defraud insurer.
	817.234 (8)(b) & (c)	3rd	Unlawful solicitation of persons involved in motor



652162

72			vehicle accidents.
	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
73			
	817.236	3rd	Filing a false motor vehicle insurance application.
74			
	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
75			
	817.413 (2)	3rd	Sale of used goods of \$1,000 or more as new.
76			
	817.49 (2) (b) 1.	3rd	Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.
77			
	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.
78			
	831.29	2nd	Possession of instruments for



652162

79			counterfeiting driver licenses or identification cards.
	836.13(2)	3rd	Person who promotes an altered sexual depiction of an identifiable person without consent.
80			
	838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
81			
	860.15(3)	3rd	Overcharging for repairs and parts.
82			
	870.01(2)	3rd	Riot.
83			
	870.01(4)	3rd	Inciting a riot.
84			
	893.13(1)(a)2.	3rd	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).
85			
	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9.,



652162

86

(2)(c)10., (3), or (4) drugs
within 1,000 feet of
university.

893.13(1)(f)2.

2nd

Sell, manufacture, or deliver
s. 893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)6.,
(2)(c)7., (2)(c)8., (2)(c)9.,
(2)(c)10., (3), or (4) drugs
within 1,000 feet of public
housing facility.

87

893.13(4)(c)

3rd

Use or hire of minor; deliver
to minor other controlled
substances.

88

893.13(6)(a)

3rd

Possession of any controlled
substance other than felony
possession of cannabis.

89

893.13(7)(a)8.

3rd

Withhold information from
practitioner regarding previous
receipt of or prescription for
a controlled substance.

90

893.13(7)(a)9.

3rd

Obtain or attempt to obtain
controlled substance by fraud,
forgery, misrepresentation,
etc.



652162

91

893.13(7)(a)10. 3rd Affix false or forged label to
package of controlled
substance.

92

893.13(7)(a)11. 3rd Furnish false or fraudulent
material information on any
document or record required by
chapter 893.

93

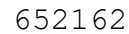
893.13(8)(a)1. 3rd Knowingly assist a patient,
other person, or owner of an
animal in obtaining a
controlled substance through
deceptive, untrue, or
fraudulent representations in
or related to the
practitioner's practice.

94

893.13(8)(a)2. 3rd Employ a trick or scheme in the
practitioner's practice to
assist a patient, other person,
or owner of an animal in
obtaining a controlled
substance.

95

893.13(8)(a)3. 3rd Knowingly write a prescription
for a controlled substance for
a fictitious person.



985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
---------	-----	---

And the title is amended as follows:



652162

107 Delete everything before the enacting clause
108 and insert:

109 A bill to be entitled
110 An act relating to lewd or lascivious grooming;
111 creating s. 800.045, F.S.; providing definitions;
112 creating the offense of lewd or lascivious grooming;
113 providing criminal penalties; amending s. 921.0022,
114 F.S.; ranking the offense on the offense severity
115 ranking chart of the Criminal Punishment Code;
116 providing an effective date.

By Senator Martin

33-00733A-24

20241238__

A bill to be entitled

An act relating to lewd or lascivious grooming;
amending s. 800.04, F.S.; creating the offense of lewd
or lascivious grooming; providing criminal penalties;
providing an effective date.

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

Section 1. Present subsection (8) of section 800.04,
Florida Statutes, is renumbered as subsection (9), and a new
subsection (8) is added to that section, to read:

800.04 Lewd or lascivious offenses committed upon or in the
presence of persons less than 16 years of age.—

(8) LEWD OR LASCIVIOUS GROOMING.—

(a) A person who engages in the process of preparing or
encouraging a child to engage in sexual activity through overtly
sexually themed communication with the child or in conduct with
or observed by the child without permission from the child's
parent or legal guardian commits lewd or lascivious grooming.

(b) A person 18 years of age or older who commits lewd or
lascivious grooming commits a felony of the second degree,
punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

SB 1238

Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

1/30
Criminal Justice

Committee

Name

Ryan Kennedy

Phone

239-671-5733

Address

9745 Roundstone Cor.

Email

ryan@gotfla.org

Street

Fort Myers FL

33967

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 Citizens
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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/30/2024

Meeting Date

Criminal Justice

Committee

SB 1238

Bill Number or Topic

Amendment Barcode (if applicable)

Name John Labriola

Phone 954-515-2084

Address Po Box 650216

Street

Miami

City

FL

State

33265

Zip

Email John.Labriola@cfcfloirida.net

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:

Christian Family Coalition 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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/30/24

Meeting Date

Criminal Justice

Committee

SB 1238

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Rev Kari Niedermajer

Phone

832-586-6267

Address

720 Ora Dell Ave

Email

doulakari@gmail.com

Street

Titusville

FL

State

32796

Zip

City

Speaking:

☐

For



Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

SB 1238

Bill Number or Topic

Amendment Barcode (if applicable)

1/30/24
Meeting Date
Senate - Criminal Justice
Committee

Name Quinn Diaz Phone 215-272-8353
Address 124 3rd Avenue Email quinn.diaz@equalityflorida.org
Indianapolis FL 32903
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:

Equality 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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/30/24

Meeting Date

Criminal Justice

Committee

SB1238

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Lily Lehr

Phone

386 - 843 - 6336

Address

315 Country Circle Drive East

Email

lilylehr@icloud.com

Street

Port Orange

City

FL

State

32128

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

SB 1238

Bill Number or Topic

1/30/2024

Meeting Date

Committee

Amendment Barcode (if applicable)

Name

Rev. Tom Holdcraft

Phone

850 303-3218

Address

2948 Tipperary Dr.

Email

tnholdersft@gmail.com

Street

Tallahassee

FL

32309

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/30/24

Meeting Date

Criminal Justice

Committee

1238

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Carrie Feit

Phone

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

11/30/
Meeting Date

1238
Bill Number or Topic

Curry Trust
Committee

Amendment Barcode (if applicable)

Name Ron Book

Phone 850-224 3427

Address 104 W. Jefferson
Street

Email ron @ RLBook PR LLC

TLH FL 34301
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:

Lauren's Kids

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

SB 1238

Bill Number or Topic

1-30-24

Meeting Date

criminal Justice

Committee

Amendment Barcode (if applicable)

Name Kevonte Ford

Phone _____

Address _____

Street

Email _____

City

State

32301

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/30/24

Meeting Date

Criminal Justice

Committee

HB 1135 / SB 1238

Bill Number or Topic

Amendment Barcode (if applicable)

Name John Heimburg

Phone (352) 250-8949

Address P.O. Box 1614 - 267 Kentucky Ave.
Street

Email juheimburg@comcast.net

Umatilla
City

FL
State

32784
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

SB 1238

Bill Number or Topic

Amendment Barcode (if applicable)

01/30/2021
Meeting Date
Criminal Justice
Committee

Name Dr. Beverly G Ward Phone 813 928 8823

Address 13705 Lazy Oak Dr
Street
Tampa, FL 33613
City State Zip

Email phdant@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:

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

SB 1238

Bill Number or Topic

Amendment Barcode (if applicable)

01-30-2024

Meeting Date

Criminal Justice

Committee

Name

Michelle Shindano

Phone

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

HB 1135/SB 1238
Bill Number or Topic

Jan 30, 2024
Meeting Date
Criminal Justice
Committee

Amendment Barcode (if applicable)

Name Rev. Marjorie Neal Phone (610) 996-7331
Address 12209 Pepper Mill Dr. Email margejneal@aol.com
Hudson FL 34667
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

- ☒ I am appearing without compensation or sponsorship.
- ☐ I am a registered lobbyist, representing:
- ☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

SB 1238
Bill Number or Topic

1/30/24
Meeting Date
Criminal Justice
Committee

Name Rev. Dr. Gabriel Morgan

Phone 813 245 6812

Address 5107 N Central Ave
Street
Tampa FL 33603
City State Zip

Email gmorgan@stpaultampa.org

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/30/2024
Meeting Date

Criminal Justice
Committee

SB 1238
Bill Number or Topic

Amendment Barcode (if applicable)

Name Bishop Charles Leigh

Phone 813 238 6060

Address 7010 N 18TH ST
Street

Email Bishop.Chuck@yahoo.com

Tampa FL 33610
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/30/2024

Meeting Date

CRIMINAL JUSTICE

Committee

SB 1238

Bill Number or Topic

Amendment Barcode (if applicable)

Name FREDERIC PRISLEY

Phone 813-541-0325

Address 10502 SAGO RD

Email FPRISLEY@GMAIL.COM

Street

TAMPA FL 33618

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

1-30-2024

The Florida Senate

APPEARANCE RECORD

1238

Meeting Date

Criminal Justice

Bill Number or Topic

Committee

Sheriff Bob Gualtieri

Amendment Barcode (if applicable)

727-582-6200

Name

Phone

Address

10750 Ulmerton Road

Email

rgualtieri@pcsonet.com

Street

Largo

FL

33779

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:



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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/30/24

Meeting Date

Criminal Justice

Committee

SB 1238

Bill Number or Topic

Amendment Barcode (if applicable)

Name Aaron DiPietro

Phone 904-608-4471

Address P.O. Box 530103

Street

Email aaron.d@flfamily.org

Orlando

City

FL

State

32853

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 Family Policy Council

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/30/24

Meeting Date

1238

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name SHARMIN SMITH

Phone 904 504 2688

Address

Email slynn.smith@yahoo.com

Street

JAX Bch

City

FL

State

32208

Zip

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1274

INTRODUCER: Criminal Justice Committee and Senator Martin

SUBJECT: Juvenile Justice

DATE: February 1, 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 - Technical Changes

I. Summary:

CS/SB 1274 makes multiple changes throughout ch. 985, F.S., to revise provisions relating to citation programs, secure detention, probation, conditional release, and contraband. Sections relating to firearm offenses committed by minors are amended throughout ch. 790, F.S., and ch. 985, F.S. Additionally, the bill amends s. 1002.221, F.S., to provide that education records may be used for proceedings initiated under ch. 984, F.S., and ch. 985, F.S.

Prearrest Delinquency Citation Programs

The bill amends s. 985.12, F.S., relating to civil citation programs, to rename civil citation programs as prearrest delinquency citation programs, prohibit such programs for firearm related offenses, and provide such programs must specify classes established for the program. Additionally, s. 985.125, F.S., is amended to prohibit school districts from operating a postarrest diversion program.

The bill amends s. 985.126, F.S., to revise reporting requirements for law enforcement agencies, and the Florida Department of Juvenile Justice (DJJ).

Firearm and Other Serious Offenses

The bill amends s. 790.22, F.S., to increase the penalty for the unlawful possession of a firearm by a minor, from a first degree misdemeanor to a third degree felony. Additionally, the bill provides specified punishments for such violations, including minimum mandatory days in secure detention, community service or paid work, and driver license restrictions. Section 985.455, F.S., is amended to provide that the court may, upon finding a compelling circumstance, direct the Florida Department of Highway Safety and Motor Vehicles (DHSMV) to make an exception to issue the minor a license for driving privileges restricted to business or employment purposes only.

Sections 790.115, and 790.22, F.S., are amended to remove provisions requiring secure detention for any minor who is charged with firearm related offenses.

The bill amends s. 985.433, F.S., requiring any youth committed for any offense or attempted offense involving a firearm be placed on conditional release for at least 1 year after release from the residential commitment program, with terms of conditional release including electronic monitoring for the initial six months under terms and conditions set by the DJJ.

For a firearm offense, other than minor possession under s. 790.22(3), F.S., or for an offense that is committed while the minor is in possession of a firearm, the court must order specified punishments, including 30 days of secure detention, 100 hours of community service, 1 year probation, and restrictions on the minors driver license, if the court decides not to commit the youth to a residential program.

A child who has previously had adjudication withheld for a specified offense shall not be eligible for a second or subsequent withhold of adjudication, and must be committed to a residential program.

The bill amends s. 985.601, F.S., providing that the DJJ must establish a class focused on the risk and consequences of youthful firearm offending which shall be provided by the DJJ to any youth adjudicated or who had adjudication withheld for any offense involving the use or possession of a firearm.

Secure Detention

The bill amends s. 985.25, F.S., requiring that youths arrested for violating the terms of his or her electronic monitoring supervision or his or her supervised release shall be placed in secure detention until a detention hearing.

A child on probation for an underlying felony firearm offense who is taken into custody under s. 985.101, F.S., for violating conditions of probation not involving a new law violation shall be held in secure detention to allow the state attorney to review the violation.

The bill amends s. 985.255, F.S., to provide that the court has the authority to depart from the detention risk assessment instrument and order a placement more or less restrictive than what the risk assessment recommends. Additionally, the bill provides when minors committing specified

offenses must be held in secure detention, and that the court must make certain findings before releasing such finding. Written notice of release must be given to the victim, the arresting agency, and the law enforcement agency with primary jurisdiction over the minor's residence.

The bill amends s. 985.26, F.S., to provide the court may order a child to be held in secure detention beyond 21 days based on the nature of the charge under specified circumstances, including if the child is held for specified offenses.

Probation

The bill amends multiple sections throughout ch. 985, F.S., to remove post commitment probation. Under the bill, a child must be placed on conditional release following commitment to a DJJ program, or may be directly released from such program.

The bill amends s. 985.435, F.S., providing that a probation program must include an alternative consequences component and such an alternative consequence component must be aligned with the DJJ's graduated response matrix as described in s. 985.438, F.S.

Section 985.438, F.S., is created and requires the DJJ to create and administer a statewide graduated response matrix to hold youths accountable to the term of their court ordered probation and the terms of their conditional release. The graduated response matrix shall outline sanctions for youth based on their risk to reoffend.

The bill amends s. 985.439, F.S., to provide that upon receiving notice of a violation of probation from the DJJ, the state attorney must file the violation within 5 days or provide in writing to the DJJ and the court a reason as to why he or she is not filing.

Additionally, the DJJ may place a youth on electronic monitoring for a violation of probation if it determines doing so will preserve and protect public safety.

Conditional Release

The bill amends s. 985.46, F.S., revising legislative intent concerning conditional release to require conditional release after commitment unless the youth is directly released. Specified conditions of conditional release must be placed on the minor.

The bill provides that a youth who violates the terms of his or her conditional release shall be assessed using the graduated response matrix as described in s. 985.438, F.S. A youth who fails to move into compliance shall be recommitted to a residential facility.

Contraband

The bill amends s. 985.711, F.S., to add specified items to the list of contraband, and provides it is a second degree felony to introduce contraband into a DJJ facility.

The bill is effective on July 1, 2024.

II. Present Situation:

Civil Citation/Pre-arrest Diversion

The Florida Department of Juvenile Justice (DJJ) civil citation or similar prearrest delinquency initiative addresses a youth's behavior at his or her first encounter with the juvenile justice system and provides an alternative to arrest for that child.¹

A civil citation or similar prearrest delinquency program for misdemeanor offenses shall be established in each judicial circuit in the state. The state attorney and public defender of each circuit, the clerk of the court for each county in the circuit, and representatives of participating law enforcement agencies in the circuit shall create a civil citation or similar prearrest delinquency program and develop its policies and procedures. In developing the program's policies and procedures, input from other interested stakeholders may be solicited. The DJJ shall annually develop and provide guidelines on best practice models for civil citation or similar prearrest delinquency programs to the judicial circuits as a resource.²

Each judicial circuit's civil citation or similar prearrest delinquency program must specify:

- The misdemeanor offenses that qualify a juvenile for participation in the program;
- The eligibility criteria for the program;
- The program's implementation and operation;
- The program's requirements, including, but not limited to, the completion of community service hours, payment of restitution, if applicable, and intervention services indicated by a needs assessment of the juvenile, approved by the DJJ, such as family counseling, urinalysis monitoring, and substance abuse and mental health treatment services; and
- A program fee, if any, to be paid by a juvenile participating in the program. If the program imposes a fee, the clerk of the court of the applicable county must receive a reasonable portion of the fee.³

The state attorney of each circuit shall operate a civil citation or similar prearrest delinquency program in each circuit. A sheriff, police department, county, municipality, locally authorized entity, or public or private educational institution may continue to operate an independent civil citation or similar prearrest delinquency program that is in operation as of October 1, 2018, if the independent program is reviewed by the state attorney of the applicable circuit and he or she determines that the independent program is substantially similar to the civil citation or similar prearrest delinquency program developed by the circuit. If the state attorney determines that the independent program is not substantially similar to the civil citation or similar prearrest delinquency program developed by the circuit, the operator of the independent diversion program may revise the program and the state attorney may conduct an additional review of the independent program.⁴

¹ Department of Juvenile Justice, Florida Civil Citation or Similar Prearrest delinquency Overview, available at <https://www.djj.state.fl.us/partners-providers-staff/our-approach/florida-civil-citation-or-similar-prearrest-diversion>) last visited on January 16, 2024).

² Section 985.12(2)(a), F.S.

³ Section 985.12(2)(b), F.S.

⁴ Section 985.12(2)(c), F.S.

Pursuant to s. 985.126, F.S., citation entities submit demographic data and indicate the law violation. Law enforcement agencies report data to the DJJ that identifies each minor who was eligible for a diversion program but was instead referred to the DJJ, given a notice to appear, or arrested. Within 7 days of the admission into a citation program, the citation entity enters data into the Juvenile Justice Information System Prevention Web. De-identified data collected through the state's civil citation programs is published and continually updated on the DJJ's website, and helps inform the department-produced, civil citation best practice report disseminated to judicial circuits.⁵

Detention of Children in Florida – Intake and Assessment

Every child under the age of 18 charged with a crime in Florida is referred to the DJJ.⁶ The DJJ serves as the primary case manager responsible for managing, coordinating, and monitoring services provided to the child.⁷ Intake and screening services for a child referred to the DJJ are performed at a Juvenile Assessment Center.⁸ The purpose of the intake process is to assess the child's needs and risks and to determine the most appropriate treatment plan and setting for the child's programmatic need and risks.⁹ Once a child is in the custody of the DJJ, the DJJ determines whether detention care is appropriate.¹⁰

The DJJ makes an initial decision regarding detention care placement using the "Detention Risk Assessment Instrument."¹¹ This instrument takes into consideration, but need not be limited to, the following:

- Pending felony and misdemeanor offenses;
- Offenses committed pending adjudication;
- Prior offenses;
- Unlawful possession of a firearm;
- Prior history of failure to appear;
- Supervision violations;
- Supervision status at the time the child is taken into custody;
- All statutory mandates for detention care; and
- Any information on the child's history of abuse and neglect.¹²

Secure Detention Care

The DJJ shall receive custody of a child who has been taken into custody from the law enforcement agency or court and shall review the facts in the law enforcement report or probable

⁵ Section 985.126(2), F.S.

⁶ A referral is similar to an arrest in the adult criminal justice system. See Probation and Community Intervention, Overview, Department of Juvenile Justice, available at <http://www.djj.state.fl.us/services/probation> (last visited January 16, 2024).

⁷ Section 985.145(1), F.S.

⁸ Section 985.135(4), F.S.

⁹ Section 985.14(2), F.S. The intake process consists of a preliminary screening and may be followed by a comprehensive assessment, consisting of a full mental health, cognitive impairment, substance abuse, or psychosexual evaluation.

¹⁰ Section 985.25(1), F.S.

¹¹ Sections 985.25(1) and 985.245, F.S. Section 985.245, F.S., outlines with whom the Detention Risk Assessment Instrument must be developed, when and how it must be updated, and what factors the assessment instrument should identify when evaluating a child to determine whether detention placement is appropriate.

¹² Section 985.245(2)(b), F.S.

cause affidavit and make such further inquiry as may be necessary to determine whether detention care is appropriate.¹³ A child may not be held in secure detention care under a special detention order for more than 21 days unless an adjudicatory hearing for the case has been commenced in good faith by the court.¹⁴

All determinations and court orders regarding the use of detention care shall be based primarily upon findings that the child:

- Presents a substantial risk of not appearing at a subsequent hearing;¹⁵
- Presents a substantial risk of inflicting bodily harm on others as evidenced by recent behavior, including the illegal possession or use of a firearm;¹⁶
- Presents a history of committing a property offense prior to adjudication, disposition, or placement;¹⁷
- Has committed contempt of court by:
 - Intentionally disrupting the administration of the court;
 - Intentionally disobeying a court order; or
 - Engaging in a punishable act or speech in the court's presence which shows disrespect for the authority and dignity of the court;¹⁸ or
- Requests protection from imminent bodily harm.¹⁹

Alternative Consequence Component for Violations of Probation

A probation program may also include an alternative consequence component to address instances in which a child is noncompliant with technical conditions of his or her probation but has not committed any new violations of law. Each judicial circuit shall develop, in consultation with judges, the state attorney, the public defender, the regional counsel, relevant law enforcement agencies, and the DJJ, a written plan specifying the alternative consequence component which must be based upon the principle that sanctions must reflect the seriousness of the violation, the assessed criminogenic needs and risks of the child, the child's age and maturity level, and how effective the sanction or incentive will be in moving the child to compliant behavior. The alternative consequence component is designed to provide swift and appropriate consequences or incentives to a child who is alleged to be noncompliant with or in violation of probation. If the probation program includes this component, specific consequences that apply to noncompliance with specific technical conditions of probation, as well as incentives used to move the child toward compliant behavior, must be detailed in the disposition order.²⁰

If a youth is noncompliant with technical conditions of his or her probation, but has not committed any new violations of law the court may specify in the disposition order that the

¹³ Section 985.25(1), F.S.

¹⁴ Section 985.26(2)(a)2., F.S.

¹⁵ Section 985.24(1)(a), F.S.

¹⁶ Section 985.24(1)(b), F.S.

¹⁷ Section 985.24(1)(c), F.S.

¹⁸ Section 985.24(1)(d), F.S.

¹⁹ Section 985.24(1)(e), F.S.

²⁰ Section 985.435(4), F.S.

Juvenile Probation Officer may access a local alternative consequence program for youth with technical conditions of probation.²¹

Post Commitment Probation/Conditional Release

After release from a residential commitment program, a youth can be placed on post-commitment probation (PCP),^{22,23} conditional release (CR),²⁴ or be directly released.

Conditional Release is designed to provide monitoring and services to those youth who are transitioning back to the community after being in a residential program. These youth have court-ordered sanctions and services that they must complete. Youth on Probation or Conditional Release may be ordered by the Court (or referred by the DJJ) to attend a Day Treatment program while they are being supervised. Day Treatment programs provide additional monitoring of youth and typically offer an alternative educational setting. They also provide additional services, such as anger management classes, social skills building, and substance abuse education.²⁵

Minor in Possession of a Firearm

The use for any purpose whatsoever of BB guns, air or gas-operated guns, or electric weapons or devices, by any minor under the age of 16 years is prohibited unless such use is under the supervision and in the presence of an adult who is acting with the consent of the minor's parent.²⁶ A minor who violates subsection (3) commits a misdemeanor of the first degree;²⁷ for a first offense, may serve a period of detention of up to 5 days in a secure detention facility; and, in addition to any other penalty provided by law, shall be required to perform 100 hours of community service;²⁸ and:

- If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the DHSMV to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year.²⁹
- If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court may direct the DHSMV to extend the period of suspension or revocation by an additional period of up to 1 year.³⁰

²¹ *Id.*

²² Florida Administrative Code 63T.1.002 - Post-Commitment Probation (PCP) – Assessment and intervention services provided to youth who are released from residential commitment programs. Under the legal status of post-commitment probation, the youth is legally transferred from commitment status to probation status, and is subject to court-ordered sanctions.

²³ Section 985.439, F.S.

²⁴ Section 985.46(1)(a), F.S., “Conditional Release” is the care, treatment, help, supervision, and provision of transition-to-adulthood services to juveniles released from residential commitment programs to promote rehabilitation and prevent recidivism.

²⁵ Florida Department of Juvenile Justice, Probation & Community Intervention Overview, available at <https://www.djj.state.fl.us/services/probation-community-intervention> (last visited January 16, 2024).

²⁶ Section 790.22(1), F.S.

²⁷ Section 790.22 (3), F.S.

²⁸ Section 790.22(5)(a), F.S.

²⁹ Section 790.22(5)(a)1., F.S.

³⁰ Section 790.22(5)(a)2., F.S.

- If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the DHSMV to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible.³¹

Contraband

Except as authorized through program policy or operating procedure or as authorized by the facility superintendent, program director, or manager, a person may not introduce into or upon the grounds of a juvenile detention facility or commitment program, or take or send, or attempt to take or send, from a juvenile detention facility or commitment program, any of the following articles, which are declared to be contraband under this section:³²

- Any unauthorized article of food or clothing.
- Any intoxicating beverage or any beverage that causes or may cause an intoxicating effect.
- Any controlled substance as defined in s. 893.02(4), F.S., marijuana as defined in s. 381.986, F.S., hemp as defined in s. 581.217, F.S., industrial hemp as defined in s. 1004.4473, F.S., or any prescription or nonprescription drug that has a hypnotic, stimulating, or depressing effect.
- Any firearm or weapon of any kind or any explosive substance.
- Any cellular telephone or other portable communication device as described in s. 944.47(1)(a)6., F.S., intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program. As used in this subparagraph, the term "portable communication device" does not include any device that has communication capabilities which has been approved or issued by the facility superintendent, program director, or manager.
- Any vapor-generating electronic device as defined in s. 386.203, F.S., intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program.

A person may not transmit contraband to, cause contraband to be transmitted to or received by, attempt to transmit contraband to, or attempt to cause contraband to be transmitted to or received by, a juvenile offender into or upon the grounds of a juvenile detention facility or commitment program, except as authorized through program policy or operating procedures or as authorized by the facility superintendent, program director, or manager.³³

III. Effect of Proposed Changes:

The bill makes multiple changes throughout ch. 985, F.S., to revise provisions relating to citation programs, secure detention, probation, conditional release, and contraband. Sections relating to firearm offenses committed by minors are amended throughout ch. 790, F.S., and ch. 985, F.S.

Additionally, the bill amends s. 1002.221, F.S., to provide that education records may be used for proceedings initiated under ch. 984, F.S., and ch. 985, F.S.

³¹ Section 790.22(5)(a)3., F.S.

³² Section 985.711(1)(a), F.S.

³³ Section 985.711(1)(b), F.S.

Prearrest Delinquency Citation Programs

The bill amends s. 985.12, F.S., relating to civil citation programs, to:

- Redesignate civil citation programs as prearrest delinquency citation programs.
- Prohibit delinquency citations for firearm-related offenses.
- Provide that each judicial circuit must specify classes established by the DJJ or delinquency citation entity.
- Provide that a civil citation or similar prearrest delinquency program existing before July 1, 2024, must be deemed a delinquency citation program authorized by s. 985.12, F.S., if the civil citation or similar prearrest delinquency program has been approved by the state attorney of the circuit and it complies with the statutory requirements.

Additionally, s. 985.125, F.S., is amended to remove references to prearrest delinquency programs. The bill provides that school districts are prohibited from operating a postarrest diversion program.

The bill amends s. 985.126, F.S., to:

- Require each law enforcement agency shall submit to the DJJ data for every youth charged for the first time, who is charged with a misdemeanor.
- Require that the DJJ shall provide a quarterly report to be published on its website and distributed to the Governor, President of the Senate, and Speaker of the House of Representatives listing the entities that use delinquency citations for less than 70 percent of first-time misdemeanor offenses.

Firearm and Other Serious Offenses

The bill amends s. 790.22, F.S., to increase the penalty for the unlawful possession of a firearm by a minor, from a first degree misdemeanor to a third degree felony. Additionally, the bill:

- Provides that punishment for a first offense includes 5 days in secure detention, and 100 hours of community service or 100 hours of paid work, if such work is approved by the DJJ.
- Retains language that on a second violation a minor must serve 21 days in a secure detention facility, and must complete at least 100 hours of community service or paid work, but not more than 250 hours.
- Provides that for a third or subsequent violation, a minor shall be adjudicated delinquent and admitted to a residential program.
- Permits the court to direct the DHSMV to revoke or withhold issuance of the minor's driver license or driving privilege for up to 1 year for a first offense and up to 2 years for a second or subsequent offense.
- Permits the court to direct the DHSMV to extend the period of suspension or revocation if a minor's driver's license is under suspension for a first offense and up to 2 years for a second or subsequent offense.
- Permits the court to direct the DHSMV to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible for a first offense and up to 2 years for a second or subsequent offense.

The bill amends s. 985.455, F.S., providing that if the court orders revocation or suspension of a child's driver license as part of a disposition, the court may, upon finding a compelling circumstance, direct the DHSMV to make an exception to issue the minor a license for driving privileges restricted to business or employment purposes only.

Sections 790.115, and 790.22, F.S., are amended to remove provisions requiring secure detention for any minor under 18 years of age who is charged with possessing or discharging a firearm on school property unless the state attorney authorizes the release of the minor.

The bill amends s. 985.433, F.S., requiring any youth committed for any offense or attempted offense involving a firearm be placed on conditional release for at least 1 year after release from the residential commitment program, with terms of conditional release including electronic monitoring for the initial six months under terms and conditions set by the DJJ.

The bill provides that for a firearm offense, other than minor possession under s. 790.22(3), F.S., or for an offense that is committed while the minor is in possession of a firearm, the court must order specified punishments, including 30 days of secure detention, 100 hours of community service, 1 year probation, and restrictions on the minors driver license, if the court decides not to commit the youth to a residential program.

The bill provides that a child who has previously had adjudication withheld for a specified offense shall not be eligible for a second or subsequent withhold of adjudication, and must be committed to a residential program. Specified offenses include:

- Armed robbery involving a firearm.
- Armed carjacking involving the use or possession of a firearm.
- Having a firearm while committing a felony.
- Armed burglary involving the use or possession of a firearm.
- Delinquent in possession of a firearm.
- Any attempt to commit the above listed offenses.

The bill amends s. 985.601, F.S., providing that the DJJ must establish a class focused on the risk and consequences of youthful firearm offending which shall be provided by the DJJ to any youth adjudicated or who had adjudication withheld for any offense involving the use or possession of a firearm.

Secure Detention

The bill amends s. 985.25, F.S., requiring that youths arrested for violating the terms of his or her electronic monitoring supervision or his or her supervised release shall be placed in secure detention until a detention hearing.

The bill also provides that a child on probation for an underlying felony firearm offense who is taken into custody under s. 985.101, F.S., for violating conditions of probation not involving a new law violation shall be held in secure detention to allow the state attorney to review the violation. If within 21 days, the state attorney notifies the court that commitment will be sought, then the child shall remain in secure detention pending proceedings under s. 985.439, F.S., until the initial 21-day period of secure detention has expired. Upon motion of the state attorney, the

child may be held for an additional 21-day period if the court finds that the totality of the circumstances, including the preservation of public safety, warrants such extension.

The bill amends s. 985.255, F.S., to provide that the court has the authority to depart from the detention risk assessment instrument and order a placement more or less restrictive than what the risk assessment recommends. Additionally, the bill:

- Provides that when the court finds probable cause at the detention hearing that the child committed one or more specified offenses then there is a presumption that the child is at risk to public safety and a danger to the community and such child must be held in secure detention prior to an adjudicatory hearing. Specific offenses include:
 - Murder (1st degree and 2nd degree).
 - Armed robbery involving the use/possession of a firearm.
 - Armed carjacking involving the use/possession of a firearm.
 - Having a firearm while committing a felony.
 - Armed burglary involving the use/possession of a firearm.
 - Delinquent in possession of a firearm.
 - Attempt to commit any of the above-listed offenses.
- Provides the court must issue a written order for the release of a child from secure detention and such order must be based upon clear and convincing evidence of why the child does not present a risk to public safety or a danger to the community, and provide that the child shall be placed on supervised release detention care with electronic monitoring until the child's adjudicatory hearing.
- Provide that the court must provide a copy of the written notice to the victim, the arresting agency, and the law enforcement agency with primary jurisdiction over the youth's residence for any youth released on supervised release under these circumstances.

The bill amends s. 985.26, F.S., to provide that the court may order a minor to be held in secure detention beyond 21 days based on the nature of the charge under specified circumstances, including if the child is held for offenses listed in s. 985.255(1)(g), F.S.

Probation

The bill amends multiple sections throughout ch. 985, F.S., to remove post commitment probation. Under the bill, a child must be placed on conditional release following commitment to a DJJ program, or may be directly released from such program.

The bill amends s. 985.435, F.S., providing that a probation program must include an alternative consequences component and such an alternative consequence component must be aligned with the DJJ's graduated response matrix as described in s. 985.438, F.S.

The bill creates s. 985.438, F.S., requiring the DJJ to create and administer a statewide graduated response matrix to hold youths accountable to the term of their court ordered probation and the terms of their conditional release.

The graduated response matrix shall outline sanctions for youth based on their risk to reoffend and shall include, but not be limited to:

- Increased contacts.
- Increased drug tests.
- Curfew reductions.
- Increased community service.
- Additional evaluations.
- Addition of electronic monitoring.

The bill amends s. 985.439, F.S., to provide that upon receiving notice of a violation of probation from the DJJ, the state attorney must file the violation within 5 days or provide in writing to the DJJ and the court a reason as to why he or she is not filing.

Additionally, the DJJ may place a youth on electronic monitoring for a violation of probation if it determines doing so will preserve and protect public safety.

Conditional Release

The bill amends s. 985.46, F.S., revising legislative intent concerning conditional release to require conditional release after commitment unless the youth is directly released, and include at a minimum the following conditions:

- Participation in the educational program by students of compulsory school attendance age pursuant to s. 1003.21(1), F.S.
- A curfew.
- A prohibition on contact with victims, co-defendants, or known gang members.
- A prohibition on use of controlled substances.
- A prohibition on possession of firearms.

The bill provides that a youth who violates the terms of his or her conditional release shall be assessed using the graduated response matrix as described in s. 985.438, F.S. A youth who fails to move into compliance shall be recommitted to a residential facility.

Contraband

The bill amends s. 985.711, F.S., revising provisions concerning introduction of contraband into DJJ facilities providing that a person may not introduce into or upon the grounds of a juvenile detention facility or commitment program, or take or send, or attempt to take or send, from a juvenile detention facility or commitment program any of the following articles which are declared to be contraband as follows:

- Food or clothing given or transmitted, or intended to be given or transmitted, to any youth in a juvenile detention facility or commitment program.
- Any currency or coin given or transmitted, to any youth of any juvenile detention facility or commitment program.
- Any cigarettes, or tobacco products, given or intended to be given, to any youth in a juvenile detention facility or commitment program.

The bill provides that introducing contraband into DJJ facilities is a second degree felony.

The bill is effective on 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 will have an indeterminate fiscal impact at this time. However, since the bill could result in additional youth in secure detention, operating costs for non-fiscally constrained counties could increase in relation to their portion of the annual Detention Cost Share billings. The impact on expenditures is indeterminate at this time. However, several provisions within the bill could result in increased operating costs for the department. While the full fiscal impact would be based on the increased number of youth served by department program areas due to the statutory changes within the bill, the current secure detention cost per day for the department is \$460.16/youth, and the

average per diem for contracted residential programs is \$276/youth for nonsecure programs and \$307/youth for secure programs.³⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 790.115, 790.22, 985.101, 985.12, 985.125, 985.126, 985.245, 985.25, 985.255, 985.26, 985.433, 985.435, 985.438, 985.439, 985.455, 985.46, 985.48, 985.4815, 985.601, 985.711, 1002.221, 943.051, 985.11, and 1006.07.

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 30, 2024:

The committee substitute:

- Deletes unnecessary duplicate language.
- Makes technical nonsubstantive changes to maintain consistent terminology throughout the bill.

B. Amendments:

None.

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

³⁴ Department of Juvenile Justice, *2024 Agency Legislative Bill Analysis*, (January 12, 2024), at 9 (on file with the Senate Committee on Criminal Justice).



563204

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2024	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (4) of section 790.115, Florida
Statutes, is amended to read:

790.115 Possessing or discharging weapons or firearms at a
school-sponsored event or on school property prohibited;
penalties; exceptions.—

~~(4) Notwithstanding s. 985.24, s. 985.245, or s. 985.25(1),~~



563204

~~any minor under 18 years of age who is charged under this section with possessing or discharging a firearm on school property shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a probable cause hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention for a period of 21 days, during which time the minor shall receive medical, psychiatric, psychological, or substance abuse examinations pursuant to s. 985.18, and a written report shall be completed.~~

Section 2. Subsections (1), (5), (8), (9), and (10) of section 790.22, Florida Statutes, are amended, and subsection (3) of that section is republished, to read:

790.22 Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.-

(1) The use for any purpose whatsoever of BB guns, air or gas-operated guns, or electric weapons or devices, by any minor under the age of 16 years is prohibited unless such use is under the supervision and in the presence of an adult who is acting with the consent of the minor's parent or guardian.

(3) A minor under 18 years of age may not possess a firearm, other than an unloaded firearm at his or her home, unless:

(a) The minor is engaged in a lawful hunting activity and is:

1. At least 16 years of age; or
2. Under 16 years of age and supervised by an adult.

(b) The minor is engaged in a lawful marksmanship



563204

competition or practice or other lawful recreational shooting activity and is:

1. At least 16 years of age; or

2. Under 16 years of age and supervised by an adult who is acting with the consent of the minor's parent or guardian.

(c) The firearm is unloaded and is being transported by the minor directly to or from an event authorized in paragraph (a) or paragraph (b).

(5)~~(a)~~ A minor who violates subsection (3) commits a felony ~~misdemeanor~~ of the third ~~first~~ degree; for a first offense, shall ~~may~~ serve a period of ~~detention of up to~~ 5 days in a secure detention facility, with credit for time served in secure detention prior to disposition; ~~and, in addition to any other penalty provided by law,~~ shall be required to perform 100 hours of community service or paid work as determined by the department. For a second violation of subsection (3), a minor shall serve 21 days in a secure detention facility, with credit for time served in secure detention prior to disposition; and shall be required to perform not less than 100 nor more than 250 hours of community service or paid work as determined by the department. For a third or subsequent violation of subsection (3), a minor shall be adjudicated delinquent and committed to a residential program. In addition to the penalties for a first offense and a second or subsequent offense under subsection (3) ~~and~~ and:

(a)1. If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving



563204

privilege for up to 1 year for a first offense and up to 2 years
for a second or subsequent offense.

(b)2- If the minor's driver license or driving privilege is
under suspension or revocation for any reason, the court may
direct the Department of Highway Safety and Motor Vehicles to
extend the period of suspension or revocation by an additional
period of up to 1 year for a first offense and up to 2 years for
a second or subsequent offense.

(c)3- If the minor is ineligible by reason of age for a
driver license or driving privilege, the court may direct the
Department of Highway Safety and Motor Vehicles to withhold
issuance of the minor's driver license or driving privilege for
up to 1 year after the date on which the minor would otherwise
have become eligible for a first offense and up to 2 years for a
second or subsequent offense.

~~(b) For a second or subsequent offense, a minor who
violates subsection (3) commits a felony of the third degree and
shall serve a period of detention of up to 21 days in a secure
detention facility and shall be required to perform not less
than 100 nor more than 250 hours of community service, and:~~

~~1. If the minor is eligible by reason of age for a driver
license or driving privilege, the court may direct the
Department of Highway Safety and Motor Vehicles to revoke or to
withhold issuance of the minor's driver license or driving
privilege for up to 2 years.~~

~~2. If the minor's driver license or driving privilege is
under suspension or revocation for any reason, the court may
direct the Department of Highway Safety and Motor Vehicles to
extend the period of suspension or revocation by an additional~~



563204

~~period of up to 2 years.~~

~~3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.~~

For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

~~(8) Notwithstanding s. 985.24 or s. 985.25(1), if a minor is charged with an offense that involves the use or possession of a firearm, including a violation of subsection (3), or is charged for any offense during the commission of which the minor possessed a firearm, the minor shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention in accordance with the applicable time periods specified in s. 985.26(1)-(5), if the court finds that the minor meets the criteria specified in s. 985.255, or if the court finds by clear and convincing evidence that the minor is a clear and present danger to himself or herself or the community. The Department of Juvenile Justice shall prepare a form for all minors charged under this subsection which states the period of detention and the relevant demographic information, including, but not limited~~



563204

~~to, the gender, age, and race of the minor; whether or not the
minor was represented by private counsel or a public defender;
the current offense; and the minor's complete prior record,
including any pending cases. The form shall be provided to the
judge for determining whether the minor should be continued in
secure detention under this subsection. An order placing a minor
in secure detention because the minor is a clear and present
danger to himself or herself or the community must be in
writing, must specify the need for detention and the benefits
derived by the minor or the community by placing the minor in
secure detention, and must include a copy of the form provided
by the department.~~

~~(9) Notwithstanding s. 985.245, if the minor is found to
have committed an offense that involves the use or possession of
a firearm, as defined in s. 790.001, other than a violation of
subsection (3), or an offense during the commission of which the
minor possessed a firearm, and the minor is not committed to a
residential commitment program of the Department of Juvenile
Justice, in addition to any other punishment provided by law,
the court shall order:~~

~~(a) For a first offense, that the minor shall serve a
minimum period of detention of 15 days in a secure detention
facility; and~~

~~1. Perform 100 hours of community service; and may
2. Be placed on community control or in a nonresidential
commitment program.~~

~~(b) For a second or subsequent offense, that the minor
shall serve a mandatory period of detention of at least 21 days
in a secure detention facility; and~~



563204

~~1. Perform not less than 100 nor more than 250 hours of community service; and may~~

~~2. Be placed on community control or in a nonresidential commitment program.~~

~~The minor shall not receive credit for time served before adjudication. For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.~~

~~(10) If a minor is found to have committed an offense under subsection (9), the court shall impose the following penalties in addition to any penalty imposed under paragraph (9)(a) or paragraph (9)(b):~~

~~(a) For a first offense:~~

~~1. If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year.~~

~~2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 1 year.~~

~~3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for~~



563204

~~up to 1 year after the date on which the minor would otherwise have become eligible.~~

~~(b) For a second or subsequent offense:~~

~~1. If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 2 years.~~

~~2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 2 years.~~

~~3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.~~

Section 3. Paragraph (d) of subsection (1) of section 985.101, Florida Statutes, is amended to read:

985.101 Taking a child into custody.—

(1) A child may be taken into custody under the following circumstances:

(d) By a law enforcement officer who has probable cause to believe that the child is in violation of the conditions of the child's probation, supervised release detention, ~~postcommitment probation~~, or conditional release supervision; has absconded from nonresidential commitment; or has escaped from residential



563204

commitment.

Nothing in this subsection shall be construed to allow the detention of a child who does not meet the detention criteria in part V.

Section 4. Section 985.12, Florida Statutes, is amended to read:

985.12 Prearrest delinquency ~~Civil citation or similar prearrest diversion~~ programs.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that the creation and implementation of any prearrest delinquency ~~civil citation or similar prearrest diversion~~ programs at the judicial circuit level promotes public safety, aids interagency cooperation, and provides the greatest chance of success for prearrest delinquency ~~civil citation and similar prearrest diversion~~ programs. The Legislature further finds that the widespread use of prearrest delinquency ~~civil citation and similar prearrest diversion~~ programs has a positive effect on the criminal justice system by immediately holding youth accountable for their actions and contributes to an overall reduction in the crime rate and recidivism in the state. The Legislature encourages but does not mandate that counties, municipalities, and public or private educational institutions participate in a prearrest delinquency ~~civil citation or similar prearrest diversion~~ program created by their judicial circuit under this section.

(2) JUDICIAL CIRCUIT DELINQUENCY ~~CIVIL CITATION OR SIMILAR PREARREST DIVERSION~~ PROGRAM DEVELOPMENT, IMPLEMENTATION, AND OPERATION.—



563204

(a) A prearrest delinquency civil citation ~~or similar prearrest diversion~~ program for misdemeanor offenses shall be established in each judicial circuit in the state. The state attorney and public defender of each circuit, the clerk of the court for each county in the circuit, and representatives of participating law enforcement agencies in the circuit shall create a prearrest delinquency civil citation ~~or similar prearrest diversion~~ program and develop its policies and procedures. In developing the program's policies and procedures, input from other interested stakeholders may be solicited. The department shall annually develop and provide guidelines on best practice models for prearrest delinquency civil citation ~~or similar prearrest diversion~~ programs to the judicial circuits as a resource.

(b) Each judicial circuit's prearrest delinquency civil citation ~~or similar prearrest diversion~~ program must specify all of the following:

1. The misdemeanor offenses that qualify a juvenile for participation in the program. Offenses involving the use or possession of a firearm do not qualify for a prearrest delinquency citation program.†

2. The eligibility criteria for the program.†

3. The program's implementation and operation.†

4. The program's requirements, including, but not limited to, the completion of community service hours, payment of restitution, if applicable, classes established by the department or the prearrest delinquency citation program, and intervention services indicated by a needs assessment of the juvenile, approved by the department, such as family counseling,



563204

urinalysis monitoring, and substance abuse and mental health treatment services. ~~and~~

5. A program fee, if any, to be paid by a juvenile participating in the program. If the program imposes a fee, the clerk of the court of the applicable county must receive a reasonable portion of the fee.

(c) The state attorney of each circuit shall operate a prearrest delinquency civil citation ~~or similar prearrest diversion~~ program in each circuit. A sheriff, police department, county, municipality, locally authorized entity, or public or private educational institution may ~~continue to~~ operate an independent prearrest delinquency civil citation ~~or similar prearrest diversion~~ program ~~that is in operation as of October 1, 2018,~~ if the independent program is reviewed by the state attorney of the applicable circuit and he or she determines that the independent program is substantially similar to the prearrest delinquency civil citation ~~or similar prearrest diversion~~ program developed by the circuit. If the state attorney determines that the independent program is not substantially similar to the prearrest delinquency civil citation ~~or similar prearrest diversion~~ program developed by the circuit, the operator of the independent ~~diversion~~ program may revise the program and the state attorney may conduct an additional review of the independent program. A civil citation or similar prearrest diversion program existing before July 1, 2024, shall be deemed a delinquency citation program authorized by this section if the civil citation or similar prearrest diversion program has been approved by the state attorney of the circuit in which it operates and it complies with the



563204

requirements in paragraph (2)(b).

~~(d) A judicial circuit may model an existing sheriff's, police department's, county's, municipality's, locally authorized entity's, or public or private educational institution's independent civil citation or similar prearrest diversion program in developing the civil citation or similar prearrest diversion program for the circuit.~~

~~(d)(e)~~ If a juvenile does not successfully complete the prearrest delinquency civil citation or similar prearrest diversion program, the arresting law enforcement officer shall determine if there is good cause to arrest the juvenile for the original misdemeanor offense and refer the case to the state attorney to determine if prosecution is appropriate or allow the juvenile to continue in the program.

~~(e)(f)~~ Each prearrest delinquency civil citation or similar prearrest diversion program shall enter the appropriate youth data into the Juvenile Justice Information System Prevention Web within 7 days after the admission of the youth into the program.

~~(f)(g)~~ At the conclusion of a juvenile's prearrest delinquency civil citation or similar prearrest diversion program, the state attorney or operator of the independent program shall report the outcome to the department. The issuance of a prearrest delinquency civil citation or similar prearrest diversion program notice is not considered a referral to the department.

~~(g)(h)~~ Upon issuing a prearrest delinquency civil citation or similar prearrest diversion program notice, the law enforcement officer shall send a copy of the prearrest delinquency civil citation or similar prearrest diversion



563204

program notice to the parent or guardian of the child and to the victim.

Section 5. Section 985.125, Florida Statutes, is amended to read:

985.125 ~~Prearrest or~~ Postarrest diversion programs.—

(1) A law enforcement agency ~~or school district~~, in cooperation with the state attorney, may establish a ~~prearrest or~~ postarrest diversion program.

(2) As part of the ~~prearrest or~~ postarrest diversion program, a child who is alleged to have committed a delinquent act may be required to surrender his or her driver license, or refrain from applying for a driver license, for not more than 90 days. If the child fails to comply with the requirements of the program, the state attorney may notify the Department of Highway Safety and Motor Vehicles in writing to suspend the child's driver license for a period that may not exceed 90 days.

Section 6. Subsections (5) and (6) of section 985.126, Florida Statutes, are renumbered as subsections (6) and (7), respectively, subsections (3) and (4) of that section are amended, and a new subsection (5) is added to that section, to read:

985.126 Prearrest and postarrest diversion programs; data collection; denial of participation or expunged record.—

(3) (a) ~~Beginning October 1, 2018,~~ Each diversion program shall submit data to the department which identifies for each minor participating in the diversion program:

1. The race, ethnicity, gender, and age of that minor.
2. The offense committed, including the specific law establishing the offense.



563204

3. The judicial circuit and county in which the offense was committed and the law enforcement agency that had contact with the minor for the offense.

4. Other demographic information necessary to properly register a case into the Juvenile Justice Information System Prevention Web, as specified by the department.

(b) ~~Beginning October 1, 2018,~~ Each law enforcement agency shall submit to the department data for every minor charged for the first-time, who is charged with a misdemeanor, and who was that identifies for each minor who was eligible for a diversion program, but was instead referred to the department, provided a notice to appear, or arrested:

1. The data required pursuant to paragraph (a).

2. Whether the minor was offered the opportunity to participate in a diversion program. If the minor was:

a. Not offered such opportunity, the reason such offer was not made.

b. Offered such opportunity, whether the minor or his or her parent or legal guardian declined to participate in the diversion program.

(c) The data required pursuant to paragraph (a) shall be entered into the Juvenile Justice Information System Prevention Web within 7 days after the youth's admission into the program.

(d) The data required pursuant to paragraph (b) shall be submitted on or with the arrest affidavit or notice to appear.

(4) ~~Beginning January 1, 2019,~~ The department shall compile and semiannually publish the data required by subsection (3) on the department's website in a format that is, at a minimum, sortable by judicial circuit, county, law enforcement agency,



563204

race, ethnicity, gender, age, and offense committed.

(5) The department shall provide a quarterly report to be published on its website and distributed to the Governor, President of the Senate, and Speaker of the House of Representatives listing the entities that use prearrest delinquency citations for less than 70 percent of first-time misdemeanor offenses.

Section 7. Subsection (4) of section 985.245, Florida Statutes, is amended to read:

985.245 Risk assessment instrument.—

(4) For a child who is under the supervision of the department through probation, supervised release detention, conditional release, ~~postcommitment probation~~, or commitment and who is charged with committing a new offense, the risk assessment instrument may be completed and scored based on the underlying charge for which the child was placed under the supervision of the department.

Section 8. Subsection (1) of section 985.25, Florida Statutes, is amended to read:

985.25 Detention intake.—

(1) The department shall receive custody of a child who has been taken into custody from the law enforcement agency or court and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be necessary to determine whether detention care is appropriate.

(a) During the period of time from the taking of the child into custody to the date of the detention hearing, the initial decision as to the child's placement into detention care shall be made by the department under ss. 985.24 and 985.245(1).



563204

(b) The department shall base the decision whether to place the child into detention care on an assessment of risk in accordance with the risk assessment instrument and procedures developed by the department under s. 985.245, except that a child shall be placed in secure detention care until the child's detention hearing if the child meets the criteria specified in s. 985.255(1)(f), ~~is charged with possessing or discharging a firearm on school property in violation of s. 790.115,~~ or is charged with any other offense involving the possession or use of a firearm.

(c) If the final score on the child's risk assessment instrument indicates detention care is appropriate, but the department otherwise determines the child should be released, the department shall contact the state attorney, who may authorize release.

(d) If the final score on the risk assessment instrument indicates detention is not appropriate, the child may be released by the department in accordance with ss. 985.115 and 985.13.

(e) Notwithstanding any other provision of law, a child who is arrested for violating the terms of his or her electronic monitoring supervision or his or her supervised release shall be placed in secure detention until his or her detention hearing.

(f) Notwithstanding any other provision of law, a child on probation for an underlying felony firearm offense in chapter 790 and who is taken into custody under s. 985.101 for violating conditions of probation not involving a new law violation shall be held in secure detention to allow the state attorney to review the violation. If, within 21 days, the state attorney



563204

notifies the court that commitment will be sought, then the child shall remain in secure detention pending proceedings under s. 985.439 until the initial 21-day period of secure detention has expired. Upon motion of the state attorney, the child may be held for an additional 21-day period if the court finds that the totality of the circumstances, including the preservation of public safety, warrants such extension. Any release from secure detention shall result in the child being held on supervised release with electronic monitoring pending proceedings under s. 985.439.

Under no circumstances shall the department or the state attorney or law enforcement officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults, without an order of the court.

Section 9. Paragraph (a) of subsection (1) and subsection (3) of section 985.255, Florida Statutes, are amended, and paragraphs (g) and (h) are added to subsection (1) of that section, to read:

985.255 Detention criteria; detention hearing.—

(1) Subject to s. 985.25(1), a child taken into custody and placed into detention care shall be given a hearing within 24 hours after being taken into custody. At the hearing, the court may order a continued detention status if:

(a) The result of the risk assessment instrument pursuant to s. 985.245 indicates secure or supervised release detention or the court makes the findings required under paragraph (3) (b).

(g) The court finds probable cause at the detention hearing that the child committed one or more of the following offenses:



563204

475 1. Murder in the first degree under s. 782.04(1)(a).
476 2. Murder in the second degree under s. 782.04(2).
477 3. Armed robbery under s. 812.13(2)(a) that involves the
478 use or possession of a firearm as defined in s. 790.001.
479 4. Armed carjacking under s. 812.133(2)(a) that involves
480 the use or possession of a firearm as defined in s. 790.001.
481 5. Having a firearm while committing a felony under s.
482 790.07(2).
483 6. Armed burglary under s. 810.02(2)(b) that involves the
484 use or possession of a firearm as defined in s. 790.001.
485 7. Delinquent in possession of a firearm under s.
486 790.23(1)(b).
487 8. An attempt to commit any offense listed in this
488 paragraph under s. 777.04.
489 (h) For a child who meets the criteria in paragraph (g):
490 1. There is a presumption that the child presents a risk to
491 public safety and danger to the community and such child must be
492 held in secure detention prior to an adjudicatory hearing,
493 unless the court enters a written order that the child would not
494 present a risk to public safety or a danger to the community if
495 he or she were placed on supervised release detention care.
496 2. The written order releasing a child from secure
497 detention must be based on clear and convincing evidence why the
498 child does not present a risk to public safety or a danger to
499 the community and must list the child's prior adjudications,
500 dispositions, and prior violations of pretrial release orders. A
501 court releasing a child from secure detention under this
502 subparagraph shall place the child on supervised release
503 detention care with electronic monitoring until the child's



563204

adjudicatory hearing.

3. If an adjudicatory hearing has not taken place after 60 days of secure detention for a child held in secure detention under this paragraph, the court must prioritize the efficient disposition of cases and hold a review hearing within each successive 7-day review period until the adjudicatory hearing or until the child is placed on supervised release with electronic monitoring under subparagraph 2.

4. If the court, under this section, releases a child to supervised release detention care, the court must provide a copy of the written order to the victim, to the law enforcement agency that arrested the child, and to the law enforcement agency with primary jurisdiction over the child's primary residence.

(3) (a) The purpose of the detention hearing required under subsection (1) is to determine the existence of probable cause that the child has committed the delinquent act or violation of law that he or she is charged with and the need for continued detention. The court shall consider ~~use~~ the results of the risk assessment performed by the department and, based on the criteria in subsection (1), shall determine the need for continued detention. If the child is a prolific juvenile offender who is detained under s. 985.26(2)(c), the court shall consider ~~use~~ the results of the risk assessment performed by the department and the criteria in subsection (1) or subsection (2) only to determine whether the prolific juvenile offender should be held in secure detention.

(b) ~~If~~ The court may order ~~orders~~ a placement more or less restrictive than indicated by the results of the risk assessment



563204

instrument, and, if the court does so, shall state, in writing, clear and convincing reasons for such placement.

(c) Except as provided in ~~s. 790.22(8)~~ or s. 985.27, when a child is placed into detention care, or into a respite home or other placement pursuant to a court order following a hearing, the court order must include specific instructions that direct the release of the child from such placement no later than 5 p.m. on the last day of the detention period specified in s. 985.26 or s. 985.27, whichever is applicable, unless the requirements of such applicable provision have been met or an order of continuance has been granted under s. 985.26(4). If the court order does not include a release date, the release date shall be requested from the court on the same date that the child is placed in detention care. If a subsequent hearing is needed to provide additional information to the court for safety planning, the initial order placing the child in detention care shall reflect the next detention review hearing, which shall be held within 3 calendar days after the child's initial detention placement.

Section 10. Paragraph (b) of subsection (2) of section 985.26, Florida Statutes, is amended to read:

985.26 Length of detention.—

(2)

(b) The court may order the child to be held in secure detention beyond 21 days under the following circumstances:

1. Upon good cause being shown that the nature of the charge requires additional time for the prosecution or defense of the case or that the totality of the circumstances, including the preservation of public safety, warrants an extension, the



563204

court may extend the length of secure detention care for up to an additional 21 days if the child is charged with an offense which, if committed by an adult, would be a capital felony, a life felony, a felony of the first degree or the second degree, a felony of the third degree involving violence against any individual, or any other offense involving the possession or use of a firearm. Except as otherwise provided in subparagraph 2., the court may continue to extend the period of secure detention care in increments of up to 21 days each by conducting a hearing before the expiration of the current period to determine the need for continued secure detention of the child. At the hearing, the court must make the required findings in writing to extend the period of secure detention. If the court extends the time period for secure detention care, it shall ensure an adjudicatory hearing for the case commences as soon as is reasonably possible considering the totality of the circumstances. The court shall prioritize the efficient disposition of cases in which the child has served 60 or more days in secure detention care.

2. When the child is being held in secure detention under s. 985.255(1)(g), and subject to s. 985.255(1)(h).

Section 11. Paragraph (d) is added to subsection (7) of section 985.433, Florida Statutes, and subsections (8) and (9) of that section are amended, to read:

985.433 Disposition hearings in delinquency cases.—When a child has been found to have committed a delinquent act, the following procedures shall be applicable to the disposition of the case:

(7) If the court determines that the child should be



563204

adjudicated as having committed a delinquent act and should be committed to the department, such determination shall be in writing or on the record of the hearing. The determination shall include a specific finding of the reasons for the decision to adjudicate and to commit the child to the department, including any determination that the child was a member of a criminal gang.

(d) Any child adjudicated by the court and committed to the department under a restrictiveness level described in s. 985.03(44) (a)-(d), for any offense or attempted offense involving a firearm must be placed on conditional release, as defined in s. 985.03, for a period of 1 year following his or her release from a commitment program. Such term of conditional release shall include electronic monitoring of the child by the department for the initial 6 months following his or her release and at times and under terms and conditions set by the department.

(8) If the court determines not to adjudicate and commit to the department, then the court shall determine what community-based sanctions it will impose in a probation program for the child. Community-based sanctions may include, but are not limited to, participation in substance abuse treatment, a day-treatment probation program, restitution in money or in kind, a curfew, revocation or suspension of the driver license of the child, community service, and appropriate educational programs as determined by the district school board.

(a)1. Where a child is found to have committed an offense that involves the use or possession of a firearm, as defined in s. 790.001, other than a violation of s. 790.22(3), or is found



563204

to have committed an offense during the commission of which the
child possessed a firearm, and the court has decided not to
commit the child to a residential program, the court shall order
the child, in addition to any other punishment provided by law,
to:

a. Serve a period of detention of 30 days in a secure
detention facility, with credit for time served in secure
detention prior to disposition.

b. Perform 100 hours of community service or paid work as
determined by the department.

c. Be placed on probation for a period of at least 1 year.
Such term of probation shall include electronic monitoring of
the child by the department at times and under terms and
conditions set by the department.

2. In addition to the penalties in subparagraph 1., the
court may impose the following restrictions upon the child's
driving privileges:

a. If the child is eligible by reason of age for a driver
license or driving privilege, the court may direct the
Department of Highway Safety and Motor Vehicles to revoke or to
withhold issuance of the child's driver license or driving
privilege for up to 1 year.

b. If the child's driver license or driving privilege is
under suspension or revocation for any reason, the court may
direct the Department of Highway Safety and Motor Vehicles to
extend the period of suspension or revocation by an additional
period for up to 1 year.

c. If the child is ineligible by reason of age for a driver
license or driving privilege, the court may direct the



563204

Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the child would otherwise have become eligible.

For the purposes of this paragraph, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

(b) A child who has previously had adjudication withheld for any of the following offenses shall not be eligible for a second or subsequent withhold of adjudication if he or she is subsequently found to have committed any of the following offenses, and must be adjudicated delinquent and committed to a residential program:

1. Armed robbery involving a firearm under s. 812.13(2)(a).

2. Armed carjacking under s. 812.133(2)(a) involving the use or possession of a firearm as defined in s. 790.001.

3. Having a firearm while committing a felony under s. 790.07(2).

4. Armed burglary under s. 810.02(2)(b) involving the use or possession of a firearm as defined in s. 790.001.

5. Delinquent in possession of a firearm under s. 790.23(1)(b).

6. An attempt to commit any offense listed in this paragraph under s. 777.04.

(9) After appropriate sanctions for the offense are determined, including any minimum sanctions required by this section, the court shall develop, approve, and order a plan of



563204

probation that will contain rules, requirements, conditions, and rehabilitative programs, including the option of a day-treatment probation program, that are designed to encourage responsible and acceptable behavior and to promote both the rehabilitation of the child and the protection of the community.

Section 12. Subsections (1), (3), and (4) of section 985.435, Florida Statutes, are amended to read:

985.435 Probation ~~and postcommitment probation~~; community service.—

(1) The court that has jurisdiction over an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing, place the child in a probation program ~~or a postcommitment probation program~~. Such placement must be under the supervision of an authorized agent of the department or of any other person or agency specifically authorized and appointed by the court, whether in the child's own home, in the home of a relative of the child, or in some other suitable place under such reasonable conditions as the court may direct.

(3) A probation program must also include a rehabilitative program component such as a requirement of participation in substance abuse treatment or in a school or career and technical education program. The nonconsent of the child to treatment in a substance abuse treatment program in no way precludes the court from ordering such treatment. Upon the recommendation of the department at the time of disposition, or subsequent to disposition pursuant to the filing of a petition alleging a violation of the child's conditions of ~~postcommitment~~ probation,



563204

the court may order the child to submit to random testing for the purpose of detecting and monitoring the use of alcohol or controlled substances.

(4) A probation program must ~~may also~~ include an alternative consequence component to address instances in which a child is noncompliant with technical conditions of his or her probation but has not committed any new violations of law. The alternative consequence component must be aligned with the department's graduated response matrix as described in s. 985.438 ~~Each judicial circuit shall develop, in consultation with judges, the state attorney, the public defender, the regional counsel, relevant law enforcement agencies, and the department, a written plan specifying the alternative consequence component which must be based upon the principle that sanctions must reflect the seriousness of the violation, the assessed criminogenic needs and risks of the child, the child's age and maturity level, and how effective the sanction or incentive will be in moving the child to compliant behavior. The alternative consequence component is designed to provide swift and appropriate consequences or incentives to a child who is alleged to be noncompliant with or in violation of probation. If the probation program includes this component, specific consequences that apply to noncompliance with specific technical conditions of probation, as well as incentives used to move the child toward compliant behavior, must be detailed in the disposition order.~~

Section 13. Section 985.438, Florida Statutes, is created to read:

985.438 Graduated response matrix.—



563204

(1) The department shall create and administer a statewide plan to hold youths accountable to the terms of their court ordered probation and the terms of their conditional release. The plan must be based upon the principle that sanctions must reflect the seriousness of the violation, provide immediate accountability for violations, the assessed criminogenic needs and risks of the child, and the child's age and maturity level. The plan is designed to provide swift and appropriate consequences or incentives to a child who is alleged to be noncompliant with or in violation of his or her probation.

(2) The graduated response matrix shall outline sanctions for youth based on their risk to reoffend and shall include, but not be limited to:

(a) Increased contacts.

(b) Increased drug tests.

(c) Curfew reductions.

(d) Increased community service.

(e) Additional evaluations.

(f) Addition of electronic monitoring.

(3) The graduated response matrix shall be adopted in rule by the department.

Section 14. Section 985.439, Florida Statutes, is amended to read:

985.439 Violation of probation ~~or postcommitment~~
~~probation.~~—

(1)(a) This section is applicable when the court has jurisdiction over a child on probation ~~or postcommitment~~
~~probation~~, regardless of adjudication.

(b) If the conditions of the probation program ~~or the~~



563204

~~postcommitment probation program~~ are violated, the department or the state attorney may bring the child before the court on a petition alleging a violation of the program. A child who violates the conditions of probation ~~or postcommitment probation~~ must be brought before the court if sanctions are sought.

(c) Upon receiving notice of a violation of probation from the department, the state attorney must file the violation within 5 days or provide in writing to the department and the court the reason as to why he or she is not filing.

(2) A child taken into custody under s. 985.101 for violating the conditions of probation shall be screened and detained or released based on his or her risk assessment instrument score.

(3) If the child denies violating the conditions of probation ~~or postcommitment probation~~, the court shall, upon the child's request, appoint counsel to represent the child.

(4) Upon the child's admission, or if the court finds after a hearing that the child has violated the conditions of probation ~~or postcommitment probation~~, the court shall enter an order revoking, modifying, or continuing probation ~~or postcommitment probation~~. In each such case, the court shall enter a new disposition order and, in addition to the sanctions set forth in this section, may impose any sanction the court could have imposed at the original disposition hearing. If the child is found to have violated the conditions of probation ~~or postcommitment probation~~, the court may:

(a) Place the child in supervised release detention with electronic monitoring.

(b) If the violation of probation is technical in nature



563204

and not a new violation of law, place the child in an alternative consequence program designed to provide swift and appropriate consequences to any further violations of probation.

~~1. Alternative consequence programs shall be established, within existing resources, at the local level in coordination with law enforcement agencies, the chief judge of the circuit, the state attorney, and the public defender.~~

~~2. Alternative consequence programs may be operated by an entity such as a law enforcement agency, the department, a juvenile assessment center, a county or municipality, or another entity selected by the department.~~

~~3. Upon placing a child in an alternative consequence program, the court must approve specific consequences for specific violations of the conditions of probation.~~

(c) Modify or continue the child's probation program ~~or postcommitment probation program.~~

(d) Revoke probation ~~or postcommitment probation~~ and commit the child to the department.

(e) Allow the department to place a child on electronic monitoring for a violation of probation if it determines doing so will preserve and protect public safety.

(5) Upon the recommendation of the department at the time of disposition, or subsequent to disposition pursuant to the filing of a petition alleging a violation of the child's conditions of ~~postcommitment~~ probation, the court may order the child to submit to random testing for the purpose of detecting and monitoring the use of alcohol or controlled substances.

Section 15. Subsection (5) is added to section 985.455, Florida Statutes, to read:



563204

985.455 Other dispositional issues.—

(5) If the court orders revocation or suspension of a child's driver license as part of a disposition, the court may, upon finding a compelling circumstance to warrant an exception, direct the Department of Highway Safety and Motor Vehicles to issue a license for driving privileges restricted to business or employment purposes only, as defined in s. 322.271.

Section 16. Subsections (2), (3), and (5) of section 985.46, Florida Statutes, are amended, and subsection (6) is added to that section, to read:

985.46 Conditional release.—

(2) It is the intent of the Legislature that:

(a) Commitment programs include rehabilitative efforts on preparing committed juveniles for a successful release to the community.

(b) Conditional release transition planning begins as early in the commitment process as possible.

(c) Each juvenile committed to a residential commitment program receive conditional release services ~~be assessed to determine the need for conditional release services~~ upon release from the commitment program unless the juvenile is directly released by the court.

(3) For juveniles referred or committed to the department, the function of the department may include, but shall not be limited to, supervising each juvenile on conditional release ~~when assessing each juvenile placed in a residential commitment program to determine the need for conditional release services~~ upon release from the program, ~~supervising the juvenile when~~ released into the community from a residential commitment



563204

facility of the department, providing such counseling and other services as may be necessary for the families and assisting their preparations for the return of the child. Subject to specific appropriation, the department shall provide for outpatient sexual offender counseling for any juvenile sexual offender released from a residential commitment program as a component of conditional release.

(5) Conditional release supervision shall contain, at a minimum, the following conditions:

(a) ~~(5)~~ Participation in the educational program by students of compulsory school attendance age pursuant to s. 1003.21(1) and (2) (a) is mandatory for juvenile justice youth on conditional release or postcommitment probation status. A student of noncompulsory school-attendance age who has not received a high school diploma or its equivalent must participate in an educational program or career and technical education course of study. A youth who has received a high school diploma or its equivalent and is not employed must participate in workforce development or other career or technical education or attend a community college or a university while in the program, ~~subject to available funding.~~

(b) A curfew.

(c) A prohibition on contact with victims, co-defendants, or known gang members.

(d) A prohibition on use of controlled substances.

(e) A prohibition on possession of firearms.

(6) A youth who violates the terms of his or her conditional release shall be assessed using the graduated response matrix as described in s. 985.438. A youth who fails to



563204

move into compliance shall be recommitted to a residential facility.

Section 17. Paragraph (c) of subsection (1) of section 985.48, Florida Statutes, is amended to read:

985.48 Juvenile sexual offender commitment programs; sexual abuse intervention networks.—

(1) In order to provide intensive treatment and psychological services to a juvenile sexual offender committed to the department, it is the intent of the Legislature to establish programs and strategies to effectively respond to juvenile sexual offenders. In designing programs for juvenile sexual offenders, it is the further intent of the Legislature to implement strategies that include:

(c) Providing intensive ~~postcommitment~~ supervision of juvenile sexual offenders who are released into the community with terms and conditions which may include electronic monitoring of a juvenile sexual offender for the purpose of enhancing public safety.

Section 18. Paragraph (a) of subsection (6) of section 985.4815, Florida Statutes, is amended to read:

985.4815 Notification to Department of Law Enforcement of information on juvenile sexual offenders.—

(6)(a) The information provided to the Department of Law Enforcement must include the following:

1. The information obtained from the sexual offender under subsection (4).

2. The sexual offender's most current address and place of permanent, temporary, or transient residence within the state or out of state, and address, location or description, and dates of



563204

any current or known future temporary residence within the state or out of state, while the sexual offender is in the care or custody or under the jurisdiction or supervision of the department in this state, including the name of the county or municipality in which the offender permanently or temporarily resides, or has a transient residence, and address, location or description, and dates of any current or known future temporary residence within the state or out of state; and, if known, the intended place of permanent, temporary, or transient residence, and address, location or description, and dates of any current or known future temporary residence within the state or out of state upon satisfaction of all sanctions.

3. The legal status of the sexual offender and the scheduled termination date of that legal status.

4. The location of, and local telephone number for, any department office that is responsible for supervising the sexual offender.

5. An indication of whether the victim of the offense that resulted in the offender's status as a sexual offender was a minor.

6. The offense or offenses at adjudication and disposition that resulted in the determination of the offender's status as a sex offender.

7. A digitized photograph of the sexual offender, which must have been taken within 60 days before the offender was released from the custody of the department or a private correctional facility by expiration of sentence under s. 944.275, or within 60 days after the onset of the department's supervision of any sexual offender who is on probation,



563204

~~postcommitment probation,~~ residential commitment, nonresidential commitment, licensed child-caring commitment, community control, conditional release, parole, provisional release, or control release or who is supervised by the department under the Interstate Compact Agreement for Probationers and Parolees. If the sexual offender is in the custody of a private correctional facility, the facility shall take a digitized photograph of the sexual offender within the time period provided in this subparagraph and shall provide the photograph to the department.

Section 19. Subsection (11) of section 985.601, Florida Statutes, is renumbered as subsection (12), and a new subsection (11) is added to that section, to read:

985.601 Administering the juvenile justice continuum.—

(11) The department shall establish a class focused on the risk and consequences of youthful firearm offending which shall be provided by the department to any youth who has been adjudicated or had adjudication withheld for any offense involving the use or possession of a firearm.

Section 20. Section 985.711, Florida Statutes, is amended to read:

985.711 Introduction, removal, or possession of certain articles unlawful; penalty.—

(1)(a) Except as authorized through program policy or operating procedure or as authorized by the facility superintendent, program director, or manager, a person may not introduce into or upon the grounds of a juvenile detention facility or commitment program, or take or send, or attempt to take or send, from a juvenile detention facility or commitment program, any of the following articles, which are declared to be



563204

contraband under this section:

1. Any unauthorized article of food or clothing given or transmitted, or intended to be given or transmitted, to any youth in a juvenile detention facility or commitment program.

2. Any intoxicating beverage or any beverage that causes or may cause an intoxicating effect.

3. Any controlled substance as defined in s. 893.02(4), marijuana as defined in s. 381.986, hemp as defined in s. 581.217, industrial hemp as defined in s. 1004.4473, or any prescription or nonprescription drug that has a hypnotic, stimulating, or depressing effect.

4. Any firearm or weapon of any kind or any explosive substance.

5. Any cellular telephone or other portable communication device as described in s. 944.47(1)(a)6., intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program. As used in this subparagraph, the term "portable communication device" does not include any device that has communication capabilities which has been approved or issued by the facility superintendent, program director, or manager.

6. Any vapor-generating electronic device as defined in s. 386.203, intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program.

7. Any currency or coin given or transmitted, or intended to be given or transmitted, to any youth in any juvenile detention facility or commitment program.

8. Any cigarettes, as defined in s. 210.01(1) or tobacco



563204

products, as defined in s. 210.25, given, or intended to be
given, to any youth in a juvenile detention facility or
commitment program.

(b) A person may not transmit contraband to, cause contraband to be transmitted to or received by, attempt to transmit contraband to, or attempt to cause contraband to be transmitted to or received by, a juvenile offender into or upon the grounds of a juvenile detention facility or commitment program, except as authorized through program policy or operating procedures or as authorized by the facility superintendent, program director, or manager.

(c) A juvenile offender or any person, while upon the grounds of a juvenile detention facility or commitment program, may not be in actual or constructive possession of any article or thing declared to be contraband under this section, except as authorized through program policy or operating procedures or as authorized by the facility superintendent, program director, or manager.

~~(2) (a) Any person who violates this section as it pertains to an article of contraband described in subparagraph (1) (a) 1. commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~(b) Any person who violates this section as it pertains to an article of contraband described in subparagraph (1) (a) 5. or subparagraph (1) (a) 6. commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~(c) In all other cases,~~ A person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.



563204

Section 21. Paragraph (c) of subsection (2) of section 1002.221, Florida Statutes, is amended to read:

1002.221 K-12 education records; public records exemption.—

(2)

(c) In accordance with the FERPA and the federal regulations issued pursuant to the FERPA, an agency or institution, as defined in s. 1002.22, may release a student's education records without written consent of the student or parent to parties to an interagency agreement among the Department of Juvenile Justice, the school, law enforcement authorities, and other signatory agencies. Information provided pursuant to an interagency agreement may be used for proceedings initiated under chapter 984 or chapter 985 ~~in furtherance of an interagency agreement is intended solely for use in determining the appropriate programs and services for each juvenile or the juvenile's family, or for coordinating the delivery of the programs and services, and as such is inadmissible in any court proceeding before a dispositional hearing unless written consent is provided by a parent or other responsible adult on behalf of the juvenile.~~

Section 22. Paragraph (b) of subsection (3) of section 943.051, Florida Statutes, is amended to read:

943.051 Criminal justice information; collection and storage; fingerprinting.—

(3)

(b) A minor who is charged with or found to have committed the following offenses shall be fingerprinted and the fingerprints shall be submitted electronically to the department, unless the minor is issued a prearrest delinquency



563204

~~civil~~ citation pursuant to s. 985.12:

1. Assault, as defined in s. 784.011.
2. Battery, as defined in s. 784.03.
3. Carrying a concealed weapon, as defined in s. 790.01(2).
4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).
5. Neglect of a child, as defined in s. 827.03(1)(e).
6. Assault or battery on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a) and (b).
7. Open carrying of a weapon, as defined in s. 790.053.
8. Exposure of sexual organs, as defined in s. 800.03.
9. Unlawful possession of a firearm, as defined in s. 790.22(5).
10. Petit theft, as defined in s. 812.014(3).
11. Cruelty to animals, as defined in s. 828.12(1).
12. Arson, as defined in s. 806.031(1).
13. Unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property, as provided in s. 790.115.

Section 23. Paragraph (b) of subsection (1) of section 985.11, Florida Statutes, is amended to read:

985.11 Fingerprinting and photographing.—

(1)

(b) Unless the child is issued a prearrest delinquency ~~civil citation or is participating in a similar diversion program~~ pursuant to s. 985.12, a child who is charged with or found to have committed one of the following offenses shall be fingerprinted, and the fingerprints shall be submitted to the



563204

Department of Law Enforcement as provided in s. 943.051(3)(b):

1. Assault, as defined in s. 784.011.
2. Battery, as defined in s. 784.03.
3. Carrying a concealed weapon, as defined in s. 790.01(2).
4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).
5. Neglect of a child, as defined in s. 827.03(1)(e).
6. Assault on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a).
7. Open carrying of a weapon, as defined in s. 790.053.
8. Exposure of sexual organs, as defined in s. 800.03.
9. Unlawful possession of a firearm, as defined in s. 790.22(5).
10. Petit theft, as defined in s. 812.014.
11. Cruelty to animals, as defined in s. 828.12(1).
12. Arson, resulting in bodily harm to a firefighter, as defined in s. 806.031(1).
13. Unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property as defined in s. 790.115.

A law enforcement agency may fingerprint and photograph a child taken into custody upon probable cause that such child has committed any other violation of law, as the agency deems appropriate. Such fingerprint records and photographs shall be retained by the law enforcement agency in a separate file, and these records and all copies thereof must be marked "Juvenile Confidential." These records are not available for public disclosure and inspection under s. 119.07(1) except as provided



563204

in ss. 943.053 and 985.04(2), but shall be available to other law enforcement agencies, criminal justice agencies, state attorneys, the courts, the child, the parents or legal custodians of the child, their attorneys, and any other person authorized by the court to have access to such records. In addition, such records may be submitted to the Department of Law Enforcement for inclusion in the state criminal history records and used by criminal justice agencies for criminal justice purposes. These records may, in the discretion of the court, be open to inspection by anyone upon a showing of cause. The fingerprint and photograph records shall be produced in the court whenever directed by the court. Any photograph taken pursuant to this section may be shown by a law enforcement officer to any victim or witness of a crime for the purpose of identifying the person who committed such crime.

Section 24. Paragraph (n) of subsection (2) of section 1006.07, Florida Statutes, is amended to read:

1006.07 District school board duties relating to student discipline and school safety.—The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(2) CODE OF STUDENT CONDUCT.—Adopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year. Each code shall be organized and written in language that is understandable to students and



563204

parents and shall be discussed at the beginning of every school year in student classes, school advisory council meetings, and parent and teacher association or organization meetings. Each code shall be based on the rules governing student conduct and discipline adopted by the district school board and shall be made available in the student handbook or similar publication. Each code shall include, but is not limited to:

(n) Criteria for recommending to law enforcement that a student who commits a criminal offense be allowed to participate in a prearrest delinquency citation ~~civil citation or similar prearrest diversion~~ program as an alternative to expulsion or arrest. All prearrest delinquency citation ~~civil citation or similar prearrest diversion~~ programs must comply with s. 985.12.

Section 25. This act shall take effect July 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 juvenile justice; amending s.
790.115, F.S.; removing a provision requiring
specified treatment of minors charged with possessing
or discharging a firearm on school property; amending
s. 790.22, F.S.; revising penalties for minors
committing specified firearms violations; removing
provisions concerning minors charged with or convicted
of certain firearms offenses; amending s. 985.101,
F.S.; conforming provisions to changes made by the



563204

1171 act; amending s. 985.12, F.S.; redesignating civil
1172 citation programs as prearrest delinquency citation
1173 programs; revising program requirements; providing
1174 that certain existing programs meeting certain
1175 requirements shall be deemed authorized; amending s.
1176 985.125, F.S.; conforming provisions to changes made
1177 by the act; amending s. 985.126, F.S.; requiring the
1178 Department of Juvenile Justice to publish a quarterly
1179 report concerning entities using delinquency citations
1180 for less than a specified amount of eligible offenses;
1181 amending s. 985.245, F.S.; conforming provisions to
1182 changes made by the act; amending s. 985.25, F.S.;
1183 requiring that youths who are arrested for certain
1184 electronic monitoring violations be placed in secure
1185 detention until a detention hearing; requiring that a
1186 child on probation for an underlying felony firearm
1187 offense who is taken into custody be placed in secure
1188 detention; providing for renewal of secure detention
1189 periods in certain circumstances; amending s. 985.255,
1190 F.S.; providing that when there is probable cause that
1191 a child committed one of a specified list of offenses
1192 that he or she is presumed to be a risk to public
1193 safety and danger to the community and must be held in
1194 secure a detention before an adjudicatory hearing;
1195 providing requirements for release of such a child
1196 despite the presumption; revising language concerning
1197 the use of risk assessments; amending s. 985.26, F.S.;
1198 revising requirements for holding a child in secure
1199 detention for more than 21 days; amending s. 985.433,



563204

1200 F.S.; requiring conditional release conditions for
1201 children released after confinement for specified
1202 firearms offenses; requiring specified sanctions for
1203 certain children adjudicated for certain firearms
1204 offenses who are not committed to a residential
1205 program; providing that children who previously have
1206 had adjudication withheld for certain offenses my not
1207 have adjudication withheld for specified offenses;
1208 amending s. 985.435, F.S.; conforming provisions to
1209 changes made by the act; creating s. 985.438, F.S.;
1210 requiring the Department of Juvenile Justice to create
1211 and administer a graduated response matrix to hold
1212 youths accountable to the terms of their court ordered
1213 probation and the terms of their conditional release;
1214 providing requirements for the matrix; amending s.
1215 985.439, F.S.; requiring a state attorney to file a
1216 probation violation within a specified period or
1217 inform the court and the Department of Juvenile
1218 Justice why such violation is not filed; removing
1219 provisions concerning an alternative consequence
1220 program; allowing placement of electronic monitoring
1221 for probation violations in certain circumstances;
1222 amending s. 985.455, F.S.; authorizing a court to make
1223 an exception to an order of revocation or suspension
1224 of driving privileges in certain circumstances;
1225 amending s. 985.46, F.S.; revising legislative intent
1226 concerning conditional release; revising the
1227 conditions of conditional release; providing for
1228 assessment of conditional release violations and



563204

1229 possible recommitment of violators; amending ss.
1230 985.48 and 985.4815, F.S.; conforming provisions to
1231 changes made by the act; amending s. 985.601, F.S.;
1232 requiring the Department of Juvenile justice to
1233 establish a specified class for firearms offenders;
1234 amending s. 985.711, F.S.; revising provisions
1235 concerning introduction of contraband into department
1236 facilities; revising criminal penalties for
1237 violations; amending s. 1002.221, F.S.; revising
1238 provisions concerning educational records for certain
1239 purposes; amending ss. 943.051, 985.11, and 1006.07,
1240 F.S.; conforming provisions to changes made by the
1241 act; providing an effective date.

By Senator Martin

33-01163A-24

20241274__

1 A bill to be entitled
 2 An act relating to juvenile justice; amending s.
 3 790.115, F.S.; removing a provision requiring
 4 specified treatment of minors charged with possessing
 5 or discharging a firearm on school property; amending
 6 s. 790.22, F.S.; revising penalties for minors
 7 committing specified firearms violations; removing
 8 provisions concerning minors charged with or convicted
 9 of certain firearms offenses; amending s. 985.101,
 10 F.S.; conforming provisions to changes made by the
 11 act; amending s. 985.12, F.S.; redesignating civil
 12 citation programs as prearrest delinquency citation
 13 programs; revising program requirements; providing
 14 that certain existing programs meeting certain
 15 requirements shall be deemed authorized; amending s.
 16 985.125, F.S.; conforming provisions to changes made
 17 by the act; amending s. 985.126, F.S.; requiring the
 18 Department of Juvenile Justice to publish a quarterly
 19 report concerning entities using delinquency citations
 20 for less than a specified amount of eligible offenses;
 21 amending s. 985.245, F.S.; conforming provisions to
 22 changes made by the act; amending s. 985.25, F.S.;
 23 requiring that youths who are arrested for certain
 24 electronic monitoring or supervised release violations
 25 be placed in secure detention until a detention
 26 hearing; requiring that a child on probation for an
 27 underlying felony firearm offense who is taken into
 28 custody be placed in secure detention; providing for
 29 renewal of secure detention periods in certain

Page 1 of 44

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

33-01163A-24

20241274__

30 circumstances; amending s. 985.255, F.S.; providing
 31 that when there is probable cause that a child
 32 committed one of a specified list of offenses that he
 33 or she is presumed to be a risk to public safety and
 34 danger to the community and must be held in secure a
 35 detention before an adjudicatory hearing; providing
 36 requirements for release of such a child despite the
 37 presumption; revising provisions concerning the use of
 38 risk assessments; amending s. 985.26, F.S.; revising
 39 requirements for holding a child in secure detention
 40 for more than 21 days; amending s. 985.433, F.S.;
 41 requiring conditional release conditions for children
 42 released after confinement for specified firearms
 43 offenses; requiring specified sanctions for certain
 44 children adjudicated for certain firearms offenses who
 45 are not committed to a residential program; providing
 46 that children who previously have had adjudication
 47 withheld for certain offenses my not have adjudication
 48 withheld for specified offenses; amending s. 985.435,
 49 F.S.; conforming provisions to changes made by the
 50 act; creating s. 985.438, F.S.; requiring the
 51 Department of Juvenile Justice to create and
 52 administer a graduated response matrix to hold youths
 53 accountable to the terms of their court ordered
 54 probation and the terms of their conditional release;
 55 providing requirements for the matrix; requiring that
 56 the matrix be adopted in rule by the department;
 57 amending s. 985.439, F.S.; requiring a state attorney
 58 to file a probation violation within a specified

Page 2 of 44

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

33-01163A-24

20241274__

59 period or inform the court and the Department of
 60 Juvenile Justice why such violation is not filed;
 61 removing provisions concerning an alternative
 62 consequence program; allowing placement of electronic
 63 monitoring for probation violations in certain
 64 circumstances; amending s. 985.455, F.S.; authorizing
 65 a court to make an exception to an order of revocation
 66 or suspension of driving privileges in certain
 67 circumstances; amending s. 985.46, F.S.; revising
 68 legislative intent concerning conditional release;
 69 revising the conditions of conditional release;
 70 providing for assessment of conditional release
 71 violations and possible recommitment of violators;
 72 amending ss. 985.48 and 985.4815, F.S.; conforming
 73 provisions to changes made by the act; amending s.
 74 985.601, F.S.; requiring the Department of Juvenile
 75 Justice to establish a specified class for firearms
 76 offenders; amending s. 985.711, F.S.; revising
 77 provisions concerning introduction of contraband into
 78 department facilities; revising criminal penalties for
 79 violations; amending s. 1002.221, F.S.; revising
 80 provisions concerning educational records for certain
 81 purposes; amending ss. 943.051, 985.11, and 1006.07,
 82 F.S.; conforming provisions to changes made by the
 83 act; providing an effective date.

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

87 Section 1. Subsection (4) of section 790.115, Florida

Page 3 of 44

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

33-01163A-24

20241274__

88 Statutes, is amended to read:

89 790.115 Possessing or discharging weapons or firearms at a
 90 school-sponsored event or on school property prohibited;
 91 penalties; exceptions.-

92 ~~(4) Notwithstanding s. 985.24, s. 985.245, or s. 985.25(1),~~
 93 ~~any minor under 18 years of age who is charged under this~~
 94 ~~section with possessing or discharging a firearm on school~~
 95 ~~property shall be detained in secure detention, unless the state~~
 96 ~~attorney authorizes the release of the minor, and shall be given~~
 97 ~~a probable cause hearing within 24 hours after being taken into~~
 98 ~~custody. At the hearing, the court may order that the minor~~
 99 ~~continue to be held in secure detention for a period of 21 days,~~
 100 ~~during which time the minor shall receive medical, psychiatric,~~
 101 ~~psychological, or substance abuse examinations pursuant to s.~~
 102 ~~985.18, and a written report shall be completed.~~

103 Section 2. Subsections (1), (5), (8), (9), and (10) of
 104 section 790.22, Florida Statutes, are amended, and subsection
 105 (3) of that section is republished, to read:

106 790.22 Use of BB guns, air or gas-operated guns, or
 107 electric weapons or devices by minor under 16; limitation;
 108 possession of firearms by minor under 18 prohibited; penalties.-

109 (1) The use for any purpose whatsoever of BB guns, air or
 110 gas-operated guns, or electric weapons or devices, by any minor
 111 under the age of 16 years is prohibited unless such use is under
 112 the supervision and in the presence of an adult who is acting
 113 with the consent of the minor's parent or guardian.

114 (3) A minor under 18 years of age may not possess a
 115 firearm, other than an unloaded firearm at his or her home,
 116 unless:

Page 4 of 44

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

33-01163A-24

20241274__

117 (a) The minor is engaged in a lawful hunting activity and
 118 is:
 119 1. At least 16 years of age; or
 120 2. Under 16 years of age and supervised by an adult.
 121 (b) The minor is engaged in a lawful marksmanship
 122 competition or practice or other lawful recreational shooting
 123 activity and is:
 124 1. At least 16 years of age; or
 125 2. Under 16 years of age and supervised by an adult who is
 126 acting with the consent of the minor's parent or guardian.
 127 (c) The firearm is unloaded and is being transported by the
 128 minor directly to or from an event authorized in paragraph (a)
 129 or paragraph (b).
 130 (5)~~(a)~~ A minor who violates subsection (3) commits a felony
 131 ~~misdemeanor~~ of the third first degree; for a first offense,
 132 shall may serve a period of detention of up to 5 days in a
 133 secure detention facility, with credit for time served in secure
 134 detention prior to disposition, and, in addition to any other
 135 penalty provided by law, shall be required to perform 100 hours
 136 of community service or paid work as determined by the
 137 department. For a second violation of subsection (3), a minor
 138 shall serve 21 days in a secure detention facility, with credit
 139 for time served in secure detention before disposition; and
 140 shall be required to perform not less than 100 nor more than 250
 141 hours of community service or paid work as determined by the
 142 department. For a third or subsequent violation of subsection
 143 (3), a minor shall be adjudicated delinquent and committed to a
 144 residential program. In addition to the penalties for a first
 145 offense and a second or subsequent offense under subsection (3),

33-01163A-24

20241274__

146 and:
 147 (a)1- If the minor is eligible by reason of age for a
 148 driver license or driving privilege, the court may direct the
 149 Department of Highway Safety and Motor Vehicles to revoke or to
 150 withhold issuance of the minor's driver license or driving
 151 privilege for up to 1 year for a first offense and up to 2 years
 152 for a second or subsequent offense.
 153 (b)2- If the minor's driver license or driving privilege is
 154 under suspension or revocation for any reason, the court may
 155 direct the Department of Highway Safety and Motor Vehicles to
 156 extend the period of suspension or revocation by an additional
 157 period of up to 1 year for a first offense and up to 2 years for
 158 a second or subsequent offense.
 159 (c)3- If the minor is ineligible by reason of age for a
 160 driver license or driving privilege, the court may direct the
 161 Department of Highway Safety and Motor Vehicles to withhold
 162 issuance of the minor's driver license or driving privilege for
 163 up to 1 year after the date on which the minor would otherwise
 164 have become eligible for a first offense and up to 2 years for a
 165 second or subsequent offense.
 166 ~~(b) For a second or subsequent offense, a minor who~~
 167 ~~violates subsection (3) commits a felony of the third degree and~~
 168 ~~shall serve a period of detention of up to 21 days in a secure~~
 169 ~~detention facility and shall be required to perform not less~~
 170 ~~than 100 nor more than 250 hours of community service, and:~~
 171 ~~1. If the minor is eligible by reason of age for a driver~~
 172 ~~license or driving privilege, the court may direct the~~
 173 ~~Department of Highway Safety and Motor Vehicles to revoke or to~~
 174 ~~withhold issuance of the minor's driver license or driving~~

33-01163A-24

20241274__

175 ~~privilege for up to 2 years.~~

176 2. If the minor's driver license or driving privilege is
 177 under suspension or revocation for any reason, the court may
 178 direct the Department of Highway Safety and Motor Vehicles to
 179 extend the period of suspension or revocation by an additional
 180 period of up to 2 years.

181 3. If the minor is ineligible by reason of age for a driver
 182 license or driving privilege, the court may direct the
 183 Department of Highway Safety and Motor Vehicles to withhold
 184 issuance of the minor's driver license or driving privilege for
 185 up to 2 years after the date on which the minor would otherwise
 186 have become eligible.

187
 188 For the purposes of this subsection, community service shall be
 189 performed, if possible, in a manner involving a hospital
 190 emergency room or other medical environment that deals on a
 191 regular basis with trauma patients and gunshot wounds.

192 ~~(8) Notwithstanding s. 985.24 or s. 985.25(1), if a minor~~
 193 ~~is charged with an offense that involves the use or possession~~
 194 ~~of a firearm, including a violation of subsection (3), or is~~
 195 ~~charged for any offense during the commission of which the minor~~
 196 ~~possessed a firearm, the minor shall be detained in secure~~
 197 ~~detention, unless the state attorney authorizes the release of~~
 198 ~~the minor, and shall be given a hearing within 24 hours after~~
 199 ~~being taken into custody. At the hearing, the court may order~~
 200 ~~that the minor continue to be held in secure detention in~~
 201 ~~accordance with the applicable time periods specified in s.~~
 202 ~~985.26(1) (5), if the court finds that the minor meets the~~
 203 ~~criteria specified in s. 985.255, or if the court finds by clear~~

33-01163A-24

20241274__

204 ~~and convincing evidence that the minor is a clear and present~~
 205 ~~danger to himself or herself or the community. The Department of~~
 206 ~~Juvenile Justice shall prepare a form for all minors charged~~
 207 ~~under this subsection which states the period of detention and~~
 208 ~~the relevant demographic information, including, but not limited~~
 209 ~~to, the gender, age, and race of the minor; whether or not the~~
 210 ~~minor was represented by private counsel or a public defender;~~
 211 ~~the current offense; and the minor's complete prior record,~~
 212 ~~including any pending cases. The form shall be provided to the~~
 213 ~~judge for determining whether the minor should be continued in~~
 214 ~~secure detention under this subsection. An order placing a minor~~
 215 ~~in secure detention because the minor is a clear and present~~
 216 ~~danger to himself or herself or the community must be in~~
 217 ~~writing, must specify the need for detention and the benefits~~
 218 ~~derived by the minor or the community by placing the minor in~~
 219 ~~secure detention, and must include a copy of the form provided~~
 220 ~~by the department.~~

221 ~~(9) Notwithstanding s. 985.245, if the minor is found to~~
 222 ~~have committed an offense that involves the use or possession of~~
 223 ~~a firearm, as defined in s. 790.001, other than a violation of~~
 224 ~~subsection (3), or an offense during the commission of which the~~
 225 ~~minor possessed a firearm, and the minor is not committed to a~~
 226 ~~residential commitment program of the Department of Juvenile~~
 227 ~~Justice, in addition to any other punishment provided by law,~~
 228 ~~the court shall order:~~

229 ~~(a) For a first offense, that the minor shall serve a~~
 230 ~~minimum period of detention of 15 days in a secure detention~~
 231 ~~facility; and~~

232 1. Perform 100 hours of community service; and may

33-01163A-24

20241274__

2. ~~Be placed on community control or in a nonresidential commitment program.~~

~~(b) For a second or subsequent offense, that the minor shall serve a mandatory period of detention of at least 21 days in a secure detention facility; and~~

~~1. Perform not less than 100 nor more than 250 hours of community service; and may~~

~~2. Be placed on community control or in a nonresidential commitment program.~~

The minor shall not receive credit for time served before adjudication. For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

~~(10) If a minor is found to have committed an offense under subsection (9), the court shall impose the following penalties in addition to any penalty imposed under paragraph (9)(a) or paragraph (9)(b):~~

~~(a) For a first offense:~~

~~1. If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year.~~

~~2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional~~

33-01163A-24

20241274__

~~period for up to 1 year.~~

~~3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible.~~

~~(b) For a second or subsequent offense:~~

~~1. If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 2 years.~~

~~2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 2 years.~~

~~3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.~~

Section 3. Paragraph (d) of subsection (1) of section 985.101, Florida Statutes, is amended to read:

985.101 Taking a child into custody.—

(1) A child may be taken into custody under the following circumstances:

33-01163A-24

20241274__

(d) By a law enforcement officer who has probable cause to believe that the child is in violation of the conditions of the child's probation, supervised release detention, ~~postcommitment probation~~, or conditional release supervision; has absconded from nonresidential commitment; or has escaped from residential commitment.

Nothing in this subsection shall be construed to allow the detention of a child who does not meet the detention criteria in part V.

Section 4. Section 985.12, Florida Statutes, is amended to read:

985.12 Pearrest delinquency Civil citation or similar ~~prearrest diversion~~ programs.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that the creation and implementation of delinquency civil citation or similar prearrest diversion programs at the judicial circuit level promotes public safety, aids interagency cooperation, and provides the greatest chance of success for delinquency civil citation and similar prearrest diversion programs. The Legislature further finds that the widespread use of delinquency civil citation and similar prearrest diversion programs has a positive effect on the criminal justice system by immediately holding youth accountable for their actions and contributes to an overall reduction in the crime rate and recidivism in the state. The Legislature encourages but does not mandate that counties, municipalities, and public or private educational institutions participate in a delinquency civil citation or similar prearrest diversion program created by their

33-01163A-24

20241274__

judicial circuit under this section.

(2) JUDICIAL CIRCUIT DELINQUENCY CIVIL CITATION OR SIMILAR ~~PREARREST DIVERSION~~ PROGRAM DEVELOPMENT, IMPLEMENTATION, AND OPERATION.—

(a) A delinquency civil citation or similar prearrest diversion program for misdemeanor offenses shall be established in each judicial circuit in the state. The state attorney and public defender of each circuit, the clerk of the court for each county in the circuit, and representatives of participating law enforcement agencies in the circuit shall create a delinquency civil citation or similar prearrest diversion program and develop its policies and procedures. In developing the program's policies and procedures, input from other interested stakeholders may be solicited. The department shall annually develop and provide guidelines on best practice models for delinquency civil citation or similar prearrest diversion programs to the judicial circuits as a resource.

(b) Each judicial circuit's delinquency civil citation or similar prearrest diversion program must specify all of the following:

1. The misdemeanor offenses that qualify a juvenile for participation in the program. Offenses involving the use or possession of a firearm are not eligible for delinquency citation.
2. The eligibility criteria for the program.⁺
3. The program's implementation and operation.⁺
4. The program's requirements, including, but not limited to, the completion of community service hours, payment of restitution, if applicable, classes established by the

33-01163A-24

20241274

department or the delinquency citation entity, and intervention services indicated by a needs assessment of the juvenile, approved by the department, such as family counseling, urinalysis monitoring, and substance abuse and mental health treatment services, ~~and~~

5. A program fee, if any, to be paid by a juvenile participating in the program. If the program imposes a fee, the clerk of the court of the applicable county must receive a reasonable portion of the fee.

(c) The state attorney of each circuit shall operate a delinquency civil citation or similar prearrest diversion program in each circuit. A sheriff, police department, county, municipality, locally authorized entity, or public or private educational institution may ~~continue to~~ operate an independent delinquency civil citation or similar prearrest diversion program ~~that is in operation as of October 1, 2018,~~ if the independent program is reviewed by the state attorney of the applicable circuit and he or she determines that the independent program is substantially similar to the delinquency civil citation or similar prearrest diversion program developed by the circuit. If the state attorney determines that the independent program is not substantially similar to the delinquency civil citation or similar prearrest diversion program developed by the circuit, the operator of the independent ~~diversion~~ program may revise the program and the state attorney may conduct an additional review of the independent program. A civil citation or similar prearrest diversion program existing before July 1, 2024, shall be deemed a delinquency citation program authorized by this section if the civil citation or similar prearrest

33-01163A-24

20241274

diversion program has been approved by the state attorney of the circuit in which it operates and it complies with the requirements in paragraph (2) (b).

~~(d) A judicial circuit may model an existing sheriff's, police department's, county's, municipality's, locally authorized entity's, or public or private educational institution's independent civil citation or similar prearrest diversion program in developing the civil citation or similar prearrest diversion program for the circuit.~~

~~(d)~~ (e) If a juvenile does not successfully complete the delinquency civil citation or similar prearrest diversion program, the arresting law enforcement officer shall determine if there is good cause to arrest the juvenile for the original misdemeanor offense and refer the case to the state attorney to determine if prosecution is appropriate or allow the juvenile to continue in the program.

~~(e)~~ (f) Each delinquency civil citation or similar prearrest diversion program shall enter the appropriate youth data into the Juvenile Justice Information System Prevention Web within 7 days after the admission of the youth into the program.

~~(f)~~ (g) At the conclusion of a juvenile's delinquency civil citation or similar prearrest diversion program, the state attorney or operator of the independent program shall report the outcome to the department. The issuance of a delinquency civil citation or similar prearrest diversion program notice is not considered a referral to the department.

~~(g)~~ (h) Upon issuing a delinquency civil citation or similar prearrest diversion program notice, the law enforcement officer shall send a copy of the delinquency civil citation or similar

33-01163A-24

20241274

~~prearrest diversion~~ program notice to the parent or guardian of the child and to the victim.

Section 5. Section 985.125, Florida Statutes, is amended to read:

985.125 ~~Prearrest or~~ Postarrest diversion programs.—

(1) A law enforcement agency ~~or school district~~, in cooperation with the state attorney, may establish a ~~prearrest or~~ postarrest diversion program.

(2) As part of the ~~prearrest or~~ postarrest diversion program, a child who is alleged to have committed a delinquent act may be required to surrender his or her driver license, or refrain from applying for a driver license, for not more than 90 days. If the child fails to comply with the requirements of the program, the state attorney may notify the Department of Highway Safety and Motor Vehicles in writing to suspend the child's driver license for a period that may not exceed 90 days.

Section 6. Subsections (5) and (6) of section 985.126, Florida Statutes, are renumbered as subsections (6) and (7), respectively, subsections (3) and (4) of that section are amended, and a new subsection (5) is added to that section, to read:

985.126 Diversion programs; data collection; denial of participation or expunged record.—

(3) (a) ~~Beginning October 1, 2018~~, Each diversion program shall submit data to the department which identifies for each minor participating in the diversion program:

1. The race, ethnicity, gender, and age of that minor.

2. The offense committed, including the specific law establishing the offense.

33-01163A-24

20241274

3. The judicial circuit and county in which the offense was committed and the law enforcement agency that had contact with the minor for the offense.

4. Other demographic information necessary to properly register a case into the Juvenile Justice Information System Prevention Web, as specified by the department.

(b) ~~Beginning October 1, 2018~~, Each law enforcement agency shall submit to the department data for every youth charged for the first time, who is charged with a misdemeanor, and who was that identifies for each minor who was eligible for a diversion program, but was instead referred to the department, provided a notice to appear, or arrested:

1. The data required pursuant to paragraph (a).

2. Whether the minor was offered the opportunity to participate in a diversion program. If the minor was:

a. Not offered such opportunity, the reason such offer was not made.

b. Offered such opportunity, whether the minor or his or her parent or legal guardian declined to participate in the diversion program.

(c) The data required pursuant to paragraph (a) shall be entered into the Juvenile Justice Information System Prevention Web within 7 days after the youth's admission into the program.

(d) The data required pursuant to paragraph (b) shall be submitted on or with the arrest affidavit or notice to appear.

(4) ~~Beginning January 1, 2019~~, The department shall compile and semiannually publish the data required by subsection (3) on the department's website in a format that is, at a minimum, sortable by judicial circuit, county, law enforcement agency,

33-01163A-24

20241274__

race, ethnicity, gender, age, and offense committed.

(5) The department shall provide a quarterly report to be published on its website and distributed to the Governor, President of the Senate, and Speaker of the House of Representatives listing the entities that use delinquency citations for less than 70 percent of first-time misdemeanor offenses.

Section 7. Subsection (4) of section 985.245, Florida Statutes, is amended to read:

985.245 Risk assessment instrument.—

(4) For a child who is under the supervision of the department through probation, supervised release detention, conditional release, ~~postcommitment probation~~, or commitment and who is charged with committing a new offense, the risk assessment instrument may be completed and scored based on the underlying charge for which the child was placed under the supervision of the department.

Section 8. Subsection (1) of section 985.25, Florida Statutes, is amended to read:

985.25 Detention intake.—

(1) The department shall receive custody of a child who has been taken into custody from the law enforcement agency or court and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be necessary to determine whether detention care is appropriate.

(a) During the period of time from the taking of the child into custody to the date of the detention hearing, the initial decision as to the child's placement into detention care shall be made by the department under ss. 985.24 and 985.245(1).

33-01163A-24

20241274__

(b) The department shall base the decision whether to place the child into detention care on an assessment of risk in accordance with the risk assessment instrument and procedures developed by the department under s. 985.245, except that a child shall be placed in secure detention care until the child's detention hearing if the child meets the criteria specified in s. 985.255(1)(f), ~~is charged with possessing or discharging a firearm on school property in violation of s. 790.115~~, or is charged with any other offense involving the possession or use of a firearm.

(c) If the final score on the child's risk assessment instrument indicates detention care is appropriate, but the department otherwise determines the child should be released, the department shall contact the state attorney, who may authorize release.

(d) If the final score on the risk assessment instrument indicates detention is not appropriate, the child may be released by the department in accordance with ss. 985.115 and 985.13.

(e) Notwithstanding any other provision of law, a youth who is arrested for violating the terms of his or her electronic monitoring supervision or his or her supervised release shall be placed in secure detention until a detention hearing.

(f) Notwithstanding any other provision of law, a child on probation for an underlying felony firearm offense as defined in chapter 790 and who is taken into custody under s. 985.101 for violating conditions of probation not involving a new law violation shall be held in secure detention to allow the state attorney to review the violation. If, within 21 days, the state

33-01163A-24 20241274__
 attorney notifies the court that commitment will be sought, then
 the child shall remain in secure detention pending proceedings
 under s. 985.439 until the initial 21-day period of secure
 detention has expired. Upon motion of the state attorney, the
 child may be held for an additional 21-day period if the court
 finds that the totality of the circumstances, including the
 preservation of public safety, warrants such extension. Any
 release from secure detention shall result in the child being
 held on supervised release with electronic monitoring pending
 proceedings under s. 985.439.

Under no circumstances shall the department or the state
 attorney or law enforcement officer authorize the detention of
 any child in a jail or other facility intended or used for the
 detention of adults, without an order of the court.

Section 9. Paragraph (a) of subsection (1) and subsection
 (3) of section 985.255, Florida Statutes, are amended, and
 paragraphs (g) and (h) are added to subsection (1) of that
 section, to read:

985.255 Detention criteria; detention hearing.—

(1) Subject to s. 985.25(1), a child taken into custody and
 placed into detention care shall be given a hearing within 24
 hours after being taken into custody. At the hearing, the court
 may order a continued detention status if:

(a) The result of the risk assessment instrument pursuant
 to s. 985.245 indicates secure or supervised release detention
 or the court makes the findings required under paragraph (3) (b).

(g) The court finds probable cause at the detention hearing
 that the child committed one or more of the following offenses:

33-01163A-24 20241274__
 1. Murder in the first degree under s. 782.04(1) (a).
 2. Murder in the second degree under s. 782.04(2).
 3. Armed robbery under s. 812.13(2) (a) that involves the
 use or possession of a firearm as defined in s. 790.001.
 4. Armed carjacking under s. 812.133(2) (a) that involves
 the use or possession of a firearm as defined in s. 790.001.
 5. Having a firearm while committing a felony under s.
 790.07(2).
 6. Armed burglary under s. 810.02(2) (b) that involves the
 use or possession of a firearm as defined in s. 790.001.
 7. Delinquent in possession of a firearm under s.
 790.23(1) (b).
 8. An attempt to commit any offense listed in this
 paragraph under s. 777.04.
 (h) For a child who meets the criteria in paragraph (g):
 1. There is a presumption that the child is a risk to
 public safety and danger to the community and such child must be
 held in secure detention prior to an adjudicatory hearing,
 unless the court enters a written order that the child would not
 pose a risk to public safety or a danger to the community if he
 or she were placed on supervised release detention care.
 2. The written order releasing a child from secure
 detention must be based on clear and convincing evidence of why
 the child does not present a risk to public safety or a danger
 to the community and must list the child's prior adjudications,
 dispositions, and prior violations of pretrial release orders.
 The court releasing a child from secure detention under this
 subparagraph shall place the child on supervised release
 detention care with electronic monitoring until the child's

33-01163A-24

20241274__

581 adjudicatory hearing.

582 3. If an adjudicatory hearing has not taken place after 60
 583 days of secure detention for a child held in secure detention
 584 under this paragraph, the court must prioritize the efficient
 585 disposition of cases and hold a review hearing within each
 586 successive 7-day review period until the adjudicatory hearing or
 587 the child is placed on supervised release with electronic
 588 monitoring under subparagraph 2.

589 4. If the court, under this section, releases a child to
 590 supervised release detention care, the court must provide a copy
 591 of the written notice to the victim, to the law enforcement
 592 agency that arrested the child, and to the law enforcement
 593 agency with primary jurisdiction over the child's primary
 594 residence.

595 (3) (a) The purpose of the detention hearing required under
 596 subsection (1) is to determine the existence of probable cause
 597 that the child has committed the delinquent act or violation of
 598 law that he or she is charged with and the need for continued
 599 detention. The court shall consider ~~use~~ the results of the risk
 600 assessment performed by the department and, based on the
 601 criteria in subsection (1), shall determine the need for
 602 continued detention. If the child is a prolific juvenile
 603 offender who is detained under s. 985.26(2)(c), the court shall
 604 consider ~~use~~ the results of the risk assessment performed by the
 605 department and the criteria in subsection (1) or subsection (2)
 606 only to determine whether the prolific juvenile offender should
 607 be held in secure detention.

608 (b) ~~If~~ The court may order ~~orders~~ a placement more or less
 609 restrictive than indicated by the results of the risk assessment

33-01163A-24

20241274__

610 instrument, and, if the court does so, shall state, in writing,
 611 clear and convincing reasons for such placement.

612 (c) Except as provided in ~~s. 790.22(8) or~~ s. 985.27, when a
 613 child is placed into detention care, or into a respite home or
 614 other placement pursuant to a court order following a hearing,
 615 the court order must include specific instructions that direct
 616 the release of the child from such placement no later than 5
 617 p.m. on the last day of the detention period specified in s.
 618 985.26 or s. 985.27, whichever is applicable, unless the
 619 requirements of such applicable provision have been met or an
 620 order of continuance has been granted under s. 985.26(4). If the
 621 court order does not include a release date, the release date
 622 shall be requested from the court on the same date that the
 623 child is placed in detention care. If a subsequent hearing is
 624 needed to provide additional information to the court for safety
 625 planning, the initial order placing the child in detention care
 626 shall reflect the next detention review hearing, which shall be
 627 held within 3 calendar days after the child's initial detention
 628 placement.

629 Section 10. Paragraph (b) of subsection (2) of section
 630 985.26, Florida Statutes, is amended to read:

631 985.26 Length of detention.—

632 (2)

633 (b) The court may order the child to be held in secure
 634 detention beyond 21 days based on the nature of the charge under
 635 the following circumstances:

636 1. Upon good cause being shown that the nature of the
 637 charge requires additional time for the prosecution or defense
 638 of the case or that the totality of the circumstances, including

33-01163A-24

20241274

the preservation of public safety, warrants an extension, the court may extend the length of secure detention care for up to an additional 21 days if the child is charged with an offense which, if committed by an adult, would be a capital felony, a life felony, a felony of the first degree or the second degree, a felony of the third degree involving violence against any individual, or any other offense involving the possession or use of a firearm. Except as otherwise provided for certain offenses and as set forth in subparagraph 2., the court may continue to extend the period of secure detention care in increments of up to 21 days each by conducting a hearing before the expiration of the current period to determine the need for continued secure detention of the child. At the hearing, the court must make the required findings in writing to extend the period of secure detention. If the court extends the time period for secure detention care, it shall ensure an adjudicatory hearing for the case commences as soon as is reasonably possible considering the totality of the circumstances. The court shall prioritize the efficient disposition of cases in which the child has served 60 or more days in secure detention care.

2. Any child held in secure detention under s. 985.255(1)(g).

a. There is a presumption that the child is a risk to public safety and danger to the community and such child must be held in secure detention prior to an adjudicatory hearing, unless the court enters a written order that the child would not pose a risk to public safety or a danger to the community if he or she were placed on supervised release detention care.

b. The written order releasing a child from secure

33-01163A-24

20241274

detention must be based on clear and convincing evidence of why the child does not present a risk to public safety or a danger to the community and must list the child's prior adjudications, dispositions and prior violations of pretrial release orders. The court releasing a child from secure detention under this subparagraph shall place the child on supervised release detention care with electronic monitoring until the child's adjudicatory hearing.

c. If an adjudicatory hearing has not taken place after 60 days of secure detention for a child held in secure detention under this paragraph, the court must hold a review hearing within each successive 7-day review period until the adjudicatory hearing or the child is placed on supervised release with electronic monitoring under sub-subparagraph b.

d. If the court, under this subparagraph, releases a child to supervised release detention care, the court must provide a copy of the written notice to the victim, the law enforcement agency that arrested the child, and the law enforcement agency with primary jurisdiction over the child's primary residence.

Section 11. Paragraph (d) is added to subsection (7) of section 985.433, Florida Statutes, and subsections (8) and (9) of that section are amended, to read:

985.433 Disposition hearings in delinquency cases.—When a child has been found to have committed a delinquent act, the following procedures shall be applicable to the disposition of the case:

(7) If the court determines that the child should be adjudicated as having committed a delinquent act and should be committed to the department, such determination shall be in

33-01163A-24

20241274

writing or on the record of the hearing. The determination shall include a specific finding of the reasons for the decision to adjudicate and to commit the child to the department, including any determination that the child was a member of a criminal gang.

(d) Any child adjudicated by the court and committed to the department under a restrictiveness level defined in s. 985.03(44) for any offense or attempted offense involving a firearm must be placed on conditional release, as defined in s. 985.03, for a period of 1 year after release from the commitment program. Such term of conditional release shall include electronic monitoring of the child by the department for the initial 6 months at times and under terms and conditions set by the department.

(8) If the court determines not to adjudicate and commit to the department, then the court shall determine what community-based sanctions it will impose in a probation program for the child. Community-based sanctions may include, but are not limited to, participation in substance abuse treatment, a day-treatment probation program, restitution in money or in kind, a curfew, revocation or suspension of the driver license of the child, community service, and appropriate educational programs as determined by the district school board.

(a) Where a child is found to have committed an offense that involves the use or possession of a firearm, as defined in s. 790.001, other than a violation of s. 790.22(3), or is found to have committed an offense during the commission of which the child possessed a firearm, and the court has decided not to commit the child to a residential program, the court shall

33-01163A-24

20241274

order, in addition to any other punishment provided by law:

1. For a first offense, a child shall:

a. Serve a period of detention of 30 days in a secure detention facility, with credit for time served in secure detention prior to disposition.

b. Perform 100 hours of community service or paid work as determined by the department.

c. Be placed on probation for a period of at least 1 year. Such term of probation shall include electronic monitoring of the child by the department at times and under terms and conditions set by the department.

2. In addition to these penalties, the court may impose the following restrictions upon the child's driving privileges:

a. If the child is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the child's driver license or driving privilege for up to 1 year.

b. If the child's driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 1 year.

c. If the child is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the child would otherwise have become eligible.

33-01163A-24

20241274__

For the purposes of this paragraph, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

(b) A child who has previously had adjudication withheld for any of the following offenses shall not be eligible for a second or subsequent withhold of adjudication on a listed offense, and must be adjudicated delinquent and committed to a residential program:

1. Armed robbery involving a firearm under s. 812.13(2)(a).

2. Armed carjacking under s. 812.133(2)(a) involving the use or possession of a firearm as defined in s. 790.001.

3. Having a firearm while committing a felony under s. 790.07(2).

4. Armed burglary under s. 810.02(2)(b) involving the use or possession of a firearm as defined in s. 790.001.

5. Delinquent in possession of a firearm under s. 790.23(1)(b).

6. An attempt to commit any offense listed in this paragraph under s. 777.04.

(9) After appropriate sanctions for the offense are determined, including any minimum sanctions required by this section, the court shall develop, approve, and order a plan of probation that will contain rules, requirements, conditions, and rehabilitative programs, including the option of a day-treatment probation program, that are designed to encourage responsible and acceptable behavior and to promote both the rehabilitation of the child and the protection of the community.

33-01163A-24

20241274__

Section 12. Subsections (1), (3), and (4) of section 985.435, Florida Statutes, are amended to read:

985.435 Probation ~~and postcommitment probation~~; community service.—

(1) The court that has jurisdiction over an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing, place the child in a probation program ~~or a postcommitment probation program~~. Such placement must be under the supervision of an authorized agent of the department or of any other person or agency specifically authorized and appointed by the court, whether in the child's own home, in the home of a relative of the child, or in some other suitable place under such reasonable conditions as the court may direct.

(3) A probation program must also include a rehabilitative program component such as a requirement of participation in substance abuse treatment or in a school or career and technical education program. The nonconsent of the child to treatment in a substance abuse treatment program in no way precludes the court from ordering such treatment. Upon the recommendation of the department at the time of disposition, or subsequent to disposition pursuant to the filing of a petition alleging a violation of the child's conditions of ~~postcommitment~~ probation, the court may order the child to submit to random testing for the purpose of detecting and monitoring the use of alcohol or controlled substances.

(4) A probation program must ~~may also~~ include an alternative consequence component to address instances in which

33-01163A-24

20241274

a child is noncompliant with technical conditions of his or her probation but has not committed any new violations of law. The alternative consequence component must be aligned with the department's graduated response matrix as described in s. 985.438. ~~Each judicial circuit shall develop, in consultation with judges, the state attorney, the public defender, the regional counsel, relevant law enforcement agencies, and the department, a written plan specifying the alternative consequence component which must be based upon the principle that sanctions must reflect the seriousness of the violation, the assessed criminogenic needs and risks of the child, the child's age and maturity level, and how effective the sanction or incentive will be in moving the child to compliant behavior. The alternative consequence component is designed to provide swift and appropriate consequences or incentives to a child who is alleged to be noncompliant with or in violation of probation. If the probation program includes this component, specific consequences that apply to noncompliance with specific technical conditions of probation, as well as incentives used to move the child toward compliant behavior, must be detailed in the disposition order.~~

Section 13. Section 985.438, Florida Statutes, is created to read:

985.438 Graduated response matrix.—

(1) The department shall create and administer a statewide plan to hold youths accountable to the terms of their court-ordered probation and the terms of their conditional release. The plan must be based upon the principle that sanctions must reflect the seriousness of the violation, provide immediate

33-01163A-24

20241274

accountability for violations, the assessed criminogenic needs and risks of the child, and the child's age and maturity level. The plan is designed to provide swift and appropriate consequences or incentives to a child who is alleged to be noncompliant with or in violation of probation.

(2) The graduated response matrix shall outline sanctions for youth based on their risk to reoffend and shall include, but not be limited to:

(a) Increased contacts.

(b) Increased drug tests.

(c) Curfew reductions.

(d) Increased community service.

(e) Additional evaluations.

(f) Addition of electronic monitoring.

(3) The graduated response matrix shall be adopted in rule by the department.

Section 14. Section 985.439, Florida Statutes, is amended to read:

985.439 Violation of probation ~~or postcommitment probation.~~

(1) (a) This section is applicable when the court has jurisdiction over a child on probation ~~or postcommitment probation,~~ regardless of adjudication.

(b) If the conditions of the probation program ~~or the postcommitment probation program~~ are violated, the department or the state attorney may bring the child before the court on a petition alleging a violation of the program. A child who violates the conditions of probation ~~or postcommitment probation~~ must be brought before the court if sanctions are sought.

33-01163A-24

20241274

871 (c) Upon receiving notice of a violation of probation from
 872 the department, the state attorney must file the violation
 873 within 5 days or provide in writing to the department and the
 874 court a reason as to why he or she is not filing.

875 (2) A child taken into custody under s. 985.101 for
 876 violating the conditions of probation shall be screened and
 877 detained or released based on his or her risk assessment
 878 instrument score.

879 (3) If the child denies violating the conditions of
 880 probation ~~or postcommitment probation~~, the court shall, upon the
 881 child's request, appoint counsel to represent the child.

882 (4) Upon the child's admission, or if the court finds after
 883 a hearing that the child has violated the conditions of
 884 probation ~~or postcommitment probation~~, the court shall enter an
 885 order revoking, modifying, or continuing probation ~~or~~
 886 ~~postcommitment probation~~. In each such case, the court shall
 887 enter a new disposition order and, in addition to the sanctions
 888 set forth in this section, may impose any sanction the court
 889 could have imposed at the original disposition hearing. If the
 890 child is found to have violated the conditions of probation ~~or~~
 891 ~~postcommitment probation~~, the court may:

892 (a) Place the child in supervised release detention with
 893 electronic monitoring.

894 (b) If the violation of probation is technical in nature
 895 and not a new violation of law, place the child in an
 896 alternative consequence program designed to provide swift and
 897 appropriate consequences to any further violations of probation.

898 ~~1. Alternative consequence programs shall be established,~~
 899 ~~within existing resources, at the local level in coordination~~

33-01163A-24

20241274

900 ~~with law enforcement agencies, the chief judge of the circuit,~~
 901 ~~the state attorney, and the public defender.~~

902 ~~2. Alternative consequence programs may be operated by an~~
 903 ~~entity such as a law enforcement agency, the department, a~~
 904 ~~juvenile assessment center, a county or municipality, or another~~
 905 ~~entity selected by the department.~~

906 ~~3. Upon placing a child in an alternative consequence~~
 907 ~~program, the court must approve specific consequences for~~
 908 ~~specific violations of the conditions of probation.~~

909 (c) Modify or continue the child's probation program ~~or~~
 910 ~~postcommitment probation program.~~

911 (d) Revoke probation ~~or postcommitment probation~~ and commit
 912 the child to the department.

913 (e) Allow the department to place a youth on electronic
 914 monitoring for a violation of probation if it determines doing
 915 so will preserve and protect public safety.

916 (5) Upon the recommendation of the department at the time
 917 of disposition, or subsequent to disposition pursuant to the
 918 filing of a petition alleging a violation of the child's
 919 conditions of ~~postcommitment~~ probation, the court may order the
 920 child to submit to random testing for the purpose of detecting
 921 and monitoring the use of alcohol or controlled substances.

922 Section 15. Subsection (5) is added to section 985.455,
 923 Florida Statutes, to read:

924 985.455 Other dispositional issues.—

925 (5) If the court orders revocation or suspension of a
 926 child's driver license as part of a disposition, the court may,
 927 upon finding a compelling circumstance to warrant an exception,
 928 direct the Department of Highway Safety and Motor Vehicles to

33-01163A-24 20241274__

929 issue a license for driving privileges restricted to business or
 930 employment purposes only, as defined in s. 322.271.

931 Section 16. Subsections (2), (3), and (5) of section
 932 985.46, Florida Statutes, are amended, and subsection (6) is
 933 added to that section, to read:

934 985.46 Conditional release.—

935 (2) It is the intent of the Legislature that:

936 (a) Commitment programs include rehabilitative efforts on
 937 preparing committed juveniles for a successful release to the
 938 community.

939 (b) Conditional release transition planning begins as early
 940 in the commitment process as possible.

941 (c) Each juvenile committed to a residential commitment
 942 program shall receive conditional release services ~~be assessed~~
 943 ~~to determine the need for conditional release services~~ upon
 944 release from the commitment program unless the youth is directly
 945 released by the court.

946 (3) For juveniles referred or committed to the department,
 947 the function of the department may include, but shall not be
 948 limited to, supervising each juvenile on conditional release
 949 ~~when assessing each juvenile placed in a residential commitment~~
 950 ~~program to determine the need for conditional release services~~
 951 ~~upon release from the program, supervising the juvenile when~~
 952 released into the community from a residential commitment
 953 facility of the department, providing such counseling and other
 954 services as may be necessary for the families and assisting
 955 their preparations for the return of the child. Subject to
 956 specific appropriation, the department shall provide for
 957 outpatient sexual offender counseling for any juvenile sexual

33-01163A-24 20241274__

958 offender released from a residential commitment program as a
 959 component of conditional release.

960 (5) Conditional release supervision shall, at a minimum,
 961 contain the following conditions:

962 (a) ~~(5)~~ Participation in the educational program by students
 963 of compulsory school attendance age pursuant to s. 1003.21(1)
 964 and (2) (a) is mandatory for juvenile justice youth on
 965 conditional release ~~or postcommitment probation~~ status. A
 966 student of noncompulsory school-attendance age who has not
 967 received a high school diploma or its equivalent must
 968 participate in an educational program or career and technical
 969 education course of study. A youth who has received a high
 970 school diploma or its equivalent and is not employed must
 971 participate in workforce development or other career or
 972 technical education or attend a community college or a
 973 university while in the program, ~~subject to available funding.~~

974 (b) A curfew.

975 (c) A prohibition on contact with victims, co-defendants,
 976 or known gang members.

977 (d) A prohibition on use of controlled substances.

978 (e) A prohibition on possession of firearms.

979 (6) A youth who violates the terms of his or her
 980 conditional release shall be assessed using the graduated
 981 response matrix as described in s. 985.438. A youth who fails to
 982 move into compliance shall be recommitted to a residential
 983 facility.

984 Section 17. Paragraph (c) of subsection (1) of section
 985 985.48, Florida Statutes, is amended to read:
 986 985.48 Juvenile sexual offender commitment programs; sexual

33-01163A-24

20241274__

abuse intervention networks.—

(1) In order to provide intensive treatment and psychological services to a juvenile sexual offender committed to the department, it is the intent of the Legislature to establish programs and strategies to effectively respond to juvenile sexual offenders. In designing programs for juvenile sexual offenders, it is the further intent of the Legislature to implement strategies that include:

(c) Providing intensive ~~postcommitment~~ supervision of juvenile sexual offenders who are released into the community with terms and conditions which may include electronic monitoring of a juvenile sexual offender for the purpose of enhancing public safety.

Section 18. Paragraph (a) of subsection (6) of section 985.4815, Florida Statutes, is amended to read:

985.4815 Notification to Department of Law Enforcement of information on juvenile sexual offenders.—

(6) (a) The information provided to the Department of Law Enforcement must include the following:

1. The information obtained from the sexual offender under subsection (4).

2. The sexual offender's most current address and place of permanent, temporary, or transient residence within the state or out of state, and address, location or description, and dates of any current or known future temporary residence within the state or out of state, while the sexual offender is in the care or custody or under the jurisdiction or supervision of the department in this state, including the name of the county or municipality in which the offender permanently or temporarily

33-01163A-24

20241274__

resides, or has a transient residence, and address, location or description, and dates of any current or known future temporary residence within the state or out of state; and, if known, the intended place of permanent, temporary, or transient residence, and address, location or description, and dates of any current or known future temporary residence within the state or out of state upon satisfaction of all sanctions.

3. The legal status of the sexual offender and the scheduled termination date of that legal status.

4. The location of, and local telephone number for, any department office that is responsible for supervising the sexual offender.

5. An indication of whether the victim of the offense that resulted in the offender's status as a sexual offender was a minor.

6. The offense or offenses at adjudication and disposition that resulted in the determination of the offender's status as a sex offender.

7. A digitized photograph of the sexual offender, which must have been taken within 60 days before the offender was released from the custody of the department or a private correctional facility by expiration of sentence under s. 944.275, or within 60 days after the onset of the department's supervision of any sexual offender who is on probation, ~~postcommitment-probation~~, residential commitment, nonresidential commitment, licensed child-caring commitment, community control, conditional release, parole, provisional release, or control release or who is supervised by the department under the Interstate Compact Agreement for Probationers and Parolees. If

33-01163A-24

20241274__

the sexual offender is in the custody of a private correctional facility, the facility shall take a digitized photograph of the sexual offender within the time period provided in this subparagraph and shall provide the photograph to the department.

Section 19. Subsection (11) of section 985.601, Florida Statutes, is renumbered as subsection (12), and a new subsection (11) is added to that section, to read:

985.601 Administering the juvenile justice continuum.—

(11) The department shall establish a class focused on the risk and consequences of youthful firearm offending which shall be provided by the department to any youth adjudicated or who had adjudication withheld for any offense involving the use or possession of a firearm.

Section 20. Section 985.711, Florida Statutes, is amended to read:

985.711 Introduction, removal, or possession of certain articles unlawful; penalty.—

(1) (a) Except as authorized through program policy or operating procedure or as authorized by the facility superintendent, program director, or manager, a person may not introduce into or upon the grounds of a juvenile detention facility or commitment program, or take or send, or attempt to take or send, from a juvenile detention facility or commitment program, any of the following articles, which are declared to be contraband under this section:

1. Any unauthorized article of food or clothing given or transmitted, or intended to be given or transmitted, to any youth in a juvenile detention facility or commitment program.

2. Any intoxicating beverage or any beverage that causes or

33-01163A-24

20241274__

may cause an intoxicating effect.

3. Any controlled substance as defined in s. 893.02(4), marijuana as defined in s. 381.986, hemp as defined in s. 581.217, industrial hemp as defined in s. 1004.4473, or any prescription or nonprescription drug that has a hypnotic, stimulating, or depressing effect.

4. Any firearm or weapon of any kind or any explosive substance.

5. Any cellular telephone or other portable communication device as described in s. 944.47(1)(a)6., intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program. As used in this subparagraph, the term "portable communication device" does not include any device that has communication capabilities which has been approved or issued by the facility superintendent, program director, or manager.

6. Any vapor-generating electronic device as defined in s. 386.203, intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program.

7. Any currency or coin given or transmitted, or intended to be given or transmitted, to any youth of any juvenile detention facility or commitment program.

8. Any cigarettes, as defined in s. 210.01(1), or tobacco products, as defined in s. 210.25, given, or intended to be given, to any youth in a juvenile detention facility or commitment program.

(b) A person may not transmit contraband to, cause contraband to be transmitted to or received by, attempt to

33-01163A-24

20241274__

transmit contraband to, or attempt to cause contraband to be transmitted to or received by, a juvenile offender into or upon the grounds of a juvenile detention facility or commitment program, except as authorized through program policy or operating procedures or as authorized by the facility superintendent, program director, or manager.

(c) A juvenile offender or any person, while upon the grounds of a juvenile detention facility or commitment program, may not be in actual or constructive possession of any article or thing declared to be contraband under this section, except as authorized through program policy or operating procedures or as authorized by the facility superintendent, program director, or manager.

~~(2)(a) Any person who violates this section as it pertains to an article of contraband described in subparagraph (1)(a)1. commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~(b) Any person who violates this section as it pertains to an article of contraband described in subparagraph (1)(a)5. or subparagraph (1)(a)6. commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~(c) In all other cases,~~ A person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 21. Paragraph (c) of subsection (2) of section 1002.221, Florida Statutes, is amended to read:
1002.221 K-12 education records; public records exemption.—

(2)

(c) In accordance with the FERPA and the federal

33-01163A-24

20241274__

regulations issued pursuant to the FERPA, an agency or institution, as defined in s. 1002.22, may release a student's education records without written consent of the student or parent to parties to an interagency agreement among the Department of Juvenile Justice, the school, law enforcement authorities, and other signatory agencies. Information provided pursuant to an interagency agreement may be used for proceedings initiated under chapter 984 or chapter 985 in furtherance of an interagency agreement is intended solely for use in determining the appropriate programs and services for each juvenile or the juvenile's family, or for coordinating the delivery of the programs and services, and as such is inadmissible in any court proceeding before a dispositional hearing unless written consent is provided by a parent or other responsible adult on behalf of the juvenile.

Section 22. Paragraph (b) of subsection (3) of section 943.051, Florida Statutes, is amended to read:

943.051 Criminal justice information; collection and storage; fingerprinting.—

(3)

(b) A minor who is charged with or found to have committed the following offenses shall be fingerprinted and the fingerprints shall be submitted electronically to the department, unless the minor is issued a delinquency civil citation pursuant to s. 985.12:

1. Assault, as defined in s. 784.011.
2. Battery, as defined in s. 784.03.
3. Carrying a concealed weapon, as defined in s. 790.01(2).
4. Unlawful use of destructive devices or bombs, as defined

33-01163A-24

20241274__

1161 in s. 790.1615(1).

1162 5. Neglect of a child, as defined in s. 827.03(1)(e).

1163 6. Assault or battery on a law enforcement officer, a

1164 firefighter, or other specified officers, as defined in s.

1165 784.07(2)(a) and (b).

1166 7. Open carrying of a weapon, as defined in s. 790.053.

1167 8. Exposure of sexual organs, as defined in s. 800.03.

1168 9. Unlawful possession of a firearm, as defined in s.

1169 790.22(5).

1170 10. Petit theft, as defined in s. 812.014(3).

1171 11. Cruelty to animals, as defined in s. 828.12(1).

1172 12. Arson, as defined in s. 806.031(1).

1173 13. Unlawful possession or discharge of a weapon or firearm

1174 at a school-sponsored event or on school property, as provided

1175 in s. 790.115.

1176 Section 23. Paragraph (b) of subsection (1) of section

1177 985.11, Florida Statutes, is amended to read:

1178 985.11 Fingerprinting and photographing.—

1179 (1)

1180 (b) Unless the child is issued a delinquency ~~civil~~ citation

1181 ~~or is participating in a similar diversion program~~ pursuant to

1182 s. 985.12, a child who is charged with or found to have

1183 committed one of the following offenses shall be fingerprinted,

1184 and the fingerprints shall be submitted to the Department of Law

1185 Enforcement as provided in s. 943.051(3)(b):

1186 1. Assault, as defined in s. 784.011.

1187 2. Battery, as defined in s. 784.03.

1188 3. Carrying a concealed weapon, as defined in s. 790.01(2).

1189 4. Unlawful use of destructive devices or bombs, as defined

33-01163A-24

20241274__

1190 in s. 790.1615(1).

1191 5. Neglect of a child, as defined in s. 827.03(1)(e).

1192 6. Assault on a law enforcement officer, a firefighter, or

1193 other specified officers, as defined in s. 784.07(2)(a).

1194 7. Open carrying of a weapon, as defined in s. 790.053.

1195 8. Exposure of sexual organs, as defined in s. 800.03.

1196 9. Unlawful possession of a firearm, as defined in s.

1197 790.22(5).

1198 10. Petit theft, as defined in s. 812.014.

1199 11. Cruelty to animals, as defined in s. 828.12(1).

1200 12. Arson, resulting in bodily harm to a firefighter, as

1201 defined in s. 806.031(1).

1202 13. Unlawful possession or discharge of a weapon or firearm

1203 at a school-sponsored event or on school property as defined in

1204 s. 790.115.

1205

1206 A law enforcement agency may fingerprint and photograph a child

1207 taken into custody upon probable cause that such child has

1208 committed any other violation of law, as the agency deems

1209 appropriate. Such fingerprint records and photographs shall be

1210 retained by the law enforcement agency in a separate file, and

1211 these records and all copies thereof must be marked "Juvenile

1212 Confidential." These records are not available for public

1213 disclosure and inspection under s. 119.07(1) except as provided

1214 in ss. 943.053 and 985.04(2), but shall be available to other

1215 law enforcement agencies, criminal justice agencies, state

1216 attorneys, the courts, the child, the parents or legal

1217 custodians of the child, their attorneys, and any other person

1218 authorized by the court to have access to such records. In

33-01163A-24

20241274

1219 addition, such records may be submitted to the Department of Law
 1220 Enforcement for inclusion in the state criminal history records
 1221 and used by criminal justice agencies for criminal justice
 1222 purposes. These records may, in the discretion of the court, be
 1223 open to inspection by anyone upon a showing of cause. The
 1224 fingerprint and photograph records shall be produced in the
 1225 court whenever directed by the court. Any photograph taken
 1226 pursuant to this section may be shown by a law enforcement
 1227 officer to any victim or witness of a crime for the purpose of
 1228 identifying the person who committed such crime.

1229 Section 24. Paragraph (n) of subsection (2) of section
 1230 1006.07, Florida Statutes, is amended to read:

1231 1006.07 District school board duties relating to student
 1232 discipline and school safety.—The district school board shall
 1233 provide for the proper accounting for all students, for the
 1234 attendance and control of students at school, and for proper
 1235 attention to health, safety, and other matters relating to the
 1236 welfare of students, including:

1237 (2) CODE OF STUDENT CONDUCT.—Adopt a code of student
 1238 conduct for elementary schools and a code of student conduct for
 1239 middle and high schools and distribute the appropriate code to
 1240 all teachers, school personnel, students, and parents, at the
 1241 beginning of every school year. Each code shall be organized and
 1242 written in language that is understandable to students and
 1243 parents and shall be discussed at the beginning of every school
 1244 year in student classes, school advisory council meetings, and
 1245 parent and teacher association or organization meetings. Each
 1246 code shall be based on the rules governing student conduct and
 1247 discipline adopted by the district school board and shall be

Page 43 of 44

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

33-01163A-24

20241274

1248 made available in the student handbook or similar publication.

1249 Each code shall include, but is not limited to:

1250 (n) Criteria for recommending to law enforcement that a
 1251 student who commits a criminal offense be allowed to participate
 1252 in a prearrest delinquency citation ~~civil citation or similar~~
 1253 ~~prearrest diversion~~ program as an alternative to expulsion or
 1254 arrest. All prearrest delinquency citation ~~civil citation or~~
 1255 ~~similar prearrest diversion~~ programs must comply with s. 985.12.

1256 Section 25. This act shall take effect July 1, 2024.

Page 44 of 44

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



2024 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Juvenile Justice

BILL INFORMATION	
BILL NUMBER:	SB 1274
BILL TITLE:	Juvenile Justice
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)

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

CURRENT COMMITTEE
Criminal Justice

SIMILAR BILLS	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

IDENTICAL BILLS	
BILL NUMBER:	HB 1181
SPONSOR:	Representative Jacques

Is this bill part of an agency package?
Yes

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	1/12/24
LEAD AGENCY ANALYST:	Chancer Teel, Director of Legislative Affairs, 850-717-2716
ADDITIONAL ANALYST(S):	
LEGAL ANALYST:	John Milla, General Counsel
FISCAL ANALYST:	Christian Griffin, Budget Chief

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill makes numerous substantive changes to further enhance public safety by providing accountability for youth who commit firearm offenses, who refuse to comply with the terms and conditions of court orders, and who continue to show a pattern of delinquent behavior to the detriment of public safety. The bill addresses public safety issues throughout the continuum of services.

The use and possession of firearms by youth is addressed through several avenues, including increasing penalties for certain firearm offenses, using secure detention until an adjudicatory hearing as a public safety measure in cases where certain firearm offenses are involved, and setting minimum consequences for cases involving certain firearm offenses where an adjudication is withheld. The Florida Department of Juvenile Justice is also granted authority to develop a youthful firearm offending class to use in programming to educate youth on the risks, dangers, and consequences of illegal use or possession of firearms. Community supervision standards are set statewide around violations of probation and the use of conditional release is prioritized to provide the department with an enhanced ability to ensure compliance with the terms and conditions of their court-ordered supervision. Additionally, pre-arrest citations are emphasized as an evidenced-based tool shown to be effective in preventing deeper involvement in the juvenile justice system by offering immediate accountability for delinquent behavior.

The bill also makes several additional changes including allowing the use of educational records in court proceedings and increasing penalties for introducing potentially dangerous contraband to juvenile facilities that may threaten the health, safety, and welfare of youth, staff, and visitors in department facilities.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Civil Citation/Post-arrest diversion:

- Civil citations are an alternative to arrest that offer an opportunity to curb delinquent behavior without creating a juvenile record.
- Under s. 985.12, F.S., civil citation or similar prearrest diversion programs are permitted to operate in each judicial circuit. Civil citations are issued at the discretion of law enforcement to offer immediate accountability to youth, and citation programs may include consequences such as community service, drug testing, substance abuse counseling or anger management counseling, teen court, or other services provided by the citation entity. The state attorney's office for each circuit has a civil citation program established, and the counties and municipalities throughout the circuit may utilize the program developed by the state attorney. Some counties or municipalities choose to operate independent civil citation programs. In all such cases, Florida Statutes requires the independent program to be reviewed by the state attorney to ensure it is substantially similar to the circuit's program. Following the issuance of a citation, the law enforcement officer sends a copy of the citation to the parent or guardian of the youth as well as the victim. The state attorney reviews the citation, and the youth is referred to the local entity that administers the citation program consequences. A needs assessment is conducted to determine the appropriate intervention services for the youth to participate in an attempt to prevent further delinquent behavior. If the youth does not successfully complete the program, the law enforcement entity that issued the citation may determine good cause exists to arrest the youth for the original offense and refer the case to the state attorney to determine whether prosecution or continuing in the program is appropriate.
- Post-arrest diversion programs differ because an arrest was made, fingerprints were taken, and a juvenile record is created.

- Data is collected on civil citation issuance. Pursuant to s. 985.126, F.S., citation entities submit demographic data and indicate the law violation. Law enforcement agencies report data to the Florida Department of Juvenile Justice that identifies each minor who was eligible for a diversion program but was instead referred to the department, given a notice to appear, or arrested. Within 7 days of the admission into a citation program, the citation entity enters data into the Juvenile Justice Information System Prevention Web. De-identified data collected through the state's civil citation programs is published and continually updated on the department's website, and helps inform the department-produced, civil citation best practice report disseminated to judicial circuits.

Post Commitment Probation/Conditional Release:

- After release from a residential commitment program, a youth can be placed on post-commitment probation (PCP), conditional release (CR), or be directly released. The use of PCP/CR varies by judicial circuit, and a circuit generally utilizes one more than the other. Currently, 15 of Florida's 20 judicial circuits either strictly or mostly utilize PCP, and 4 circuits strictly or mostly utilize CR. There are key differences between PCP and CR. While they are similar in the fact that the terms of release may include receiving services in the community, performing community service, or periodic drug testing, supervision on CR may continue until the age of 21, whereas supervision on PCP ends at age 19. The process for transferring a youth back to a residential program differs as well. In PCP, a youth who is in violation of their terms of probation or commits a new law violation may be recommitted back to a residential program by motion of the state attorney and resort to the formal revocation proceedings in court under s. 985.439, F.S. CR is a faster and more efficient way to hold youth accountable in a timelier manner than PCP. Youth are still committed to the department under CR and if the terms of a youth's conditional release are not being met, a transfer staffing may be held where the state attorney, department staff, and public defender's office collaborate to determine if the youth should be transferred back to a residential program to receive services in a secured setting. A transfer staffing is conducted outside of a court setting because the youth's commitment status had not changed since the court ordered the youth to be committed to a residential program. Alternatively, a youth may be directly released from a residential program back into the community without further departmental supervision.

Minor in Possession of a Firearm:

- A minor in possession of a firearm is currently a 1st degree misdemeanor under s. 790.22, F.S. Under current law, the penalties for a first offense include 100 hours of community service, and the court may order a period of secure detention of up to five days. For a second or subsequent offense, the charge is a third-degree felony with penalties consisting of 100-250 hours of community service, and the court may order a period of secure detention of up to 21 days. The court has authority to issue penalties on driving privileges, including withholding issuance, extending an existing suspension or revocation, or, in cases where the minor is not eligible for driving privileges yet, withholding issuance after the date they would become eligible. If exercised by the court, these penalties are for 1 year for a first offense, and up to 2 years for a second or subsequent offense.

Secure Detention Care:

- The use of secure detention care is a public safety measure to provide secure care for youth who score for detention on the Detention Risk Assessment Instrument (DRAI), are ordered to detention by the court, are awaiting placement for a residential commitment program, or are in detention as part of consequences stipulated in statute. The DRAI is used at a Juvenile Assessment Center following a violation of law that resulted in the youth being brought to the department's custody, and factors in the severity of the offense and offense history are used to determine if there is a public safety need for secure detention care. The DRAI was developed through collaboration of law enforcement, state attorneys, public defenders, the Florida Department of Juvenile Justice, and judicial representatives. The results of the DRAI are recommendations to the court at a detention hearing. The court may decide to depart from the DRAI to order secure detention care when the

youth did not score for it, or to allow the youth to be out in the community when the youth did score for detention.

- The length of secure detention care is dynamic and varies based on an individual's case and circumstances. The average length of stay in a detention facility is approximately 14 days; however, the stay may be longer if a youth is awaiting placement in a residential facility. For some serious offenses, the court may exercise statutory authority to impose 21-day detention stays on a rolling basis while the case is being brought to an adjudicatory hearing or placement in a residential program is secured.

Alternative Consequence Component for Violations of Probation:

- Each judicial circuit has an alternative consequence component developed with input from judges, the state attorney, public defender, regional counsel, relevant law enforcement agencies and the department. A violation of probation may elicit various accountability measures wholly dependent upon the circuit where the violation occurred. The alternative consequence component in each circuit is structured in a way so that violations of probation are assessed based on the criminogenic needs and risks of the youth, the seriousness of the violation, age and maturity level, and effectiveness of a sanction/incentive to encourage compliant behavior.

Contraband:

- Department of Juvenile Justice facilities are secure locations where certain items are prohibited from being introduced to the grounds of the facility or transferred to a youth in the department's care. A list of prohibited items is posted at the entrance of every facility in clear sight before progressing to a security screening performed by facility staff. Preventing the introduction of prohibited items protects both youth and staff from dangerous items or substances that threaten the health, safety, and welfare of all individuals within the location and have the very real potential of inhibiting successful rehabilitative strides a youth may make during their time in the department's care. Enforcing contraband measures also works to prevent special privileges for individual youth over others and unnecessary competition that can foster jealousy and/or altercations between youth. Section 985.711, F.S. details which items are prohibited in statute, and includes: intoxicating beverages, controlled substances, firearms or weapons, cell phones or portable communication devices, unauthorized food or clothing, and vapor generating devices.
- Criminal charges for introducing/transferring contraband vary according to the prohibited item. For instance, introducing unauthorized food or clothing carries a third-degree felony charge, vapor devices and cell phones carry a first-degree misdemeanor charge, and introducing or transferring any of the other prohibited items is a second-degree felony.

Educational Records in Court:

- Florida law is more restrictive than Federal law outlined in the Family Educational Rights and Privacy Act (FERPA). Terms and conditions of court-ordered probation often include educational requirements a youth must meet. However, the use of various educational records in court proceedings, such as attendance records, is not permitted under Florida law, thus inhibiting the department's ability to ensure a youth on probation is enrolled, attending, and behaving in school and satisfying the terms and conditions of their court-ordered probation.

2. EFFECT OF THE BILL:

Section 1:

The bill amends s. 790.115, F.S., by striking language that is now superseded by language found in s. 985.25, F.S.

Section 2:

Amends and reorganizes parts of s. 790.22, F.S., to increase the penalty for a minor in possession of a firearm from a first-degree misdemeanor to a third-degree felony. Penalties for a first offense include 5 days in secure detention and 100 hours of community service or paid work as determined by the department. Penalties for a second offense include 21 days in secure detention and between 100 and 250 hours of community service or paid work as determined by the department. Penalties for a third offense include an adjudication of delinquency and commitment to a residential program. The bill also allows the option of a judge to revoke a youth's driving privileges for up to 2 years for a second or subsequent offense of minor in possession of a firearm.

The bill deletes subsections (8 - 10), relocates subsection (8) to 985. 255, and relocates subsections (9-10) to s. 985.433(8), F.S.

Section 3:

Amends s. 985.101, F.S., to remove a reference to "postcommitment probation".

Section 4:

Amends s. 985.12, F.S., to rename the section "Prearrest delinquency citation" and renames "civil citation" to "delinquency citation". The bill prohibits delinquency citations from being issued for firearm-related offenses and authorizes the use of courses developed by the department or delinquency citation entity to be used in delinquency citation programs. Existing civil citation or similar prearrest diversion programs become delinquency citation programs as long as they are currently approved by the State Attorney for the circuit, and they do not permit civil citations for firearm offenses. Additionally, other technical and non-substantive changes are made to the delinquency citation program.

Section 5:

Amends s. 985.125, F.S., to rename the section "Postarrest diversion programs" and removes references to prearrest diversion programs. School districts are prohibited from operating a postarrest diversion program.

Section 6:

Amends s. 985.126, F.S., to require the department to submit quarterly a report to presiding officers listing the entities with low utilization of delinquency citation using data submitted by law enforcement to the department for every first-time misdemeanor youth.

Section 7:

Amends s. 985.245, F.S., to remove reference to "postcommitment probation".

Section 8:

Amends s. 985.25, F.S., to require any youth charged with violating the terms of their electronic monitoring supervision or supervised release to be held in secure detention until their detention hearing.

Further, the bill amends statute to require a youth on probation for an underlying felony firearm offense and who is taken into custody for a violation of probation terms, not including a new law violation, to be held in secure detention to allow the state attorney and court to review the violation. If the state attorney notifies

the court within 21 days of their intent to recommend residential commitment, the youth will remain in secure detention until the 21-day period is up. Upon motion of the state attorney, the court may find that the totality of the circumstances and preservation of public safety warrants an additional 21-day period in secure detention. Any release from secure detention under these circumstances would be supervised release with electronic monitoring following a detention review hearing.

Section 9:

Amends s. 985.255, F.S., to emphasize the courts authority to depart from the DRAI by stating the court may order a placement more or less restrictive than what the DRAI recommends.

The bill specifies a list of serious and dangerous offenses where, upon a finding of probable cause at the detention hearing, the court must order secure detention until the adjudicatory hearing unless the court makes written findings based on clear and convincing evidence the child does not pose a threat to public safety if placed on supervised release. If an adjudicatory hearing is not held within 60 days, detention review hearings will occur at each successive 7-day interval until the adjudicatory hearing takes place, or the youth is placed on supervised release with electronic monitoring.

The specified list of offenses include:

- Murder (1st degree and 2nd degree)
- Armed robbery involving the use/possession of a firearm
- Armed carjacking involving the use/possession of a firearm
- Having a firearm while committing a felony
- Armed burglary involving the use/possession of a firearm
- Delinquent in possession of a firearm
- Attempt to commit any of the above-listed offenses

For any youth released on supervised release under these circumstances, the bill requires the court to provide a copy of the written notice to the victim, the arresting agency, and the law enforcement agency with primary jurisdiction over the youth's residence

Section 10:

Amends s. 985.26, F.S., to include language specified in s. 985.255, F.S., regarding the length of detention for specified offenses. *Please see Section 9 for more information.*

Section 11:

Amends s. 985.433, F.S., to require any youth committed for any offense or attempted offense involving a firearm be placed on conditional release for at least one year after release from the residential commitment program, with terms of conditional release including electronic monitoring for the initial six months under terms and conditions set by the department.

The bill requires that for firearm offenses, other than minor in possession under s. 790.22(3), F.S., if the court decides **not** to commit the youth to a residential program, then the court will order certain punishments. For a first offense, this includes a period 30 days in detention, with credit for time served in detention prior to disposition of the case, 100 hours of community service or paid work as determined by the department, and placement on probation with electronic monitoring for at least one year under terms and conditions set by the department. The court may also impose driving privilege restrictions for up to one year. If the youth's driving privileges are already suspended or revoked, the court may extend the period up

to one year. If the youth is not at the age where they are eligible to get a drivers license or learner's permit, the court may withhold issuance for up to one year after the date they would have become eligible.

The bill requires that adjudication cannot be withheld a second time for a specified list of firearm offenses, including:

- Armed robbery involving a firearm
- Armed carjacking involving the use or possession of a firearm
- Having a firearm while committing a felony
- Armed Burglary involving the use or possession of a firearm
- Delinquent in possession of a firearm
- Any attempt to commit the aforementioned offenses

Section 12:

Amends s. 985.435, F.S., to remove reference to "postcommitment probation" and to specify that alternative consequence programs must comply with the department's graduated response matrix defined in Section 13.

Section 13:

Creates s. 985.438, F.S., to provide the department with rulemaking authority to create a statewide graduated response matrix to address technical violations of probation and provide immediate accountability for patterns of noncompliance with terms and conditions of probation.

The sanctions in the graduated response matrix would include, at minimum, increased contacts, increased drug tests, curfew restrictions, increased community service, additional evaluations, and placement on electronic monitoring.

Section 14:

Amends s. 985.439, F.S., to remove reference to "postcommitment probation".

The bill requires that upon receiving an affidavit from the department alleging a violation of probation, the state attorney must file the proper paperwork within 5 days or provide in writing to the court and department the reason for not filing. Provisions in statute allowing the development of alternative consequence programs for violations of probation are removed to accommodate the development of a statewide graduated response matrix.

The bill also allows for the department, at its discretion, to put a youth on electronic monitoring as a sanction for not complying with the terms and conditions of their probation.

Section 15:

Amends s. 985.455, F.S., to authorize the court to direct the Florida Department of Highway Safety and Motor Vehicles to issue a license for driving privileges restricted to business or employment purposes only (as defined in s. 322.271 F.S.) when the court finds that the youth's circumstances warrant an exception to a full suspension of driving privileges.

Section 16:

Amends s. 985.46, F.S., to put minimum standards around the terms of conditional release and to state that a youth who fails to comply with such terms while on conditional release shall be recommitted to a residential commitment program.

Minimum standards include participation in an education program, curfew, prohibitions on use of controlled substances, possession of firearms, and contact with victims, co-defendants, or known gang members.

Section 17:

Amends s. 985.48, F.S., to remove reference to “postcommitment probation”.

Section 18:

Amends s. 985.4815, F.S., to remove reference to “postcommitment probation”.

Section 19:

Amends s. 985.601, F.S., to give the department the authority to create a class that focuses on the risks and consequences of youthful firearm offending. The class may be provided to youth who are adjudicated or had adjudication withheld for any offenses involving the use or possession of a firearm.

Section 20:

Amends s. 985.711, F.S., to standardize the penalty for introducing or transmitting (including attempts to do so) any contraband to a youth in a secure detention or commitment facility to a second-degree felony and adds currency and traditional tobacco products to the list of contraband items.

Section 21:

Amends s. 1002.221, F.S., to allow the educational records of a youth to be admissible in court proceedings under Chapter 984 and 985 to ensure the youth complies with the terms and conditions of a court order.

Section 22:

Amends s. 943.051, F.S., to rename “civil citation” as “delinquency citation”.

Section 23:

Amends s. 985.11, F.S., to rename “civil citation” as “delinquency citation”.

Section 24:

Amends s. 1006.07, F.S., to remove reference to civil citations or similar prearrest diversion programs and replaces with “delinquency citation”.

Section 25:

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:	The department is granted rulemaking authority to develop a statewide graduated response matrix. This would standardize responses to violations of probation across the state and increase accountability to youth who show a pattern of noncompliance with court ordered terms of probation.
Is the change consistent with the agency's core mission?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	63D - Probation

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:	The department is required to submit a quarterly report to the Senate President, Speaker of the House, and the Governor detailing the utilization of delinquency citation for first-time misdemeanor offenses.
Date Due:	Quarterly
Bill Section Number(s):	Section 7, Subsection 5.

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

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y ☒ N ☐

Revenues:	N/A
Expenditures:	Indeterminate at this time. However, since the bill could result in additional youth in secure detention, operating costs for non-fiscally

	constrained counties could increase in relation to their portion of the annual Detention Cost Share billings.
Does the legislation increase local taxes or fees? If yes, explain.	No.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

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

Revenues:	Click or tap here to enter text.
Expenditures:	Indeterminate at this time. However, several provisions within the bill could result in increased operating costs for the department. While the full fiscal impact would be based on the increased number of youth served by department program areas due to the statutory changes within the bill, the current secure detention cost per day for the department is \$460.16/youth, and the average per diem for contracted residential programs is \$276/youth for nonsecure programs and \$307/youth for secure programs.
Does the legislation contain a State Government appropriation?	No.
If yes, was this appropriated last year?	N/A

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

Revenues:	
Expenditures:	
Other:	

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

If yes, explain impact.	
Bill Section Number:	

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

If yes, describe the anticipated impact to the	
--	--

agency including any fiscal impact.	
-------------------------------------	--

FEDERAL IMPACT

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

If yes, describe the anticipated impact including any fiscal impact.	Click or tap here to enter text.
--	----------------------------------

ADDITIONAL COMMENTS

Click or tap here to enter text.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	Click or tap here to enter text.
---------------------------	----------------------------------

The Florida Senate

APPEARANCE RECORD

1-30-2024

Meeting Date

Criminal Justice

Committee

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

SB 1274

Bill Number or Topic

563204 DE

Amendment Barcode (if applicable)

904/255-4600

Name

Charlie Cofe, 4th Cir. Pub. Def.

Phone

Address

407 N. Laura St.

Email

ccofer@pd4.coj.net

Street

Jacksonville, FL 32202

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

SB 1274

Bill Number or Topic

1/30/24

Meeting Date

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name

Chancer Teel

Phone

850-717-2716

Address

2737 Centerview Dr.

Street

Tallahassee

City

FL

State

32399

Zip

Email

Chancer.teel@FL.DSS.gov

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
Dept. of Juvenile
Justice

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/30/24

Meeting Date

Criminal Justice

Committee

SB 1274

Bill Number or Topic

Amendment Barcode (if applicable)

Name Christian Minor

Phone (321) 223-4232

Address 2850 Pablo Ave

Email

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Juvenile Justice Association

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 1274

1/30/24

Meeting Date

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

Bill Number or Topic

CRIMINAL JUSTICE

Committee

Amendment Barcode (if applicable)

Name LIBBY GUZZO

Phone 850 245 0155

Address CAPITAL PL-01

Email LIBBY.Guzzo@myFLORIDA
LEGAL.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:

OFFICE OF ATTORNEY GENERAL

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

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

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

S-001 (08/10/2021)

January 30, 2024

Meeting Date

Criminal Justice

Committee

Name Jonathan Webber

Address 400 Washington Ave

Street

Montgomery

City

AL

State

36104

Zip

The Florida Senate

APPEARANCE RECORD

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

SB 1274 Juvenile Justice

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 954-593-4449

Email jonathan.webber@splcactionfund.org

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

SPLC Action Fund

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

SB 1274

Bill Number or Topic

Amendment Barcode (if applicable)

11/30/24

Meeting Date

Criminal Justice

Committee

Name

Jessica Wright

Phone

407-808-3431

Address

3535 Tour Trace

Street

Lando Lakes FL

City

State

34638

Zip

Email

jessica.wright@bayshinegroup.com

Speaking:

☐

For

☐

Against

☒

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)

1-30-2024

Meeting Date

Criminal Justice

Committee

Sheriff Bob Gualtieri

Name

10750 Ulmerton Road

Address

Street

Largo

City

FL

State

33779

Zip

The Florida Senate

APPEARANCE RECORD

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

1274

Bill Number or Topic

Amendment Barcode (if applicable)

727-582-6200

Phone

rgualtieri@pcsonet.com

Email

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:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/30/24

Meeting Date

Criminal Justice

Committee

SB1274

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Sharmir Smith

Phone

9045042688

Address

Street

Jacksonville Beach FL 32250

City

State

Zip

Email

Slynn.Smith@yahoo.com

Speaking:

☐ For

☒ Against

☒ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/30/2024

Meeting Date

Criminal Justice

Committee

SB 1274

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Quinn Swearingen

Phone

954-815-8605

Address

Street

Orlando

FL

32822

City

State

Zip

Email

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☒

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

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

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

S-001 (08/10/2021)

The Florida Senate
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 1352

INTRODUCER: Senator Bradley

SUBJECT: Juvenile Justice

DATE: January 29, 2024

REVISED: _____

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

I. Summary:

SB 1352 amends s. 381.887, F.S., adding personnel of the Department of Juvenile Justice (DJJ) and of any contracted provider with direct contact with youth to the list of personnel that are offered immunity from civil and criminal liability as a result of administering an emergency opioid antagonist (EOA).

The bill amends s. 985.664, F.S., requiring that each judicial circuit in this state shall have a juvenile justice circuit advisory board, and specifies requirements of such board. The bill removes reference to the juvenile justice circuit advisory board in ss. 938.17 and 948.51, F.S.

The bill amends s. 790.22, F.S., removing the provision requiring the juvenile justice circuit advisory board to establish certain community service programs. The bill designates the responsibility of establishing appropriate community service programs available to the alternative sanctions coordinators of the circuit courts.

The bill amends s. 985.601, F.S., to authorize the department to use state or federal funds to purchase and distribute promotional and educational materials that are consistent with the dignity and integrity of the state for the following purposes:

- Educating children and families about the juvenile justice continuum, including local prevention programs or community services available for participation or enrollment.
- Staff recruitment at job fairs, career fairs, community events, the Institute for Commercialization of Florida Technology, community college campuses, or state university campuses.
- Educating children and families on children-specific public safety issues, including, but not limited to, safe storage of adult-owned firearms, consequences of child firearm offenses, human trafficking, or drug and alcohol abuse.

The bill amends s. 985.115, F.S., providing that a juvenile assessment center may not be considered a facility that can receive a child who is suffering from a serious physical condition that requires a medical diagnosis or treatment, is mentally ill as defined in s. 394.463(1), F.S., or the child is intoxicated and has threatened or attempted physical harm to him or herself or another.

The bill amends s. 985.03, F.S., revising definitions and removing “minimum-risk nonresidential” as a restrictiveness level for committed youth. The bill revises the term “nonsecure residential” programs to “moderate-risk.” The term “juvenile prison” and “juvenile correctional facilities” are removed to standardize the term “maximum risk residential.” Corresponding changes are made in ss. 985.27, 985.441, 985.465, 330.41, and 553.865, F.S.

The bill amends various statutes throughout ch. 985, F.S., to replace the terms gender and gender-specific, with sex and sex-specific respectively. These changes are made in ss. 985.02, 985.126, 985.17, and 985.601, F.S.

The bill amends s. 985.26, F.S., authorizing that transitions from secure detention care and supervised release detention care be initiated upon the court’s own motion, or upon a motion of the child or of the state, and after considering any information provided by the department regarding the child’s adjustment to detention supervision.

The bill amends s. 985.676, F.S., revising the required contents of a grant proposal applicants must submit to be considered for funding from an annual community juvenile justice partnership grant. The bill requires the department to consider the recommendations of community stakeholders, rather than the juvenile justice circuit advisor board, as to certain priorities. The bill removes the juvenile justice circuit advisory board from the entities to which each awarded grantee is required to submit an annual evaluation report.

The bill amends s. 1003.51, F.S., revising requirements for certain State Board of Education rules to establish policies and standards for certain education programs. The bill strikes accountability measures requiring a series of graduated sanctions for district school boards whose educational programs in the DJJ programs are considered to be unsatisfactory and for instances in which district school boards fail to meet standards prescribed by law, rule, or State Board of Education policy.

The bill amends s. 1003.52, F.S., revising the role of Coordinators for Juvenile Justice Education Programs in collecting certain information and developing protocols that provide guidance to district school boards and juvenile justice education providers in all aspects of educational programming, including records transfer and transition. The bill removes provisions relating to career and professional education (CAPE)¹ and provisions related to requiring residential juvenile justice education programs to provide certain CAPE courses. The bill requires each

¹ Section 1003.52(5), F.S., states, prevention and day treatment juvenile justice education programs, at a minimum, shall provide career readiness and exploration opportunities as well as truancy and dropout prevention intervention services. Residential juvenile justice education programs with a contracted minimum length of stay of 9 months shall provide CAPE courses that lead to preapprentice certifications and industry certifications. Programs with contracted lengths of stay of less than 9 months may provide career education courses that lead to preapprentice certifications and CAPE industry certifications.

district school board to make provisions for high school level students to earn credits towards high school graduation while in juvenile justice detention, prevention, or day programs.

The bill authorizes district school boards to contract with private providers for the provision of education programs to students placed in such programs. The bill requires each district school board to negotiate a cooperative agreement with the department on the delivery of education services to students in such programs. The bill removes provisions requiring the Department of Education, in consultation with the DJJ, to adopt rules and collect data and report on certain programs. The bill removes a provision requiring that specified entities jointly develop a multiagency plan for CAPE.

The bill is effective July 1, 2024.

II. Present Situation:

The Department of Juvenile Justice Continuum

Section 985.601, F.S., provides for administering the juvenile justice continuum. The DJJ is authorized to plan, develop, and coordinate comprehensive services and programs statewide for the prevention, early intervention, control, and rehabilitative treatment of delinquent behavior.²

The department is also authorized to develop and implement an appropriate continuum of care that provides individualized, multidisciplinary assessments, objective evaluations of relative risks, and the matching of needs with placements for all children under its care, and that uses a system of case management to facilitate each child being appropriately assessed, provided with services, and placed in a program that meets the child's needs.³

Circuit Advisory Boards

Section 985.664, F.S., authorizes the establishment of Juvenile Justice Circuit Advisory Boards.⁴ The Circuit Advisory Boards serve as advisors to the DJJ according to their statutory responsibilities. Members of the boards work closely with Delinquency Prevention Specialists and DJJ staff to plan for services that meet the identified needs of juveniles and families within the local community. The Juvenile Justice Circuit Advisory Boards are vehicles for collaboration. Through the Circuit Advisory Boards, the department promotes community partnerships to increase public safety. Boards primarily focus on juvenile delinquency prevention programs and services such as mentoring, teen courts, civil citation, partnership programs, after school programs and public forums to increase communication between youth and law enforcement.⁵

² Section 985.601(1), F.S.

³ Section 985.601(2), F.S.

⁴ Section 985.664, F.S.

⁵ Department of Juvenile Justice, Juvenile Justice Circuit Advisory Boards Prevent Juvenile Crime, available at <https://www.djj.state.fl.us/content/download/21162/file/circuit-advisory-board-brochure-3.pdf> (last visited on January 22, 2024).

Florida Scholars Academy

Section 985.619, F.S., creates the Florida Scholars Academy within the DJJ developing a single-uniform education system overseen by the DJJ to provide educational opportunities to students in the DJJ residential commitment programs.⁶ The Florida Scholars Academy serves as a national model with a focus on improving outcomes for youth through individualized educational pathways. The Florida Scholars Academy helps youth in DJJ care attain a high school or high school equivalency diploma, industry-recognized credentials, and enroll in a postsecondary program of study at a Florida college, university, or technical college.⁷

Requirements for juvenile justice education are specified in s. 1003.52, F.S. Section 1003.52, F.S., designates the Florida Department of Education as the lead agency for juvenile justice education programs, curriculum, support services, and resources. Additionally, s. 1003.52, F.S., stipulates that the “district school board of the county in which the juvenile justice prevention, day treatment, residential, or detention program is located shall provide or contract for appropriate educational assessments and an appropriate program of instruction and special education services.”⁸

Section 1003.52(5), F.S., states: Prevention and day treatment juvenile justice education programs, at a minimum, shall provide career readiness and exploration opportunities as well as truancy and dropout prevention intervention services. Residential juvenile justice education programs with a contracted minimum length of stay of 9 months shall provide Career and Professional Education (CAPE) courses that lead to preapprentice certifications and industry certifications.⁹

County Delinquency Prevention

The sheriff’s office of the county must be a partner in a written agreement with the DJJ to participate in a juvenile assessment center or with the district school board to participate in a suspension program.¹⁰ A sheriff’s office that receives proceeds pursuant to s. 939.185, F.S., shall account for all funds annually by August 1 in a written report to the juvenile justice circuit advisory board if funds are used for assessment centers, and to the district school board if funds are used for suspension programs.¹¹

Community Corrections Assistance to Counties or County Consortiums

A county, or a consortium of two or more counties, may contract with the Department of Corrections for community corrections funds as provided in this section. In order to enter into a community corrections partnership contract, a county or county consortium must have a public

⁶ Section 985.619(2), F.S.

⁷ Florida Department of Justice, *Governor Ron DeSantis Signs Legislation Creating First-of-its-Kind Education System for Juvenile Justice-Involved Youth* available at <https://www.djj.state.fl.us/news/press-releases/2023/governor-ron-desantis-signs-legislation-creating-first-of-its-kind-education-system-for-juvenile-justice-involved-youth> (last visited on January 26, 2024).

⁸ Section 1003.52, F.S.

⁹ Section 1003.52(5), F.S.

¹⁰ Section 938.17(1), F.S.

¹¹ Section 938.17(4), F.S.

safety coordinating council established under s. 951.26, F.S.,¹² and must designate a county officer or agency to be responsible for administering community corrections funds received from the state. The public safety coordinating council shall prepare, develop, and implement a comprehensive public safety plan for the county, or the geographic area represented by the county consortium, and shall submit an annual report to the Department of Corrections concerning the status of the program. In preparing the comprehensive public safety plan, the public safety coordinating council shall cooperate with the juvenile justice circuit advisory board established under s. 985.664, F.S., in order to include programs and services for juveniles in the plan.¹³

Juvenile Assessment Centers

Every child under the age of 18 charged with a crime in Florida is referred to the DJJ.¹⁴ The DJJ serves as the primary case manager responsible for managing, coordinating, and monitoring services provided to the child.¹⁵ Intake and screening services for a child referred to the DJJ are performed at a Juvenile Assessment Center (JAC).¹⁶ The purpose of the intake process is to assess the child's needs and risks and to determine the most appropriate treatment plan and setting for the child's programmatic need and risks.¹⁷ Once a child is in the custody of the DJJ, the DJJ determines whether detention care is appropriate.¹⁸

A Juvenile Assessment Center (JAC) is a facility where law enforcement may release a child taken into custody for them to be screened after arrest. Youth may not be released to a JAC:

- If the child is believed to be suffering from a serious physical condition which requires either prompt diagnosis or prompt treatment, to a law enforcement officer who shall deliver the child to a hospital for necessary evaluation and treatment.¹⁹
- If the child is believed to be mentally ill as defined in s. 394.463(1), F.S., to a law enforcement officer who shall take the child to a designated public receiving facility as defined in s. 394.455, F.S., for examination under s. 394.463, F.S.²⁰
- If the child appears to be intoxicated and has threatened, attempted, or inflicted physical harm on himself or herself or another, or is incapacitated by substance abuse, to a law enforcement officer who shall deliver the child to a hospital, addictions receiving facility, or treatment resource.²¹

¹² Section 951.26(1), F.S., provides that each board of county commissioners shall establish a county public safety coordinating council for the county or shall join with a consortium of one or more other counties to establish a public safety coordinating council for the geographic area represented by the member counties.

¹³ Section 948.51(2), F.S.

¹⁴ A referral is similar to an arrest in the adult criminal justice system. See Probation and Community Intervention, Overview, Department of Juvenile Justice, available at <http://www.djj.state.fl.us/services/probation> (last visited January 22, 2024).

¹⁵ Section 985.145(1), F.S.

¹⁶ Section 985.135(4), F.S.

¹⁷ Section 985.14(2), F.S. The intake process consists of a preliminary screening and may be followed by a comprehensive assessment, consisting of a full mental health, cognitive impairment, substance abuse, or psychosexual evaluation.

¹⁸ Section 985.25(1), F.S.

¹⁹ Section 985.115(2)(c), F.S.

²⁰ Section 985.115(2)(d), F.S.

²¹ Section 985.115(2)(e), F.S.

Secure Detention Transfer

The court is not prohibited from transitioning a child to and from secure detention care and supervised release detention care, including electronic monitoring, when the court finds such a placement necessary, or no longer necessary, to preserve public safety or to ensure the child's safety, appearance in court, or compliance with a court order.²²

Restrictiveness Levels

The Legislature finds that there is a need for a secure placement for certain children alleged to have committed a delinquent act. The Legislature finds that detention should be used only when less restrictive interim placement alternatives prior to adjudication and disposition are not appropriate.²³

According to the DJJ, “Minimum-risk nonresidential” is an option the court can utilize when they want to commit a youth but have them stay in the community and attend a program 5 days a week for services. This type of program is better accomplished through probation instead of commitment. Operationally, this definition causes issues because in all other areas of law a youth who is committed to the department is removed from the community and housed in a secure facility. This level of commitment blurs the lines between community probation and traditional commitment. There is other statutory language that allows for these programs and for a court to utilize them, but it instead keeps the youth on probation instead of commitment.²⁴

Chapter 985, F.S., and other sections of statute that reference juvenile justice residential restrictiveness levels use various out-of-date and misleading definitions. This includes the term “nonsecure residential” to describe a facility in which youth are securely housed with both staff and hardware security provided. Additionally, the term “maximum-risk residential” is used interchangeably with “juvenile prison” and “juvenile correctional facility” without proper cross references. In practice, the department and stakeholders refer to these programs as “maximum-risk.” Further, the department provides housing, treatment services, etc. for youth based on their sex, which is currently not a defined term.²⁵

Emergency Opioid Antagonists

Opioid receptor antagonists block one or more of the opioid receptors in the central or peripheral nervous system. The two most commonly used, centrally-acting opioid receptor antagonists are naloxone and naltrexone. Naloxone comes in intravenous, intramuscular, and intranasal formulations and is FDA-approved for the use in an opioid overdose and the reversal of respiratory depression associated with opioid use. Naltrexone is available in both oral and long acting injectable formulations and is FDA-approved for the treatment of opioid and/or alcohol maintenance treatment. The most commonly used peripheral opioid receptor antagonist is

²² Section 985.26(2)(a)3., F.S.

²³ Section 985.02(4)(a), F.S.

²⁴ Department of Juvenile Justice, 2024 Agency Legislative Bill Analysis on SB 1352, pg. 2 (on file with the Senate Committee on Criminal Justice).

²⁵ *Id.*

methylnaltrexone, which is a potent competitive antagonist acting at the digestive tract and is also FDA-approved for the treatment of opioid-induced constipation.²⁶

Section 381.887, F.S., provides that the purpose of the section is to provide for the prescribing, ordering, and dispensing of EOAs to patients and caregivers and to encourage the prescribing, ordering, and dispensing of EOAs by authorized health care practitioners. The section states that: An authorized health care practitioner may prescribe and dispense an EOA to, and a pharmacist may order an EOA with an autoinjection delivery system or intranasal application delivery system for, a patient or caregiver for use in accordance with this section.

- A pharmacist may dispense an EOA pursuant to a prescription by an authorized health care practitioner. A pharmacist may dispense an EOA with an autoinjection delivery system or intranasal application delivery system, which must be appropriately labeled with instructions for use, pursuant to a pharmacist's order or pursuant to a nonpatient-specific standing order.
- A patient or caregiver is authorized to store and possess approved EOAs and, in an emergency situation when a physician is not immediately available, administer the EOA to a person believed in good faith to be experiencing an opioid overdose, regardless of whether that person has a prescription for an EOA.

The section also authorizes emergency responders, crime laboratory personnel, and personnel of a law enforcement agency or another agency who, if they are likely to come in contact with a controlled substance or persons at risk of an overdose, to possess, store, and administer EOAs as clinically indicated and provides immunity for such persons as a result of administering an EOA.

Additionally, the section provides immunity to:

- A person, including, but not limited to, an authorized health care practitioner, a dispensing health care practitioner, or a pharmacist, who possesses, administers, prescribes, dispenses, or stores an approved EOA in compliance with this section and s. 768.13, F.S.²⁷
- An authorized health care practitioner, acting in good faith and exercising reasonable care, for prescribing an EOA in accordance with this section.
- A dispensing health care practitioner or pharmacist, acting in good faith and exercising reasonable care, for dispensing an EOA in accordance with this section.

The Good Samaritan Act

Section 768.13, F.S., establishes the Good Samaritan Act. The Act provides civil immunity to any person, including those licensed to practice medicine, who gratuitously and in good faith renders emergency care or treatment either in direct response to emergency situations related to and arising out of a declared public health emergency, a declared state of emergency, or at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical equipment, without objection of the injured victim or victims thereof, for any damages

²⁶ National Library of Medicine, *Opioid Antagonists*, available at <https://www.ncbi.nlm.nih.gov/books/NBK537079/#:~:text=3%5D%5B4%5D-.The%20two%20most%20commonly%20used%20centrally%20acting%20opioid%20receptor%20antagonists,depression%20associated%20with%20opioid%20use> (last visited on January 22, 2024).

²⁷ Section 768.12, F.S., is the Good Samaritan Act. Section 381.887, F.S., specifies that this immunity is the immunity afforded under the Good Samaritan Act.

resulting from the treatment or as a result of any act or failure to act in providing or arranging treatment where the person acts as an ordinary reasonably prudent person would.²⁸

The Good Samaritan Act also provides certain immunities to health care providers and health care practitioners providing emergency care in specified situations, to any person participating in emergency response activities under specified circumstances, and any person who renders emergency care or treatment to an injured animal in specified circumstances.²⁹

III. Effect of Proposed Changes:

This bill amends s. 381.887, F.S., adding personnel of the Department of Juvenile Justice (DJJ) and of any contracted provider with direct contact with youth to the list of personnel that are offered immunity from civil and criminal liability as a result of administering an emergency opioid antagonist.

The bill amends s. 790.22, F.S., removing the provision permitting the juvenile justice circuit advisory board to establish certain community service programs. The bill designates the responsibility of establishing appropriate community service programs available to the alternative sanctions coordinators of the circuit courts.

The bill amends s. 938.17, F.S., providing that the sheriff's office that receives proceeds pursuant to s. 939.185, F.S., shall account for all funds annually in a written report to the DJJ if funds are used for assessment centers, and to the district school board if funds are used for suspension programs, rather than the juvenile justice circuit advisory board.

The bill amends s. 948.51, F.S., requiring the public safety coordinating council of a county (or a consortium of two or more counties) to collaborate with the DJJ, rather than the juvenile justice circuit advisory board when preparing a comprehensive safety plan.

The bill amends s. 985.02, F.S., revising the legislative intent for the general protections for children in DJJ from gender-specific to sex-specific. The terms "gender-specific" and "gender" are replaced with "sex-specific" and "sex," respectively.

The bill amends s. 985.03, F.S., revising definitions and removing "minimum-risk nonresidential" as a restrictiveness level for committed youth. The bill revises the term "nonsecure residential" programs to "moderate-risk." The term "juvenile prison" and "juvenile correctional facilities" are removed to standardize the term "maximum risk residential."

The bill amends s. 985.115, F.S., providing that a juvenile assessment center may not be considered a facility that can receive a child who is suffering from a serious physical condition that requires a medical diagnosis or treatment, is mentally ill as defined in s. 394.463(1), F.S., or the child is intoxicated and has threatened or attempted physical harm to him or herself or another.

²⁸ Section 768.13(2)(a), F.S.

²⁹ Section 768.13(b)1., F.S.

The bill amends s. 985.126, F.S., revising the information a diversion program is required to report about each minor to include sex rather than gender.

The bill amends s. 985.17, F.S., revising the programming focus for the department's prevention services for youth at risk of becoming delinquent to include sex-specific services rather than gender-specific services.

The bill amends s. 985.26, F.S., authorizing that transitions from secure detention care and supervised release detention care be initiated upon the court's own motion, or upon a motion of the child or of the state, and after considering any information provided by the department regarding the child's adjustment to detention supervision.

The bill amends s. 985.27, F.S., revising the required court placement in secure detention for children who are adjudicated and awaiting placement in a moderate-risk, rather than nonsecure, residential commitment program.

The bill amends s. 985.441, F.S., authorizing a court to commit certain children to a moderate-risk, rather than nonsecure, residential placement under certain circumstances.

The bill amends s. 985.465, F.S., revising the physically secure residential commitment program to send specified children to maximum-risk residential facilities rather than juvenile correctional facilities or prisons.

The bill amends s. 985.601, F.S., revising certain required programs for rehabilitative treatment to include sex-specific programming rather than gender-specific programming. The bill also authorizes the department to use state or federal funds to purchase and distribute promotional and educational materials that are consistent with the dignity and integrity of the state for the following purposes:

- Educating children and families about the juvenile justice continuum, including local prevention programs or community services available for participation or enrollment.
- Staff recruitment at job fairs, career fairs, community events, the Institute for Commercialization of Florida Technology, community college campuses, or state university campuses.
- Educating children and families on children-specific public safety issues, including, but not limited to, safe storage of adult-owned firearms, consequences of child firearm offenses, human trafficking, or drug and alcohol abuse.

The bill amends s. 985.664, F.S., requiring that each judicial circuit in this state shall have a juvenile justice circuit advisory board. The bill requires the juvenile justice circuit advisory board shall work with the chief probation officer of the circuit to use data to inform policies and practices that better improve the juvenile justice continuum. The bill removes provisions relating to the juvenile justice circuit advisory board's purpose, duties, and responsibilities and decreases the minimum number of members that each juvenile justice circuit advisory board is required to have. The bill requires that each member of the juvenile justice circuit advisory board be approved by the chief probation officer of the circuit, rather than the Secretary of Juvenile Justice. The bill requires the chief probation officer in each circuit to serve as the chair of the juvenile justice advisory board for that circuit. The bill removes provisions relating to board

membership and vacancies; deletes provisions relating to quorums and the passing of measures; and deletes provisions requiring the establishment of executive committees and having bylaws.

The bill amends s. 985.676, F.S., revising the required contents of a grant proposal applicants must submit to be considered for funding from an annual community juvenile justice partnership grant. The bill requires the department to consider the recommendations of community stakeholders, rather than the juvenile justice circuit advisor board, as to certain priorities. The bill removes the juvenile justice circuit advisory board from the entities to which each awarded grantee is required to submit an annual evaluation report.

The bill amends s. 1003.51, F.S., revising requirements for certain State Board of Education rules to establish policies and standards for certain education programs. The bill strikes accountability measures requiring a series of graduated sanctions for district school boards whose educational programs in the DJJ programs are considered to be unsatisfactory and for instances in which district school boards fail to meet standards prescribed by law, rule, or State Board of Education policy.

The bill amends s. 1003.52, F.S., revising the role of Coordinators for Juvenile Justice Education Programs in collecting certain information and developing protocols that provide guidance to district school boards and juvenile justice education providers in all aspects of educational programming, including records transfer and transition. The bill removes provisions relating to career and professional education (CAPE) and provisions related to requiring residential juvenile justice education programs to provide certain CAPE courses. The bill requires each district school board to make provisions for high school level students to earn credits towards high school graduation while in juvenile justice detention, prevention, or day programs.

The bill authorizes district school boards to contract with private providers for the provision of education programs to students placed in such programs. The bill requires each district school board to negotiate a cooperative agreement with the department on the delivery of education services to students in such programs. The bill removes provisions requiring the Department of Education, in consultation with the DJJ, to adopt rules and collect data and report on certain programs. The bill removes a provision requiring that specified entities jointly develop a multiagency plan for CAPE.

The bill amends s. 330.41, F.S., making conforming changes by replacing the term nonsecure residential facility with the term moderate-risk residential facility.

The bill amends s. 553.865, F.S., conforming a provision changing the term juvenile correctional facility or juvenile prison to maximum-risk residential facilities.

The bill amends s. 1001.42, F.S., making conforming changes.

The bill reenacts s. 985.721, s. 985.25(1), s. 985.255(3), s. 985.475(2)(h), and s. 985.565(4)(b), F.S.

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:

None.

VI. Technical Deficiencies:

The bill removes accountability measures under s. 1003.51, F.S., and provides that data for accountability measuring for detention, prevention, and day programs will be captured in the Department of Education report for alternative schools in the Juvenile Justice Educational Annual Report for school improvement. Alternative schools have a separate rating system that is outlined in s. 1008.341, F.S. In that statute, it defines an alternative school as a school that provides dropout prevention and academic interventions as defined in s. 1003.53, F.S. Although there may be an overlap in services offered, the statute does not mention detention, prevention, and day treatment schools reference in s. 1003.52, F.S.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.887, 790.22, 938.17, 948.51, 985.02, 985.03, 985.115, 985.126, 985.17, 985.26, 985.27, 985.441, 985.465, 985.601, 985.664, 985.676, 1003.51, 1003.52, 330.41, 553.865, 1001.42, 985.721, 985.25, 985.255, 985.475, 985.565, 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 Bradley

6-01053B-24

20241352__

1 A bill to be entitled
 2 An act relating to juvenile justice; amending s.
 3 381.887, F.S.; authorizing personnel of the Department
 4 of Juvenile Justice and of certain contracted
 5 providers to possess, store, and administer emergency
 6 opioid antagonists and providing immunity from civil
 7 or criminal liability for such personnel; amending s.
 8 790.22, F.S.; deleting a provision requiring the
 9 juvenile justice circuit advisory board to establish
 10 certain community service programs; amending s.
 11 938.17, F.S.; requiring sheriffs' offices to submit an
 12 annual report regarding certain received proceeds to
 13 the department, rather than the juvenile justice
 14 circuit advisory board; amending s. 948.51, F.S.;
 15 requiring the public safety coordinating council to
 16 cooperate with the department, rather than the
 17 juvenile justice circuit advisory board, to prepare a
 18 comprehensive public safety plan; amending s. 985.02,
 19 F.S.; revising the legislative intent for the juvenile
 20 justice system relating to general protections for
 21 children and sex-specific, rather than gender-
 22 specific, programming; amending s. 985.03, F.S.;
 23 revising definitions and defining the term "sex";
 24 amending s. 985.115, F.S.; prohibiting juvenile
 25 assessment centers from being considered facilities
 26 that can receive children under specified
 27 circumstances; amending s. 985.126, F.S.; revising the
 28 information a diversion program is required to report
 29 about each minor from his or her gender to his or her

Page 1 of 61

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

6-01053B-24

20241352__

30 sex; requiring the department to compile and
 31 semiannually publish certain data in a format that is
 32 searchable by sex rather than by gender; amending s.
 33 985.17, F.S.; revising the programming focus for the
 34 department's prevention services for youth at risk of
 35 becoming delinquent to include sex-specific services
 36 rather than gender-specific services; amending s.
 37 985.26, F.S.; authorizing that transitions from secure
 38 detention care and supervised release detention care
 39 be initiated upon a court's own motion or upon a
 40 motion from the child or the state; amending s.
 41 985.27, F.S.; revising the required court placement in
 42 secure detention for children who are adjudicated and
 43 awaiting placement in a moderate-risk, rather than
 44 nonsecure, residential commitment program; reenacting
 45 and amending s. 985.441, F.S.; authorizing a court to
 46 commit certain children to a moderate-risk, rather
 47 than nonsecure, residential placement under certain
 48 circumstances; amending s. 985.465, F.S.; revising the
 49 physically secure residential commitment program to
 50 send specified children to maximum-risk residential
 51 facilities rather than juvenile correctional
 52 facilities or prisons; amending s. 985.601, F.S.;
 53 revising certain required programs for rehabilitative
 54 treatment to include sex-specific programming rather
 55 than gender-specific programming; authorizing the
 56 department to use state or federal funds to purchase
 57 and distribute promotional and educational materials
 58 that are consistent with the dignity and integrity of

Page 2 of 61

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

6-01053B-24

20241352__

59 the state for specified purposes; amending s. 985.664,
 60 F.S.; requiring, rather than authorizing, each
 61 judicial circuit to have a juvenile justice circuit
 62 advisory board; requiring the juvenile justice circuit
 63 advisory board to work with the chief probation
 64 officer of the circuit to use data to inform policy
 65 and practices that better improve the juvenile justice
 66 continuum; deleting provisions relating to the
 67 juvenile justice circuit advisory board's purpose,
 68 duties, and responsibilities; decreasing the minimum
 69 number of members that each juvenile justice circuit
 70 advisory board is required to have; requiring that
 71 each member of the juvenile justice circuit advisory
 72 board be approved by the chief probation officer of
 73 the circuit, rather than the Secretary of Juvenile
 74 Justice; requiring the chief probation officer in each
 75 circuit to serve as the chair of the juvenile justice
 76 circuit advisory board for that circuit; deleting
 77 provisions relating to board membership and vacancies;
 78 deleting provisions relating to quorums and the
 79 passing of measures; deleting provisions requiring the
 80 establishment of executive committees and having
 81 bylaws; amending s. 985.676, F.S.; revising the
 82 required contents of a grant proposal applicants must
 83 submit to be considered for funding from an annual
 84 community juvenile justice partnership grant;
 85 requiring the department to consider the
 86 recommendations of community stakeholders, rather than
 87 the juvenile justice circuit advisory board, as to

6-01053B-24

20241352__

88 certain priorities; deleting the juvenile justice
 89 circuit advisory board from the entities to which each
 90 awarded grantee is required to submit an annual
 91 evaluation report; conforming a provision to changes
 92 made by the act; amending s. 1003.51, F.S.; revising
 93 requirements for certain State Board of Education
 94 rules to establish policies and standards for certain
 95 education programs; amending s. 1003.52, F.S.;
 96 revising the role of Coordinators for Juvenile Justice
 97 Education Programs in collecting certain information
 98 and developing certain protocols; deleting provisions
 99 relating to career and professional education (CAPE);
 100 deleting provisions related to requiring residential
 101 juvenile justice education programs to provide certain
 102 CAPE courses; requiring each district school board to
 103 make provisions for high school level students to earn
 104 credits towards high school graduation while in
 105 juvenile justice detention, prevention, or day
 106 treatment programs; authorizing district school boards
 107 to contract with private providers for the provision
 108 of education programs to students placed in such
 109 programs; requiring each district school board to
 110 negotiate a cooperative agreement with the department
 111 on the delivery of educational services to students in
 112 such programs; deleting provisions requiring the
 113 Department of Education, in consultation with the
 114 Department of Juvenile Justice, to adopt rules and
 115 collect data and report on certain programs; deleting
 116 a provision requiring that specified entities jointly

6-01053B-24

20241352__

117 develop a multiagency plan for CAPE; conforming
 118 provisions to changes made by the act; amending s.
 119 330.41, F.S.; conforming a provision to changes made
 120 by the act; amending s. 553.865, F.S.; conforming
 121 cross-references and provisions to changes made by the
 122 act; amending s. 1001.42, F.S.; conforming a provision
 123 to changes made by the act; reenacting s. 985.721,
 124 F.S., relating to escapes from secure detention or
 125 residential commitment facilities, to incorporate the
 126 amendment made to s. 985.03, F.S., in a reference
 127 thereto; reenacting s. 985.25(1), F.S., relating to
 128 detention intakes, to incorporate the amendment made
 129 to s. 985.115, F.S., in a reference thereto;
 130 reenacting s. 985.255(3), F.S., relating to detention
 131 criteria and detention hearings, to incorporate the
 132 amendment made to s. 985.27, F.S., in a reference
 133 thereto; reenacting ss. 985.475(2)(h) and
 134 985.565(4)(b), F.S., relating to juvenile sexual
 135 offenders and juvenile sanctions, respectively, to
 136 incorporate the amendment made to s. 985.441, F.S., in
 137 references thereto; providing an effective date.

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

141 Section 1. Subsection (4) of section 381.887, Florida
 142 Statutes, is amended to read:

143 381.887 Emergency treatment for suspected opioid overdose.—

144 (4) The following persons are authorized to possess, store,
 145 and administer emergency opioid antagonists as clinically

6-01053B-24

20241352__

146 indicated and are immune from any civil liability or criminal
 147 liability as a result of administering an emergency opioid
 148 antagonist:

149 (a) Emergency responders, including, but not limited to,
 150 law enforcement officers, paramedics, and emergency medical
 151 technicians.

152 (b) Crime laboratory personnel for the statewide criminal
 153 analysis laboratory system as described in s. 943.32, including,
 154 but not limited to, analysts, evidence intake personnel, and
 155 their supervisors.

156 (c) Personnel of a law enforcement agency or an other
 157 agency, including, but not limited to, correctional probation
 158 officers and child protective investigators who, while acting
 159 within the scope or course of employment, come into contact with
 160 a controlled substance or persons at risk of experiencing an
 161 opioid overdose.

162 (d) Personnel of the Department of Juvenile Justice and of
 163 any contracted provider with direct contact with youth
 164 authorized under chapter 984 or chapter 985.

165 Section 2. Subsection (4) of section 790.22, Florida
 166 Statutes, is amended to read:

167 790.22 Use of BB guns, air or gas-operated guns, or
 168 electric weapons or devices by minor under 16; limitation;
 169 possession of firearms by minor under 18 prohibited; penalties.—

170 (4)(a) Any parent or guardian of a minor, or other adult
 171 responsible for the welfare of a minor, who knowingly and
 172 willfully permits the minor to possess a firearm in violation of
 173 subsection (3) commits a felony of the third degree, punishable
 174 as provided in s. 775.082, s. 775.083, or s. 775.084.

6-01053B-24

20241352__

175 (b) Any natural parent or adoptive parent, whether
 176 custodial or noncustodial, or any legal guardian or legal
 177 custodian of a minor, if that minor possesses a firearm in
 178 violation of subsection (3) may, if the court finds it
 179 appropriate, be required to participate in classes on parenting
 180 education which are approved by the Department of Juvenile
 181 Justice, upon the first conviction of the minor. Upon any
 182 subsequent conviction of the minor, the court may, if the court
 183 finds it appropriate, require the parent to attend further
 184 parent education classes or render community service hours
 185 together with the child.

186 (c) The ~~juvenile justice circuit advisory boards or the~~
 187 Department of Juvenile Justice shall establish appropriate
 188 community service programs to be available to the alternative
 189 sanctions coordinators of the circuit courts in implementing
 190 this subsection. The boards or department shall propose the
 191 implementation of a community service program in each circuit,
 192 and may submit a circuit plan, to be implemented upon approval
 193 of the circuit alternative sanctions coordinator.

194 (d) For the purposes of this section, community service may
 195 be provided on public property as well as on private property
 196 with the expressed permission of the property owner. Any
 197 community service provided on private property is limited to
 198 such things as removal of graffiti and restoration of vandalized
 199 property.

200 Section 3. Subsection (4) of section 938.17, Florida
 201 Statutes, is amended to read:
 202 938.17 County delinquency prevention; juvenile assessment
 203 centers and school board suspension programs.-

6-01053B-24

20241352__

204 (4) A sheriff's office that receives proceeds pursuant to
 205 s. 939.185 shall account for all funds annually by August 1 in a
 206 written report to the Department of Juvenile Justice ~~juvenile~~
 207 ~~justice circuit advisory board~~ if funds are used for assessment
 208 centers, and to the district school board if funds are used for
 209 suspension programs.

210 Section 4. Subsection (2) of section 948.51, Florida
 211 Statutes, is amended to read:
 212 948.51 Community corrections assistance to counties or
 213 county consortiums.-

214 (2) ELIGIBILITY OF COUNTIES AND COUNTY CONSORTIUMS.-A
 215 county, or a consortium of two or more counties, may contract
 216 with the Department of Corrections for community corrections
 217 funds as provided in this section. In order to enter into a
 218 community corrections partnership contract, a county or county
 219 consortium must have a public safety coordinating council
 220 established under s. 951.26 and must designate a county officer
 221 or agency to be responsible for administering community
 222 corrections funds received from the state. The public safety
 223 coordinating council shall prepare, develop, and implement a
 224 comprehensive public safety plan for the county, or the
 225 geographic area represented by the county consortium, and shall
 226 submit an annual report to the Department of Corrections
 227 concerning the status of the program. In preparing the
 228 comprehensive public safety plan, the public safety coordinating
 229 council shall cooperate with the Department of Juvenile Justice
 230 ~~juvenile justice circuit advisory board established under s.~~
 231 ~~985.664~~ in order to include programs and services for juveniles
 232 in the plan. To be eligible for community corrections funds

6-01053B-24

20241352__

under the contract, the initial public safety plan must be approved by the governing board of the county, or the governing board of each county within the consortium, and the Secretary of Corrections based on the requirements of this section. If one or more other counties develop a unified public safety plan, the public safety coordinating council shall submit a single application to the department for funding. Continued contract funding shall be pursuant to subsection (5). The plan for a county or county consortium must cover at least a 5-year period and must include:

(a) A description of programs offered for the job placement and treatment of offenders in the community.

(b) A specification of community-based intermediate sentencing options to be offered and the types and number of offenders to be included in each program.

(c) Specific goals and objectives for reducing the projected percentage of commitments to the state prison system of persons with low total sentencing scores pursuant to the Criminal Punishment Code.

(d) Specific evidence of the population status of all programs which are part of the plan, which evidence establishes that such programs do not include offenders who otherwise would have been on a less intensive form of community supervision.

(e) The assessment of population status by the public safety coordinating council of all correctional facilities owned or contracted for by the county or by each county within the consortium.

(f) The assessment of bed space that is available for substance abuse intervention and treatment programs and the

6-01053B-24

20241352__

assessment of offenders in need of treatment who are committed to each correctional facility owned or contracted for by the county or by each county within the consortium.

(g) A description of program costs and sources of funds for each community corrections program, including community corrections funds, loans, state assistance, and other financial assistance.

Section 5. Subsections (1) and (7) of section 985.02, Florida Statutes, are amended to read:

985.02 Legislative intent for the juvenile justice system.—

(1) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of the Legislature that the children of this state be provided with the following protections:

(a) Protection from abuse, neglect, and exploitation.

(b) A permanent and stable home.

(c) A safe and nurturing environment which will preserve a sense of personal dignity and integrity.

(d) Adequate nutrition, shelter, and clothing.

(e) Effective treatment to address physical, social, and emotional needs, regardless of geographical location.

(f) Equal opportunity and access to quality and effective education, which will meet the individual needs of each child, and to recreation and other community resources to develop individual abilities.

(g) Access to prevention programs and services.

(h) Sex-specific ~~Gender-specific~~ programming and sex-specific ~~gender-specific~~ program models and services that comprehensively address the needs of either sex ~~a targeted gender group~~.

6-01053B-24

20241352__

291 (7) SEX-SPECIFIC GENDER-SPECIFIC PROGRAMMING.-

292 (a) The Legislature finds that the needs of children served
293 by the juvenile justice system are sex-specific gender-specific.
294 A sex-specific gender-specific approach is one in which
295 programs, services, and treatments comprehensively address the
296 unique developmental needs of either sex a targeted gender group
297 under the care of the department. Young women and men have
298 different pathways to delinquency, display different patterns of
299 offending, and respond differently to interventions, treatment,
300 and services.

301 (b) Sex-specific Gender-specific interventions focus on the
302 differences between young females' and young males' social roles
303 and responsibilities, access to and use of resources, history of
304 trauma, and reasons for interaction with the juvenile justice
305 system. Sex-specific Gender-specific programs increase the
306 effectiveness of programs by making interventions more
307 appropriate to the specific needs of young women and men and
308 ensuring that these programs do not unknowingly create,
309 maintain, or reinforce sex gender roles or relations that may be
310 damaging.

311 Section 6. Present subsections (46) through (54) of section
312 985.03, Florida Statutes, are redesignated as subsections (47)
313 through (55), respectively, a new subsection (46) is added to
314 that section, and subsections (14) and (44) and present
315 subsection (50) of that section are amended, to read:

316 985.03 Definitions.—As used in this chapter, the term:

317 (14) "Day treatment" means a nonresidential, community-
318 based program designed to provide therapeutic intervention to
319 youth who are served by the department or, placed on probation

6-01053B-24

20241352__

320 or conditional release, ~~or committed to the minimum-risk~~
321 ~~nonresidential level~~. A day treatment program may provide
322 educational and career and technical education services and
323 shall provide case management services; individual, group, and
324 family counseling; training designed to address delinquency risk
325 factors; and monitoring of a youth's compliance with, and
326 facilitation of a youth's completion of, sanctions if ordered by
327 the court. Program types may include, but are not limited to,
328 career programs, marine programs, juvenile justice alternative
329 schools, training and rehabilitation programs, and sex-specific
330 gender-specific programs.

331 (44) "Restrictiveness level" means the level of programming
332 and security provided by programs that service the supervision,
333 custody, care, and treatment needs of committed children.
334 Sections 985.601(10) and 985.721 apply to children placed in
335 programs at any residential commitment level. The
336 restrictiveness levels of commitment are as follows:

337 (a) ~~Minimum-risk nonresidential. Programs or program models~~
338 ~~at this commitment level work with youth who remain in the~~
339 ~~community and participate at least 5 days per week in a day~~
340 ~~treatment program. Youth assessed and classified for programs at~~
341 ~~this commitment level represent a minimum risk to themselves and~~
342 ~~public safety and do not require placement and services in~~
343 ~~residential settings. Youth in this level have full access to,~~
344 ~~and reside in, the community. Youth who have been found to have~~
345 ~~committed delinquent acts that involve firearms, that are sexual~~
346 ~~offenses, or that would be life felonies or first degree~~
347 ~~felonies if committed by an adult may not be committed to a~~
348 ~~program at this level.~~

6-01053B-24

20241352__

349 ~~(b)~~ Moderate-risk Nonsecure residential.—Programs or
 350 program models at this commitment level are residential but may
 351 allow youth to have supervised access to the community.
 352 Facilities at this commitment level are either environmentally
 353 secure, staff secure, or are hardware-secure with walls,
 354 fencing, or locking doors. Residential facilities at this
 355 commitment level shall have no more than 90 beds each, including
 356 campus-style programs, unless those campus-style programs
 357 include more than one treatment program using different
 358 treatment protocols, and have facilities that coexist separately
 359 in distinct locations on the same property. Facilities at this
 360 commitment level shall provide 24-hour awake supervision,
 361 custody, care, and treatment of residents. Youth assessed and
 362 classified for placement in programs at this commitment level
 363 represent a low or moderate risk to public safety and require
 364 close supervision. The staff at a facility at this commitment
 365 level may seclude a child who is a physical threat to himself or
 366 herself or others. Mechanical restraint may also be used when
 367 necessary.

368 (b)(e) High-risk residential.—Programs or program models at
 369 this commitment level are residential and do not allow youth to
 370 have access to the community, except that temporary release
 371 providing community access for up to 72 continuous hours may be
 372 approved by a court for a youth who has made successful progress
 373 in his or her program in order for the youth to attend a family
 374 emergency or, during the final 60 days of his or her placement,
 375 to visit his or her home, enroll in school or a career and
 376 technical education program, complete a job interview, or
 377 participate in a community service project. High-risk

6-01053B-24

20241352__

378 residential facilities are hardware-secure with perimeter
 379 fencing and locking doors. Residential facilities at this
 380 commitment level shall have no more than 90 beds each, including
 381 campus-style programs, unless those campus-style programs
 382 include more than one treatment program using different
 383 treatment protocols, and have facilities that coexist separately
 384 in distinct locations on the same property. Facilities at this
 385 commitment level shall provide 24-hour awake supervision,
 386 custody, care, and treatment of residents. Youth assessed and
 387 classified for this level of placement require close supervision
 388 in a structured residential setting. Placement in programs at
 389 this level is prompted by a concern for public safety that
 390 outweighs placement in programs at lower commitment levels. The
 391 staff at a facility at this commitment level may seclude a child
 392 who is a physical threat to himself or herself or others.
 393 Mechanical restraint may also be used when necessary. The
 394 facility may provide for single cell occupancy, except that
 395 youth may be housed together during prerelease transition.

396 (c)(d) Maximum-risk residential. ~~Programs or program models~~
 397 ~~at this commitment level include juvenile correctional~~
 398 ~~facilities and juvenile prisons.~~ The programs at this commitment
 399 level are long-term residential and do not allow youth to have
 400 access to the community. Facilities at this commitment level are
 401 maximum-custody, hardware-secure with perimeter security fencing
 402 and locking doors. Residential facilities at this commitment
 403 level shall have no more than 90 beds each, including campus-
 404 style programs, unless those campus-style programs include more
 405 than one treatment program using different treatment protocols,
 406 and have facilities that coexist separately in distinct

6-01053B-24

20241352__

locations on the same property. Facilities at this commitment level shall provide 24-hour awake supervision, custody, care, and treatment of residents. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary. Facilities at this commitment level shall provide for single cell occupancy, except that youth may be housed together during prerelease transition. Youth assessed and classified for this level of placement require close supervision in a maximum security residential setting. Placement in a program at this level is prompted by a demonstrated need to protect the public.

(46) "Sex" has the same meaning as in s. 553.865.

(51)(50) "Temporary release" means the terms and conditions under which a child is temporarily released from a residential commitment facility or allowed home visits. If the temporary release is from a moderate-risk nonsecure residential facility, a high-risk residential facility, or a maximum-risk residential facility, the terms and conditions of the temporary release must be approved by the child, the court, and the facility.

Section 7. Subsection (2) of section 985.115, Florida Statutes, is amended to read:

985.115 Release or delivery from custody.—

(2) Unless otherwise ordered by the court under s. 985.255 or s. 985.26, and unless there is a need to hold the child, a person taking a child into custody shall attempt to release the child as follows:

(a) To the child's parent, guardian, or legal custodian or, if the child's parent, guardian, or legal custodian is

6-01053B-24

20241352__

unavailable, unwilling, or unable to provide supervision for the child, to any responsible adult. Prior to releasing the child to a responsible adult, other than the parent, guardian, or legal custodian, the person taking the child into custody may conduct a criminal history background check of the person to whom the child is to be released. If the person has a prior felony conviction, or a conviction for child abuse, drug trafficking, or prostitution, that person is not a responsible adult for the purposes of this section. The person to whom the child is released shall agree to inform the department or the person releasing the child of the child's subsequent change of address and to produce the child in court at such time as the court may direct, and the child shall join in the agreement.

(b) Contingent upon specific appropriation, to a shelter approved by the department or to an authorized agent.

(c) If the child is believed to be suffering from a serious physical condition which requires either prompt diagnosis or prompt treatment, to a law enforcement officer who shall deliver the child to a hospital for necessary evaluation and treatment.

(d) If the child is believed to be mentally ill as defined in s. 394.463(1), to a law enforcement officer who shall take the child to a designated public receiving facility as defined in s. 394.455 for examination under s. 394.463.

(e) If the child appears to be intoxicated and has threatened, attempted, or inflicted physical harm on himself or herself or another, or is incapacitated by substance abuse, to a law enforcement officer who shall deliver the child to a hospital, addictions receiving facility, or treatment resource.

(f) If available, to a juvenile assessment center equipped

6-01053B-24

20241352__

and staffed to assume custody of the child for the purpose of assessing the needs of the child in custody. The center may then release or deliver the child under this section with a copy of the assessment. A juvenile assessment center may not be considered a facility that can receive a child under paragraph (c), paragraph (d), or paragraph (e).

Section 8. Subsections (3) and (4) of section 985.126, Florida Statutes, are amended to read:

985.126 Diversion programs; data collection; denial of participation or expunged record.—

(3)(a) Beginning October 1, 2018, each diversion program shall submit data to the department which identifies for each minor participating in the diversion program:

1. The race, ethnicity, sex ~~gender~~, and age of that minor.

2. The offense committed, including the specific law establishing the offense.

3. The judicial circuit and county in which the offense was committed and the law enforcement agency that had contact with the minor for the offense.

4. Other demographic information necessary to properly register a case into the Juvenile Justice Information System Prevention Web, as specified by the department.

(b) Beginning October 1, 2018, each law enforcement agency shall submit to the department data that identifies for each minor who was eligible for a diversion program, but was instead referred to the department, provided a notice to appear, or arrested:

1. The data required pursuant to paragraph (a).

2. Whether the minor was offered the opportunity to

6-01053B-24

20241352__

participate in a diversion program. If the minor was:

a. Not offered such opportunity, the reason such offer was not made.

b. Offered such opportunity, whether the minor or his or her parent or legal guardian declined to participate in the diversion program.

(c) The data required pursuant to paragraph (a) shall be entered into the Juvenile Justice Information System Prevention Web within 7 days after the youth's admission into the program.

(d) The data required pursuant to paragraph (b) shall be submitted on or with the arrest affidavit or notice to appear.

(4) Beginning January 1, 2019, the department shall compile and semiannually publish the data required by subsection (3) on the department's website in a format that is, at a minimum, sortable by judicial circuit, county, law enforcement agency, race, ethnicity, sex ~~gender~~, age, and offense committed.

Section 9. Subsection (3) of section 985.17, Florida Statutes, is amended to read:

985.17 Prevention services.—

(3) The department's prevention services for youth at risk of becoming delinquent should:

(a) Focus on preventing initial or further involvement of such youth in the juvenile justice system by including services such as literacy services, sex-specific ~~gender-specific~~ programming, recreational services, and after-school services, and should include targeted services to troubled, truant, ungovernable, abused, trafficked, or runaway youth. To decrease the likelihood that a youth will commit a delinquent act, the department should use mentoring and may provide specialized

6-01053B-24 20241352__

services addressing the strengthening of families, job training, and substance abuse.

(b) Address the multiple needs of such youth in order to decrease the prevalence of disproportionate minority representation in the juvenile justice system.

Section 10. Paragraph (a) of subsection (2) of section 985.26, Florida Statutes, is amended to read:

985.26 Length of detention.—

(2)(a)1. A court may order a child to be placed on supervised release detention care for any time period until an adjudicatory hearing is completed. However, if a child has served 60 days on supervised release detention care, the court must conduct a hearing within 15 days after the 60th day, to determine the need for continued supervised release detention care. At the hearing, and upon good cause being shown that the nature of the charge requires additional time for the prosecution or defense of the case or that the totality of the circumstances, including the preservation of public safety, warrants an extension, the court may order the child to remain on supervised release detention care until the adjudicatory hearing is completed.

2. Except as provided in paragraph (b) or paragraph (c), a child may not be held in secure detention care under a special detention order for more than 21 days unless an adjudicatory hearing for the case has been commenced in good faith by the court.

3. This section does not prohibit a court from transitioning a child to and from secure detention care and supervised release detention care, including electronic

6-01053B-24 20241352__

monitoring, when the court finds such a placement necessary, or no longer necessary, to preserve public safety or to ensure the child's safety, appearance in court, or compliance with a court order. Such transition may be initiated upon the court's own motion, or upon a motion of the child or of the state, and after considering any information provided by the department regarding the child's adjustment to detention supervision. Each period of secure detention care or supervised release detention care counts toward the time limitations in this subsection whether served consecutively or nonconsecutively.

Section 11. Section 985.27, Florida Statutes, is amended to read:

985.27 Postdisposition detention while awaiting residential commitment placement.—The court must place all children who are adjudicated and awaiting placement in a moderate-risk ~~nonsecure~~, high-risk, or maximum-risk residential commitment program in secure detention care until the placement or commitment is accomplished.

Section 12. Subsection (2) of section 985.441, Florida Statutes, is amended, and paragraph (b) of subsection (1) and subsection (4) of that section are reenacted, to read:

985.441 Commitment.—

(1) The court that has jurisdiction of an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing:

(b) Commit the child to the department at a restrictiveness level defined in s. 985.03. Such commitment must be for the purpose of exercising active control over the child, including,

6-01053B-24

20241352__

581 but not limited to, custody, care, training, monitoring for
 582 substance abuse, electronic monitoring, and treatment of the
 583 child and release of the child from residential commitment into
 584 the community in a postcommitment nonresidential conditional
 585 release program. If the child is not successful in the
 586 conditional release program, the department may use the transfer
 587 procedure under subsection (4).

588 (2) Notwithstanding subsection (1), the court having
 589 jurisdiction over an adjudicated delinquent child whose offense
 590 is a misdemeanor, or a child who is currently on probation for a
 591 misdemeanor, may not commit the child for any misdemeanor
 592 offense or any probation violation that is technical in nature
 593 and not a new violation of law at a restrictiveness level other
 594 than minimum-risk nonresidential. However, the court may commit
 595 such child to a moderate-risk ~~nonsecure~~ residential placement
 596 if:

597 (a) The child has previously been adjudicated or had
 598 adjudication withheld for a felony offense;

599 (b) The child has previously been adjudicated or had
 600 adjudication withheld for three or more misdemeanor offenses
 601 within the previous 18 months;

602 (c) The child is before the court for disposition for a
 603 violation of s. 800.03, s. 806.031, or s. 828.12; or

604 (d) The court finds by a preponderance of the evidence that
 605 the protection of the public requires such placement or that the
 606 particular needs of the child would be best served by such
 607 placement. Such finding must be in writing.

608 (4) The department may transfer a child, when necessary to
 609 appropriately administer the child's commitment, from one

6-01053B-24

20241352__

610 facility or program to another facility or program operated,
 611 contracted, subcontracted, or designated by the department,
 612 including a postcommitment nonresidential conditional release
 613 program, except that the department may not transfer any child
 614 adjudicated solely for a misdemeanor to a residential program
 615 except as provided in subsection (2). The department shall
 616 notify the court that committed the child to the department and
 617 any attorney of record for the child, in writing, of its intent
 618 to transfer the child from a commitment facility or program to
 619 another facility or program of a higher or lower restrictiveness
 620 level. If the child is under the jurisdiction of a dependency
 621 court, the department shall also provide notice to the
 622 dependency court and the Department of Children and Families,
 623 and, if appointed, the Guardian Ad Litem Program and the child's
 624 attorney ad litem. The court that committed the child may agree
 625 to the transfer or may set a hearing to review the transfer. If
 626 the court does not respond within 10 days after receipt of the
 627 notice, the transfer of the child shall be deemed granted.

628 Section 13. Section 985.465, Florida Statutes, is amended
 629 to read:

630 985.465 Maximum-risk residential ~~Juvenile correctional~~
 631 ~~facilities or juvenile prison.~~ A maximum-risk juvenile
 632 ~~correctional facility or juvenile prison~~ is a physically secure
 633 residential commitment program with a designated length of stay
 634 from 18 months to 36 months, primarily serving children 13 years
 635 of age to 19 years of age or until the jurisdiction of the court
 636 expires. Each child committed to this level must meet one of the
 637 following criteria:

638 (1) The child is at least 13 years of age at the time of

6-01053B-24 20241352__

the disposition for the current offense and has been adjudicated on the current offense for:

- (a) Arson;
- (b) Sexual battery;
- (c) Robbery;
- (d) Kidnapping;
- (e) Aggravated child abuse;
- (f) Aggravated assault;
- (g) Aggravated stalking;
- (h) Murder;
- (i) Manslaughter;
- (j) Unlawful throwing, placing, or discharging of a destructive device or bomb;
- (k) Armed burglary;
- (l) Aggravated battery;
- (m) Carjacking;
- (n) Home-invasion robbery;
- (o) Burglary with an assault or battery;
- (p) Any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age; or
- (q) Carrying, displaying, using, threatening to use, or attempting to use a weapon or firearm during the commission of a felony.

(2) The child is at least 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed three or more times to a delinquency commitment program.

(3) The child is at least 13 years of age and is currently committed for a felony offense and transferred from a moderate-

6-01053B-24 20241352__

risk or high-risk residential commitment placement.

(4) The child is at least 13 years of age at the time of the disposition for the current offense, the child is eligible for prosecution as an adult for the current offense, and the current offense is ranked at level 7 or higher on the Criminal Punishment Code offense severity ranking chart pursuant to s. 921.0022.

Section 14. Paragraph (a) of subsection (3) of section 985.601, Florida Statutes, is amended, and subsection (12) is added to that section, to read:

985.601 Administering the juvenile justice continuum.—

(3)(a) The department shall develop or contract for diversified and innovative programs to provide rehabilitative treatment, including early intervention and prevention, diversion, comprehensive intake, case management, diagnostic and classification assessments, trauma-informed care, individual and family counseling, family engagement resources and programs, sex-specific ~~gender-specific~~ programming, shelter care, diversified detention care emphasizing alternatives to secure detention, diversified probation, halfway houses, foster homes, community-based substance abuse treatment services, community-based mental health treatment services, community-based residential and nonresidential programs, mother-infant programs, and environmental programs. The department may pay expenses in support of innovative programs and activities that address identified needs and the well-being of children in the department's care or under its supervision, subject to the requirements of chapters 215, 216, and 287. Each program shall place particular emphasis on reintegration and conditional

6-01053B-24

20241352__

release for all children in the program.

(12) The department may use state or federal funds to purchase and distribute promotional and educational materials that are consistent with the dignity and integrity of the state for all of the following purposes:

(a) Educating children and families about the juvenile justice continuum, including local prevention programs or community services available for participation or enrollment.

(b) Staff recruitment at job fairs, career fairs, community events, the Institute for Commercialization of Florida Technology, community college campuses, or state university campuses.

(c) Educating children and families on children-specific public safety issues, including, but not limited to, safe storage of adult-owned firearms, consequences of child firearm offenses, human trafficking, or drug and alcohol abuse.

Section 15. Section 985.664, Florida Statutes, is amended to read:

985.664 Juvenile justice circuit advisory boards.—

(1) Each judicial circuit in this state shall have ~~There is authorized a juvenile justice circuit advisory board to be established in each of the 20 judicial circuits. The~~ Except in single-county circuits, each juvenile justice circuit advisory board shall work with the chief probation officer of the circuit to use data to inform policies and practices that better improve the juvenile justice continuum have a county organization representing each of the counties in the circuit. The county organization shall report directly to the juvenile justice circuit advisory board on the juvenile justice needs of the

6-01053B-24

20241352__

~~county. The purpose of each juvenile justice circuit advisory board is to provide advice and direction to the department in the development and implementation of juvenile justice programs and to work collaboratively with the department in seeking program improvements and policy changes to address the emerging and changing needs of Florida's youth who are at risk of delinquency.~~

~~(2) The duties and responsibilities of a juvenile justice circuit advisory board include, but are not limited to:~~

~~(a) Developing a comprehensive plan for the circuit. The initial circuit plan shall be submitted to the department no later than December 31, 2014, and no later than June 30 every 3 years thereafter. The department shall prescribe a format and content requirements for the submission of the comprehensive plan.~~

~~(b) Participating in the facilitation of interagency cooperation and information sharing.~~

~~(c) Providing recommendations for public or private grants to be administered by one of the community partners that support one or more components of the comprehensive circuit plan.~~

~~(d) Providing recommendations to the department in the evaluation of prevention and early intervention grant programs, including the Community Juvenile Justice Partnership Grant program established in s. 985.676 and proceeds from the Invest in Children license plate annual use fees.~~

~~(e) Providing an annual report to the department describing the board's activities. The department shall prescribe a format and content requirements for submission of annual reports. The annual report must be submitted to the department no later than~~

6-01053B-24

20241352__

755 ~~August 1 of each year.~~

756 ~~(3)~~ Each juvenile justice circuit advisory board shall have
 757 a minimum of 14 ~~16~~ members. The membership of each board must
 758 reflect:

759 (a) The circuit's geography and population distribution.

760 (b) Diversity in the judicial circuit.

761 ~~(3)(4)~~ Each member of the juvenile justice circuit advisory
 762 board must be approved by the chief probation officer of the
 763 circuit Secretary of Juvenile Justice, except those members
 764 listed in paragraphs (a), (b), (c), (e), (f), (g), and (h). The
 765 juvenile justice circuit advisory boards established under
 766 subsection (1) must include as members:

767 (a) The state attorney or his or her designee.

768 (b) The public defender or his or her designee.

769 (c) The chief judge or his or her designee.

770 (d) A representative of the corresponding circuit or
 771 regional entity of the Department of Children and Families.

772 (e) The sheriff or the sheriff's designee from each county
 773 in the circuit.

774 (f) A police chief or his or her designee from each county
 775 in the circuit.

776 (g) A county commissioner or his or her designee from each
 777 county in the circuit.

778 (h) The superintendent of each school district in the
 779 circuit or his or her designee.

780 (i) A representative from the workforce organization of
 781 each county in the circuit.

782 (j) A representative of the business community.

783 (k) A youth representative who has had an experience with

6-01053B-24

20241352__

784 the juvenile justice system and is not older than 21 years of
 785 age.

786 (l) A representative of the faith community.

787 (m) A health services representative who specializes in
 788 mental health care, victim-service programs, or victims of
 789 crimes.

790 (n) A parent or family member of a youth who has been
 791 involved with the juvenile justice system.

792 (o) Up to three ~~five~~ representatives from ~~any~~ of the
 793 community following who are not otherwise represented in this
 794 subsection:

795 1. Community leaders.

796 2. Youth-serving coalitions.

797 (4)(5) The chief probation officer in each circuit shall
 798 serve as the chair of the juvenile justice circuit advisory
 799 board for that circuit ~~When a vacancy in the office of the chair~~
 800 ~~occurs, the juvenile justice circuit advisory board shall~~
 801 ~~appoint a new chair, who must meet the board membership~~
 802 ~~requirements in subsection (4). The chair shall appoint members~~
 803 ~~to vacant seats within 45 days after the vacancy and submit the~~
 804 ~~appointments to the department for approval. The chair shall~~
 805 ~~serve at the pleasure of the Secretary of Juvenile Justice.~~

806 ~~(6) A member may not serve more than three consecutive 2-~~
 807 ~~year terms, except those members listed in paragraphs (4) (a),~~
 808 ~~(b), (c), (e), (f), (g), and (h). A former member who has not~~
 809 ~~served on the juvenile justice circuit advisory board for 2~~
 810 ~~years is eligible to serve on the juvenile justice circuit~~
 811 ~~advisory board again.~~

812 ~~(7) At least half of the voting members of the juvenile~~

6-01053B-24

20241352__

813 ~~justice circuit advisory board constitutes a quorum. A quorum~~
 814 ~~must be present in order for the board to vote on a measure or~~
 815 ~~position.~~
 816 ~~(8) In order for a juvenile justice circuit advisory board~~
 817 ~~measure or position to pass, it must receive more than 50~~
 818 ~~percent of the vote.~~
 819 ~~(9) Each juvenile justice circuit advisory board must~~
 820 ~~provide for the establishment of an executive committee of not~~
 821 ~~more than 10 members. The duties and authority of the executive~~
 822 ~~committee must be addressed in the bylaws.~~
 823 ~~(10) Each juvenile justice circuit advisory board shall~~
 824 ~~have bylaws. The department shall prescribe a format and content~~
 825 ~~requirements for the bylaws. All bylaws must be approved by the~~
 826 ~~department. The bylaws shall address at least the following~~
 827 ~~issues: election or appointment of officers; filling of vacant~~
 828 ~~positions; meeting attendance requirements; and the~~
 829 ~~establishment and duties of an executive committee.~~
 830 ~~(11) Members of juvenile justice circuit advisory boards~~
 831 ~~are subject to part III of chapter 112.~~
 832 Section 16. Subsections (1) and (2) of section 985.676,
 833 Florida Statutes, are amended to read:
 834 985.676 Community juvenile justice partnership grants.—
 835 (1) GRANTS; CRITERIA.—
 836 (a) In order to encourage the development of a circuit
 837 juvenile justice plan ~~and the development and implementation of~~
 838 ~~circuit interagency agreements under s. 985.664~~, the community
 839 juvenile justice partnership grant program is established and
 840 shall be administered by the department.
 841 (b) In awarding these grants, the department shall consider

6-01053B-24

20241352__

842 applications that at a minimum provide for the following:
 843 1. The participation of the agencies and programs needed to
 844 implement the project or program for which the applicant is
 845 applying;
 846 2. The reduction of truancy and in-school and out-of-school
 847 suspensions and expulsions, the enhancement of school safety,
 848 and other delinquency early-intervention and diversion services;
 849 3. The number of youths from 10 through 17 years of age
 850 within the geographic area to be served by the program, giving
 851 those geographic areas having the highest number of youths from
 852 10 to 17 years of age priority for selection;
 853 4. The extent to which the program targets high-juvenile-
 854 crime neighborhoods and those public schools serving juveniles
 855 from high-crime neighborhoods;
 856 5. The validity and cost-effectiveness of the program; and
 857 6. The degree to which the program is located in and
 858 managed by local leaders of the target neighborhoods and public
 859 schools serving the target neighborhoods.
 860 (c) In addition, the department may consider the following
 861 criteria in awarding grants:
 862 1. The circuit juvenile justice plan and any county
 863 juvenile justice plans that are referred to or incorporated into
 864 the circuit plan, including a list of individuals, groups, and
 865 public and private entities that participated in the development
 866 of the plan.
 867 2. The diversity of community entities participating in the
 868 development of the circuit juvenile justice plan.
 869 3. The number of community partners who will be actively
 870 involved in the operation of the grant program.

6-01053B-24

20241352__

871 4. The number of students or youths to be served by the
872 grant and the criteria by which they will be selected.

873 5. The criteria by which the grant program will be
874 evaluated and, if deemed successful, the feasibility of
875 implementation in other communities.

876 (2) GRANT APPLICATION PROCEDURES.—

877 (a) Each entity wishing to apply for an annual community
878 juvenile justice partnership grant, which may be renewed for a
879 maximum of 2 additional years for the same provision of
880 services, shall submit a grant proposal for funding or continued
881 funding to the department. The department shall establish the
882 grant application procedures. In order to be considered for
883 funding, the grant proposal shall include the following
884 assurances and information:

885 1. ~~A letter from the chair of the juvenile justice circuit~~
886 ~~board confirming that the grant application has been reviewed~~
887 ~~and found to support one or more purposes or goals of the~~
888 ~~juvenile justice plan as developed by the board.~~

889 2. A rationale and description of the program and the
890 services to be provided, including goals and objectives.

891 ~~2.3-~~ A method for identification of the juveniles most
892 likely to be involved in the juvenile justice system who will be
893 the focus of the program.

894 ~~3.4-~~ Provisions for the participation of parents and
895 guardians in the program.

896 ~~4.5-~~ Coordination with other community-based and social
897 service prevention efforts, including, but not limited to, drug
898 and alcohol abuse prevention and dropout prevention programs,
899 that serve the target population or neighborhood.

6-01053B-24

20241352__

900 ~~5.6-~~ An evaluation component to measure the effectiveness
901 of the program in accordance with s. 985.632.

902 ~~6.7-~~ A program budget, including the amount and sources of
903 local cash and in-kind resources committed to the budget. The
904 proposal must establish to the satisfaction of the department
905 that the entity will make a cash or in-kind contribution to the
906 program of a value that is at least equal to 20 percent of the
907 amount of the grant.

908 ~~7.8-~~ The necessary program staff.

909 (b) The department shall consider the recommendations of
910 community stakeholders ~~the juvenile justice circuit advisory~~
911 ~~board~~ as to the priority that should be given to proposals
912 submitted by entities within a circuit in awarding such grants.

913 (c) The department shall make available, to anyone wishing
914 to apply for such a grant, information on all of the criteria to
915 be used in the selection of the proposals for funding pursuant
916 to the provisions of this subsection.

917 (d) The department shall review all program proposals
918 submitted. Entities submitting proposals shall be notified of
919 approval not later than June 30 of each year.

920 (e) Each entity that is awarded a grant as provided for in
921 this section shall submit an annual evaluation report to the
922 department and, the circuit juvenile justice manager, ~~and the~~
923 ~~juvenile justice circuit advisory board~~, by a date subsequent to
924 the end of the contract period established by the department,
925 documenting the extent to which the program objectives have been
926 met, the effect of the program on the juvenile arrest rate, and
927 any other information required by the department. The department
928 shall coordinate and incorporate all such annual evaluation

6-01053B-24 20241352__

929 reports with s. 985.632. Each entity is also subject to a
930 financial audit and a performance audit.

931 (f) The department may establish rules and policy
932 provisions necessary to implement this section.

933 Section 17. Subsection (2) of section 1003.51, Florida
934 Statutes, is amended to read:

935 1003.51 Other public educational services.—

936 (2) The State Board of Education shall adopt rules
937 articulating expectations for effective education programs for
938 students in Department of Juvenile Justice programs, including,
939 but not limited to, education programs in juvenile justice
940 prevention, day treatment, residential, and detention programs.
941 The rules ~~rule~~ shall establish policies and standards for
942 education programs for students in Department of Juvenile
943 Justice programs and shall include the following:

944 (a) The interagency collaborative process needed to ensure
945 effective programs with measurable results.

946 (b) The responsibilities of the Department of Education,
947 the Department of Juvenile Justice, CareerSource Florida, Inc.,
948 district school boards, and providers of education services to
949 students in Department of Juvenile Justice programs.

950 (c) Academic expectations.

951 (d) Career expectations.

952 (e) Education transition planning and services.

953 (f) Service delivery options available to district school
954 boards, including direct service and contracting.

955 (g) Assessment procedures, which:

956 1. For prevention and, day treatment, and residential
957 ~~programs~~, include appropriate academic and career assessments

6-01053B-24 20241352__

958 administered at program entry and exit that are selected by the
959 Department of Education in partnership with representatives from
960 the Department of Juvenile Justice, district school boards, and
961 education providers. ~~Assessments must be completed within the~~
962 ~~first 10 school days after a student's entry into the program.~~

963 2. Provide for determination of the areas of academic need
964 and strategies for appropriate intervention and instruction for
965 each student in a detention facility within 5 school days after
966 the student's entry into the program and administer a research-
967 based assessment that will assist the student in determining his
968 or her educational and career options and goals within 22 school
969 days after the student's entry into the program.

970
971 The results of these assessments, together with a portfolio
972 depicting the student's academic and career accomplishments,
973 shall be included in the discharge packet assembled for each
974 student.

975 (h) Recommended instructional programs, including, but not
976 limited to:

977 1. Secondary education.

978 2. High school equivalency examination preparation.

979 3. Postsecondary education.

980 4. Career and professional education (CAPE).

981 5. Job preparation.

982 6. Virtual education that:

983 a. Provides competency-based instruction that addresses the
984 unique academic needs of the student through delivery by an
985 entity accredited by an accrediting body approved by the
986 Department of Education ~~AdvanceED or the Southern Association of~~

6-01053B-24

20241352__

987 ~~Colleges and Schools.~~

988 b. Confers certifications and diplomas.

989 c. Issues credit that articulates with and transcripts that
990 are recognized by secondary schools.

991 d. Allows the student to continue to access and progress
992 through the program once the student leaves the juvenile justice
993 system.

994 (i) Funding requirements, which must provide that at least
995 95 percent of the FEEP funds generated by students in Department
996 of Juvenile Justice programs or in an education program for
997 juveniles under s. 985.19 must be spent on instructional costs
998 for those students. Department of Juvenile Justice education
999 programs are entitled to 100 percent of the formula-based
1000 categorical funds generated by students in Department of
1001 Juvenile Justice programs. Such funds must be spent on
1002 appropriate categoricals, such as instructional materials and
1003 public school technology for those students.

1004 (j) Qualifications of instructional staff, procedures for
1005 the selection of instructional staff, and procedures for
1006 consistent instruction and qualified staff year-round.
1007 Qualifications shall include those for instructors of CAPE
1008 courses, standardized across the state, and shall be based on
1009 state certification, local school district approval, and
1010 industry-recognized certifications as identified on the CAPE
1011 Industry Certification Funding List. Procedures for the use of
1012 noncertified instructional personnel who possess expert
1013 knowledge or experience in their fields of instruction shall be
1014 established.

1015 (k) Transition services, including the roles and

6-01053B-24

20241352__

1016 responsibilities of appropriate personnel in the juvenile
1017 justice education program, the school district where the student
1018 will reenter, provider organizations, and the Department of
1019 Juvenile Justice.

1020 (l) Procedures and timeframe for transfer of education
1021 records when a student enters and leaves a Department of
1022 Juvenile Justice education program.

1023 (m) The requirement that each district school board
1024 maintain an academic transcript for each student enrolled in a
1025 juvenile justice education program that delineates each course
1026 completed by the student as provided by the State Course Code
1027 Directory.

1028 (n) The requirement that each district school board make
1029 available and transmit a copy of a student's transcript in the
1030 discharge packet when the student exits a juvenile justice
1031 education program.

1032 (o) Contract requirements.

1033 (p) ~~Performance expectations for providers and district~~
1034 ~~school boards, including student performance measures by type of~~
1035 ~~program, education program performance ratings, school~~
1036 ~~improvement, and corrective action plans for low-performing~~
1037 ~~programs.~~

1038 ~~(q)~~ The role and responsibility of the district school
1039 board in securing workforce development funds.

1040 ~~(r) A series of graduated sanctions for district school~~
1041 ~~boards whose educational programs in Department of Juvenile~~
1042 ~~Justice programs are considered to be unsatisfactory and for~~
1043 ~~instances in which district school boards fail to meet standards~~
1044 ~~prescribed by law, rule, or State Board of Education policy.~~

6-01053B-24 20241352__

~~These sanctions shall include the option of requiring a district school board to contract with a provider or another district school board if the educational program at the Department of Juvenile Justice program is performing below minimum standards and, after 6 months, is still performing below minimum standards.~~

(g) ~~(e)~~ Curriculum, guidance counseling, transition, and education services expectations, including curriculum flexibility for detention centers operated by the Department of Juvenile Justice.

(r) ~~(t)~~ Other aspects of program operations.

Section 18. Section 1003.52, Florida Statutes, is amended to read:

1003.52 Educational services in Department of Juvenile Justice programs.—

(1) The Department of Education shall serve as the lead agency for juvenile justice education programs, curriculum, support services, and resources. To this end, the Department of Education and the Department of Juvenile Justice shall each designate a Coordinator for Juvenile Justice Education Programs to serve as the point of contact for resolving issues not addressed by district school boards and to provide each department's participation in the following activities:

(a) Training, collaborating, and coordinating with district school boards, local workforce development boards, and local youth councils, educational contract providers, and juvenile justice providers, whether state operated or contracted.

(b) Collecting information on the academic, career and technical ~~professional~~ education ~~(CAPE)~~, and transition

6-01053B-24 20241352__

performance of students in juvenile justice programs and reporting on the results.

(c) Developing academic and career and technical education ~~CAPE~~ protocols that provide guidance to district school boards and juvenile justice education providers in all aspects of education programming, including records transfer and transition.

(d) Implementing a joint accountability, program performance, and program improvement process.

Annually, a cooperative agreement and plan for juvenile justice education service enhancement shall be developed between the Department of Juvenile Justice and the Department of Education and submitted to the Secretary of Juvenile Justice and the Commissioner of Education by June 30. The plan shall include, at a minimum, each agency's role regarding educational program accountability, technical assistance, training, and coordination of services.

(2) Students participating in Department of Juvenile Justice education programs pursuant to chapter 985 which are sponsored by a community-based agency or are operated or contracted for by the Department of Juvenile Justice shall receive education programs according to rules of the State Board of Education. These students shall be eligible for services afforded to students enrolled in programs pursuant to s. 1003.53 and all corresponding State Board of Education rules.

(3) The district school board of the county in which the juvenile justice education prevention, day treatment, ~~residential~~, or detention program is located shall provide or

6-01053B-24

20241352__

contract for appropriate educational assessments and an appropriate program of instruction and special education services.

(a) All contracts between a district school board desiring to contract directly with juvenile justice education programs to provide academic instruction for students in such programs must be in writing. Unless both parties agree to an extension of time, the district school board and the juvenile justice education program shall negotiate and execute a new or renewal contract within 40 days after the district school board provides the proposal to the juvenile justice education program. The Department of Education shall provide mediation services for any disputes relating to this paragraph.

(b) District school boards shall satisfy invoices issued by juvenile justice education programs within 15 working days after receipt. If a district school board does not timely issue a warrant for payment, it must pay to the juvenile justice education program interest at a rate of 1 percent per month, calculated on a daily basis, on the unpaid balance until such time as a warrant is issued for the invoice and accrued interest amount. The district school board may not delay payment to a juvenile justice education program of any portion of funds owed pending the district's receipt of local funds.

(c) The district school board shall make provisions for each student to participate in basic career and technical education, ~~CAPE~~, and exceptional student programs, as appropriate. Students served in Department of Juvenile Justice education programs shall have access to the appropriate courses and instruction to prepare them for the high school equivalency

6-01053B-24

20241352__

examination. Students participating in high school equivalency examination preparation programs shall be funded at the basic program cost factor for Department of Juvenile Justice programs in the Florida Education Finance Program. Each program shall be conducted according to applicable law providing for the operation of public schools and rules of the State Board of Education. School districts shall provide the high school equivalency examination exit option for all juvenile justice education programs.

(d) The Department of Education, with the assistance of the school districts and juvenile justice education providers, shall select a common student assessment instrument and protocol for measuring student learning gains and student progression while a student is in a juvenile justice education program. The Department of Education and the Department of Juvenile Justice shall jointly review the effectiveness of this assessment and implement changes as necessary.

(4) Educational services shall be provided at times of the day most appropriate for the juvenile justice program. School programming in juvenile justice detention, prevention, or day treatment, ~~and residential~~ programs shall be made available by the local school district during the juvenile justice school year, as provided in s. 1003.01(14). In addition, students in juvenile justice education programs shall have access to courses offered pursuant to ss. 1002.37, 1002.45, and 1003.498. The Department of Education and the school districts shall adopt policies necessary to provide such access.

(5) The educational program shall provide instruction based on each student's individualized transition plan, assessed

6-01053B-24

20241352__

1161 educational needs, and the education programs available in the
 1162 school district in which the student will return. Depending on
 1163 the student's needs, educational programming may consist of
 1164 remedial courses, academic courses required for grade
 1165 advancement, ~~CAPE courses~~, high school equivalency examination
 1166 preparation, or exceptional student education curricula and
 1167 related services which support the transition goals and reentry
 1168 and which may lead to completion of the requirements for receipt
 1169 of a high school diploma or its equivalent. Prevention and day
 1170 treatment juvenile justice education programs, at a minimum,
 1171 shall provide career readiness and exploration opportunities as
 1172 well as truancy and dropout prevention intervention services.
 1173 ~~Residential juvenile justice education programs with a~~
 1174 ~~contracted minimum length of stay of 9 months shall provide CAPE~~
 1175 ~~courses that lead to preapprentice certifications and industry~~
 1176 ~~certifications. Programs with contracted lengths of stay of less~~
 1177 ~~than 9 months may provide career education courses that lead to~~
 1178 ~~preapprentice certifications and CAPE industry certifications.~~
 1179 ~~If the duration of a program is less than 40 days, the~~
 1180 ~~educational component may be limited to tutorial remediation~~
 1181 ~~activities, career employability skills instruction, education~~
 1182 ~~counseling, and transition services that prepare students for a~~
 1183 ~~return to school, the community, and their home settings based~~
 1184 ~~on the students' needs.~~

1185 (6) Participation in the program by students of compulsory
 1186 school-attendance age as provided for in s. 1003.21 shall be
 1187 mandatory. All students of noncompulsory school-attendance age
 1188 who have not received a high school diploma or its equivalent
 1189 shall participate in the educational program, unless the student

Page 41 of 61

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

6-01053B-24

20241352__

1190 files a formal declaration of his or her intent to terminate
 1191 school enrollment as described in s. 1003.21 and is afforded the
 1192 opportunity to take the high school equivalency examination and
 1193 attain a Florida high school diploma before release from a
 1194 juvenile justice education program. A student who has received a
 1195 high school diploma or its equivalent and is not employed shall
 1196 participate in workforce development ~~or other CAPE education~~ or
 1197 Florida College System institution or university courses while
 1198 in the program, subject to available funding.

1199 (7) An individualized progress monitoring plan shall be
 1200 developed for all students not classified as exceptional
 1201 education students upon entry in a juvenile justice education
 1202 program and upon reentry in the school district. These plans
 1203 shall address academic, literacy, and career and technical
 1204 skills and shall include provisions for intensive remedial
 1205 instruction in the areas of weakness.

1206 (8) Each district school board shall maintain an academic
 1207 record for each student enrolled in a juvenile justice education
 1208 program as prescribed by s. 1003.51. Such record shall delineate
 1209 each course completed by the student according to procedures in
 1210 the State Course Code Directory. The district school board shall
 1211 include a copy of a student's academic record in the discharge
 1212 packet when the student exits the program.

1213 (9) Each district school board shall make provisions for
 1214 high school level students to earn credits toward high school
 1215 graduation while in ~~residential and nonresidential~~ juvenile
 1216 justice detention, prevention, or day treatment education
 1217 programs. Provisions must be made for the transfer of credits
 1218 and partial credits earned.

Page 42 of 61

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

6-01053B-24

20241352__

(10) School districts and juvenile justice education providers shall develop individualized transition plans during the course of a student's stay in a juvenile justice education program to coordinate academic, career and technical, and secondary and postsecondary services that assist the student in successful community reintegration upon release. Development of the transition plan shall be a collaboration of the personnel in the juvenile justice education program, reentry personnel, personnel from the school district where the student will return, the student, the student's family, and the Department of Juvenile Justice ~~personnel for committed students~~.

(a) Transition planning must begin upon a student's placement in the program. The transition plan must include, at a minimum:

1. Services and interventions that address the student's assessed educational needs and postrelease education plans.

2. Services to be provided during the program stay and services to be implemented upon release, including, but not limited to, continuing education in secondary school, ~~CAPE programs~~, postsecondary education, or employment, based on the student's needs.

3. Specific monitoring responsibilities to determine whether the individualized transition plan is being implemented and the student is provided access to support services that will sustain the student's success by individuals who are responsible for the reintegration and coordination of these activities.

(b) For the purpose of transition planning and reentry services, representatives from the school district and the one-stop center where the student will return shall participate as

6-01053B-24

20241352__

members of the local Department of Juvenile Justice reentry teams. The school district, upon return of a student from a juvenile justice education program, must consider the individual needs and circumstances of the student and the transition plan recommendations when reenrolling a student in a public school. A local school district may not maintain a standardized policy for all students returning from a juvenile justice program but place students based on their needs and their performance in the juvenile justice education program, including any virtual education options.

(c) The Department of Education and the Department of Juvenile Justice shall provide oversight and guidance to school districts, education providers, and reentry personnel on how to implement effective educational transition planning and services.

(11) The district school board shall recruit and train teachers who are interested, qualified, or experienced in educating students in juvenile justice programs. Students in juvenile justice programs shall be provided a wide range of education programs and opportunities including textbooks, technology, instructional support, and resources commensurate with resources provided to students in public schools, including textbooks and access to technology. If the district school board operates a juvenile justice education program at a juvenile justice facility, the district school board, in consultation with the director of the juvenile justice facility, shall select the instructional personnel assigned to that program. The Secretary of Juvenile Justice or the director of a juvenile justice program may request that the performance of a teacher

6-01053B-24

20241352__

1277 assigned by the district to a juvenile justice education program
 1278 be reviewed by the district and that the teacher be reassigned
 1279 based upon an evaluation conducted pursuant to s. 1012.34 or for
 1280 inappropriate behavior. Juvenile justice education programs
 1281 shall have access to the substitute teacher pool used by the
 1282 district school board.

1283 (12) District school boards may contract with a private
 1284 provider for the provision of education programs to students
 1285 placed in juvenile justice detention, prevention, or day
 1286 treatment programs with the Department of Juvenile Justice and
 1287 shall generate local, state, and federal funding, including
 1288 funding through the Florida Education Finance Program for such
 1289 students. The district school board's planning and budgeting
 1290 process shall include the needs of Department of Juvenile
 1291 Justice education programs in the district school board's plan
 1292 for expenditures for state categorical and federal funds.

1293 (13)(a) Eligible students enrolled in juvenile justice
 1294 education programs shall be funded the same as students enrolled
 1295 in traditional public schools funded in the Florida Education
 1296 Finance Program and as specified in s. 1011.62 and the General
 1297 Appropriations Act.

1298 (b) Juvenile justice education programs to receive the
 1299 appropriate FEFP funding for Department of Juvenile Justice
 1300 education programs shall include those operated through a
 1301 contract with the Department of Juvenile Justice.

1302 (c) Consistent with the rules of the State Board of
 1303 Education, district school boards shall request an alternative
 1304 FTE survey for Department of Juvenile Justice education programs
 1305 experiencing fluctuations in student enrollment.

Page 45 of 61

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

6-01053B-24

20241352__

1306 (d) FTE count periods shall be prescribed in rules of the
 1307 State Board of Education and shall be the same for programs of
 1308 the Department of Juvenile Justice as for other public school
 1309 programs. The summer school period for students in Department of
 1310 Juvenile Justice education programs shall begin on the day
 1311 immediately following the end of the regular school year and end
 1312 on the day immediately preceding the subsequent regular school
 1313 year. Students shall be funded for no more than 25 hours per
 1314 week of direct instruction.

1315 (e) Each juvenile justice education program must receive
 1316 all federal funds for which the program is eligible.

1317 (14) Each district school board shall negotiate a
 1318 cooperative agreement with the Department of Juvenile Justice on
 1319 the delivery of educational services to students in juvenile
 1320 justice detention, prevention, or day treatment programs under
 1321 the jurisdiction of the Department of Juvenile Justice. Such
 1322 agreement must include, but is not limited to:

1323 (a) Roles and responsibilities of each agency, including
 1324 the roles and responsibilities of contract providers.

1325 (b) Administrative issues including procedures for sharing
 1326 information.

1327 (c) Allocation of resources including maximization of
 1328 local, state, and federal funding.

1329 (d) Procedures for educational evaluation for educational
 1330 exceptionalities and special needs.

1331 (e) Curriculum and delivery of instruction.

1332 (f) Classroom management procedures and attendance
 1333 policies.

1334 (g) Procedures for provision of qualified instructional

Page 46 of 61

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

6-01053B-24

20241352__

personnel, whether supplied by the district school board or provided under contract by the provider, and for performance of duties while in a juvenile justice setting.

(h) Provisions for improving skills in teaching and working with students referred to juvenile justice education programs.

(i) Transition plans for students moving into and out of juvenile justice education programs.

(j) Procedures and timelines for the timely documentation of credits earned and transfer of student records.

(k) Methods and procedures for dispute resolution.

(l) Provisions for ensuring the safety of education personnel and support for the agreed-upon education program.

(m) Strategies for correcting any deficiencies found through the accountability and evaluation system and student performance measures.

(15) Nothing in this section or in a cooperative agreement requires the district school board to provide more services than can be supported by the funds generated by students in the juvenile justice programs.

~~(16) The Department of Education, in consultation with the Department of Juvenile Justice, district school boards, and providers, shall adopt rules establishing:~~

~~(a) Objective and measurable student performance measures to evaluate a student's educational progress while participating in a prevention, day treatment, or residential program. The student performance measures must be based on appropriate outcomes for all students in juvenile justice education programs, taking into consideration the student's length of stay in the program. Performance measures shall include outcomes that~~

6-01053B-24

20241352__

~~relate to student achievement of career education goals, acquisition of employability skills, receipt of a high school diploma or its equivalent, grade advancement, and the number of CAPE industry certifications earned.~~

~~(b) A performance rating system to be used by the Department of Education to evaluate the delivery of educational services within each of the juvenile justice programs. The performance rating shall be primarily based on data regarding student performance as described in paragraph (a).~~

~~(c) The timeframes, procedures, and resources to be used to improve a low-rated educational program or to terminate or reassign the program.~~

~~(d) The Department of Education, in partnership with the Department of Juvenile Justice, shall develop a comprehensive accountability and program improvement process. The accountability and program improvement process shall be based on student performance measures by type of program and shall rate education program performance. The accountability system shall identify and recognize high-performing education programs. The Department of Education, in partnership with the Department of Juvenile Justice, shall identify low-performing programs. Low-performing education programs shall receive an onsite program evaluation from the Department of Juvenile Justice. School improvement, technical assistance, or the reassignment of the program shall be based, in part, on the results of the program evaluation. Through a corrective action process, low-performing programs must demonstrate improvement or the programs shall be reassigned.~~

~~(17) The department, in collaboration with the Department~~

6-01053B-24

20241352__

1393 of Juvenile Justice, shall collect data and report on
 1394 commitment, day treatment, prevention, and detention programs.
 1395 The report shall be submitted to the President of the Senate,
 1396 the Speaker of the House of Representatives, and the Governor by
 1397 February 1 of each year. The report must include, at a minimum:
 1398 (a) The number and percentage of students who:
 1399 1. Return to an alternative school, middle school, or high
 1400 school upon release and the attendance rate of such students
 1401 before and after participation in juvenile justice education
 1402 programs.
 1403 2. Receive a standard high school diploma or a high school
 1404 equivalency diploma.
 1405 3. Receive industry certification.
 1406 4. Enroll in a postsecondary educational institution.
 1407 5. Complete a juvenile justice education program without
 1408 reoffending.
 1409 6. Reoffend within 1 year after completion of a day
 1410 treatment or residential commitment program.
 1411 7. Remain employed 1 year after completion of a day
 1412 treatment or residential commitment program.
 1413 8. Demonstrate learning gains pursuant to paragraph (3)(d).
 1414 (b) The following cost data for each juvenile justice
 1415 education program:
 1416 1. The amount of funding provided by district school boards
 1417 to juvenile justice programs and the amount retained for
 1418 administration, including documenting the purposes of such
 1419 expenses.
 1420 2. The status of the development of cooperative agreements.
 1421 3. Recommendations for system improvement.

6-01053B-24

20241352__

1422 4. Information on the identification of, and services
 1423 provided to, exceptional students, to determine whether these
 1424 students are properly reported for funding and are appropriately
 1425 served.
 1426 ~~(18)~~ The district school board shall not be charged any
 1427 rent, maintenance, utilities, or overhead on such facilities.
 1428 Maintenance, repairs, and remodeling of existing facilities
 1429 shall be provided by the Department of Juvenile Justice.
 1430 ~~(17)~~(19) When additional facilities are required in
 1431 juvenile justice detention, prevention, or day treatment
 1432 programs, the district school board and the Department of
 1433 Juvenile Justice shall agree on the appropriate site based on
 1434 the instructional needs of the students. When the most
 1435 appropriate site for instruction is on district school board
 1436 property, a special capital outlay request shall be made by the
 1437 commissioner in accordance with s. 1013.60. When the most
 1438 appropriate site is on state property, state capital outlay
 1439 funds shall be requested by the Department of Juvenile Justice
 1440 provided by s. 216.043 and shall be submitted as specified by s.
 1441 216.023. Any instructional facility to be built on state
 1442 property shall have educational specifications jointly developed
 1443 by the district school board and the Department of Juvenile
 1444 Justice and approved by the Department of Education. The size of
 1445 space and occupant design capacity criteria as provided by State
 1446 Board of Education rules shall be used for remodeling or new
 1447 construction whether facilities are provided on state property
 1448 or district school board property.
 1449 ~~(18)~~(20) The parent of an exceptional student shall have
 1450 the due process rights provided for in this chapter.

6-01053B-24

20241352__

1451 (19)~~(21)~~ The State Board of Education shall adopt rules
 1452 necessary to implement this section. Such rules must require the
 1453 minimum amount of paperwork and reporting.

1454 ~~(22) The Department of Juvenile Justice and the Department~~
 1455 ~~of Education, in consultation with CareerSource Florida, Inc.,~~
 1456 ~~the statewide Workforce Development Youth Council, district~~
 1457 ~~school boards, Florida College System institutions, providers,~~
 1458 ~~and others, shall jointly develop a multiagency plan for CAPE~~
 1459 ~~which describes the funding, curriculum, transfer of credits,~~
 1460 ~~goals, and outcome measures for career education programming in~~
 1461 ~~juvenile commitment facilities, pursuant to s. 985.622. The plan~~
 1462 ~~must be reviewed annually.~~

1463 Section 19. Paragraph (a) of subsection (2) of section
 1464 330.41, Florida Statutes, is amended to read:

1465 330.41 Unmanned Aircraft Systems Act.—

1466 (2) DEFINITIONS.—As used in this act, the term:

1467 (a) "Critical infrastructure facility" means any of the
 1468 following, if completely enclosed by a fence or other physical
 1469 barrier that is obviously designed to exclude intruders, or if
 1470 clearly marked with a sign or signs which indicate that entry is
 1471 forbidden and which are posted on the property in a manner
 1472 reasonably likely to come to the attention of intruders:

1473 1. A power generation or transmission facility, substation,
 1474 switching station, or electrical control center.

1475 2. A chemical or rubber manufacturing or storage facility.

1476 3. A water intake structure, water treatment facility,
 1477 wastewater treatment plant, or pump station.

1478 4. A mining facility.

1479 5. A natural gas or compressed gas compressor station,

6-01053B-24

20241352__

1480 storage facility, or natural gas or compressed gas pipeline.

1481 6. A liquid natural gas or propane gas terminal or storage
 1482 facility.

1483 7. Any portion of an aboveground oil or gas pipeline.

1484 8. A refinery.

1485 9. A gas processing plant, including a plant used in the
 1486 processing, treatment, or fractionation of natural gas.

1487 10. A wireless communications facility, including the
 1488 tower, antennae, support structures, and all associated ground-
 1489 based equipment.

1490 11. A seaport as listed in s. 311.09(1), which need not be
 1491 completely enclosed by a fence or other physical barrier and
 1492 need not be marked with a sign or signs indicating that entry is
 1493 forbidden.

1494 12. An inland port or other facility or group of facilities
 1495 serving as a point of intermodal transfer of freight in a
 1496 specific area physically separated from a seaport.

1497 13. An airport as defined in s. 330.27.

1498 14. A spaceport territory as defined in s. 331.303(18).

1499 15. A military installation as defined in 10 U.S.C. s.
 1500 2801(c)(4) and an armory as defined in s. 250.01.

1501 16. A dam as defined in s. 373.403(1) or other structures,
 1502 such as locks, floodgates, or dikes, which are designed to
 1503 maintain or control the level of navigable waterways.

1504 17. A state correctional institution as defined in s.
 1505 944.02 or a private correctional facility authorized under
 1506 chapter 957.

1507 18. A secure detention center or facility as defined in s.
 1508 985.03, or a moderate-risk ~~nonsecure~~ residential facility, a

6-01053B-24 20241352__

1509 high-risk residential facility, or a maximum-risk residential
1510 facility as those terms are described in s. 985.03(44).

1511 19. A county detention facility as defined in s. 951.23.

1512 20. A critical infrastructure facility as defined in s.
1513 692.201.

1514 Section 20. Paragraphs (c) and (j) of subsection (3),
1515 paragraph (a) of subsection (10), and paragraph (f) of
1516 subsection (12) of section 553.865, Florida Statutes, are
1517 amended to read:

1518 553.865 Private spaces.—

1519 (3) As used in this section, the term:

1520 (c) "Covered entity" means any:

1521 1. Correctional institution;

1522 2. Detention facility;

1523 3. Educational institution;

1524 4. Maximum-risk residential facilities ~~Juvenile~~

1525 ~~correctional facility or juvenile prison~~ as described in s.
1526 985.465, any detention center or facility designated by the
1527 Department of Juvenile Justice to provide secure detention as
1528 defined in s. 985.03(18)(a), and any facility used for a
1529 residential program as described in s. 985.03(44) ~~s.-~~
1530 ~~985.03(44)(b), (c), or (d);~~ or

1531 5. Public building.

1532 (j) "Public building" means a building comfort-conditioned
1533 for occupancy which is owned or leased by the state, a state
1534 agency, or a political subdivision. The term does not include a
1535 correctional institution, a detention facility, an educational
1536 institution, a maximum-risk residential ~~juvenile correctional~~
1537 ~~facility or juvenile prison~~ as described in s. 985.465, a

6-01053B-24 20241352__

1538 detention center or facility designated by the Department of
1539 Juvenile Justice to provide secure detention as defined in s.
1540 985.03(18)(a), or any facility used for a residential program as
1541 described in s. 985.03(44) ~~s.-985.03(44)(b), (c), or (d).~~

1542 (10)(a) Each maximum-risk residential ~~juvenile correctional~~
1543 ~~facility or juvenile prison~~ as described in s. 985.465, each
1544 detention center or facility designated by the Department of
1545 Juvenile Justice to provide secure detention as defined in s.
1546 985.03(18)(a), and each facility used for a residential program
1547 as described in s. 985.03(44) ~~s.-985.03(44)(b), (c), or (d)~~
1548 shall establish disciplinary procedures for any juvenile as
1549 defined in s. 985.03(7) who willfully enters, for a purpose
1550 other than those listed in subsection (6), a restroom or
1551 changing facility designated for the opposite sex in such
1552 juvenile correctional facility, juvenile prison, secure
1553 detention center or facility, or residential program facility
1554 and refuses to depart when asked to do so by delinquency program
1555 staff, detention staff, or residential program staff.

1556 (12) A covered entity that is:

1557 (f) A maximum-risk residential ~~juvenile correctional~~
1558 ~~facility or juvenile prison~~ as described in s. 985.465, a
1559 detention center or facility designated by the Department of
1560 Juvenile Justice to provide secure detention as defined in s.
1561 985.03(18)(a), or a facility used for a residential program as
1562 described in s. 985.03(44) ~~s.-985.03(44)(b), (c), or (d)~~ shall
1563 submit documentation to the Department of Juvenile Justice
1564 regarding compliance with subsections (4) and (5), as
1565 applicable, within 1 year after being established or, if such
1566 institution or facility was established before July 1, 2023, no

6-01053B-24

20241352__

later than April 1, 2024.

Section 21. Paragraph (c) of subsection (18) of section 1001.42, Florida Statutes, is amended to read:

1001.42 Powers and duties of district school board.—The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

(18) IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.—Maintain a system of school improvement and education accountability as provided by statute and State Board of Education rule. This system of school improvement and education accountability shall be consistent with, and implemented through, the district's continuing system of planning and budgeting required by this section and ss. 1008.385, 1010.01, and 1011.01. This system of school improvement and education accountability shall comply with the provisions of ss. 1008.33, 1008.34, 1008.345, and 1008.385 and include the following:

(c) *Public disclosure*.—The district school board shall provide information regarding the performance of students and educational programs as required pursuant to ss. 1008.22 and 1008.385 and implement a system of school reports as required by statute and State Board of Education rule which shall include schools operating for the purpose of providing educational services to students in Department of Juvenile Justice programs, ~~and for those schools, report on the elements specified in s. 1003.52(17).~~ Annual public disclosure reports shall be in an easy-to-read report card format and shall include the school's grade, high school graduation rate calculated without high school equivalency examinations, disaggregated by student ethnicity, and performance data as specified in state board

6-01053B-24

20241352__

rule.

Section 22. For the purpose of incorporating the amendment made by this act to section 985.03, Florida Statutes, in a reference thereto, section 985.721, Florida Statutes, is reenacted to read:

985.721 Escapes from secure detention or residential commitment facility.—An escape from:

(1) Any secure detention facility maintained for the temporary detention of children, pending adjudication, disposition, or placement;

(2) Any residential commitment facility described in s. 985.03(44), maintained for the custody, treatment, punishment, or rehabilitation of children found to have committed delinquent acts or violations of law; or

(3) Lawful transportation to or from any such secure detention facility or residential commitment facility,

constitutes escape within the intent and meaning of s. 944.40 and is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 23. For the purpose of incorporating the amendment made by this act to section 985.115, Florida Statutes, in a reference thereto, subsection (1) of section 985.25, Florida Statutes, is reenacted to read:

985.25 Detention intake.—

(1) The department shall receive custody of a child who has been taken into custody from the law enforcement agency or court and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be

6-01053B-24

20241352__

necessary to determine whether detention care is appropriate.

(a) During the period of time from the taking of the child into custody to the date of the detention hearing, the initial decision as to the child's placement into detention care shall be made by the department under ss. 985.24 and 985.245(1).

(b) The department shall base the decision whether to place the child into detention care on an assessment of risk in accordance with the risk assessment instrument and procedures developed by the department under s. 985.245, except that a child shall be placed in secure detention care until the child's detention hearing if the child meets the criteria specified in s. 985.255(1)(f), is charged with possessing or discharging a firearm on school property in violation of s. 790.115, or is charged with any other offense involving the possession or use of a firearm.

(c) If the final score on the child's risk assessment instrument indicates detention care is appropriate, but the department otherwise determines the child should be released, the department shall contact the state attorney, who may authorize release.

(d) If the final score on the risk assessment instrument indicates detention is not appropriate, the child may be released by the department in accordance with ss. 985.115 and 985.13.

Under no circumstances shall the department or the state attorney or law enforcement officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults, without an order of the court.

6-01053B-24

20241352__

Section 24. For the purpose of incorporating the amendment made by this act to section 985.27, Florida Statutes, in a reference thereto, subsection (3) of section 985.255, Florida Statutes, is reenacted to read:

985.255 Detention criteria; detention hearing.—

(3) (a) The purpose of the detention hearing required under subsection (1) is to determine the existence of probable cause that the child has committed the delinquent act or violation of law that he or she is charged with and the need for continued detention. The court shall use the results of the risk assessment performed by the department and, based on the criteria in subsection (1), shall determine the need for continued detention. If the child is a prolific juvenile offender who is detained under s. 985.26(2)(c), the court shall use the results of the risk assessment performed by the department and the criteria in subsection (1) or subsection (2) only to determine whether the prolific juvenile offender should be held in secure detention.

(b) If the court orders a placement more restrictive than indicated by the results of the risk assessment instrument, the court shall state, in writing, clear and convincing reasons for such placement.

(c) Except as provided in s. 790.22(8) or s. 985.27, when a child is placed into detention care, or into a respite home or other placement pursuant to a court order following a hearing, the court order must include specific instructions that direct the release of the child from such placement no later than 5 p.m. on the last day of the detention period specified in s. 985.26 or s. 985.27, whichever is applicable, unless the

6-01053B-24

20241352__

requirements of such applicable provision have been met or an order of continuance has been granted under s. 985.26(4). If the court order does not include a release date, the release date shall be requested from the court on the same date that the child is placed in detention care. If a subsequent hearing is needed to provide additional information to the court for safety planning, the initial order placing the child in detention care shall reflect the next detention review hearing, which shall be held within 3 calendar days after the child's initial detention placement.

Section 25. For the purpose of incorporating the amendment made by this act to section 985.441, Florida Statutes, in a reference thereto, paragraph (h) of subsection (2) of section 985.475, Florida Statutes, is reenacted to read:

985.475 Juvenile sexual offenders.—

(2) Following a delinquency adjudicatory hearing under s. 985.35, the court may on its own or upon request by the state or the department and subject to specific appropriation, determine whether a juvenile sexual offender placement is required for the protection of the public and what would be the best approach to address the treatment needs of the juvenile sexual offender. When the court determines that a juvenile has no history of a recent comprehensive assessment focused on sexually deviant behavior, the court may, subject to specific appropriation, order the department to conduct or arrange for an examination to determine whether the juvenile sexual offender is amenable to community-based treatment.

(h) If the juvenile sexual offender violates any condition of the disposition or the court finds that the juvenile sexual

6-01053B-24

20241352__

offender is failing to make satisfactory progress in treatment, the court may revoke the community-based treatment alternative and order commitment to the department under s. 985.441.

Section 26. For the purpose of incorporating the amendment made by this act to section 985.441, Florida Statutes, in a reference thereto, paragraph (b) of subsection (4) of section 985.565, Florida Statutes, is reenacted to read:

985.565 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.—

(4) SENTENCING ALTERNATIVES.—

(b) *Juvenile sanctions*.—For juveniles transferred to adult court but who do not qualify for such transfer under s. 985.556(3), the court may impose juvenile sanctions under this paragraph. If juvenile sentences are imposed, the court shall, under this paragraph, adjudge the child to have committed a delinquent act. Adjudication of delinquency may not be deemed a conviction, nor shall it operate to impose any of the civil disabilities ordinarily resulting from a conviction. The court shall impose an adult sanction or a juvenile sanction and may not sentence the child to a combination of adult and juvenile punishments. An adult sanction or a juvenile sanction may include enforcement of an order of restitution or probation previously ordered in any juvenile proceeding. However, if the court imposes a juvenile sanction and the department determines that the sanction is unsuitable for the child, the department shall return custody of the child to the sentencing court for further proceedings, including the imposition of adult sanctions. Upon adjudicating a child delinquent under subsection (1), the court may:

6-01053B-24

20241352__

1. Place the child in a probation program under the supervision of the department for an indeterminate period of time until the child reaches the age of 19 years or sooner if discharged by order of the court.

2. Commit the child to the department for treatment in an appropriate program for children for an indeterminate period of time until the child is 21 or sooner if discharged by the department. The department shall notify the court of its intent to discharge no later than 14 days before discharge. Failure of the court to timely respond to the department's notice shall be considered approval for discharge.

3. Order disposition under ss. 985.435, 985.437, 985.439, 985.441, 985.45, and 985.455 as an alternative to youthful offender or adult sentencing if the court determines not to impose youthful offender or adult sanctions.

It is the intent of the Legislature that the criteria and guidelines in this subsection are mandatory and that a determination of disposition under this subsection is subject to the right of the child to appellate review under s. 985.534.

Section 27. This act shall take effect July 1, 2024.



2024 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Juvenile Justice

BILL INFORMATION

BILL NUMBER:	SB 1352
BILL TITLE:	Juvenile Justice
BILL SPONSOR:	Senator Bradley
EFFECTIVE DATE:	July 1, 2024

COMMITTEES OF REFERENCE

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

PREVIOUS LEGISLATION

BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

CURRENT COMMITTEE

Criminal Justice

SIMILAR BILLS

BILL NUMBER:	HB 1425
SPONSOR:	Representative Yarkosky

IDENTICAL BILLS

BILL NUMBER:	N/A
SPONSOR:	N/A

Is this bill part of an agency package?

Yes

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	1/12/24
LEAD AGENCY ANALYST:	Chancer Teel, Legislative Affairs Director, 850-717-1716
ADDITIONAL ANALYST(S):	
LEGAL ANALYST:	John Milla, General Counsel
FISCAL ANALYST:	Christian Griffin, Budget Chief

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill introduces changes throughout chapter 985, Florida Statutes (F.S.), to better align statute with operational practice. Changes include enhancing definitions for different levels of residential commitment, updating references from “gender” to “sex,” ensuring staff are immune from being held civilly or criminally liable for administering an emergency opioid antagonist, clarifying procedures for transferring a youth to a Juvenile Assessment Center (JAC), and adding a procedural mechanism to transfer a youth to and from secure detention and supervised release. Additionally, conforming changes are made following the creation of the Florida Scholars Academy (FSA) for residential programs. Circuit Advisory Board duties and powers are adjusted to align with original statutory intent as an advisory body. The department receives authorization to purchase and distribute promotional materials.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Emergency Opioid Antagonists

- Emergency opioid antagonists, such as naloxone, block the effects of opioid drugs and prevent overdose deaths from occurring. S. 381.887(4), F.S., details a list of persons authorized to possess, store, and administer emergency opioid antagonists, and who are immune from criminal and civil liability as a result of administering an emergency opioid antagonist. This list includes correctional officers and DCF child protective investigators, among others, but does not include DJJ direct-care staff and providers who may need to administer this to youth in their care.

Restrictiveness Levels and Definitions

- “Minimum-risk nonresidential” is an option the court can utilize when they want to commit a youth but have them stay in the community and attend a program 5 days a week for services. This type of program is better accomplished through probation instead of commitment. Operationally, this definition causes issues because in all other areas of law a youth who is committed to the department is removed from the community and housed in a secure facility. This level of commitment blurs the lines between community probation and traditional commitment. There is other statutory language that allows for these programs and for a court to utilize them, but it instead keeps the youth on probation instead of commitment.
- Chapter 985 and other sections of statute that reference juvenile justice residential restrictiveness levels use various out-of-date and misleading definitions. This includes the term “nonsecure residential” to describe a facility in which youth are securely housed with both staff and hardware security provided. Additionally, the term “maximum-risk residential” is used interchangeably with “juvenile prison” and “juvenile correctional facility” without proper cross references. In practice, the department and stakeholders refer to these programs as “maximum-risk”. Further, the department provides housing, treatment services, etc. for youth based on their sex, which is currently not a defined term.

Juvenile Assessment Centers

- A Juvenile Assessment Center (JAC) is a facility where law enforcement may release a child taken into custody for them to be screened after arrest. Under s. 985.115, F.S., youth released to a JAC should not be suffering from intoxication, pose a threat to him or herself, or exhibit any

other types of signs requiring medical attention. Under current practice, it is the responsibility of law enforcement to have them medically cleared if a youth presents with these signs. In some jurisdictions, law enforcement has attempted to release a medically vulnerable youth to a JAC who is not equipped to handle the situation, due to the vagueness of the statute.

Transfer To and From Secure Detention

- HB 7029 (2022) amended s. 985.26, F.S., to provide the court with the flexibility needed to transition a child to supervised release and secure detention, as necessary. However, the statute omitted language delineating the procedural mechanism for a court to utilize this transfer process.

Promotional Materials

- State agencies need authorization in statute to purchase and distribute promotional materials. As part of its recruiting efforts, the department attends job and career fairs where informative publications would be valuable staff recruiting tools. The department also addresses public safety issues affecting youth and families through an educational and prevention approach.

Circuit Advisory Boards

- Circuit advisory boards were originally statutorily conceived to serve as local advisors to the department. Each circuit is required to have representation of the state attorney's office, public defender's office, chief judge, DCF, law enforcement, county commission, and district school superintendent, among other appointees. In practice, some boards struggle to meet all statutory requirements and do not exercise some of the authority granted to them in statute.

Florida Scholars Academy

- SB 7014 (2023) was signed into law establishing the Florida Scholars Academy (FSA). The FSA will enhance education in residential commitment programs. Through the department's contracted provider for in-person instruction, Florida Virtual School, the FSA will offer more career and technical education opportunities and needed flexibility to accommodate instruction for varying grade levels. Educational services for the FSA will begin July 1, 2024. Following the creation of this school within DJJ, alignments with education statutes are necessary to conform the FSA to current education policy ahead of the 2024 school year.

2. EFFECT OF THE BILL:

Section 1:

Amends s. 381.887, F.S., to add employees of the department and its contracted providers to the list of personnel that are offered immunity from civil and criminal liability as a result of administering an emergency opioid antagonist.

Section 2:

Amends s. 790.22, F.S., to designate the responsibility of establishing appropriate community service programs available to the alternative sanctions coordinators of the circuit courts from the circuit advisory boards to the department.

Section 3:

Amends s. 938.17, F.S., to replace circuit advisory boards with the department as being the recipient of a written financial report furnished by a sheriff's office that receives funds pursuant to s. 939.185 F.S., to operate a juvenile assessment center.

Section 4:

Amends s. 948.51, F.S., to require the public safety coordinating councils of a county (or a consortium of two or more counties) to collaborate with the Florida Department of Juvenile Justice rather than the circuit advisory boards when developing their comprehensive public safety plan.

Section 5-6:

Amends ss. 985.02 and 985.03, F.S., to make the following changes:

- "Gender-specific" and "gender" are replaced with "sex-specific" and "sex", respectively, as it is defined in s. 553.865, F.S.
- "Minimum-risk nonresidential" is removed as a restrictiveness level for committed youth.
- "Nonsecure residential" is replaced with "moderate-risk".
- References to "juvenile prison" and "juvenile correctional facilities" are removed to standardize the name for this type of commitment program as "maximum risk residential".

Section 7:

Amends s. 985.115 F.S., to directly label a juvenile assessment center as not being a facility where a youth may be released to if the youth is suffering from a serious physical condition that requires a medical diagnosis or treatment, is mentally ill as defined in 394.463 (1), F.S., or the child is intoxicated and has threatened or attempted physical harm to themselves or others.

Section 8-9:

Amends ss. 985.126 and 985.17, F.S., to strike an obsolete reporting date and replace "gender" and "gender-specific" with "sex" and "sex specific," respectively.

Section 10:

Amends s. 985.26 F.S., to state what mechanism is used by a court to transfer a child to or from secure detention care and supervised release, including electronic monitoring.

Section 11-13:

Amends ss. 985.27, F.S., 985.441, F.S., and 985.465, F.S., to make the following changes:

- "Nonsecure residential" is replaced with "moderate-risk".
- References to "juvenile prison" and "juvenile correctional facilities" are removed to standardize the name for this type of commitment program as "maximum-risk residential".

Section 14:

Amends s. 985.601, F.S., to replace “gender-specific” with “sex-specific. Authorization is provided to the department to use state or federal funds to purchase and distribute promotional and educational materials for youth and family education, awareness of community services available for youth, and for staff recruitment in public settings such as job fairs or community events.

Section 15:

Amends s. 985.664 F.S., to simplify the role of circuit advisory boards to be one focused on utilizing data to inform policy and practice that improves the juvenile justice continuum. The membership of these boards is shrunk by removing two members of the community. Additionally, the Chief Probation Officer will serve as chair and be responsible for managing meeting schedules, agenda, and memberships.

Section 16:

Amends s. 985.676 F.S., to remove requirements for circuit advisory boards to review applications for community juvenile justice partnership grants and to send a letter to the department confirming review and conformity to the goals of the board’s juvenile justice plan. The recommendations of community stakeholders are considered for the priority of the proposals from the circuit’s entities seeking grants.

Section 17-18, 21:

Amends ss. 1001.42, 1003.51 and 1003.52, F.S., to enact conforming and deregulation changes to align statute with the creation of the (FSA) during the 2023 Regular Session. These changes remove outdated statutory references to education being provided by school districts in DJJ residential programs. Recommended instructional programs provided for competency-based instruction through entities accredited by the Florida Department of Education rather than AdvanceED and the Southern Association of Colleges and Schools. References to CAPE are replaced with “career and technical education.” Academic assessments will no longer be required within 10 days of entry into a DJJ program, and the DJJ accountability system will be eliminated as detention, prevention, or day treatment programs will follow the same accountability process as alternative schools. Residential program educational accountability will be provided through the FSA’s accountability measures developed by the FSA Board of Trustees pursuant to s. 985.619 (4)(b) F.S. The juvenile justice education annual report is removed as a requirement as non-residential DJJ schools can be included in the dropout prevention and academic intervention programs annual report, pursuant to s. 1003.53, F.S.

Section 19:

Amends s. 330.41, F.S., to remove reference to “nonsecure” residential facilities and replaces with “moderate-risk.”

Section 20:

Amends s. 553.865, F.S., to update references to definitions of juvenile facilities. “Juvenile prison” and “juvenile correctional facilities” are removed to standardize the name for this type of commitment program as “maximum-risk residential.”

Section 22-26:

Reenacts ss. 985.721, 985.25, 985.255, 985.475, and 985.565, F.S., to incorporate references made to amended sections.

Section 27:

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 <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

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:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

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

Board:	Juvenile Justice Circuit Advisory Boards
Board Purpose:	To provide advice and direction to the department in the development and implementation of juvenile justice programs and to work collaboratively with the department in seeking program improvements and policy changes to address the emerging and changing needs of Florida's youth who are at risk of delinquency.
Who Appoints:	Other than members or their designees who are required to be on the board under s. 985.664, F.S., bylaws approved by each board address the filling of vacancies. All non-statutorily required members are approved by the Secretary of the Department of Juvenile Justice.
Changes:	<ul style="list-style-type: none"> Amends s. 790.22, F.S., to designate the responsibility of establishing appropriate community service programs available to the alternative sanctions coordinators of the circuit courts from the circuit advisory boards to the department. Amends s. 938.17, F.S., to replace circuit advisory boards with the department as being the recipient of a written financial report furnished by a sheriff's office that receives funds pursuant to s. 939.185 F.S., to operate a juvenile assessment center.

	<ul style="list-style-type: none"> Amends s. 948.51, F.S., to require the public safety coordinating councils of a county (or a consortium of two or more counties) to collaborate with the Florida Department of Juvenile Justice rather than the circuit advisory boards when developing their comprehensive public safety plan. Amends s. 985.664 F.S., to simplify the role of circuit advisory boards to be one focused on utilizing data to inform policy and practice that improves the juvenile justice continuum. The membership of these boards is shrunk by removing two members of the community. Additionally, the Chief Probation Officer will serve as chair and be responsible for managing meeting schedules, agenda, and memberships. Amends s. 985.676 F.S., to remove requirements for circuit advisory boards to review applications for community juvenile justice partnership grants and to send a letter to the department confirming review and conformity to the goals of the board's juvenile justice plan. The recommendations of community stakeholders are considered for the priority of the proposals from the circuit's entities seeking grants.
Bill Section Number(s):	Sections 2-4; 15-16

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y ☐ N ☒

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Does the legislation increase local taxes or fees? If yes, explain.	Click or tap here to enter text.
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?	Click or tap here to enter text.

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?	Click or tap here to enter text.

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

Revenues:	
Expenditures:	
Other:	

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

If yes, explain impact.	
Bill Section Number:	

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

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

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

If yes, describe the anticipated impact including any fiscal impact.	Click or tap here to enter text.
--	----------------------------------

ADDITIONAL COMMENTS

Click or tap here to enter text.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	
---------------------------	--

The Florida Senate

APPEARANCE RECORD

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

SB 1352

Bill Number or Topic

Amendment Barcode (if applicable)

1/30/24

Meeting Date

Senate - Criminal Justice

Committee

Name Quinn Diaz

Phone 215-272-8353

Address 124 3rd Avenue

Email quinn.diaz@equalityflorida.org

Street

Indiantonic

City

FL

State

32903

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:

Equality 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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/30/2024
Meeting Date

SB 1352

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Rev. Tom Holdcraft

Phone 850 303-3218

Address 2948 Tipperary Dr
Street

Email tmholdcraft@gmail.com

Tallahassee FL 32309
City State Zip

Speaking:

☐ For

☒ Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

SB 1352

Bill Number or Topic

1/30/24

Meeting Date

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Rev. Dr. Gabriel Morgan

Phone 813 245 6812

Address 5107 N Central

Street

Email gmorgan@stpaultampa.org

Tampa

City

FL

State

33603

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1/30/2024

Meeting Date

CRIMINAL JUSTICE

Committee

SB 1352

Bill Number or Topic

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

Amendment Barcode (if applicable)

Name FREDERIC PRISLEY

Phone 813-541-0325

Address 10502 SAGO RD
Street

Email FPRISLEY@GMAIL.COM

TAMPA FL 33618
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/30/24

Meeting Date

Criminal Justice

Committee

SB 1352

Bill Number or Topic

Amendment Barcode (if applicable)

Name Rev. Kari Niedermayer

Phone 832-586-6267

Address 720 Ora Dell Ave

Street

Titusville

City

FL

State

32796

Zip

Email dowlakari@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:

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/30/2024

Meeting Date

Criminal Justice

Committee

SB1352

Bill Number or Topic

Amendment Barcode (if applicable)

Name Lily Lehr

Phone 386 - 843 - 6336

Address 315 Country Circle Drive East
Street

Email lilylehr@icloud.com

Port Orange
City

FL
State

32128
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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

SB 1352

Bill Number or Topic

1/30/24
Meeting Date

Criminal Justice
Committee

Name Bishop Chuck Leigh

Phone 813 238 6060

Address 7010 N 18th St

Email Bishop.Chuck@yahoo.com

Street

Tampa
City

FL
State

33610
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/30/24

Meeting Date

Criminal Justice

Committee

SB 1352

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Christian Minor

Phone

(321) 223-4232

Address

2880 Pablo Ave.

Email

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Juvenile Justice Association

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

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

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

1/30/24

Meeting Date

Criminal Justice

Committee

SB 1352

Bill Number or Topic

Amendment Barcode (if applicable)

Name Chancer Teei

Phone 850-717-2716

Address 2737 Centerview Dr.
Street

Email Chancer.teei@fldji.gov

Tallahassee
City

FL
State

32399
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing: FL Dept.
of Juvenile
Justice

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/30/24

Meeting Date

Criminal Justice

Committee

~~HB 1136 / SB 1238~~
~~and~~ SB 1352 / HB 1425

Bill Number or Topic

Amendment Barcode (if applicable)

Name John Heimborg

Phone (352) 250-8949

Address P.O. Box 1614 - 267 Kentucky Ave.
Street

Email jvheimborg@comcast.net

Umatilla
City

FL
State

32789
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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

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

S-001 (08/10/2021)



THE FLORIDA SENATE

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 11, 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 1352 be placed on the committee's agenda at your earliest convenience. This bill relates to juvenile justice.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "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 1512

INTRODUCER: Senator Brodeur

SUBJECT: Controlled Substances

DATE: January 29, 2024

REVISED: _____

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

I. Summary:

SB 1512 amends s. 893.13, F.S., to add tianeptine to the list of Schedule I controlled substances.

“Tianeptine” is an antidepressant agent with a novel neurochemical profile. It increases serotonin (5-hydroxytryptamine; 5-HT) uptake in the brain (in contrast with most antidepressant agents) and reduces stress-induced atrophy of neuronal dendrites.¹

The bill may have a positive indeterminate impact on prison admissions. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Tianeptine or “gas station heroin” is an opioid, like heroin and morphine.² Currently, tianeptine is not listed as a controlled substance on the Florida Controlled Substance Schedules. Tianeptine is used as a prescription drug in some European, Asian, and Latin American countries, but it is not approved as a drug in the United States.³

On September 20, 2023, Florida’s Attorney General issued Emergency Rule ER23-1, immediately placing tianeptine as a Schedule I Substance in order to curtail its abuse by Florida’s children, young adults, and others.

¹ National Library of Medicine, *Tianeptine: a review of its use in depressive disorders*, Wagstaff, A.J., Ormrod, D., Spencer, C.M., available at, <https://pubmed.ncbi.nlm.nih.gov/11463130/>, (last visited January 14, 2024).

² Cleveland Clinic, *The Dangers of Gas Station Heroin*, available at, <https://health.clevelandclinic.org/gas-station-heroin-tianeptine>, (last visited January 16, 2024).

³ U.S. Food and Drug Administration, *Tianeptine in Dietary Supplements*, available at, <https://www.fda.gov/food/dietary-supplement-ingredient-directory/tianeptine-dietary-supplements> (Last visited January 24, 2024).

The rule is as follows:

(1) Under the authority of Section 893.035, F.S., the following substance is hereby added to Schedule I, subsection 893.03(1)(a), F.S.: TIANEPTINE (7-((3-chloro-6-methyl-5,5-dioxido-6,11-dihydrodibenzo[c,f][1,2]thiazepin-11-yl)amino)heptanoic acid.

(2) All provisions of Chapter 893, F.S., applicable to controlled substances listed in Schedule I shall be applicable to the substances listed in subsection (1) above.

These circumstances presented an immediate and imminent hazard to the public health, safety, and welfare which requires emergency action. In addition, the Attorney General has found that the above-mentioned compound meets the statutory criteria for placement as a controlled substance in Schedule I, s. 893.03(1)(a), F.S. The emergency rule and the temporary scheduling of tianeptine will expire on June 30, 2024.⁴

Florida Controlled Substance Schedules

Section 893.03, F.S., 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”⁵ 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

⁴ Department of Legal Affairs 2ER23-1, Addition of Tianeptine to Schedule 1, available at, <https://www.flrules.org/gateway/ruleNo.asp?id=2ER23-1> (last visited January 24, 2024).

⁵ 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.

of these substances may lead to limited physical or psychological dependence relative to Schedule IV substances.

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.

Controlled Substance Offenses Under ss. 893.13 and 893.135, F.S.

Section 893.13, F.S., in part, punishes unlawful possession, sale, purchase, manufacture, and delivery of a controlled substance.⁶ The penalty for violating s. 893.13, F.S., generally depends on the act committed, the substance and quantity of the substance involved, and the location in which the violation occurred.

Section 893.13(1), F.S., prohibits a person from selling, manufacturing,⁷ or delivering,⁸ 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. Generally, sale of a controlled substance is punishable as either a second degree felony⁹ or third degree felony.¹⁰

Drug trafficking, which is punished in s. 893.135, F.S., consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state (importation), or knowingly being in actual or constructive possession of, certain Schedule I or Schedule II controlled substances in a statutorily-specified quantity. The statute only applies to a limited number of such controlled substances, and the controlled substances involved in the trafficking must meet a specified weight or quantity threshold.

⁶ See e.g., s. 893.13(1)(a) and (b) and (6), F.S.

⁷ “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.

⁸ “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.

⁹ 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.

¹⁰ 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.

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.¹¹ Generally, a drug trafficking offense is punishable as a first degree felony.^{12,13} Section 893.135, F.S., outlines threshold amounts of the applicable controlled substance for each trafficking offense. All drug trafficking offenses are subject to mandatory minimum sentences and heightened fines, which are determined by the threshold amounts.

III. Effect of Proposed Changes:

The bill amends s. 893.13, F.S., to add tianeptine to the list of Schedule I controlled substances.

“Tianeptine” is an antidepressant agent with a novel neurochemical profile. It increases serotonin (5-hydroxytryptamine; 5-HT) uptake in the brain (in contrast with most antidepressant agents) and reduces stress-induced atrophy of neuronal dendrites.¹⁴

The bill amends ss. 893.131 and 893.135, F.S., to make conforming changes.

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.

¹¹ 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-hydroxybutyric (GHB); gamma-butyrolactone (GBL); 1,4-Butanediol; phenethylamines; lysergic acid diethylamide (LSD); synthetic cannabinoids; and n-benzyl phenethylamines. Section 893.135, F.S.

¹² 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.

¹³ 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).

¹⁴ National Library of Medicine, *Tianeptine: a review of its use in depressive disorders*, Wagstaff, A.J., Ormrod, D., Spencer, C.M., available at, <https://pubmed.ncbi.nlm.nih.gov/11463130/>, (last visited January 14, 2024).

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 a positive indeterminate fiscal impact on the Department of Corrections due to the bill having the potential to expand the number of offenders going to prison for drug offenses given its impact on multiple felonies under s. 893.13, F.S.¹⁵

VI. Related Issues:

None.

VII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 893.03, 893.13, 893.131, and 893.135.

VIII. 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.

¹⁵ Office of Economic and Demographic Research *SB 1512 Preliminary Estimate*, (on file with the Senate Committee on Criminal Justice).

By Senator Brodeur

10-00914A-24

20241512__

1 A bill to be entitled
 2 An act relating to controlled substances; amending s.
 3 893.03, F.S.; adding tianeptine to the list of
 4 Schedule I controlled substances; amending ss. 893.13,
 5 893.131, and 893.135, F.S.; conforming cross-
 6 references; providing an effective date.
 7
 8 Be It Enacted by the Legislature of the State of Florida:
 9
 10 Section 1. Paragraph (a) of subsection (1) of section
 11 893.03, Florida Statutes, is amended to read:
 12 893.03 Standards and schedules.—The substances enumerated
 13 in this section are controlled by this chapter. The controlled
 14 substances listed or to be listed in Schedules I, II, III, IV,
 15 and V are included by whatever official, common, usual,
 16 chemical, trade name, or class designated. The provisions of
 17 this section shall not be construed to include within any of the
 18 schedules contained in this section any excluded drugs listed
 19 within the purview of 21 C.F.R. s. 1308.22, styled "Excluded
 20 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical
 21 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted
 22 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt
 23 Anabolic Steroid Products."
 24 (1) SCHEDULE I.—A substance in Schedule I has a high
 25 potential for abuse and has no currently accepted medical use in
 26 treatment in the United States and in its use under medical
 27 supervision does not meet accepted safety standards. The
 28 following substances are controlled in Schedule I:
 29 (a) Unless specifically excepted or unless listed in

Page 1 of 15

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

10-00914A-24

20241512__

30 another schedule, any of the following substances, including
 31 their isomers, esters, ethers, salts, and salts of isomers,
 32 esters, and ethers, whenever the existence of such isomers,
 33 esters, ethers, and salts is possible within the specific
 34 chemical designation:
 35 1. Acetyl-alpha-methylfentanyl.
 36 2. Acetylmethadol.
 37 3. Allylprodine.
 38 4. Alphacetylmethadol (except levo-alphacetylmethadol, also
 39 known as levo-alpha-acetylmethadol, levomethadyl acetate, or
 40 LAAM).
 41 5. Alphamethadol.
 42 6. Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)
 43 ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-
 44 (N-propanilido) piperidine).
 45 7. Alpha-methylthiofentanyl.
 46 8. Alphameprodine.
 47 9. Benzethidine.
 48 10. Benzylfentanyl.
 49 11. Betacetylmethadol.
 50 12. Beta-hydroxyfentanyl.
 51 13. Beta-hydroxy-3-methylfentanyl.
 52 14. Betameprodine.
 53 15. Betamethadol.
 54 16. Betaprodine.
 55 17. Clonitazene.
 56 18. Dextromoramide.
 57 19. Diampromide.
 58 20. Diethylthiambutene.

Page 2 of 15

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

10-00914A-24

20241512__

59 21. Difenoxin.
 60 22. Dimenoxadol.
 61 23. Dimepheptanol.
 62 24. Dimethylthiambutene.
 63 25. Dioxaphetyl butyrate.
 64 26. Dipipanone.
 65 27. Ethylmethylthiambutene.
 66 28. Etonitazene.
 67 29. Etoxeridine.
 68 30. Flunitrazepam.
 69 31. Furethidine.
 70 32. Hydroxypethidine.
 71 33. Ketobemidone.
 72 34. Levomoramide.
 73 35. Levophenacymorphan.
 74 36. Desmethylprodine (1-Methyl-4-Phenyl-4-
 75 Propionoxypiperidine).
 76 37. 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-
 77 piperidyl]-N-phenylpropanamide).
 78 38. 3-Methylthiofentanyl.
 79 39. Morpheridine.
 80 40. Noracymethadol.
 81 41. Norlevorphanol.
 82 42. Normethadone.
 83 43. Norpipanone.
 84 44. Para-Fluorofentanyl.
 85 45. Phenadoxone.
 86 46. Phenampromide.
 87 47. Phenomorphan.

Page 3 of 15

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

10-00914A-24

20241512__

88 48. Phenoperidine.
 89 49. PEPAP (1-(2-Phenylethyl)-4-Phenyl-4-
 90 Acetyloxypiperidine).
 91 50. Piritramide.
 92 51. Proheptazine.
 93 52. Properidine.
 94 53. Propiram.
 95 54. Racemoramide.
 96 55. Thenylfentanyl.
 97 56. Thiofentanyl.
 98 57. Tianeptine.
 99 58. Tilidine.
 100 59.58. Trimeperidine.
 101 60.59. Acetylfentanyl.
 102 61.60. Butyrylfentanyl.
 103 62.61. Beta-Hydroxythiofentanyl.
 104 63.62. Fentanyl derivatives. Unless specifically excepted,
 105 listed in another schedule, or contained within a pharmaceutical
 106 product approved by the United States Food and Drug
 107 Administration, any material, compound, mixture, or preparation,
 108 including its salts, isomers, esters, or ethers, and salts of
 109 isomers, esters, or ethers, whenever the existence of such salts
 110 is possible within any of the following specific chemical
 111 designations containing a 4-anilidopiperidine structure:
 112 a. With or without substitution at the carbonyl of the
 113 aniline moiety with alkyl, alkenyl, carboalkoxy, cycloalkyl,
 114 methoxyalkyl, cyanoalkyl, or aryl groups, or furanyl,
 115 dihydrofuranyl, benzyl moiety, or rings containing heteroatoms
 116 sulfur, oxygen, or nitrogen;

Page 4 of 15

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

10-00914A-24

20241512__

- 117 b. With or without substitution at the piperidine amino
 118 moiety with a phenethyl, benzyl, alkylaryl (including
 119 heteroaromatics), alkyltetrazolyl ring, or an alkyl or
 120 carbomethoxy group, whether or not further substituted in the
 121 ring or group;
- 122 c. With or without substitution or addition to the
 123 piperidine ring to any extent with one or more methyl,
 124 carbomethoxy, methoxy, methoxymethyl, aryl, allyl, or ester
 125 groups;
- 126 d. With or without substitution of one or more hydrogen
 127 atoms for halogens, or methyl, alkyl, or methoxy groups, in the
 128 aromatic ring of the anilide moiety;
- 129 e. With or without substitution at the alpha or beta
 130 position of the piperidine ring with alkyl, hydroxyl, or methoxy
 131 groups;
- 132 f. With or without substitution of the benzene ring of the
 133 anilide moiety for an aromatic heterocycle; and
- 134 g. With or without substitution of the piperidine ring for
 135 a pyrrolidine ring, perhydroazepine ring, or azepine ring;
 136
 137 excluding, Alfentanil, Carfentanil, Fentanyl, and Sufentanil;
 138 including, but not limited to:
- 139 (I) Acetyl-alpha-methylfentanyl.
 140 (II) Alpha-methylfentanyl (N-[1-(alpha-methyl-betaphenyl)
 141 ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-
 142 (N-propanilido) piperidine).
 143 (III) Alpha-methylthiofentanyl.
 144 (IV) Benzylfentanyl.
 145 (V) Beta-hydroxyfentanyl.

Page 5 of 15

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

10-00914A-24

20241512__

- 146 (VI) Beta-hydroxy-3-methylfentanyl.
 147 (VII) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-
 148 piperidyl]-N-phenylpropanamide).
 149 (VIII) 3-Methylthiofentanyl.
 150 (IX) Para-Fluorofentanyl.
 151 (X) Thenylfentanyl or Thienyl fentanyl.
 152 (XI) Thiofentanyl.
 153 (XII) Acetylfentanyl.
 154 (XIII) Butyrylfentanyl.
 155 (XIV) Beta-Hydroxythiofentanyl.
 156 (XV) Lofentanil.
 157 (XVI) Ocfentanil.
 158 (XVII) Ohmfentanyl.
 159 (XVIII) Benzodioxolefentanyl.
 160 (XIX) Furanyl fentanyl.
 161 (XX) Pentanoyl fentanyl.
 162 (XXI) Cyclopentyl fentanyl.
 163 (XXII) Isobutyryl fentanyl.
 164 (XXIII) Remifentanil.
 165 64.63. Nitazene derivatives. Unless specifically excepted,
 166 listed in another schedule, or contained within a pharmaceutical
 167 product approved by the United States Food and Drug
 168 Administration, any material, compound, mixture, or preparation,
 169 including its salts, isomers, esters, or ethers, and salts of
 170 isomers, esters, or ethers, whenever the existence of such salts
 171 is possible within any of the following specific chemical
 172 designations containing a benzimidazole ring with an ethylamine
 173 substitution at the 1-position and a benzyl ring substitution at
 174 the 2-position structure:

Page 6 of 15

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

10-00914A-24 20241512__

175 a. With or without substitution on the benzimidazole ring
 176 with alkyl, alkoxy, carboalkoxy, amino, nitro, or aryl groups,
 177 or halogens;
 178 b. With or without substitution at the ethylamine amino
 179 moiety with alkyl, dialkyl, acetyl, or benzyl groups, whether or
 180 not further substituted in the ring system;
 181 c. With or without inclusion of the ethylamine amino moiety
 182 in a cyclic structure;
 183 d. With or without substitution of the benzyl ring; or
 184 e. With or without replacement of the benzyl ring with an
 185 aromatic ring, including, but not limited to:
 186 (I) Butonitazene.
 187 (II) Clonitazene.
 188 (III) Etodesnitazene.
 189 (IV) Etonitazene.
 190 (V) Flunitazene.
 191 (VI) Isotodesnitazene.
 192 (VII) Isotonitazene.
 193 (VIII) Metodesnitazene.
 194 (IX) Metonitazene.
 195 (X) Nitazene.
 196 (XI) N-Desethyl Etonitazene.
 197 (XII) N-Desethyl Isotonitazene.
 198 (XIII) N-Piperidino Etonitazene.
 199 (XIV) N-Pyrrolidino Etonitazene.
 200 (XV) Protonitazene.
 201 Section 2. Paragraph (i) of subsection (1) of section
 202 893.13, Florida Statutes, is amended to read:
 203 893.13 Prohibited acts; penalties.—

10-00914A-24 20241512__

204 (1)
 205 (i) Except as authorized by this chapter, a person commits
 206 a felony of the first degree, punishable as provided in s.
 207 775.082, s. 775.083, or s. 775.084, and must be sentenced to a
 208 mandatory minimum term of imprisonment of 3 years, if:
 209 1. The person sells, manufactures, or delivers, or
 210 possesses with intent to sell, manufacture, or deliver, any of
 211 the following:
 212 a. Alfentanil, as described in s. 893.03(2)(b)1.;
 213 b. Carfentanil, as described in s. 893.03(2)(b)6.;
 214 c. Fentanyl, as described in s. 893.03(2)(b)9.;
 215 d. Sufentanil, as described in s. 893.03(2)(b)30.;
 216 e. A fentanyl derivative, as described in s.
 217 893.03(1)(a)63. ~~s. 893.03(1)(a)62.~~;
 218 f. A controlled substance analog, as described in s.
 219 893.0356, of any substance described in sub-subparagraphs a.-e.;
 220 or
 221 g. A mixture containing any substance described in sub-
 222 subparagraphs a.-f.; and
 223 2. The substance or mixture listed in subparagraph 1. is in
 224 a form that resembles, or is mixed, granulated, absorbed, spray-
 225 dried, or aerosolized as or onto, coated on, in whole or in
 226 part, or solubilized with or into, a product, when such product
 227 or its packaging further has at least one of the following
 228 attributes:
 229 a. Resembles the trade dress of a branded food product,
 230 consumer food product, or logo food product;
 231 b. Incorporates an actual or fake registered copyright,
 232 service mark, or trademark;

10-00914A-24

20241512__

233 c. Resembles candy, cereal, a gummy, a vitamin, or a
 234 chewable product, such as a gum or gelatin-based product; or
 235 d. Contains a cartoon character imprint.
 236 Section 3. Paragraph (a) of subsection (2) of section
 237 893.131, Florida Statutes, is amended to read:
 238 893.131 Distribution of controlled substances resulting in
 239 overdose or serious bodily injury.—
 240 (2) (a) Except as provided in paragraph (b), a person 18
 241 years of age or older who unlawfully distributes:
 242 1. Heroin, as described in s. 893.03(1)(b)11.;
 243 2. Alfentanil, as described in s. 893.03(2)(b)1.;
 244 3. Carfentanil, as described in s. 893.03(2)(b)6.;
 245 4. Fentanyl, as described in s. 893.03(2)(b)9.;
 246 5. Sufentanil, as described in s. 893.03(2)(b)30.;
 247 6. Fentanyl derivatives, as described in s. 893.03(1)(a)63.
 248 ~~s. 893.03(1)(a)62.~~;
 249 7. A controlled substance analog, as described in s.
 250 893.0356, of any substance specified in subparagraphs 1.-6.; or
 251 8. A mixture containing any substance specified in
 252 subparagraphs 1.-7.,
 253 and an overdose or serious bodily injury of the user results,
 254 commits a felony of the second degree, punishable as provided in
 255 s. 775.082, s. 775.083, or s. 775.084, when such substance or
 256 mixture is proven to have caused or been a substantial factor in
 257 causing the overdose or serious bodily injury of the user.
 258 Section 4. Paragraph (c) of subsection (1) of section
 259 893.135, Florida Statutes, is amended to read:
 260 893.135 Trafficking; mandatory sentences; suspension or
 261

Page 9 of 15

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

10-00914A-24

20241512__

262 reduction of sentences; conspiracy to engage in trafficking.—
 263 (1) Except as authorized in this chapter or in chapter 499
 264 and notwithstanding the provisions of s. 893.13:
 265 (c)1. A person who knowingly sells, purchases,
 266 manufactures, delivers, or brings into this state, or who is
 267 knowingly in actual or constructive possession of, 4 grams or
 268 more of any morphine, opium, hydromorphone, or any salt,
 269 derivative, isomer, or salt of an isomer thereof, including
 270 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
 271 (3)(c)4., or 4 grams or more of any mixture containing any such
 272 substance, but less than 30 kilograms of such substance or
 273 mixture, commits a felony of the first degree, which felony
 274 shall be known as "trafficking in illegal drugs," punishable as
 275 provided in s. 775.082, s. 775.083, or s. 775.084. If the
 276 quantity involved:
 277 a. Is 4 grams or more, but less than 14 grams, such person
 278 shall be sentenced to a mandatory minimum term of imprisonment
 279 of 3 years and shall be ordered to pay a fine of \$50,000.
 280 b. Is 14 grams or more, but less than 28 grams, such person
 281 shall be sentenced to a mandatory minimum term of imprisonment
 282 of 15 years and shall be ordered to pay a fine of \$100,000.
 283 c. Is 28 grams or more, but less than 30 kilograms, such
 284 person shall be sentenced to a mandatory minimum term of
 285 imprisonment of 25 years and shall be ordered to pay a fine of
 286 \$500,000.
 287 2. A person who knowingly sells, purchases, manufactures,
 288 delivers, or brings into this state, or who is knowingly in
 289 actual or constructive possession of, 28 grams or more of
 290 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as

Page 10 of 15

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

10-00914A-24 20241512__

described in s. 893.03(2)(a)1.g., or any salt thereof, or 28 grams or more of any mixture containing any such substance, commits a felony of the first degree, which felony shall be known as "trafficking in hydrocodone," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 28 grams or more, but less than 50 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of \$50,000.

b. Is 50 grams or more, but less than 100 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of \$100,000.

c. Is 100 grams or more, but less than 300 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of \$500,000.

d. Is 300 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of \$750,000.

3. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 7 grams or more of oxycodone, as described in s. 893.03(2)(a)1.q., or any salt thereof, or 7 grams or more of any mixture containing any such substance, commits a felony of the first degree, which felony shall be known as "trafficking in oxycodone," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

10-00914A-24 20241512__

a. Is 7 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of \$50,000.

b. Is 14 grams or more, but less than 25 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of \$100,000.

c. Is 25 grams or more, but less than 100 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of \$500,000.

d. Is 100 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of \$750,000.

4.a. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of:

(I) Alfentanil, as described in s. 893.03(2)(b)1.;

(II) Carfentanil, as described in s. 893.03(2)(b)6.;

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

(IV) Sufentanil, as described in s. 893.03(2)(b)30.;

(V) A fentanyl derivative, as described in s. 893.03(1)(a)63. ~~s. 893.03(1)(a)62.~~;

(VI) A controlled substance analog, as described in s. 893.0356, of any substance described in sub-sub-subparagraphs (I)-(V); or

(VII) A mixture containing any substance described in sub-sub-subparagraphs (I)-(VI),

10-00914A-24 20241512__
 349 commits a felony of the first degree, which felony shall be
 350 known as "trafficking in dangerous fentanyl or fentanyl
 351 analogues," punishable as provided in s. 775.082, s. 775.083, or
 352 s. 775.084.

b. If the quantity involved under sub-subparagraph a.:

(I) Is 4 grams or more, but less than 14 grams, such person
 shall be sentenced to a mandatory minimum term of imprisonment
 of 7 years, and shall be ordered to pay a fine of \$50,000.

(II) Is 14 grams or more, but less than 28 grams, such
 person shall be sentenced to a mandatory minimum term of
 imprisonment of 20 years, and shall be ordered to pay a fine of
 \$100,000.

(III) Is 28 grams or more, such person shall be sentenced
 to a mandatory minimum term of imprisonment of 25 years, and
 shall be ordered to pay a fine of \$500,000.

c. A person 18 years of age or older who violates sub-
 subparagraph a. by knowingly selling or delivering to a minor at
 least 4 grams of a substance or mixture listed in sub-
 subparagraph a. shall be sentenced to a mandatory minimum term
 of not less than 25 years and not exceeding life imprisonment,
 and shall be ordered to pay a fine of \$1 million if the
 substance or mixture listed in sub-subparagraph a. is in a form
 that resembles, or is mixed, granulated, absorbed, spray-dried,
 or aerosolized as or onto, coated on, in whole or in part, or
 solubilized with or into, a product, when such product or its
 packaging further has at least one of the following attributes:

(I) Resembles the trade dress of a branded food product,
 consumer food product, or logo food product;

(II) Incorporates an actual or fake registered copyright,

10-00914A-24 20241512__
 378 service mark, or trademark;

(III) Resembles candy, cereal, a gummy, a vitamin, or a
 chewable product, such as a gum or gelatin-based product; or

(IV) Contains a cartoon character imprint.

5. A person who knowingly sells, purchases, manufactures,
 delivers, or brings into this state, or who is knowingly in
 actual or constructive possession of, 30 kilograms or more of
 any morphine, opium, oxycodone, hydrocodone, codeine,
 hydromorphone, or any salt, derivative, isomer, or salt of an
 isomer thereof, including heroin, as described in s.
 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
 more of any mixture containing any such substance, commits the
 first degree felony of trafficking in illegal drugs. A person
 who has been convicted of the first degree felony of trafficking
 in illegal drugs under this subparagraph shall be punished by
 life imprisonment and is ineligible for any form of
 discretionary early release except pardon or executive clemency
 or conditional medical release under s. 947.149. However, if the
 court determines that, in addition to committing any act
 specified in this paragraph:

a. The person intentionally killed an individual or
 counseled, commanded, induced, procured, or caused the
 intentional killing of an individual and such killing was the
 result; or

b. The person's conduct in committing that act led to a
 natural, though not inevitable, lethal result,
 such person commits the capital felony of trafficking in illegal
 drugs, punishable as provided in ss. 775.082 and 921.142. A

10-00914A-24 20241512__

person sentenced for a capital felony under this paragraph shall
also be sentenced to pay the maximum fine provided under
subparagraph 1.

6. A person who knowingly brings into this state 60
kilograms or more of any morphine, opium, oxycodone,
hydrocodone, codeine, hydromorphone, or any salt, derivative,
isomer, or salt of an isomer thereof, including heroin, as
described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
60 kilograms or more of any mixture containing any such
substance, and who knows that the probable result of such
importation would be the death of a person, commits capital
importation of illegal drugs, a capital felony punishable as
provided in ss. 775.082 and 921.142. A person sentenced for a
capital felony under this paragraph shall also be sentenced to
pay the maximum fine provided under subparagraph 1.

Section 5. This act shall take effect July 1, 2024.

SB 1512 – Controlled Substances (Identical HB 1595)

This bill amends s. 893.03, F.S., adding Tianeptine to the list of Schedule I controlled substances, which has the potential to expand the number of offenders going to prison for drug offenses given its impact on multiple felonies under s. 893.13, F.S.

Per DOC, in FY 22-23, there were 524 new commitments to prison for the Schedule I drug offense category where Tianeptine will be included. This drug offense category contains various kinds of drugs, so it is not possible to see how each drug contributes to the total number of new commitments. It is also not known how the addition of Tianeptine will impact the prison population.

EDR PROPOSED ESTIMATE: Positive Indeterminate

Requested by: Senate

The Florida Senate

APPEARANCE RECORD

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

8B 1512

Bill Number or Topic

Amendment Barcode (if applicable)

1/30/24

Meeting Date

CRIMINAL JUSTICE

Committee

Name

LIBBY GUZZO

Phone

850 248 0155

Address

CAPITOL PL-01

Email

LIBBY.GUZZO@
myFLORIDALEGAL.COM

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:

OFFICE OF ATTORNEY GENERAL

☐

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

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

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

1-30-24

Meeting Date

Criminal Justice

Committee

1512

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Ron Lafae

Phone

Address

124 West Jefferson St

Email

Street

TLH

FL

32301

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

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

FL Assoc of Nurse Anesthesiology

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

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

S-001 (08/10/2021)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Committee on Agriculture,
Environment, and General Government, *Chair*
Health Policy, *Vice Chair*
Appropriations
Appropriations Committee on Health
and Human Services
Children, Families, and Elder Affairs
Community Affairs
Regulated Industries
Rules

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR JASON BRODEUR

10th District

January 11, 2024

The Honorable Jonathan Martin
Chair, Committee on Criminal Justice
315 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Martin,

I respectfully request that **Senate Bill 1512, Controlled Substances**, be placed on the agenda of the Criminal Justice Committee meeting to be considered at your earliest convenience.

If you have any questions or concerns, please do not hesitate to reach out to me or my office.

Sincerely,

A handwritten signature in black ink that reads "Jason Brodeur". The signature is fluid and cursive.

Senator Jason Brodeur – District 10

CC: Amanda Stokes– Staff Director
Sue Arnold – Administrative Assistant

REPLY TO:

- 110 Timberlachen Circle, Suite 1012, Lake Mary, Florida 32746 (407) 333-1802
- 405 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5010

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: CS/SB 1590

INTRODUCER: Criminal Justice Committee and Senator Grall

SUBJECT: Prostitution and Related Acts

DATE: January 31, 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 1590 creates s. 796.011, F.S., to provide or redefine the following terms: adult, assignation, commercial sex, female genitals, lewdness, prostitution, and sexual activity.

The bill creates s. 796.031, F.S., to prohibit prostitution, lewdness, and assignation and provides such offense is a second degree misdemeanor.

The bill amends s. 796.06, F.S., relating to maintaining space to be used for commercial sex. It is unlawful to:

- Own, establish, maintain, operate, or use a building or residence or structure in whole or in part with knowledge or reckless disregard that it will be used for commercial sex.
- Receive, offer to or agree to receive, or allow a person to remain in these structures for the purpose of commercial sexual activity.

A first violation of the above offenses is a third degree felony, and a second or subsequent violation is a second degree felony.

The bill reclassifies an offense to the next higher degree if the offense occurs at a place owned, established, maintained, or operating as a massage establishment that is or should be licensed under s. 480.043, F.S.

Additionally, the bill provides in ss 796.06 and 796.031, F.S., that testimony concerning the reputation of any place, structure, building, or conveyance involved in the charge, or concerning the reputation of any person residing in, operating, or frequenting such place, etc., and testimony concerning the reputation of the defendant may be admissible as evidence in support of the charge.

The bill amends s. 796.07, F.S., to remove definitions for this section. The bill specifies it is unlawful for a person to provide, or offer to provide, something of value in exchange for sexual activity.

- A first offense is a third degree felony.
- A second offense is a second degree felony.
- A third offense is a third degree felony.

The bill reclassifies offenses under this section and requires certain punishments are imposed.

The bill repeals s. 796.04, F.S., relating to forcing, compelling, or coercing another person to become a prostitute.

The bill amends ss. 60.05, 322.28, 397.4073, 397.417, 435.07, 456.074, 480.041, 480.043, 480.046, 772.102, 787.01, 787.02, 794.056, 796.08, 796.09, 893.138, 895.02, 938.085, and 943.0433 F.S., to provide conforming provisions.

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

The bill is effective October 1, 2024.

II. Present Situation:

In Florida, police often run elaborate undercover sting operations to catch those engaged in prostitution. This is usually done through a number of tactics such as: posing as a prostitute to meet up with “johns,” using officers to pose as “bait” to receive offers, and sending undercover officers into massage parlors and adult entertainment.

Chapter 796, F.S., provides for the criminalization of various acts relating to prostitution and establishes penalties for violations. As currently defined, “prostitution” means the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses. Current law provides that it is unlawful:

- For anyone to force, compel, or coerce another to become a prostitute and those in violation will be guilty of third degree felony.^{1,2}
- For any person with reasonable belief or knowing another person is engaged in prostitution to live or derive support or maintenance in whole or in part from what is believed to be earnings or proceeds of such person’s prostitution.³ A person who violates such law commits a second

¹ Section 796.04, F.S.

² A third degree felony is generally punishable by no more than 5 years in state prison and a fine not exceeding \$5,000, as provided in s. 775.082 and s. 775.083, F.S.

³ Section 796.05(1), F.S.

degree felony,⁴ a first degree felony⁵ for a second offense, and a first degree felony for a third offense with a mandatory minimum term of imprisonment of 10 years.⁶

- To let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used for the purpose of lewdness, assignation, or prostitution. A person who violates such commits a first degree misdemeanor⁷ or a third degree felony for a second or subsequent violation.⁸

Section 796.07, F.S. defines assignation,⁹ female genitals,¹⁰ lewdness,¹¹ prostitution,¹² and sexual activity.¹³ This section provides it is unlawful:

- To own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness, assignation, or prostitution.¹⁴
- To offer, or to offer to agree to secure, another for the purpose of prostitution or for any other lewd or indecent act.¹⁵
- To receive, or offer to agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose.¹⁶
- To direct, take, transport, or offer or agree to direct, take, or transport any person to any place, structure, or building, or to any other person with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation.¹⁷
- For a person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation.¹⁸
- To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or assignation.¹⁹
- To aid, abet, or participate in any of the acts or things in this section.²⁰

⁴ A second degree felony is generally punishable by no more than 15 years in state prison and a fine not exceeding \$10,000, as provided in s. 775.082 and s. 775.083, F.S.

⁵ A first degree felony is generally punishable by no more than 30 years in state prison and a fine not exceeding \$10,000, as provided in s. 775.082 and s. 775.083, F.S.

⁶ Section 796.05(2), F.S.

⁷ 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 and s. 775.083, F.S.

⁸ Section 796.06, F.S.

⁹ “Assignation” means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement. Section 796.07(1)(a), F.S.

¹⁰ “Female genitals” includes the labia minora, labia majora, clitoris, vulva, hymen, and vagina. Section 796.07(1)(b), F.S.

¹¹ “Lewdness” means any indecent or obscene act. Section 796.07(1)(c), F.S.

¹² “Prostitution” means the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses. Section 796.07(1)(d), F.S.

¹³ “Sexual activity” means oral, anal, or female genital penetration by, or union with, the sexual organ of another; anal or female genital penetration of another by any other object; or the handling or fondling of the sexual organ of another for the purpose of masturbation; however, the term does not include acts done for bona fide medical purposes. Section 796.07(1)(e), F.S.

¹⁴ Section 796.07(2)(a), F.S.

¹⁵ Section 796.07(2)(b), F.S.

¹⁶ Section 796.07(2)(c), F.S.

¹⁷ Section 796.07(2)(d), F.S.

¹⁸ Section 796.07(2)(e), F.S.

¹⁹ Section 796.07(2)(g), F.S.

²⁰ Section 796.07(2)(h), F.S.

- To purchase the services of any person engaged in prostitution.²¹

A person who violates any of these offenses commits:

- A second degree misdemeanor for a first violation.²²
- A first degree misdemeanor for a second violation.
- A third degree felony for a third or subsequent violation.²³

A person with a third or subsequent violation must be offered admission to a pretrial intervention program or a substance abuse treatment program.²⁴

It is also unlawful to solicit, induce, entice, or procure another to commit prostitution lewdness, or assignation.²⁵ A person who violates such commits:

- A first degree misdemeanor for a first violation.
- A third degree felony for a second violation.
- A second degree felony for a third or subsequent violation.²⁶

Such person must be given a \$5,000 civil penalty if the violation results in any judicial disposition other than acquittal or dismissal. Of the proceeds, the first \$500 is paid to the circuit court administrator for administrative costs of treatment-based drug court programs. The remainder is deposited in the Operations and Maintenance Trust Fund of the Department of Children and Families for the purpose of funding safe houses and safe foster homes.²⁷ In addition to any penalty imposed, a person convicted of this offense must perform 100 hours of community service, pay for and attend an educational program²⁸ if such program exists in the circuit.²⁹ A person convicted of a second or subsequent violation must also be subject to a minimum mandatory period of incarceration of 10 days.³⁰

If the offender uses a vehicle in the course of committing the offense, the judge may, upon conviction, order for the impoundment or immobilization of the vehicle for up to 60 days.³¹ The owner may request the court to dismiss the order and the court must dismiss the order and costs if:

- The owner's family has no other private or public means of transportation;³²

²¹ Section 796.07(2)(i), F.S.

²² A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and \$500 fine, as provided in s. 775.082 and s. 775.083, F.S.

²³ Section 796.07(4)(a), F.S.

²⁴ Section 796.07(4)(b), F.S.

²⁵ Section 796.07(2)(f), F.S.

²⁶ Section 796.07(5)(a), F.S.

²⁷ Section 796.07(6), F.S.

²⁸ A judicial circuit may establish an educational program to include education on: the relationship between demand for commercial sex and human trafficking; the impact of human trafficking on victims; coercion, consent, and sexual violence; the health and legal consequences of commercial sex; the negative impact of commercial sex on prostituted persons and the community; and the reasons and motivations for engaging in prostitution. Section 796.07(8)(a), F.S.

²⁹ Section 796.07(5)(b), F.S.

³⁰ Section 796.07(5)(c), F.S.

³¹ Section 796.07(5)(d)1., F.S.

³² Section 796.07(5)(d)2.a., F.S.

- The vehicle was stolen at the time of the offense;³³
- The owner purchased the vehicle after the offense was committed, and the sale was not made to circumvent the order and allow the defendant continued access to the vehicle;³⁴ or
- The vehicle is owned by the defendant but is operated solely by employees of the defendant or employees of a business owned by the defendant.³⁵

If the court denies the request to dismiss, the petitioner may request an evidentiary hearing.³⁶

The testimony concerning the reputation of any place, structure, building, or conveyance involved in the charge, any person residing in, operating, or frequenting such place, and testimony concerning the reputation of the defendant is admissible in evidence in support of the charge.³⁷ A police officer may testify as an offended party in an action regarding charges.³⁸

If the place, structure, building, or conveyance is owned, established, maintained, or operated in violation is a massage establishment that is or should be licensed under s. 480.043, F.S., an offense is reclassified to the next higher degree as follows:

- A second degree misdemeanor for a first violation is reclassified as a first degree misdemeanor.³⁹
- A first degree misdemeanor for a second violation is reclassified as a third degree felony.⁴⁰
- A third degree felony for a third or subsequent violation is reclassified as a second degree felony.⁴¹

As of January 1, 2024, the Soliciting for Prostitution Public Database was repealed. The database was created to include the criminal history record of any person who was found guilty or entered a plea, regardless of adjudication, for soliciting, inducing, enticing, or procuring another to commit prostitution if there is evidence that such person provided a form of payment or arranged for the payment of such services.⁴²

III. Effect of Proposed Changes:

The bill creates s. 796.011, F.S., to provide definitions relating to prostitution. The bill defines:

- “Prostitution” as voluntarily engaging in, agreeing to engage in, or offering to engage in commercial sex.
- “Commercial sex” as engaging in sexual activity in exchange for something of value, including prostitution and human trafficking.

³³ Section 796.07(5)(d)2.b., F.S.

³⁴ Section 796.07(5)(d)2.c., F.S.

³⁵ Section 796.07(5)(d)2.d., F.S.

³⁶ Section 796.07(5)(d)3., F.S.

³⁷ Section 796.07(3)(a), F.S.

³⁸ Section 796.07(3)(b), F.S.

³⁹ Section 796.07(7)(a), F.S.

⁴⁰ Section 796.07(7)(b), F.S.

⁴¹ Section 796.07(7)(c), F.S.

⁴² Section 796.07(5)(e), F.S.

The bill creates s. 796.031, F.S., to prohibit prostitution, lewdness, and assignation and provide a person charged with this violation commits a second degree misdemeanor. In addition, the offender must attend an educational program about the negative effects of commercial sex which may be offered by a secular or faith-based provider.

The bill amends s. 796.06, F.S., relating to maintaining space to be used for commercial sex. The bill replaces *lewdness, assignation, or prostitution* with *commercial sex*. The bill provides it is unlawful:

- To own, establish, maintain, operate, or use a building or residence or structure in whole or in part with knowledge or reckless disregard that it will be used for commercial sex.
- To receive, offer to or agree to receive, or allow a person to remain in these structures for the purpose of commercial sexual activity.

It is a third degree felony for the first violation and a second degree felony for a second or subsequent violation of the above offenses.

If an offense occurs at a place owned, established, maintained, or operating as a massage establishment that is or should be licensed under s. 480.043, F.S., the offense must be reclassified to the next higher degree as follows:

- A third degree felony to a second degree felony.
- A second degree felony to a first degree felony.
- A first degree felony to a first degree felony punishable by life in prison.⁴³

Additionally, the bill provides in ss. 796.06 and 796.031, F.S., that testimony concerning the reputation of any place, structure, building, or conveyance involved in the charge, or concerning the reputation of any person residing in, operating, or frequenting such place, etc., and testimony concerning the reputation of the defendant may be admissible as evidence in support of the charge.

The bill amends s. 796.07, F.S., to remove definitions for this chapter. The bill specifies it is unlawful for a person to provide, or offer to provide, something of value in exchange for sexual activity. The bill removes language pertaining to owning or maintaining a place for the purpose of prostitution, and removes language relating to prohibited acts of prostitution.

The bill removes a provision that an officer may testify as an offended party in an action regarding charges filed pursuant to this section, and removes language pertaining to a third or subsequent offense requiring pretrial intervention or a substance abuse treatment program.

The bill reclassifies offenses under this section as follows:

- A second degree misdemeanor to a third degree felony for a first violation.
- A first degree misdemeanor to a second degree felony for a second violation.
- A third degree felony to a first degree felony for a third or subsequent violation.

⁴³ A first degree felony punishable by a term of imprisonment for life or by a term of imprisonment not exceeding 40 years and a fine not exceeding \$15,000, as punishable by s. 775.082 and s. 775.083, F.S.

The bill clarifies for any disposition other than acquittal or dismissal for any offense under this section, the offender must perform 100 hours of community service, pay for and attend an educational program, receive sexually transmitted disease testing at a recognized medical facility, and pay a civil penalty of \$5,000. Of the proceeds, the first \$500 must be paid to the court administrator and the remainder be deposited in the Operations and Maintenance Trust Fund of the Department of Children and Families.

The bill repeals s. 796.04, F.S., relating to forcing, compelling, or coercing another person to become a prostitute. Language pertaining to forcing, compelling, or coercing is embodied under s. 787.06, F.S., as it relates to human trafficking.⁴⁴

The bill amends ss. 60.05, 322.28, 397.4073, 397.417, 435.07, 456.074, 480.041, 480.043, 480.046, 772.102, 787.01, 787.02, 794.056, 796.08, 796.09, 893.138, 895.02, 938.085, and 943.0433 F.S., to provide conforming provisions.

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.

⁴⁴ The Legislature finds that victims of human trafficking are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor. Section 787.06(1)(a), F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have a positive indeterminate prison bed impact due to reclassifying misdemeanor offenses as felony offenses.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 796.06, 796.07, 60.05, 322.28, 397.4073, 397.417, 435.07, 456.074, 480.041, 480.043, 480.046, 772.102, 787.01, 787.02, 794.056, 796.08, 796.09, 893.138, 895.02, 938.085, and 943.0433.

This bill creates the following sections of the Florida Statutes: 796.011 and 796.031.

This bill repeals section 796.04 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 30, 2024:

The committee substitute:

- Removes language in the definition of sexual activity that included “the performance of sexual acts for the purpose of masturbation, regardless of whether sexual contact is made.”
- Removes language referencing the Soliciting for Prostitution Public Database which was repealed as of January 1, 2024.

B. Amendments:

None.



854338

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2024	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 796.011, Florida Statutes, is created to
read:

796.011 Definitions.—As used in this chapter, the term:

(1) "Adult" means an individual 18 years of age or older.

(2) "Assignment" means the making of any appointment or
engagement for prostitution or lewdness, or any act in
furtherance of such appointment or engagement.



854338

(3) "Commercial sex" means engaging in sexual activity in exchange for something of value. The term includes prostitution and human trafficking.

(4) "Female genitals" includes the labia minora, labia majora, clitoris, vulva, hymen, and vagina.

(5) "Lewdness" means any indecent or obscene act.

(6) "Prostitution" means voluntarily engaging in, agreeing to engage in, or offering to engage in commercial sex.

(7) "Sexual activity" means oral, anal, or female genital penetration by, or union with, the sexual organ of another; anal or female genital penetration of another by any other object; the handling or fondling of the sexual organ of another for the purpose of masturbation. The term does not include acts done for bona fide medical purposes.

Section 2. Section 796.031, Florida Statutes, is created to read:

796.031 Prostitution, lewdness, and assignation prohibited; penalties.—

(1) It is unlawful for an adult to offer to commit, to commit, or to engage in prostitution, lewdness, or assignation.

(2) In the trial of a person charged with a violation of this section, testimony concerning the reputation of any place, structure, building, or conveyance involved in the charge; testimony concerning the reputation of any person residing in, operating, or frequenting such place, structure, building or conveyance; and testimony concerning the reputation of the defendant is admissible in evidence in support of the charge.

(3) (a) A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s.



854338

775.082 or s. 775.083.

(b) In addition to any other penalty imposed, the court shall order a person sentenced for a violation of this section to attend an educational program about the negative effects of commercial sex. The educational program may be offered by a secular or faith-based provider.

(c) A judicial circuit may establish an educational program for persons convicted of or charged with a violation of this section, to include education on:

1. The relationship between demand for commercial sex and human trafficking;

2. The impact of human trafficking on victims;

3. Coercion, consent, and sexual violence;

4. The health and legal consequences of commercial sex;

5. The negative impact of commercial sex on prostituted persons and the community; and

6. The reasons and motivations for engaging in prostitution.

Section 3. Section 796.04, Florida Statutes, is repealed.

Section 4. Section 796.06, Florida Statutes, is amended to read:

796.06 Maintaining ~~Renting~~ space to be used for commercial sex lewdness, assignation, or prostitution.-

(1) It is unlawful to:

(a) Own, establish, maintain, operate, use, let, or rent a building, residence, any place, or structure, in whole or in or part thereof, or a trailer or any other conveyance, with the knowledge or reckless disregard that it will be used for the purpose of commercial sex lewdness, assignation, or



854338

69 ~~prostitution.~~

70 (b) Receive, or to offer or agree to receive, a person into
71 a building, residence, place, or structure, or a trailer or any
72 other conveyance, for the purpose of commercial sexual activity
73 or to allow a person to remain there for such purpose.

74 (2) A person who violates this section commits:

75 (a) A felony ~~misdemeanor~~ of the third ~~first~~ degree for a
76 first violation, punishable as provided in s. 775.082 or s.
77 775.083.

78 (b) A felony of the second ~~third~~ degree for a second or
79 subsequent violation, punishable as provided in s. 775.082, s.
80 775.083, or s. 775.084.

81 (3) In the trial of a person charged with a violation of
82 this section, testimony concerning the reputation of any place,
83 structure, building, or conveyance involved in the charge;
84 testimony concerning the reputation of any person residing in,
85 operating, or frequenting such place, structure, building, or
86 conveyance; and testimony concerning the reputation of the
87 defendant is admissible in evidence in support of the charge.

88 (4) If such building, residence, place, structure, or
89 trailer or any other conveyance that is owned, established,
90 maintained, or operated is a massage establishment that is or
91 should be licensed under s. 480.043, the offense must be
92 reclassified to the next higher degree as follows:

93 (a) A felony of the third degree is reclassified as a
94 felony of the second degree, punishable as provided in s.
95 775.082, s. 775.083, or s. 775.084.

96 (b) A felony of the second degree is reclassified as a
97 felony of the first degree, punishable as provided in s.



854338

775.082, s. 775.083, or s. 775.084.

(c) A felony of the first degree is reclassified as a felony of the first degree punishable by life in prison, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 5. Section 796.07, Florida Statutes, is amended to read:

796.07 Prohibiting prostitution and related acts.—

~~(1) As used in this section:~~

~~(a) "Assignment" means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.~~

~~(b) "Female genitals" includes the labia minora, labia majora, clitoris, vulva, hymen, and vagina.~~

~~(c) "Lewdness" means any indecent or obscene act.~~

~~(d) "Prostitution" means the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses.~~

~~(e) "Sexual activity" means oral, anal, or female genital penetration by, or union with, the sexual organ of another; anal or female genital penetration of another by any other object; or the handling or fondling of the sexual organ of another for the purpose of masturbation; however, the term does not include acts done for bona fide medical purposes.~~

~~(2) It is unlawful for a person:~~

~~(a) to provide, or offer to provide, something of value in exchange for sexual activity own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness, assignment, or prostitution.~~

~~(b) To offer, or to offer or agree to secure, another for~~



854338

~~the purpose of prostitution or for any other lewd or indecent act.~~

~~(c) To receive, or to offer or agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose.~~

~~(d) To direct, take, or transport, or to offer or agree to direct, take, or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation.~~

~~(e) For a person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation.~~

~~(f) To solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignation.~~

~~(g) To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or assignation.~~

~~(h) To aid, abet, or participate in any of the acts or things enumerated in this subsection.~~

~~(i) To purchase the services of any person engaged in prostitution.~~

~~(2)-(3)-(a)~~ In the trial of a person charged with a violation of this section, testimony concerning the reputation of any place, structure, building, or conveyance involved in the charge, testimony concerning the reputation of any person residing in, operating, or frequenting such place, structure,



854338

building, or conveyance, and testimony concerning the reputation of the defendant is admissible in evidence in support of the charge.

~~(b) Notwithstanding any other provision of law, a police officer may testify as an offended party in an action regarding charges filed pursuant to this section.~~

~~(3) (a) (4) (a)~~ A person who violates ~~any provision of this section, other than paragraph (2) (f),~~ commits:

1. A felony ~~misdemeanor~~ of the third ~~second~~ degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.

2. A felony ~~misdemeanor~~ of the second ~~first~~ degree for a second violation, punishable as provided in s. 775.082 or s. 775.083.

3. A felony of the first ~~third~~ degree for a third or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

~~(b) A person who is charged with a third or subsequent violation of this section, other than paragraph (2) (f), shall be offered admission to a pretrial intervention program or a substance abuse treatment program as provided in s. 948.08.~~

~~(5) (a) A person who violates paragraph (2) (f) commits:~~

~~1. A misdemeanor of the first degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.~~

~~2. A felony of the third degree for a second violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~3. A felony of the second degree for a third or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~



854338

(b) In addition to any other penalty imposed, if a violation of this section results in any judicial disposition other than acquittal or dismissal, the court must ~~shall~~ order the defendant ~~a person convicted of a violation of paragraph (2)(f)~~ to:

1. Perform 100 hours of community service;~~-~~

2. Pay for and attend an educational program, which may be offered by a secular or faith-based provider, on the negative effects of commercial sexual activity; as described in subsection (8), if such a program exists in the judicial circuit in which the offender is sentenced

3. Pay a civil penalty of \$5,000. Of the proceeds from each penalty assessed under this subparagraph, the first \$500 must be paid to the circuit court administrator for the sole purpose of paying the administrative costs of treatment-based drug court programs provided under s. 397.334. The remainder of the penalty assessed must be deposited in the Operations and Maintenance Trust Fund of the Department of Children and Families for the sole purpose of funding safe houses and safe foster homes as provided in s. 409.1678; and

4. Receive sexually transmitted disease testing at a recognized medical facility.

(c) A judicial circuit may establish an educational program for persons convicted of or charged with a violation of this section, to include education on:

1. The relationship between demand for commercial sex and human trafficking;

2. The impact of human trafficking on victims;

3. Coercion, consent, and sexual violence;



854338

214 4. The health and legal consequences of commercial sex;

215 5. The negative impact of commercial sex on prostituted
216 persons and the community; and

217 6. The reasons and motivations for engaging in prostitution
218 ~~In addition to any other penalty imposed, the court shall~~
219 ~~sentence a person convicted of a second or subsequent violation~~
220 ~~of paragraph (2)(f) to a minimum mandatory period of~~
221 ~~incarceration of 10 days.~~

222 (d)1. If a person who violates this section ~~paragraph~~
223 ~~(2)(f)~~ uses a vehicle in the course of the violation, the judge,
224 upon the person's conviction, may issue an order for the
225 impoundment or immobilization of the vehicle for a period of up
226 to 60 days. The order of impoundment or immobilization must
227 include the names and telephone numbers of all immobilization
228 agencies meeting all of the conditions of s. 316.193(13). Within
229 7 business days after the date that the court issues the order
230 of impoundment or immobilization, the clerk of the court must
231 send notice by certified mail, return receipt requested, to the
232 registered owner of the vehicle, if the registered owner is a
233 person other than the defendant, and to each person of record
234 claiming a lien against the vehicle.

235 2. The owner of the vehicle may request the court to
236 dismiss the order. The court must dismiss the order, and the
237 owner of the vehicle will incur no costs, if the owner of the
238 vehicle alleges and the court finds to be true any of the
239 following:

240 a. The owner's family has no other private or public means
241 of transportation;

242 b. The vehicle was stolen at the time of the offense;



854338

c. The owner purchased the vehicle after the offense was committed, and the sale was not made to circumvent the order and allow the defendant continued access to the vehicle; or

d. The vehicle is owned by the defendant but is operated solely by employees of the defendant or employees of a business owned by the defendant.

3. If the court denies the request to dismiss the order, the petitioner may request an evidentiary hearing. If, at the evidentiary hearing, the court finds to be true any of the circumstances described in sub-subparagraphs 2.a.-d. ~~sub-subparagraphs (d) 2.a.-d.~~, the court must dismiss the order and the owner of the vehicle will incur no costs.

~~(6) A person who violates paragraph (2) (f) shall be assessed a civil penalty of \$5,000 if the violation results in any judicial disposition other than acquittal or dismissal. Of the proceeds from each penalty assessed under this subsection, the first \$500 shall be paid to the circuit court administrator for the sole purpose of paying the administrative costs of treatment-based drug court programs provided under s. 397.334. The remainder of the penalty assessed shall be deposited in the Operations and Maintenance Trust Fund of the Department of Children and Families for the sole purpose of funding safe houses and safe foster homes as provided in s. 409.1678.~~

~~(7) If the place, structure, building, or conveyance that is owned, established, maintained, or operated in violation of paragraph (2) (a) is a massage establishment that is or should be licensed under s. 480.043, the offense shall be reclassified to the next higher degree as follows:~~

~~(a) A misdemeanor of the second degree for a first~~



854338

~~violation is reclassified as a misdemeanor of the first degree,
punishable as provided in s. 775.082 or s. 775.083.~~

~~(b) A misdemeanor of the first degree for a second
violation is reclassified as a felony of the third degree,
punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~(c) A felony of the third degree for a third or subsequent
violation is reclassified as a felony of the second degree,
punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~(8)(a) A judicial circuit may establish an educational
program for persons convicted of or charged with a violation of
paragraph (2)(f), to include education on:~~

~~1. The relationship between demand for commercial sex and
human trafficking.~~

~~2. The impact of human trafficking on victims.~~

~~3. Coercion, consent, and sexual violence.~~

~~4. The health and legal consequences of commercial sex.~~

~~5. The negative impact of commercial sex on prostituted
persons and the community.~~

~~6. The reasons and motivations for engaging in
prostitution.~~

~~(b) An educational program may include a program offered by
a faith-based provider.~~

Section 6. Subsection (5) of section 60.05, Florida
Statutes, is amended to read:

60.05 Abatement of nuisances.—

(5) On trial if the existence of a nuisance is shown, the
court shall issue a permanent injunction and order the costs to
be paid by the persons establishing or maintaining the nuisance
and shall adjudge that the costs are a lien on all personal



854338

property found in the place of the nuisance and on the failure of the property to bring enough to pay the costs, then on the real estate occupied by the nuisance. A lien may not attach to the real estate of any other than such persons unless a second written notice has been given in accordance with paragraph (3) (a) to the owner or his or her agent who fails to begin to abate the nuisance within the time specified therein. In a proceeding abating a nuisance pursuant to s. 823.10 or s. 823.05, if a tenant has been convicted of an offense under chapter 893, s. 796.06, or s. 796.07, the court may order the tenant to vacate the property within 72 hours if the tenant and owner of the premises are parties to the nuisance abatement action and the order will lead to the abatement of the nuisance.

Section 7. Subsection (7) of section 322.28, Florida Statutes, is amended to read:

322.28 Period of suspension or revocation.—

(7) Following a second or subsequent violation of s. 796.07(1) ~~s. 796.07(2)(f)~~ which involves a motor vehicle and which results in any judicial disposition other than acquittal or dismissal, in addition to any other sentence imposed, the court shall revoke the person's driver license or driving privilege, effective upon the date of the disposition, for a period of at least 1 year. A person sentenced under this subsection may request a hearing under s. 322.271.

Section 8. Paragraph (b) of subsection (4) of section 397.4073, Florida Statutes, is amended to read:

397.4073 Background checks of service provider personnel.—

(4) EXEMPTIONS FROM DISQUALIFICATION.—

(b) For service providers that treat adolescents 13 years



854338

of age and older, service provider personnel whose background checks indicate crimes under s. 796.07(1) ~~s. 796.07(2)(c)~~, s. 810.02(4), s. 812.014(2)(c), s. 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, and any related criminal attempt, solicitation, or conspiracy under s. 777.04:

1. Shall be exempted from disqualification from employment for such offenses pursuant to this paragraph if:

a. At least 5 years, or at least 3 years in the case of an individual seeking certification as a peer specialist under s. 397.417, have elapsed since the applicant requesting an exemption has completed or has been lawfully released from any confinement, supervision, or nonmonetary condition imposed by a court for the applicant's most recent disqualifying offense under this paragraph.

b. The applicant for an exemption has not been arrested for any offense during the 5 years, or 3 years in the case of a peer specialist, before the request for exemption.

2. May be exempted from disqualification from employment for such offenses without a waiting period as provided under s. 435.07(2).

Section 9. Paragraph (e) of subsection (4) of section 397.417, Florida Statutes, is amended to read:

397.417 Peer specialists.—

(4) BACKGROUND SCREENING.—

(e) The background screening conducted under this subsection must ensure that a peer specialist has not been arrested for and is awaiting final disposition of, found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the



854338

record has not been sealed or expunged for, any offense prohibited under any of the following state laws or similar laws of another jurisdiction:

1. Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.

2. Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.

3. Section 409.920, relating to Medicaid provider fraud, if the offense was a felony of the first or second degree.

4. Section 415.111, relating to abuse, neglect, or exploitation of vulnerable adults.

5. Any offense that constitutes domestic violence as defined in s. 741.28.

6. Section 777.04, relating to attempts, solicitation, and conspiracy to commit an offense listed in this paragraph.

7. Section 782.04, relating to murder.

8. Section 782.07, relating to manslaughter; aggravated manslaughter of an elderly person or a disabled adult; aggravated manslaughter of a child; or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.

9. Section 782.071, relating to vehicular homicide.

10. Section 782.09, relating to killing an unborn child by injury to the mother.

11. Chapter 784, relating to assault, battery, and culpable negligence, if the offense was a felony.

12. Section 787.01, relating to kidnapping.



854338

13. Section 787.02, relating to false imprisonment.

14. Section 787.025, relating to luring or enticing a child.

15. Section 787.04(2), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending custody proceedings.

16. Section 787.04(3), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a minor.

17. Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.

18. Section 790.115(2)(b), relating to possessing an electric weapon or device, a destructive device, or any other weapon on school property.

19. Section 794.011, relating to sexual battery.

20. Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.

21. Section 794.05, relating to unlawful sexual activity with certain minors.

22. Section 794.08, relating to female genital mutilation.

23. Section 796.07, relating to providing, or offering to provide, something of value in exchange for sexual activity ~~procuring another to commit prostitution~~, except for those offenses expunged pursuant to s. 943.0583.

24. Section 798.02, relating to lewd and lascivious behavior.



854338

25. Chapter 800, relating to lewdness and indecent exposure.

26. Section 806.01, relating to arson.

27. Section 810.02, relating to burglary, if the offense was a felony of the first degree.

28. Section 810.14, relating to voyeurism, if the offense was a felony.

29. Section 810.145, relating to video voyeurism, if the offense was a felony.

30. Section 812.13, relating to robbery.

31. Section 812.131, relating to robbery by sudden snatching.

32. Section 812.133, relating to carjacking.

33. Section 812.135, relating to home-invasion robbery.

34. Section 817.034, relating to communications fraud, if the offense was a felony of the first degree.

35. Section 817.234, relating to false and fraudulent insurance claims, if the offense was a felony of the first or second degree.

36. Section 817.50, relating to fraudulently obtaining goods or services from a health care provider and false reports of a communicable disease.

37. Section 817.505, relating to patient brokering.

38. Section 817.568, relating to fraudulent use of personal identification, if the offense was a felony of the first or second degree.

39. Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or a disabled adult.

40. Section 825.1025, relating to lewd or lascivious



854338

offenses committed upon or in the presence of an elderly person or a disabled person.

41. Section 825.103, relating to exploitation of an elderly person or a disabled adult, if the offense was a felony.

42. Section 826.04, relating to incest.

43. Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

44. Section 827.04, relating to contributing to the delinquency or dependency of a child.

45. Former s. 827.05, relating to negligent treatment of children.

46. Section 827.071, relating to sexual performance by a child.

47. Section 831.30, relating to fraud in obtaining medicinal drugs.

48. Section 831.31, relating to the sale; manufacture; delivery; or possession with intent to sell, manufacture, or deliver of any counterfeit controlled substance, if the offense was a felony.

49. Section 843.01, relating to resisting arrest with violence.

50. Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer of the means of protection or communication.

51. Section 843.12, relating to aiding in an escape.

52. Section 843.13, relating to aiding in the escape of juvenile inmates of correctional institutions.

53. Chapter 847, relating to obscenity.

54. Section 874.05, relating to encouraging or recruiting



854338

another to join a criminal gang.

55. Chapter 893, relating to drug abuse prevention and control, if the offense was a felony of the second degree or greater severity.

56. Section 895.03, relating to racketeering and collection of unlawful debts.

57. Section 896.101, relating to the Florida Money Laundering Act.

58. Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.

59. Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.

60. Section 944.40, relating to escape.

61. Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.

62. Section 944.47, relating to introduction of contraband into a correctional institution.

63. Section 985.701, relating to sexual misconduct in juvenile justice programs.

64. Section 985.711, relating to introduction of contraband into a detention facility.

Section 10. Subsection (2) of section 435.07, Florida Statutes, is amended to read:

435.07 Exemptions from disqualification.—Unless otherwise provided by law, the provisions of this section apply to exemptions from disqualification for disqualifying offenses revealed pursuant to background screenings required under this chapter, regardless of whether those disqualifying offenses are



854338

listed in this chapter or other laws.

(2) Persons employed, or applicants for employment, by treatment providers who treat adolescents 13 years of age and older who are disqualified from employment solely because of crimes under s. 796.07(1) ~~s. 796.07(2)(e)~~, s. 810.02(4), s. 812.014(2)(c), s. 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, or any related criminal attempt, solicitation, or conspiracy under s. 777.04, may be exempted from disqualification from employment pursuant to this chapter without application of the waiting period in subparagraph (1)(a)1.

Section 11. Subsection (4) and paragraphs (o) and (q) of subsection (5) of section 456.074, Florida Statutes, are amended to read:

456.074 Certain health care practitioners; immediate suspension of license.—

(4) The department shall issue an emergency order suspending the license of a massage therapist or establishment as defined in chapter 480 upon receipt of information that the massage therapist, a person with an ownership interest in the establishment, or, for a corporation that has more than \$250,000 of business assets in this state, the owner, officer, or individual directly involved in the management of the establishment has been convicted or found guilty of, or has entered a plea of guilty or nolo contendere to, regardless of adjudication, a violation of s. 796.06(1) that ~~s. 796.07(2)(a)~~ ~~which~~ is reclassified under s. 796.06(4) ~~s. 796.07(7)~~ or a felony offense under any of the following provisions of state law or a similar provision in another jurisdiction:



854338

- (a) Section 787.01, relating to kidnapping.
- (b) Section 787.02, relating to false imprisonment.
- (c) Section 787.025, relating to luring or enticing a child.
- (d) Section 787.06, relating to human trafficking.
- (e) Section 787.07, relating to human smuggling.
- (f) Section 794.011, relating to sexual battery.
- (g) Section 794.08, relating to female genital mutilation.
- (h) Former s. 796.03, relating to procuring a person under the age of 18 for prostitution.
- (i) Former s. 796.035, relating to the selling or buying of minors into prostitution.
- (j) Former section 796.04, relating to forcing, compelling, or coercing another to become a prostitute.
- (k) Section 796.05, relating to deriving support from the proceeds of prostitution.
- (l) Section 796.07(3)(a)3. ~~Section 796.07(4)(a)3.~~, relating to a felony of the first ~~third~~ degree for a third or subsequent violation of s. 796.07, relating to prohibiting prostitution and related acts.
- (m) Section 800.04, relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.
- (n) Section 825.1025(2)(b), relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.
- (o) Section 827.071, relating to sexual performance by a child.
- (p) Section 847.0133, relating to the protection of minors.



854338

(q) Section 847.0135, relating to computer pornography.

(r) Section 847.0138, relating to the transmission of material harmful to minors to a minor by electronic device or equipment.

(s) Section 847.0145, relating to the selling or buying of minors.

(5) The department shall issue an emergency order suspending the license of any health care practitioner who is arrested for committing or attempting, soliciting, or conspiring to commit any act that would constitute a violation of any of the following criminal offenses in this state or similar offenses in another jurisdiction:

(o) Former section 796.04, relating to forcing, compelling, or coercing another to become a prostitute.

(q) Section 796.07(3)(a)3. ~~Section 796.07(4)(a)3.,~~ relating to a felony of the first ~~third~~ degree for a third or subsequent violation of s. 796.07, relating to prohibiting prostitution and related acts.

Section 12. Subsection (7) of section 480.041, Florida Statutes, is amended to read:

480.041 Massage therapists; qualifications; licensure; endorsement.—

(7) The board shall deny an application for a new or renewal license if an applicant has been convicted or found guilty of, or enters a plea of guilty or nolo contendere to, regardless of adjudication, a violation of s. 796.06(1) ~~s. 796.07(2)(a)~~ which is reclassified under s. 796.06(4) ~~s. 796.07(7)~~ or a felony offense under any of the following provisions of state law or a similar provision in another



854338

jurisdiction:

(a) Section 787.01, relating to kidnapping.

(b) Section 787.02, relating to false imprisonment.

(c) Section 787.025, relating to luring or enticing a child.

(d) Section 787.06, relating to human trafficking.

(e) Section 787.07, relating to human smuggling.

(f) Section 794.011, relating to sexual battery.

(g) Section 794.08, relating to female genital mutilation.

(h) Former s. 796.03, relating to procuring a person under the age of 18 for prostitution.

(i) Former s. 796.035, relating to the selling or buying of minors into prostitution.

(j) Former section 796.04, relating to forcing, compelling, or coercing another to become a prostitute.

(k) Section 796.05, relating to deriving support from the proceeds of prostitution.

(l) Section 796.07(3)(a)3. ~~Section 796.07(4)(a)3.~~, relating to a felony of the first ~~third~~ degree for a third or subsequent violation of s. 796.07, relating to prohibiting prostitution and related acts.

(m) Section 800.04, relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.

(n) Section 825.1025(2)(b), relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.

(o) Section 827.071, relating to sexual performance by a child.



854338

(p) Section 847.0133, relating to the protection of minors.
(q) Section 847.0135, relating to computer pornography.
(r) Section 847.0138, relating to the transmission of
material harmful to minors to a minor by electronic device or
equipment.

(s) Section 847.0145, relating to the selling or buying of
minors.

Section 13. Subsection (8) of section 480.043, Florida
Statutes, is amended to read:

480.043 Massage establishments; requisites; licensure;
inspection; human trafficking awareness training and policies.—

(8) The department shall deny an application for a new or
renewal license if an establishment owner or a designated
establishment manager or, for a corporation that has more than
\$250,000 of business assets in this state, an establishment
owner, a designated establishment manager, or any individual
directly involved in the management of the establishment has
been convicted of or entered a plea of guilty or nolo contendere
to any misdemeanor or felony crime, regardless of adjudication,
related to prostitution or related acts as described in s.
796.06 or s. 796.07 or a felony offense under any of the
following provisions of state law or a similar provision in
another jurisdiction:

(a) Section 787.01, relating to kidnapping.

(b) Section 787.02, relating to false imprisonment.

(c) Section 787.025, relating to luring or enticing a
child.

(d) Section 787.06, relating to human trafficking.

(e) Section 787.07, relating to human smuggling.



854338

(f) Section 794.011, relating to sexual battery.

(g) Section 794.08, relating to female genital mutilation.

(h) Former s. 796.03, relating to procuring a person under the age of 18 for prostitution.

(i) Former s. 796.035, relating to selling or buying of minors into prostitution.

(j) Former section 796.04, relating to forcing, compelling, or coercing another to become a prostitute.

(k) Section 796.05, relating to deriving support from the proceeds of prostitution.

(l) Section 800.04, relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.

(m) Section 825.1025(2)(b), relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.

(n) Section 827.071, relating to sexual performance by a child.

(o) Section 847.0133, relating to the protection of minors.

(p) Section 847.0135, relating to computer pornography.

(q) Section 847.0138, relating to the transmission of material harmful to minors to a minor by electronic device or equipment.

(r) Section 847.0145, relating to the selling or buying of minors.

Section 14. Paragraph (c) of subsection (3) of section 480.046, Florida Statutes, is amended to read:

480.046 Grounds for disciplinary action by the board.—

(3) The board shall revoke or suspend the license of a



854338

message establishment licensed under this act, or deny subsequent licensure of such an establishment, if any of the following occurs:

(c) The establishment owner, the designated establishment manager, or any individual providing massage therapy services for the establishment has had the entry in any jurisdiction of:

1. A final order or other disciplinary action taken for sexual misconduct involving prostitution;

2. A final order or other disciplinary action taken for crimes related to the practice of massage therapy involving prostitution; or

3. A conviction or a plea of guilty or nolo contendere to any misdemeanor or felony crime, regardless of adjudication, related to prostitution or related acts as described in s. 796.06 or s. 796.07.

Section 15. Paragraph (a) of subsection (1) of section 772.102, Florida Statutes, is amended to read:

772.102 Definitions.—As used in this chapter, the term:

(1) "Criminal activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime that is chargeable by indictment or information under the following provisions:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 414.39, relating to public assistance fraud.

3. Section 440.105 or s. 440.106, relating to workers' compensation.

4. Part IV of chapter 501, relating to telemarketing.



854338

5. Chapter 517, relating to securities transactions.
6. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.
7. Chapter 550, relating to jai alai frontons.
8. Chapter 552, relating to the manufacture, distribution, and use of explosives.
9. Chapter 562, relating to beverage law enforcement.
10. Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.
11. Chapter 687, relating to interest and usurious practices.
12. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.
13. Chapter 782, relating to homicide.
14. Chapter 784, relating to assault and battery.
15. Chapter 787, relating to kidnapping or human trafficking.
16. Chapter 790, relating to weapons and firearms.
17. Former s. 796.03, former s. 796.04, s. 796.05, 796.06, or s. 796.07, relating to prostitution.
18. Chapter 806, relating to arson.
19. Section 810.02(2)(c), relating to specified burglary of a dwelling or structure.
20. Chapter 812, relating to theft, robbery, and related crimes.
21. Chapter 815, relating to computer-related crimes.



854338

22. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

23. Section 827.071, relating to commercial sexual exploitation of children.

24. Chapter 831, relating to forgery and counterfeiting.

25. Chapter 832, relating to issuance of worthless checks and drafts.

26. Section 836.05, relating to extortion.

27. Chapter 837, relating to perjury.

28. Chapter 838, relating to bribery and misuse of public office.

29. Chapter 843, relating to obstruction of justice.

30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.

32. Chapter 893, relating to drug abuse prevention and control.

33. Section 914.22 or s. 914.23, relating to witnesses, victims, or informants.

34. Section 918.12 or s. 918.13, relating to tampering with jurors and evidence.

Section 16. Paragraph (a) of subsection (3) of section 787.01, Florida Statutes, is amended to read:

787.01 Kidnapping; kidnapping of child under age 13, aggravating circumstances.—

(3)(a) A person who commits the offense of kidnapping upon a child under the age of 13 and who, in the course of committing the offense, commits one or more of the following:



854338

1. Aggravated child abuse, as defined in s. 827.03;
2. Sexual battery, as defined in chapter 794, against the child;
3. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, in violation of s. 800.04 or s. 847.0135(5);
4. A violation of former s. 796.03 or former s. 796.04, relating to prostitution, upon the child;
5. Exploitation of the child or allowing the child to be exploited, in violation of s. 450.151; or
6. A violation of s. 787.06(3)(g), relating to human trafficking,
commits a life felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
Section 17. Paragraph (a) of subsection (3) of section 787.02, Florida Statutes, is amended to read:
787.02 False imprisonment; false imprisonment of child under age 13, aggravating circumstances.—
(3)(a) A person who commits the offense of false imprisonment upon a child under the age of 13 and who, in the course of committing the offense, commits any offense enumerated in subparagraphs 1.-6. ~~subparagraphs 1.-5.~~, commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.
1. Aggravated child abuse, as defined in s. 827.03;
2. Sexual battery, as defined in chapter 794, against the child;



854338

3. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, in violation of s. 800.04 or s. 847.0135(5);

4. A violation of former s. 796.03 or former s. 796.04, relating to prostitution, upon the child;

5. Exploitation of the child or allowing the child to be exploited, in violation of s. 450.151; or

6. A violation of s. 787.06(3)(g) relating to human trafficking.

Section 18. Subsection (1) of section 794.056, Florida Statutes, is amended to read:

794.056 Rape Crisis Program Trust Fund.—

(1) The Rape Crisis Program Trust Fund is created within the Department of Health for the purpose of providing funds for rape crisis centers in this state. Trust fund moneys shall be used exclusively for the purpose of providing services for victims of sexual assault. Funds credited to the trust fund consist of those funds collected as an additional court assessment in each case in which a defendant pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, an offense provided in s. 775.21(6) and (10)(a), (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s. 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s. 796.03; former s. 796.035; former s. 796.04; s. 796.05; s. 796.06; s. 796.07(1) ~~s. 796.07(2)(a)-(d) and (i)~~; s. 800.03; s. 800.04; s. 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s. 827.071; s. 836.10; s.



854338

847.0133; s. 847.0135(2); s. 847.0137; s. 847.0145; s.
943.0435(4)(c), (7), (8), (9)(a), (13), and (14)(c); or s.
985.701(1). Funds credited to the trust fund also shall include
revenues provided by law, moneys appropriated by the
Legislature, and grants from public or private entities.

Section 19. Subsection (3) of section 796.08, Florida
Statutes, is amended to read:

796.08 Screening for HIV and sexually transmissible
diseases; providing penalties.—

(3) A person convicted under s. 796.07 of providing, or
offering to provide, something of value in exchange for sexual
activity ~~prostitution or procuring another to commit
prostitution~~ must undergo screening for a sexually transmissible
disease, including, but not limited to, screening to detect
exposure to the human immunodeficiency virus, under direction of
the Department of Health. If the person is infected, he or she
must submit to treatment and counseling prior to release from
probation, community control, or incarceration. Notwithstanding
the provisions of s. 384.29, the results of tests conducted
pursuant to this subsection shall be made available by the
Department of Health to the offender, medical personnel,
appropriate state agencies, state attorneys, and courts of
appropriate jurisdiction in need of such information in order to
enforce the provisions of this chapter.

Section 20. Subsection (2) of section 796.09, Florida
Statutes, is amended to read:

796.09 Coercion; civil cause of action; evidence; defenses;
attorney's fees.—

(2) As used in this section, the term "prostitution" has



854338

the same meaning as in s. 796.011 ~~s. 796.07~~.

Section 21. Subsection (2) of section 893.138, Florida Statutes, is amended to read:

893.138 Local administrative action to abate certain activities declared public nuisances.—

(2) Any place or premises that has been used:

(a) On more than two occasions within a 6-month period, as the site of a violation of s. 796.06 or s. 796.07;

(b) On more than two occasions within a 6-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

(c) On one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

(d) By a criminal gang for the purpose of conducting criminal gang activity as defined by s. 874.03;

(e) On more than two occasions within a 6-month period, as the site of a violation of s. 812.019 relating to dealing in stolen property;

(f) On two or more occasions within a 6-month period, as the site of a violation of chapter 499; or

(g) On more than two occasions within a 6-month period, as the site of a violation of any combination of the following:

1. Section 782.04, relating to murder;

2. Section 782.051, relating to attempted felony murder;

3. Section 784.045(1)(a)2., relating to aggravated battery with a deadly weapon; or



854338

4. Section 784.021(1)(a), relating to aggravated assault with a deadly weapon without intent to kill,

may be declared to be a public nuisance, and such nuisance may be abated pursuant to the procedures provided in this section.

Section 22. Paragraph (a) of subsection (8) of section 895.02, Florida Statutes, is amended to read:

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

(8) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime that is chargeable by petition, indictment, or information under the following provisions of the Florida Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 316.1935, relating to fleeing or attempting to elude a law enforcement officer and aggravated fleeing or eluding.

3. Chapter 379, relating to the illegal sale, purchase, collection, harvest, capture, or possession of wild animal life, freshwater aquatic life, or marine life, and related crimes.

4. Section 403.727(3)(b), relating to environmental control.

5. Section 409.920 or s. 409.9201, relating to Medicaid fraud.

6. Section 414.39, relating to public assistance fraud.

7. Section 440.105 or s. 440.106, relating to workers' compensation.



854338

8. Section 443.071(4), relating to creation of a fictitious employer scheme to commit reemployment assistance fraud.

9. Section 465.0161, relating to distribution of medicinal drugs without a permit as an Internet pharmacy.

10. Section 499.0051, relating to crimes involving contraband, adulterated, or misbranded drugs.

11. Part IV of chapter 501, relating to telemarketing.

12. Chapter 517, relating to sale of securities and investor protection.

13. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

14. Chapter 550, relating to jai alai frontons.

15. Section 551.109, relating to slot machine gaming.

16. Chapter 552, relating to the manufacture, distribution, and use of explosives.

17. Chapter 560, relating to money transmitters, if the violation is punishable as a felony.

18. Chapter 562, relating to beverage law enforcement.

19. Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.

20. Section 655.50, relating to reports of currency transactions, when such violation is punishable as a felony.

21. Chapter 687, relating to interest and usurious practices.

22. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.



854338

23. Section 775.13(5)(b), relating to registration of persons found to have committed any offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.

24. Section 777.03, relating to commission of crimes by accessories after the fact.

25. Chapter 782, relating to homicide.

26. Chapter 784, relating to assault and battery.

27. Chapter 787, relating to kidnapping, human smuggling, or human trafficking.

28. Chapter 790, relating to weapons and firearms.

29. Chapter 794, relating to sexual battery, but only if such crime was committed with the intent to benefit, promote, or further the interests of a criminal gang, or for the purpose of increasing a criminal gang member's own standing or position within a criminal gang.

30. Former s. 796.03, former s. 796.035, former s. 796.04, s. 796.05, s. 796.06, or s. 796.07, relating to prostitution.

31. Chapter 806, relating to arson and criminal mischief.

32. Chapter 810, relating to burglary and trespass.

33. Chapter 812, relating to theft, robbery, and related crimes.

34. Chapter 815, relating to computer-related crimes.

35. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, credit card crimes, and patient brokering.

36. Chapter 825, relating to abuse, neglect, or exploitation of an elderly person or disabled adult.

37. Section 827.071, relating to commercial sexual



854338

exploitation of children.

38. Section 828.122, relating to fighting or baiting animals.

39. Chapter 831, relating to forgery and counterfeiting.

40. Chapter 832, relating to issuance of worthless checks and drafts.

41. Section 836.05, relating to extortion.

42. Chapter 837, relating to perjury.

43. Chapter 838, relating to bribery and misuse of public office.

44. Chapter 843, relating to obstruction of justice.

45. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

46. Chapter 849, relating to gambling, lottery, gambling or gaming devices, slot machines, or any of the provisions within that chapter.

47. Chapter 874, relating to criminal gangs.

48. Chapter 893, relating to drug abuse prevention and control.

49. Chapter 896, relating to offenses related to financial transactions.

50. Sections 914.22 and 914.23, relating to tampering with or harassing a witness, victim, or informant, and retaliation against a witness, victim, or informant.

51. Sections 918.12 and 918.13, relating to tampering with jurors and evidence.

Section 23. Section 938.085, Florida Statutes, is amended to read:

938.085 Additional cost to fund rape crisis centers.—In



854338

addition to any sanction imposed when a person pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, a violation of s. 775.21(6) and (10)(a), (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s. 796.03; former s. 796.035; former s. 796.04; s. 796.05; s. 796.06; s. 796.07(1) ~~s. 796.07(2)(a)-(d) and (i)~~; s. 800.03; s. 800.04; s. 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and (14)(c); or s. 985.701(1), the court shall impose a surcharge of \$151. Payment of the surcharge shall be a condition of probation, community control, or any other court-ordered supervision. The sum of \$150 of the surcharge shall be deposited into the Rape Crisis Program Trust Fund established within the Department of Health by chapter 2003-140, Laws of Florida. The clerk of the court shall retain \$1 of each surcharge that the clerk of the court collects as a service charge of the clerk's office.

Section 24. 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 prostitution and related acts;



854338

1026 creating s. 796.011, F.S.; defining and redefining
1027 terms; creating s. 796.031, F.S.; prohibiting adults
1028 from offering to commit, committing, or engaging in
1029 prostitution, lewdness, or assignation; providing
1030 criminal penalties; providing that specified testimony
1031 concerning reputation is admissible in evidence in the
1032 trial of persons charged with certain offenses;
1033 requiring a court to order that a person sentenced for
1034 certain violations attend an educational program;
1035 authorizing judicial circuits to establish certain
1036 educational programs; repealing s. 796.04, F.S.,
1037 relating to forcing, compelling, or coercing another
1038 to become a prostitute; amending s. 796.06, F.S.;
1039 prohibiting the owning, establishing, maintaining,
1040 operating, using, letting, or renting of a building,
1041 residence, place, or structure, in whole or in part,
1042 or a trailer or any other conveyance, with knowledge
1043 or reckless disregard that it will be used for the
1044 purpose of commercial sex; prohibiting the receiving,
1045 or offering or agreeing to receive, a person into a
1046 building, residence, place, or structure, or a trailer
1047 or any other conveyance, for the purpose of commercial
1048 sexual activity or to allow a person to remain there
1049 for such purpose; providing criminal penalties;
1050 providing enhanced criminal penalties for second or
1051 subsequent violations; providing that specified
1052 testimony concerning reputation is admissible in
1053 evidence in the trial of persons charged with certain
1054 offenses; requiring the reclassification of offenses



854338

1055 under specified circumstances; amending s. 796.07,
1056 F.S.; deleting definitions; prohibiting a person from
1057 providing, or offering to provide, something of value
1058 in exchange for sexual activity; deleting prohibited
1059 acts relating to prostitution and related acts;
1060 deleting a provision authorizing a police officer to
1061 testify under certain circumstances; providing
1062 criminal penalties; providing enhanced criminal
1063 penalties for second or subsequent violations;
1064 deleting a provision requiring the offering of
1065 admission into certain programs; requiring a court to
1066 order that certain defendants perform community
1067 service, pay for and attend an educational program,
1068 pay a civil penalty, and receive sexually transmitted
1069 disease testing; providing requirements for the
1070 proceeds of the civil penalty; deleting a minimum
1071 mandatory period of incarceration for the commission
1072 of a certain offense; conforming provisions to changes
1073 made by the act; amending ss. 60.05, 322.28, 397.4073,
1074 397.417, 435.07, 456.074, 480.041, 480.043, 480.046,
1075 772.102, 787.01, 787.02, 794.056, 796.08, 796.09,
1076 893.138, 895.02, 938.085, and 943.0433, F.S.;
1077 conforming provisions to changes made by the act;
1078 conforming cross-references; providing an effective
1079 date.

By Senator Grall

29-01102-24

20241590__

1 A bill to be entitled
 2 An act relating to prostitution and related acts;
 3 creating s. 796.011, F.S.; defining and redefining
 4 terms; creating s. 796.031, F.S.; prohibiting adults
 5 from offering to commit, committing, or engaging in
 6 prostitution, lewdness, or assignation; providing
 7 criminal penalties; providing that specified testimony
 8 concerning reputation is admissible in evidence in the
 9 trial of persons charged with certain offenses;
 10 requiring a court to order that a person sentenced for
 11 certain violations attend an educational program;
 12 authorizing judicial circuits to establish certain
 13 educational programs; repealing s. 796.04, F.S.,
 14 relating to forcing, compelling, or coercing another
 15 to become a prostitute; amending s. 796.06, F.S.;
 16 prohibiting the owning, establishing, maintaining,
 17 operating, using, letting, or renting of a building,
 18 residence, place, or structure, in whole or in part,
 19 or a trailer or any other conveyance, with knowledge
 20 or reckless disregard that it will be used for the
 21 purpose of commercial sex; prohibiting the receiving,
 22 or offering or agreeing to receive, a person into a
 23 building, residence, place, or structure, or a trailer
 24 or any other conveyance, for the purpose of commercial
 25 sexual activity or to allow a person to remain there
 26 for such purpose; providing criminal penalties;
 27 providing enhanced criminal penalties for second or
 28 subsequent violations; providing that specified
 29 testimony concerning reputation is admissible in

Page 1 of 39

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

29-01102-24

20241590__

30 evidence in the trial of persons charged with certain
 31 offenses; requiring the reclassification of offenses
 32 under specified circumstances; amending s. 796.07,
 33 F.S.; deleting definitions; prohibiting a person from
 34 providing, or offering to provide, something of value
 35 in exchange for sexual activity; deleting prohibited
 36 acts relating to prostitution and related acts;
 37 deleting a provision authorizing a police officer to
 38 testify under certain circumstances; providing
 39 criminal penalties; providing enhanced criminal
 40 penalties for second or subsequent violations;
 41 deleting a provision requiring the offering of
 42 admission into certain programs; requiring a court to
 43 order that certain defendants perform community
 44 service, pay for and attend an educational program,
 45 pay a civil penalty, and receive sexually transmitted
 46 disease testing; providing requirements for the
 47 proceeds of the civil penalty; deleting a minimum
 48 mandatory period of incarceration for the commission
 49 of a certain offense; revising the criminal history
 50 records that must be included in the Soliciting for
 51 Prostitution Public Database; conforming provisions to
 52 changes made by the act; amending ss. 60.05, 322.28,
 53 397.4073, 397.417, 435.07, 456.074, 480.041, 480.043,
 54 480.046, 772.102, 787.01, 787.02, 794.056, 796.08,
 55 796.09, 893.138, 895.02, 938.085, and 943.0433, F.S.;
 56 conforming provisions to changes made by the act;
 57 conforming cross-references; providing an effective
 58 date.

Page 2 of 39

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

29-01102-24

20241590__

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

Section 1. Section 796.011, Florida Statutes, is created to read:

796.011 Definitions.—As used in this chapter, the term:

(1) "Adult" means an individual 18 years of age or older.

(2) "Assignment" means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.

(3) "Commercial sex" means engaging in sexual activity in exchange for something of value. The term includes prostitution and human trafficking.

(4) "Female genitals" includes the labia minora, labia majora, clitoris, vulva, hymen, and vagina.

(5) "Lewdness" means any indecent or obscene act.

(6) "Prostitution" means voluntarily engaging in, agreeing to engage in, or offering to engage in commercial sex.

(7) "Sexual activity" means oral, anal, or female genital penetration by, or union with, the sexual organ of another; anal or female genital penetration of another by any other object; the handling or fondling of the sexual organ of another for the purpose of masturbation; or the performance of sexual acts for the purpose of masturbation, regardless of whether contact is made. The term does not include acts done for bona fide medical purposes.

Section 2. Section 796.031, Florida Statutes, is created to read:

796.031 Prostitution, lewdness, and assignment prohibited;

29-01102-24

20241590__

penalties.—

(1) It is unlawful for an adult to offer to commit, to commit, or to engage in prostitution, lewdness, or assignment.

(2) In the trial of a person charged with a violation of this section, testimony concerning the reputation of any place, structure, building, or conveyance involved in the charge; testimony concerning the reputation of any person residing in, operating, or frequenting such place, structure, building or conveyance; and testimony concerning the reputation of the defendant is admissible in evidence in support of the charge.

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

(b) In addition to any other penalty imposed, the court shall order a person sentenced for a violation of this section to attend an educational program about the negative effects of commercial sex. The educational program may be offered by a secular or faith-based provider.

(c) A judicial circuit may establish an educational program for persons convicted of or charged with a violation of this section, to include education on:

1. The relationship between demand for commercial sex and human trafficking;

2. The impact of human trafficking on victims;

3. Coercion, consent, and sexual violence;

4. The health and legal consequences of commercial sex;

5. The negative impact of commercial sex on prostituted persons and the community; and

6. The reasons and motivations for engaging in

29-01102-24

20241590__

117 prostitution.

118 Section 3. Section 796.04, Florida Statutes, is repealed.

119 Section 4. Section 796.06, Florida Statutes, is amended to
120 read:

121 796.06 Maintaining Renting space to be used for commercial
122 sex lewdness, assignation, or prostitution.—

123 (1) It is unlawful to:

124 (a) Own, establish, maintain, operate, use, let, or rent a
125 building, residence, any place, or structure, in whole or in or
126 part thereof, or a trailer or any other conveyance, with the
127 knowledge or reckless disregard that it will be used for the
128 purpose of commercial sex lewdness, assignation, or
129 prostitution.

130 (b) Receive, or to offer or agree to receive, a person into
131 a building, residence, place, or structure, or a trailer or any
132 other conveyance, for the purpose of commercial sexual activity
133 or to allow a person to remain there for such purpose.

134 (2) A person who violates this section commits:

135 (a) A felony misdemeanor of the third first degree for a
136 first violation, punishable as provided in s. 775.082 or s.
137 775.083.

138 (b) A felony of the second third degree for a second or
139 subsequent violation, punishable as provided in s. 775.082, s.
140 775.083, or s. 775.084.

141 (3) In the trial of a person charged with a violation of
142 this section, testimony concerning the reputation of any place,
143 structure, building, or conveyance involved in the charge;
144 testimony concerning the reputation of any person residing in,
145 operating, or frequenting such place, structure, building, or

29-01102-24

20241590__

146 conveyance; and testimony concerning the reputation of the
147 defendant is admissible in evidence in support of the charge.

148 (4) If such building, residence, place, structure, or
149 trailer or any other conveyance that is owned, established,
150 maintained, or operated is a massage establishment that is or
151 should be licensed under s. 480.043, the offense must be
152 reclassified to the next higher degree as follows:

153 (a) A felony of the third degree is reclassified as a
154 felony of the second degree, punishable as provided in s.
155 775.082, s. 775.083, or s. 775.084.

156 (b) A felony of the second degree is reclassified as a
157 felony of the first degree, punishable as provided in s.
158 775.082, s. 775.083, or s. 775.084.

159 (c) A felony of the first degree is reclassified as a
160 felony of the first degree punishable by life in prison,
161 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

162 Section 5. Section 796.07, Florida Statutes, is amended to
163 read:

164 796.07 Prohibiting prostitution and related acts.—

165 (1) ~~As used in this section:~~

166 (a) ~~"Assignation" means the making of any appointment or~~
167 ~~engagement for prostitution or lewdness, or any act in~~
168 ~~furtherance of such appointment or engagement.~~

169 (b) ~~"Female genitals" includes the labia minora, labia~~
170 ~~majora, clitoris, vulva, hymen, and vagina.~~

171 (c) ~~"Lewdness" means any indecent or obscene act.~~

172 (d) ~~"Prostitution" means the giving or receiving of the~~
173 ~~body for sexual activity for hire but excludes sexual activity~~
174 ~~between spouses.~~

29-01102-24

20241590__

175 (e) "Sexual activity" means oral, anal, or female genital
 176 penetration by, or union with, the sexual organ of another; anal
 177 or female genital penetration of another by any other object; or
 178 the handling or fondling of the sexual organ of another for the
 179 purpose of masturbation; however, the term does not include acts
 180 done for bona fide medical purposes.

181 (2) It is unlawful for a person+

182 (a) to provide, or offer to provide, something of value in
 183 exchange for sexual activity own, establish, maintain, or
 184 operate any place, structure, building, or conveyance for the
 185 purpose of lewdness, assignation, or prostitution.

186 (b) To offer, or to offer or agree to secure, another for
 187 the purpose of prostitution or for any other lewd or indecent
 188 act.

189 (c) To receive, or to offer or agree to receive, any person
 190 into any place, structure, building, or conveyance for the
 191 purpose of prostitution, lewdness, or assignation, or to permit
 192 any person to remain there for such purpose.

193 (d) To direct, take, or transport, or to offer or agree to
 194 direct, take, or transport, any person to any place, structure,
 195 or building, or to any other person, with knowledge or
 196 reasonable cause to believe that the purpose of such directing,
 197 taking, or transporting is prostitution, lewdness, or
 198 assignation.

199 (e) For a person 18 years of age or older to offer to
 200 commit, or to commit, or to engage in, prostitution, lewdness,
 201 or assignation.

202 (f) To solicit, induce, entice, or procure another to
 203 commit prostitution, lewdness, or assignation.

29-01102-24

20241590__

204 (g) To reside in, enter, or remain in, any place,
 205 structure, or building, or to enter or remain in any conveyance,
 206 for the purpose of prostitution, lewdness, or assignation.

207 (h) To aid, abet, or participate in any of the acts or
 208 things enumerated in this subsection.

209 (i) To purchase the services of any person engaged in
 210 prostitution.

211 (2)(3)(a) In the trial of a person charged with a violation
 212 of this section, testimony concerning the reputation of any
 213 place, structure, building, or conveyance involved in the
 214 charge, testimony concerning the reputation of any person
 215 residing in, operating, or frequenting such place, structure,
 216 building, or conveyance, and testimony concerning the reputation
 217 of the defendant is admissible in evidence in support of the
 218 charge.

219 (b) Notwithstanding any other provision of law, a police
 220 officer may testify as an offended party in an action regarding
 221 charges filed pursuant to this section.

222 (3) (a) (4) (a) A person who violates any provision of this
 223 section, other than paragraph (2)(f), commits:

224 1. A felony ~~misdemeanor~~ of the third ~~second~~ degree for a
 225 first violation, punishable as provided in s. 775.082 or s.
 226 775.083.

227 2. A felony ~~misdemeanor~~ of the second ~~first~~ degree for a
 228 second violation, punishable as provided in s. 775.082 or s.
 229 775.083.

230 3. A felony of the first ~~third~~ degree for a third or
 231 subsequent violation, punishable as provided in s. 775.082, s.
 232 775.083, or s. 775.084.

29-01102-24

20241590

~~(b) A person who is charged with a third or subsequent violation of this section, other than paragraph (2)(f), shall be offered admission to a pretrial intervention program or a substance abuse treatment program as provided in s. 948.08.~~

~~(5)(a) A person who violates paragraph (2)(f) commits:~~

~~1. A misdemeanor of the first degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.~~

~~2. A felony of the third degree for a second violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~3. A felony of the second degree for a third or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(b) In addition to any other penalty imposed, if a violation of this section results in any judicial disposition other than acquittal or dismissal, the court must shall order the defendant a person convicted of a violation of paragraph (2)(f) to:

1. Perform 100 hours of community service;—

2. Pay for and attend an educational program, which may be offered by a secular or faith-based provider, on the negative effects of commercial sexual activity; as described in subsection (8), if such a program exists in the judicial circuit in which the offender is sentenced

3. Pay a civil penalty of \$5,000. Of the proceeds from each penalty assessed under this subparagraph, the first \$500 must be paid to the circuit court administrator for the sole purpose of paying the administrative costs of treatment-based drug court programs provided under s. 397.334. The remainder of the penalty assessed must be deposited in the Operations and Maintenance

29-01102-24

20241590

Trust Fund of the Department of Children and Families for the sole purpose of funding safe houses and safe foster homes as provided in s. 409.1678; and

4. Receive sexually transmitted disease testing at a recognized medical facility.

(c) A judicial circuit may establish an educational program for persons convicted of or charged with a violation of this section, to include education on:

1. The relationship between demand for commercial sex and human trafficking;

2. The impact of human trafficking on victims;

3. Coercion, consent, and sexual violence;

4. The health and legal consequences of commercial sex;

5. The negative impact of commercial sex on prostituted persons and the community; and

6. The reasons and motivations for engaging in prostitution
~~In addition to any other penalty imposed, the court shall sentence a person convicted of a second or subsequent violation of paragraph (2)(f) to a minimum mandatory period of incarceration of 10 days.~~

(d) 1. If a person who violates this section paragraph (2)(f) uses a vehicle in the course of the violation, the judge, upon the person's conviction, may issue an order for the impoundment or immobilization of the vehicle for a period of up to 60 days. The order of impoundment or immobilization must include the names and telephone numbers of all immobilization agencies meeting all of the conditions of s. 316.193(13). Within 7 business days after the date that the court issues the order of impoundment or immobilization, the clerk of the court must

29-01102-24 20241590

send notice by certified mail, return receipt requested, to the registered owner of the vehicle, if the registered owner is a person other than the defendant, and to each person of record claiming a lien against the vehicle.

2. The owner of the vehicle may request the court to dismiss the order. The court must dismiss the order, and the owner of the vehicle will incur no costs, if the owner of the vehicle alleges and the court finds to be true any of the following:

- a. The owner's family has no other private or public means of transportation;
- b. The vehicle was stolen at the time of the offense;
- c. The owner purchased the vehicle after the offense was committed, and the sale was not made to circumvent the order and allow the defendant continued access to the vehicle; or
- d. The vehicle is owned by the defendant but is operated solely by employees of the defendant or employees of a business owned by the defendant.

3. If the court denies the request to dismiss the order, the petitioner may request an evidentiary hearing. If, at the evidentiary hearing, the court finds to be true any of the circumstances described in sub-subparagraphs 2.a.-d. ~~sub-subparagraphs (d)2.a.-d.~~, the court must dismiss the order and the owner of the vehicle will incur no costs.

(e) The Soliciting for Prostitution Public Database created pursuant to s. 943.0433 must include the criminal history record of a person who is sentenced for a violation of this section ~~found guilty~~ as a result of a trial or who enters a plea of guilty or nolo contendere, regardless of whether adjudication is

29-01102-24 20241590

~~withheld, of paragraph (2)(f), and there is evidence that such person provided a form of payment or arranged for the payment of such services.~~ Upon sentencing conviction, the clerk of the court shall forward the criminal history record of the person to the Department of Law Enforcement, pursuant to s. 943.052(2), for inclusion in the database. This paragraph shall stand repealed on January 1, 2024, unless reviewed and saved from repeal by the Legislature.

~~(6) A person who violates paragraph (2)(f) shall be assessed a civil penalty of \$5,000 if the violation results in any judicial disposition other than acquittal or dismissal. Of the proceeds from each penalty assessed under this subsection, the first \$500 shall be paid to the circuit court administrator for the sole purpose of paying the administrative costs of treatment-based drug court programs provided under s. 397.334. The remainder of the penalty assessed shall be deposited in the Operations and Maintenance Trust Fund of the Department of Children and Families for the sole purpose of funding safe houses and safe foster homes as provided in s. 409.1678.~~

~~(7) If the place, structure, building, or conveyance that is owned, established, maintained, or operated in violation of paragraph (2)(a) is a massage establishment that is or should be licensed under s. 480.043, the offense shall be reclassified to the next higher degree as follows:~~

~~(a) A misdemeanor of the second degree for a first violation is reclassified as a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~(b) A misdemeanor of the first degree for a second violation is reclassified as a felony of the third degree,~~

29-01102-24

20241590

~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~(e) A felony of the third degree for a third or subsequent violation is reclassified as a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~(8)(a) A judicial circuit may establish an educational program for persons convicted of or charged with a violation of paragraph (2)(f), to include education on:~~

~~1. The relationship between demand for commercial sex and human trafficking.~~

~~2. The impact of human trafficking on victims.~~

~~3. Coercion, consent, and sexual violence.~~

~~4. The health and legal consequences of commercial sex.~~

~~5. The negative impact of commercial sex on prostituted persons and the community.~~

~~6. The reasons and motivations for engaging in prostitution.~~

~~(b) An educational program may include a program offered by a faith-based provider.~~

Section 6. Subsection (5) of section 60.05, Florida Statutes, is amended to read:

60.05 Abatement of nuisances.—

(5) On trial if the existence of a nuisance is shown, the court shall issue a permanent injunction and order the costs to be paid by the persons establishing or maintaining the nuisance and shall adjudge that the costs are a lien on all personal property found in the place of the nuisance and on the failure of the property to bring enough to pay the costs, then on the real estate occupied by the nuisance. A lien may not attach to the real estate of any other than such persons unless a second

29-01102-24

20241590

written notice has been given in accordance with paragraph (3)(a) to the owner or his or her agent who fails to begin to abate the nuisance within the time specified therein. In a proceeding abating a nuisance pursuant to s. 823.10 or s. 823.05, if a tenant has been convicted of an offense under chapter 893, s. 796.06, or s. 796.07, the court may order the tenant to vacate the property within 72 hours if the tenant and owner of the premises are parties to the nuisance abatement action and the order will lead to the abatement of the nuisance.

Section 7. Subsection (7) of section 322.28, Florida Statutes, is amended to read:

322.28 Period of suspension or revocation.—

(7) Following a second or subsequent violation of s. 796.07(1) ~~s. 796.07(2)(f)~~ which involves a motor vehicle and which results in any judicial disposition other than acquittal or dismissal, in addition to any other sentence imposed, the court shall revoke the person's driver license or driving privilege, effective upon the date of the disposition, for a period of at least 1 year. A person sentenced under this subsection may request a hearing under s. 322.271.

Section 8. Paragraph (b) of subsection (4) of section 397.4073, Florida Statutes, is amended to read:

397.4073 Background checks of service provider personnel.—

(4) EXEMPTIONS FROM DISQUALIFICATION.—

(b) For service providers that treat adolescents 13 years of age and older, service provider personnel whose background checks indicate crimes under s. 796.07(1) ~~s. 796.07(2)(e)~~, s. 810.02(4), s. 812.014(2)(c), s. 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, and any related criminal attempt,

29-01102-24 20241590__

407 solicitation, or conspiracy under s. 777.04:

408 1. Shall be exempted from disqualification from employment

409 for such offenses pursuant to this paragraph if:

410 a. At least 5 years, or at least 3 years in the case of an

411 individual seeking certification as a peer specialist under s.

412 397.417, have elapsed since the applicant requesting an

413 exemption has completed or has been lawfully released from any

414 confinement, supervision, or nonmonetary condition imposed by a

415 court for the applicant's most recent disqualifying offense

416 under this paragraph.

417 b. The applicant for an exemption has not been arrested for

418 any offense during the 5 years, or 3 years in the case of a peer

419 specialist, before the request for exemption.

420 2. May be exempted from disqualification from employment

421 for such offenses without a waiting period as provided under s.

422 435.07(2).

423 Section 9. Paragraph (e) of subsection (4) of section

424 397.417, Florida Statutes, is amended to read:

425 397.417 Peer specialists.—

426 (4) BACKGROUND SCREENING.—

427 (e) The background screening conducted under this

428 subsection must ensure that a peer specialist has not been

429 arrested for and is awaiting final disposition of, found guilty

430 of, regardless of adjudication, or entered a plea of nolo

431 contendere or guilty to, or been adjudicated delinquent and the

432 record has not been sealed or expunged for, any offense

433 prohibited under any of the following state laws or similar laws

434 of another jurisdiction:

435 1. Section 393.135, relating to sexual misconduct with

29-01102-24 20241590__

436 certain developmentally disabled clients and reporting of such

437 sexual misconduct.

438 2. Section 394.4593, relating to sexual misconduct with

439 certain mental health patients and reporting of such sexual

440 misconduct.

441 3. Section 409.920, relating to Medicaid provider fraud, if

442 the offense was a felony of the first or second degree.

443 4. Section 415.111, relating to abuse, neglect, or

444 exploitation of vulnerable adults.

445 5. Any offense that constitutes domestic violence as

446 defined in s. 741.28.

447 6. Section 777.04, relating to attempts, solicitation, and

448 conspiracy to commit an offense listed in this paragraph.

449 7. Section 782.04, relating to murder.

450 8. Section 782.07, relating to manslaughter; aggravated

451 manslaughter of an elderly person or a disabled adult;

452 aggravated manslaughter of a child; or aggravated manslaughter

453 of an officer, a firefighter, an emergency medical technician,

454 or a paramedic.

455 9. Section 782.071, relating to vehicular homicide.

456 10. Section 782.09, relating to killing an unborn child by

457 injury to the mother.

458 11. Chapter 784, relating to assault, battery, and culpable

459 negligence, if the offense was a felony.

460 12. Section 787.01, relating to kidnapping.

461 13. Section 787.02, relating to false imprisonment.

462 14. Section 787.025, relating to luring or enticing a

463 child.

464 15. Section 787.04(2), relating to leading, taking,

29-01102-24 20241590__

465 enticing, or removing a minor beyond state limits, or concealing
 466 the location of a minor, with criminal intent pending custody
 467 proceedings.

468 16. Section 787.04(3), relating to leading, taking,
 469 enticing, or removing a minor beyond state limits, or concealing
 470 the location of a minor, with criminal intent pending dependency
 471 proceedings or proceedings concerning alleged abuse or neglect
 472 of a minor.

473 17. Section 790.115(1), relating to exhibiting firearms or
 474 weapons within 1,000 feet of a school.

475 18. Section 790.115(2)(b), relating to possessing an
 476 electric weapon or device, a destructive device, or any other
 477 weapon on school property.

478 19. Section 794.011, relating to sexual battery.

479 20. Former s. 794.041, relating to prohibited acts of
 480 persons in familial or custodial authority.

481 21. Section 794.05, relating to unlawful sexual activity
 482 with certain minors.

483 22. Section 794.08, relating to female genital mutilation.

484 23. Section 796.07, relating to providing, or offering to
 485 provide, something of value in exchange for sexual activity
 486 ~~procuring another to commit prostitution~~, except for those
 487 offenses expunged pursuant to s. 943.0583.

488 24. Section 798.02, relating to lewd and lascivious
 489 behavior.

490 25. Chapter 800, relating to lewdness and indecent
 491 exposure.

492 26. Section 806.01, relating to arson.

493 27. Section 810.02, relating to burglary, if the offense

29-01102-24 20241590__

494 was a felony of the first degree.

495 28. Section 810.14, relating to voyeurism, if the offense
 496 was a felony.

497 29. Section 810.145, relating to video voyeurism, if the
 498 offense was a felony.

499 30. Section 812.13, relating to robbery.

500 31. Section 812.131, relating to robbery by sudden
 501 snatching.

502 32. Section 812.133, relating to carjacking.

503 33. Section 812.135, relating to home-invasion robbery.

504 34. Section 817.034, relating to communications fraud, if
 505 the offense was a felony of the first degree.

506 35. Section 817.234, relating to false and fraudulent
 507 insurance claims, if the offense was a felony of the first or
 508 second degree.

509 36. Section 817.50, relating to fraudulently obtaining
 510 goods or services from a health care provider and false reports
 511 of a communicable disease.

512 37. Section 817.505, relating to patient brokering.

513 38. Section 817.568, relating to fraudulent use of personal
 514 identification, if the offense was a felony of the first or
 515 second degree.

516 39. Section 825.102, relating to abuse, aggravated abuse,
 517 or neglect of an elderly person or a disabled adult.

518 40. Section 825.1025, relating to lewd or lascivious
 519 offenses committed upon or in the presence of an elderly person
 520 or a disabled person.

521 41. Section 825.103, relating to exploitation of an elderly
 522 person or a disabled adult, if the offense was a felony.

29-01102-24

20241590__

523 42. Section 826.04, relating to incest.
 524 43. Section 827.03, relating to child abuse, aggravated
 525 child abuse, or neglect of a child.
 526 44. Section 827.04, relating to contributing to the
 527 delinquency or dependency of a child.
 528 45. Former s. 827.05, relating to negligent treatment of
 529 children.
 530 46. Section 827.071, relating to sexual performance by a
 531 child.
 532 47. Section 831.30, relating to fraud in obtaining
 533 medicinal drugs.
 534 48. Section 831.31, relating to the sale; manufacture;
 535 delivery; or possession with intent to sell, manufacture, or
 536 deliver of any counterfeit controlled substance, if the offense
 537 was a felony.
 538 49. Section 843.01, relating to resisting arrest with
 539 violence.
 540 50. Section 843.025, relating to depriving a law
 541 enforcement, correctional, or correctional probation officer of
 542 the means of protection or communication.
 543 51. Section 843.12, relating to aiding in an escape.
 544 52. Section 843.13, relating to aiding in the escape of
 545 juvenile inmates of correctional institutions.
 546 53. Chapter 847, relating to obscenity.
 547 54. Section 874.05, relating to encouraging or recruiting
 548 another to join a criminal gang.
 549 55. Chapter 893, relating to drug abuse prevention and
 550 control, if the offense was a felony of the second degree or
 551 greater severity.

29-01102-24

20241590__

552 56. Section 895.03, relating to racketeering and collection
 553 of unlawful debts.
 554 57. Section 896.101, relating to the Florida Money
 555 Laundering Act.
 556 58. Section 916.1075, relating to sexual misconduct with
 557 certain forensic clients and reporting of such sexual
 558 misconduct.
 559 59. Section 944.35(3), relating to inflicting cruel or
 560 inhuman treatment on an inmate resulting in great bodily harm.
 561 60. Section 944.40, relating to escape.
 562 61. Section 944.46, relating to harboring, concealing, or
 563 aiding an escaped prisoner.
 564 62. Section 944.47, relating to introduction of contraband
 565 into a correctional institution.
 566 63. Section 985.701, relating to sexual misconduct in
 567 juvenile justice programs.
 568 64. Section 985.711, relating to introduction of contraband
 569 into a detention facility.
 570 Section 10. Subsection (2) of section 435.07, Florida
 571 Statutes, is amended to read:
 572 435.07 Exemptions from disqualification.—Unless otherwise
 573 provided by law, the provisions of this section apply to
 574 exemptions from disqualification for disqualifying offenses
 575 revealed pursuant to background screenings required under this
 576 chapter, regardless of whether those disqualifying offenses are
 577 listed in this chapter or other laws.
 578 (2) Persons employed, or applicants for employment, by
 579 treatment providers who treat adolescents 13 years of age and
 580 older who are disqualified from employment solely because of

29-01102-24 20241590__

581 crimes under s. 796.07(1) ~~s. 796.07(2)(e)~~, s. 810.02(4), s.
 582 812.014(2)(c), s. 817.563, s. 831.01, s. 831.02, s. 893.13, or
 583 s. 893.147, or any related criminal attempt, solicitation, or
 584 conspiracy under s. 777.04, may be exempted from
 585 disqualification from employment pursuant to this chapter
 586 without application of the waiting period in subparagraph
 587 (1)(a)1.
 588 Section 11. Subsection (4) and paragraphs (o) and (q) of
 589 subsection (5) of section 456.074, Florida Statutes, are amended
 590 to read:
 591 456.074 Certain health care practitioners; immediate
 592 suspension of license.—
 593 (4) The department shall issue an emergency order
 594 suspending the license of a massage therapist or establishment
 595 as defined in chapter 480 upon receipt of information that the
 596 massage therapist, a person with an ownership interest in the
 597 establishment, or, for a corporation that has more than \$250,000
 598 of business assets in this state, the owner, officer, or
 599 individual directly involved in the management of the
 600 establishment has been convicted or found guilty of, or has
 601 entered a plea of guilty or nolo contendere to, regardless of
 602 adjudication, a violation of s. 796.06(1) ~~that s. 796.07(2)(a)~~
 603 ~~which~~ is reclassified under s. 796.06(4) ~~s. 796.07(7)~~ or a
 604 felony offense under any of the following provisions of state
 605 law or a similar provision in another jurisdiction:
 606 (a) Section 787.01, relating to kidnapping.
 607 (b) Section 787.02, relating to false imprisonment.
 608 (c) Section 787.025, relating to luring or enticing a
 609 child.

Page 21 of 39

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

29-01102-24 20241590__

610 (d) Section 787.06, relating to human trafficking.
 611 (e) Section 787.07, relating to human smuggling.
 612 (f) Section 794.011, relating to sexual battery.
 613 (g) Section 794.08, relating to female genital mutilation.
 614 (h) Former s. 796.03, relating to procuring a person under
 615 the age of 18 for prostitution.
 616 (i) Former s. 796.035, relating to the selling or buying of
 617 minors into prostitution.
 618 (j) ~~Former~~ section 796.04, relating to forcing, compelling,
 619 or coercing another to become a prostitute.
 620 (k) Section 796.05, relating to deriving support from the
 621 proceeds of prostitution.
 622 (l) Section 796.07(3)(a)3. ~~Section 796.07(4)(a)3.~~, relating
 623 to a felony of the first ~~third~~ degree for a third or subsequent
 624 violation of s. 796.07, relating to prohibiting prostitution and
 625 related acts.
 626 (m) Section 800.04, relating to lewd or lascivious offenses
 627 committed upon or in the presence of persons less than 16 years
 628 of age.
 629 (n) Section 825.1025(2)(b), relating to lewd or lascivious
 630 offenses committed upon or in the presence of an elderly or
 631 disabled person.
 632 (o) Section 827.071, relating to sexual performance by a
 633 child.
 634 (p) Section 847.0133, relating to the protection of minors.
 635 (q) Section 847.0135, relating to computer pornography.
 636 (r) Section 847.0138, relating to the transmission of
 637 material harmful to minors to a minor by electronic device or
 638 equipment.

Page 22 of 39

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

29-01102-24

20241590__

639 (s) Section 847.0145, relating to the selling or buying of
 640 minors.

641 (5) The department shall issue an emergency order
 642 suspending the license of any health care practitioner who is
 643 arrested for committing or attempting, soliciting, or conspiring
 644 to commit any act that would constitute a violation of any of
 645 the following criminal offenses in this state or similar
 646 offenses in another jurisdiction:

647 (o) Former section 796.04, relating to forcing, compelling,
 648 or coercing another to become a prostitute.

649 (q) Section 796.07(3)(a)3. ~~Section 796.07(4)(a)3.~~, relating
 650 to a felony of the first ~~third~~ degree for a third or subsequent
 651 violation of s. 796.07, relating to prohibiting prostitution and
 652 related acts.

653 Section 12. Subsection (7) of section 480.041, Florida
 654 Statutes, is amended to read:

655 480.041 Massage therapists; qualifications; licensure;
 656 endorsement.—

657 (7) The board shall deny an application for a new or
 658 renewal license if an applicant has been convicted or found
 659 guilty of, or enters a plea of guilty or nolo contendere to,
 660 regardless of adjudication, a violation of s. 796.06(1) or
 661 ~~796.07(2)(a)~~ which is reclassified under s. 796.06(4) or
 662 ~~796.07(7)~~ or a felony offense under any of the following
 663 provisions of state law or a similar provision in another
 664 jurisdiction:

665 (a) Section 787.01, relating to kidnapping.

666 (b) Section 787.02, relating to false imprisonment.

667 (c) Section 787.025, relating to luring or enticing a

Page 23 of 39

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

29-01102-24

20241590__

668 child.

669 (d) Section 787.06, relating to human trafficking.

670 (e) Section 787.07, relating to human smuggling.

671 (f) Section 794.011, relating to sexual battery.

672 (g) Section 794.08, relating to female genital mutilation.

673 (h) Former s. 796.03, relating to procuring a person under
 674 the age of 18 for prostitution.

675 (i) Former s. 796.035, relating to the selling or buying of
 676 minors into prostitution.

677 (j) Former section 796.04, relating to forcing, compelling,
 678 or coercing another to become a prostitute.

679 (k) Section 796.05, relating to deriving support from the
 680 proceeds of prostitution.

681 (l) Section 796.07(3)(a)3. ~~Section 796.07(4)(a)3.~~, relating
 682 to a felony of the first ~~third~~ degree for a third or subsequent
 683 violation of s. 796.07, relating to prohibiting prostitution and
 684 related acts.

685 (m) Section 800.04, relating to lewd or lascivious offenses
 686 committed upon or in the presence of persons less than 16 years
 687 of age.

688 (n) Section 825.1025(2)(b), relating to lewd or lascivious
 689 offenses committed upon or in the presence of an elderly or
 690 disabled person.

691 (o) Section 827.071, relating to sexual performance by a
 692 child.

693 (p) Section 847.0133, relating to the protection of minors.

694 (q) Section 847.0135, relating to computer pornography.

695 (r) Section 847.0138, relating to the transmission of
 696 material harmful to minors to a minor by electronic device or

Page 24 of 39

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

29-01102-24 20241590__

697 equipment.

698 (s) Section 847.0145, relating to the selling or buying of

699 minors.

700 Section 13. Subsection (8) of section 480.043, Florida

701 Statutes, is amended to read:

702 480.043 Massage establishments; requisites; licensure;

703 inspection; human trafficking awareness training and policies.—

704 (8) The department shall deny an application for a new or

705 renewal license if an establishment owner or a designated

706 establishment manager or, for a corporation that has more than

707 \$250,000 of business assets in this state, an establishment

708 owner, a designated establishment manager, or any individual

709 directly involved in the management of the establishment has

710 been convicted of or entered a plea of guilty or nolo contendere

711 to any misdemeanor or felony crime, regardless of adjudication,

712 related to prostitution or related acts as described in s.

713 796.06 or s. 796.07 or a felony offense under any of the

714 following provisions of state law or a similar provision in

715 another jurisdiction:

716 (a) Section 787.01, relating to kidnapping.

717 (b) Section 787.02, relating to false imprisonment.

718 (c) Section 787.025, relating to luring or enticing a

719 child.

720 (d) Section 787.06, relating to human trafficking.

721 (e) Section 787.07, relating to human smuggling.

722 (f) Section 794.011, relating to sexual battery.

723 (g) Section 794.08, relating to female genital mutilation.

724 (h) Former s. 796.03, relating to procuring a person under

725 the age of 18 for prostitution.

29-01102-24 20241590__

726 (i) Former s. 796.035, relating to selling or buying of

727 minors into prostitution.

728 (j) ~~Former~~ section 796.04, relating to forcing, compelling,

729 or coercing another to become a prostitute.

730 (k) Section 796.05, relating to deriving support from the

731 proceeds of prostitution.

732 (l) Section 800.04, relating to lewd or lascivious offenses

733 committed upon or in the presence of persons less than 16 years

734 of age.

735 (m) Section 825.1025(2)(b), relating to lewd or lascivious

736 offenses committed upon or in the presence of an elderly or

737 disabled person.

738 (n) Section 827.071, relating to sexual performance by a

739 child.

740 (o) Section 847.0133, relating to the protection of minors.

741 (p) Section 847.0135, relating to computer pornography.

742 (q) Section 847.0138, relating to the transmission of

743 material harmful to minors to a minor by electronic device or

744 equipment.

745 (r) Section 847.0145, relating to the selling or buying of

746 minors.

747 Section 14. Paragraph (c) of subsection (3) of section

748 480.046, Florida Statutes, is amended to read:

749 480.046 Grounds for disciplinary action by the board.—

750 (3) The board shall revoke or suspend the license of a

751 massage establishment licensed under this act, or deny

752 subsequent licensure of such an establishment, if any of the

753 following occurs:

754 (c) The establishment owner, the designated establishment

29-01102-24 20241590__

manager, or any individual providing massage therapy services for the establishment has had the entry in any jurisdiction of:

1. A final order or other disciplinary action taken for sexual misconduct involving prostitution;

2. A final order or other disciplinary action taken for crimes related to the practice of massage therapy involving prostitution; or

3. A conviction or a plea of guilty or nolo contendere to any misdemeanor or felony crime, regardless of adjudication, related to prostitution or related acts as described in s. 796.06 or s. 796.07.

Section 15. Paragraph (a) of subsection (1) of section 772.102, Florida Statutes, is amended to read:

772.102 Definitions.—As used in this chapter, the term:

(1) "Criminal activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime that is chargeable by indictment or information under the following provisions:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 414.39, relating to public assistance fraud.

3. Section 440.105 or s. 440.106, relating to workers' compensation.

4. Part IV of chapter 501, relating to telemarketing.

5. Chapter 517, relating to securities transactions.

6. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

7. Chapter 550, relating to jai alai frontons.

29-01102-24 20241590__

8. Chapter 552, relating to the manufacture, distribution, and use of explosives.

9. Chapter 562, relating to beverage law enforcement.

10. Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.

11. Chapter 687, relating to interest and usurious practices.

12. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.

13. Chapter 782, relating to homicide.

14. Chapter 784, relating to assault and battery.

15. Chapter 787, relating to kidnapping or human trafficking.

16. Chapter 790, relating to weapons and firearms.

17. Former s. 796.03, former s. 796.04, s. 796.05, 796.06, or s. 796.07, relating to prostitution.

18. Chapter 806, relating to arson.

19. Section 810.02(2)(c), relating to specified burglary of a dwelling or structure.

20. Chapter 812, relating to theft, robbery, and related crimes.

21. Chapter 815, relating to computer-related crimes.

22. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

23. Section 827.071, relating to commercial sexual exploitation of children.

29-01102-24 20241590__

813 24. Chapter 831, relating to forgery and counterfeiting.
814 25. Chapter 832, relating to issuance of worthless checks
815 and drafts.
816 26. Section 836.05, relating to extortion.
817 27. Chapter 837, relating to perjury.
818 28. Chapter 838, relating to bribery and misuse of public
819 office.
820 29. Chapter 843, relating to obstruction of justice.
821 30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
822 s. 847.07, relating to obscene literature and profanity.
823 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
824 849.25, relating to gambling.
825 32. Chapter 893, relating to drug abuse prevention and
826 control.
827 33. Section 914.22 or s. 914.23, relating to witnesses,
828 victims, or informants.
829 34. Section 918.12 or s. 918.13, relating to tampering with
830 jurors and evidence.
831 Section 16. Paragraph (a) of subsection (3) of section
832 787.01, Florida Statutes, is amended to read:
833 787.01 Kidnapping; kidnapping of child under age 13,
834 aggravating circumstances.—
835 (3) (a) A person who commits the offense of kidnapping upon
836 a child under the age of 13 and who, in the course of committing
837 the offense, commits one or more of the following:
838 1. Aggravated child abuse, as defined in s. 827.03;
839 2. Sexual battery, as defined in chapter 794, against the
840 child;
841 3. Lewd or lascivious battery, lewd or lascivious

29-01102-24 20241590__

842 molestation, lewd or lascivious conduct, or lewd or lascivious
843 exhibition, in violation of s. 800.04 or s. 847.0135(5);
844 4. A violation of former s. 796.03 or former s. 796.04,
845 relating to prostitution, upon the child;
846 5. Exploitation of the child or allowing the child to be
847 exploited, in violation of s. 450.151; or
848 6. A violation of s. 787.06(3)(g), relating to human
849 trafficking,
850
851 commits a life felony, punishable as provided in s. 775.082, s.
852 775.083, or s. 775.084.
853 Section 17. Paragraph (a) of subsection (3) of section
854 787.02, Florida Statutes, is amended to read:
855 787.02 False imprisonment; false imprisonment of child
856 under age 13, aggravating circumstances.—
857 (3) (a) A person who commits the offense of false
858 imprisonment upon a child under the age of 13 and who, in the
859 course of committing the offense, commits any offense enumerated
860 in subparagraphs 1.-6. ~~subparagraphs 1.-5.~~, commits a felony of
861 the first degree, punishable by imprisonment for a term of years
862 not exceeding life or as provided in s. 775.082, s. 775.083, or
863 s. 775.084.
864 1. Aggravated child abuse, as defined in s. 827.03;
865 2. Sexual battery, as defined in chapter 794, against the
866 child;
867 3. Lewd or lascivious battery, lewd or lascivious
868 molestation, lewd or lascivious conduct, or lewd or lascivious
869 exhibition, in violation of s. 800.04 or s. 847.0135(5);
870 4. A violation of former s. 796.03 or former s. 796.04,

29-01102-24

20241590__

871 relating to prostitution, upon the child;
 872 5. Exploitation of the child or allowing the child to be
 873 exploited, in violation of s. 450.151; or
 874 6. A violation of s. 787.06(3)(g) relating to human
 875 trafficking.
 876 Section 18. Subsection (1) of section 794.056, Florida
 877 Statutes, is amended to read:
 878 794.056 Rape Crisis Program Trust Fund.—
 879 (1) The Rape Crisis Program Trust Fund is created within
 880 the Department of Health for the purpose of providing funds for
 881 rape crisis centers in this state. Trust fund moneys shall be
 882 used exclusively for the purpose of providing services for
 883 victims of sexual assault. Funds credited to the trust fund
 884 consist of those funds collected as an additional court
 885 assessment in each case in which a defendant pleads guilty or
 886 nolo contendere to, or is found guilty of, regardless of
 887 adjudication, an offense provided in s. 775.21(6) and (10)(a),
 888 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
 889 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
 890 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
 891 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
 892 former s. 796.03; former s. 796.035; former s. 796.04; s.
 893 796.05; s. 796.06; s. 796.07(1) ~~s. 796.07(2)(a)-(d) and (i)~~; s.
 894 800.03; s. 800.04; s. 810.14; s. 810.145; s. 812.135; s.
 895 817.025; s. 825.102; s. 825.1025; s. 827.071; s. 836.10; s.
 896 847.0133; s. 847.0135(2); s. 847.0137; s. 847.0145; s.
 897 943.0435(4)(c), (7), (8), (9)(a), (13), and (14)(c); or s.
 898 985.701(1). Funds credited to the trust fund also shall include
 899 revenues provided by law, moneys appropriated by the

Page 31 of 39

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

29-01102-24

20241590__

900 Legislature, and grants from public or private entities.
 901 Section 19. Subsection (3) of section 796.08, Florida
 902 Statutes, is amended to read:
 903 796.08 Screening for HIV and sexually transmissible
 904 diseases; providing penalties.—
 905 (3) A person convicted under s. 796.07 of providing, or
 906 offering to provide, something of value in exchange for sexual
 907 activity ~~prostitution or procuring another to commit~~
 908 ~~prostitution~~ must undergo screening for a sexually transmissible
 909 disease, including, but not limited to, screening to detect
 910 exposure to the human immunodeficiency virus, under direction of
 911 the Department of Health. If the person is infected, he or she
 912 must submit to treatment and counseling prior to release from
 913 probation, community control, or incarceration. Notwithstanding
 914 the provisions of s. 384.29, the results of tests conducted
 915 pursuant to this subsection shall be made available by the
 916 Department of Health to the offender, medical personnel,
 917 appropriate state agencies, state attorneys, and courts of
 918 appropriate jurisdiction in need of such information in order to
 919 enforce the provisions of this chapter.
 920 Section 20. Subsection (2) of section 796.09, Florida
 921 Statutes, is amended to read:
 922 796.09 Coercion; civil cause of action; evidence; defenses;
 923 attorney's fees.—
 924 (2) As used in this section, the term "prostitution" has
 925 the same meaning as in s. 796.011 ~~s. 796.07~~.
 926 Section 21. Subsection (2) of section 893.138, Florida
 927 Statutes, is amended to read:
 928 893.138 Local administrative action to abate certain

Page 32 of 39

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

29-01102-24

20241590__

929 activities declared public nuisances.—

930 (2) Any place or premises that has been used:

931 (a) On more than two occasions within a 6-month period, as
932 the site of a violation of s. 796.06 or s. 796.07;

933 (b) On more than two occasions within a 6-month period, as
934 the site of the unlawful sale, delivery, manufacture, or
935 cultivation of any controlled substance;

936 (c) On one occasion as the site of the unlawful possession
937 of a controlled substance, where such possession constitutes a
938 felony and that has been previously used on more than one
939 occasion as the site of the unlawful sale, delivery,
940 manufacture, or cultivation of any controlled substance;

941 (d) By a criminal gang for the purpose of conducting
942 criminal gang activity as defined by s. 874.03;

943 (e) On more than two occasions within a 6-month period, as
944 the site of a violation of s. 812.019 relating to dealing in
945 stolen property;

946 (f) On two or more occasions within a 6-month period, as
947 the site of a violation of chapter 499; or

948 (g) On more than two occasions within a 6-month period, as
949 the site of a violation of any combination of the following:

950 1. Section 782.04, relating to murder;

951 2. Section 782.051, relating to attempted felony murder;

952 3. Section 784.045(1)(a)2., relating to aggravated battery
953 with a deadly weapon; or

954 4. Section 784.021(1)(a), relating to aggravated assault
955 with a deadly weapon without intent to kill,

956
957 may be declared to be a public nuisance, and such nuisance may

29-01102-24

20241590__

958 be abated pursuant to the procedures provided in this section.

959 Section 22. Paragraph (a) of subsection (8) of section
960 895.02, Florida Statutes, is amended to read:

961 895.02 Definitions.—As used in ss. 895.01-895.08, the term:

962 (8) "Racketeering activity" means to commit, to attempt to
963 commit, to conspire to commit, or to solicit, coerce, or
964 intimidate another person to commit:

965 (a) Any crime that is chargeable by petition, indictment,
966 or information under the following provisions of the Florida
967 Statutes:

968 1. Section 210.18, relating to evasion of payment of
969 cigarette taxes.

970 2. Section 316.1935, relating to fleeing or attempting to
971 elude a law enforcement officer and aggravated fleeing or
972 eluding.

973 3. Chapter 379, relating to the illegal sale, purchase,
974 collection, harvest, capture, or possession of wild animal life,
975 freshwater aquatic life, or marine life, and related crimes.

976 4. Section 403.727(3)(b), relating to environmental
977 control.

978 5. Section 409.920 or s. 409.9201, relating to Medicaid
979 fraud.

980 6. Section 414.39, relating to public assistance fraud.

981 7. Section 440.105 or s. 440.106, relating to workers'
982 compensation.

983 8. Section 443.071(4), relating to creation of a fictitious
984 employer scheme to commit reemployment assistance fraud.

985 9. Section 465.0161, relating to distribution of medicinal
986 drugs without a permit as an Internet pharmacy.

29-01102-24 20241590__

987 10. Section 499.0051, relating to crimes involving
 988 contraband, adulterated, or misbranded drugs.
 989 11. Part IV of chapter 501, relating to telemarketing.
 990 12. Chapter 517, relating to sale of securities and
 991 investor protection.
 992 13. Section 550.235 or s. 550.3551, relating to dogracing
 993 and horseracing.
 994 14. Chapter 550, relating to jai alai frontons.
 995 15. Section 551.109, relating to slot machine gaming.
 996 16. Chapter 552, relating to the manufacture, distribution,
 997 and use of explosives.
 998 17. Chapter 560, relating to money transmitters, if the
 999 violation is punishable as a felony.
 1000 18. Chapter 562, relating to beverage law enforcement.
 1001 19. Section 624.401, relating to transacting insurance
 1002 without a certificate of authority, s. 624.437(4)(c)1., relating
 1003 to operating an unauthorized multiple-employer welfare
 1004 arrangement, or s. 626.902(1)(b), relating to representing or
 1005 aiding an unauthorized insurer.
 1006 20. Section 655.50, relating to reports of currency
 1007 transactions, when such violation is punishable as a felony.
 1008 21. Chapter 687, relating to interest and usurious
 1009 practices.
 1010 22. Section 721.08, s. 721.09, or s. 721.13, relating to
 1011 real estate timeshare plans.
 1012 23. Section 775.13(5)(b), relating to registration of
 1013 persons found to have committed any offense for the purpose of
 1014 benefiting, promoting, or furthering the interests of a criminal
 1015 gang.

29-01102-24 20241590__

1016 24. Section 777.03, relating to commission of crimes by
 1017 accessories after the fact.
 1018 25. Chapter 782, relating to homicide.
 1019 26. Chapter 784, relating to assault and battery.
 1020 27. Chapter 787, relating to kidnapping, human smuggling,
 1021 or human trafficking.
 1022 28. Chapter 790, relating to weapons and firearms.
 1023 29. Chapter 794, relating to sexual battery, but only if
 1024 such crime was committed with the intent to benefit, promote, or
 1025 further the interests of a criminal gang, or for the purpose of
 1026 increasing a criminal gang member's own standing or position
 1027 within a criminal gang.
 1028 30. Former s. 796.03, former s. 796.035, former s. 796.04,
 1029 s. 796.05, s. 796.06, or s. 796.07, relating to prostitution.
 1030 31. Chapter 806, relating to arson and criminal mischief.
 1031 32. Chapter 810, relating to burglary and trespass.
 1032 33. Chapter 812, relating to theft, robbery, and related
 1033 crimes.
 1034 34. Chapter 815, relating to computer-related crimes.
 1035 35. Chapter 817, relating to fraudulent practices, false
 1036 pretenses, fraud generally, credit card crimes, and patient
 1037 brokering.
 1038 36. Chapter 825, relating to abuse, neglect, or
 1039 exploitation of an elderly person or disabled adult.
 1040 37. Section 827.071, relating to commercial sexual
 1041 exploitation of children.
 1042 38. Section 828.122, relating to fighting or baiting
 1043 animals.
 1044 39. Chapter 831, relating to forgery and counterfeiting.

29-01102-24

20241590

1045 40. Chapter 832, relating to issuance of worthless checks
 1046 and drafts.

1047 41. Section 836.05, relating to extortion.

1048 42. Chapter 837, relating to perjury.

1049 43. Chapter 838, relating to bribery and misuse of public
 1050 office.

1051 44. Chapter 843, relating to obstruction of justice.

1052 45. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
 1053 s. 847.07, relating to obscene literature and profanity.

1054 46. Chapter 849, relating to gambling, lottery, gambling or
 1055 gaming devices, slot machines, or any of the provisions within
 1056 that chapter.

1057 47. Chapter 874, relating to criminal gangs.

1058 48. Chapter 893, relating to drug abuse prevention and
 1059 control.

1060 49. Chapter 896, relating to offenses related to financial
 1061 transactions.

1062 50. Sections 914.22 and 914.23, relating to tampering with
 1063 or harassing a witness, victim, or informant, and retaliation
 1064 against a witness, victim, or informant.

1065 51. Sections 918.12 and 918.13, relating to tampering with
 1066 jurors and evidence.

1067 Section 23. Section 938.085, Florida Statutes, is amended
 1068 to read:

1069 938.085 Additional cost to fund rape crisis centers.—In
 1070 addition to any sanction imposed when a person pleads guilty or
 1071 nolo contendere to, or is found guilty of, regardless of
 1072 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and
 1073 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;

29-01102-24

20241590

1074 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
 1075 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.
 1076 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.
 1077 796.03; former s. 796.035; former s. 796.04; s. 796.05; s.
 1078 796.06; s. 796.07(1) ~~s. 796.07(2)(a)-(d) and (i)~~; s. 800.03; s.
 1079 800.04; s. 810.14; s. 810.145; s. 812.135; s. 817.025; s.
 1080 825.102; s. 825.1025; s. 827.071; s. 836.10; s. 847.0133; s.
 1081 847.0135(2); s. 847.0137; s. 847.0145; s. 943.0435(4)(c), (7),
 1082 (8), (9)(a), (13), and (14)(c); or s. 985.701(1), the court
 1083 shall impose a surcharge of \$151. Payment of the surcharge shall
 1084 be a condition of probation, community control, or any other
 1085 court-ordered supervision. The sum of \$150 of the surcharge
 1086 shall be deposited into the Rape Crisis Program Trust Fund
 1087 established within the Department of Health by chapter 2003-140,
 1088 Laws of Florida. The clerk of the court shall retain \$1 of each
 1089 surcharge that the clerk of the court collects as a service
 1090 charge of the clerk's office.

1091 Section 24. Subsection (1) and paragraphs (a) and (b) of
 1092 subsection (2) of section 943.0433, Florida Statutes, are
 1093 amended to read:

1094 943.0433 Soliciting for Prostitution Public Database.—

1095 (1) The department shall create and administer the
 1096 Soliciting for Prostitution Public Database. The clerk of the
 1097 court shall forward to the department the criminal history
 1098 record of a person in accordance with s. 796.07(3)(e) ~~s.~~
 1099 ~~796.07(5)(e)~~, and the department shall add the criminal history
 1100 record to the database.

1101 (2)(a) The department shall automatically remove the
 1102 criminal history record of a person from the database if, after

29-01102-24

20241590__

1103 5 years following the commission of an offense that meets the
1104 criteria set forth in s. 796.07(3)(e) ~~s. 796.07(5)(e)~~, such
1105 person has not subsequently committed a violation that meets
1106 such criteria or any other offense within that time that would
1107 constitute a sexual offense, including, but not limited to,
1108 human trafficking, or an offense that would require registration
1109 as a sexual offender.

1110 (b) The department may not remove a criminal history record
1111 from the database if a person commits a violation that meets the
1112 criteria set forth in s. 796.07(3)(e) ~~s. 796.07(5)(e)~~ a second
1113 or subsequent time.

1114 Section 25. 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

SB 1590

Bill Number or Topic

1/30/24
Meeting Date

Criminal Justice
Committee

Name John Labriola

Phone 954-515-2084

Address Po Box 650216

Email JohnLabriola@cfcflorida.net

Miami
Street

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:

Christian Family Coalition 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. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

1-30-2024

Meeting Date
Criminal Justice

Committee
Sheriff Bob Gualtieri

Name
10750 Ulmerton Road

Address

Street
Largo

City

State
FL

State

Zip
33779

Zip

The Florida Senate
APPEARANCE RECORD

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

1590

Bill Number or Topic

Amendment Barcode (if applicable)

727-582-6200

Phone

rgualtieri@psconet.com

Email

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:



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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1-30-24

Meeting Date

SB 1590

Bill Number or Topic

CRIMINAL JUSTICE

Committee

Amendment Barcode (if applicable)

Name NICOLE WHITAKER

Phone 850-556-9413

Address 3059 TURKEY RUN LANE

Street

Email NICOLE@CHRISTIANSAGAINST
TRAFFICKING.COM

TALLAHASSEE

City

FL

State

32312

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

SB 1590

Bill Number or Topic

11/30/24

Meeting Date

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Aaron DiPietro

Phone 904-608-4471

Address P.O. Box 530103
Street

Email aaron.d@flfamily.org

Orlando
City

FL
State

32853
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 Family Policy
Council

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

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

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

S-001 (08/10/2021)



The Florida Senate

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 #1590**, relating to Prostitution and Related Acts, be placed on the:

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

A handwritten signature in blue ink that reads "Erin K. Grall".

Senator Erin Grall
Florida Senate, District 29

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 1618

INTRODUCER: Senator Martin

SUBJECT: Interception and Disclosure of Oral Communications

DATE: January 29, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Cella	Stokes	CJ	Favorable
2. _____	_____	JU	_____
3. _____	_____	RC	_____

I. Summary:

SB 1618 creates a new exception to the prohibition located in s. 934.03(1), F.S., against a person intentionally intercepting, endeavoring to intercept, or procuring any other person to intercept or endeavor to intercept any wire, oral, or electronic communication.

The exception created by the bill will allow a parent or legal guardian of a child under the age of 18 to intercept and record an oral communication if the child is a party to the communication and:

- The parent or legal guardian has reasonable grounds to believe that recording the communication
- Will capture a statement by another party to the communication that
- The other party intends to commit, is committing, or has committed an unlawful sexual act or an unlawful act of physical force or violence against the child.

The bill requires that a recording authorized by the bill which captures a statement by a party that the party intends to commit, is committing, or has committed an unlawful sexual act or an unlawful act of physical force or violence against a child:

- Must be provided to a law enforcement agency and
- May be used for the purpose of evidencing the intent to commit or the commission of a crime specified in the bill against a child.

Additionally, the bill requires that a recording authorized under the bill may not be otherwise disseminated or shared.

The bill is effective upon becoming a law.

II. Present Situation:

Privacy in One's Oral Communication - Statutory Law

Chapter 934, F.S., governs the security of electronic and telephonic communications. Although most provisions in the chapter relate to law enforcement officers' and communication professionals' actions and limitations, some apply just as well to average citizens.

One such provision is s. 934.03(4), F.S., which contains criminal offenses and corresponding penalties for intercepting another's oral communication *unless* the chapter contains an exception.¹

An exception is set forth in s. 934.03(2)(k), F.S., which provides that it is *lawful*:

- For a child under 18 years of age to intercept and record an oral communication;
- If the child is a party to the communication and has reasonable grounds to believe that;
- Recording the communication will capture a statement by another party to the communication that;
- The other party intends to commit, is committing, or has committed an unlawful sexual act or an unlawful act of physical force or violence against the child.²

The admissibility in evidence of an intercepted and recorded oral communication of another is not guaranteed. Section 934.06, F.S., provides: "Whenever any wire or oral communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the state, or a political subdivision thereof, *if the disclosure of that information would be in violation of this chapter.*"

"Oral communication" is defined as an oral communication *uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation* and does not mean any public oral communication uttered at a public meeting or any electronic communication.³ Not all oral communication under s. 934.02(2), F.S., is spoken by a person who has a reasonable expectation of privacy in his or her communication. That question largely depends on the facts and circumstances of the utterance.

A person's expectation of privacy when the communication occurs in an open, public area does not necessarily amount to a reasonable expectation of privacy.⁴ However, if the communication occurs in a private location and the interception and recording is done in a surreptitious manner,

¹ The prohibition located in s. 934.03(1), F.S., against intentionally intercepting, endeavoring to intercept, or procuring any other person to intercept or endeavor to intercept any wire, oral, or electronic communication, is punishable as a third degree felony. Section 934.03(4), F.S. A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S. Note that s. 934.41, F.S., contains an alternative fine under limited circumstances.

² See also, s. 934.03(2)(l), F.S., for a similar exception for "a person who is protected under an active temporary or final injunction for repeat violence, sexual violence, or dating violence under s. 784.046; stalking under s. 784.0485; domestic violence under s. 741.30; or any other court-imposed prohibition of conduct toward the person to intercept and record a wire, oral, or electronic communication received in violation of such injunction or court order."

³ Section 934.02(2), F.S.

⁴ *State v. Garcia*, 252 So. 3d 783 (Fla. 3d DCA 2018); *State v. Caraballo*, 198 So.3d 819 (Fla. 2d 2018).

the communication may be more likely to be protected from interception by the provisions in ch. 934, F.S.

Case Law, Legislative Creation of Exception

In *McDade v. State*,⁵ a 2014 case before the Florida Supreme Court, the court decided that it was an error to receive in evidence at McDade's criminal trial recordings that his stepdaughter surreptitiously made when she was 16 years-old.

The recordings, which contained conversations between McDade and his stepdaughter in McDade's bedroom, were introduced at McDade's trial for various crimes involving sexual abuse of his stepdaughter. The recorded conversations included statements by McDade that supported his stepdaughter's testimony at trial that McDade had sexually abused her. McDade had objected to their introduction.

The question before the court in *McDade v. State*⁶ was whether a *recording of solicitation and confirmation of child sexual abuse surreptitiously made by the child victim in the accused's bedroom* falls within the oral communication protections of ch. 934, F.S.

In late 2014, the court found that none of the exceptions to the prohibitions against the recording applied.⁷ The court further concluded that the facts surrounding the conversations and the recording of those conversations indicated the recordings were prohibited and inadmissible under ch. 934, F.S.⁸

Soon after the *McDade* decision, in 2015, the Legislature passed the exception now found in s. 934.03(2)(k), F.S. It is *lawful*:

- For a child under 18 years of age to intercept and record an oral communication;
- If the child is a party to the communication and has reasonable grounds to believe that;
- Recording the communication will capture a statement by another party to the communication that;
- The other party intends to commit, is committing, or has committed an unlawful sexual act or an unlawful act of physical force or violence against the child.

III. Effect of Proposed Changes:

The bill creates a new exception to the prohibition located in s. 934.03(1), F.S., against a person intentionally intercepting, endeavoring to intercept, or procuring any other person to intercept or endeavor to intercept any wire, oral, or electronic communication.

⁵ 154 So.3d 292(Fla. 2014).

⁶ *Id.*

⁷ McDade did not consent to the conversations being recorded, and none of the other exceptions listed in s. 934.03(2), F.S., apply. *Id.* at 298.

⁸ "The facts related to the recorded conversations support the conclusion that McDade's statements were 'uttered by a person exhibiting an expectation that [his] communication [was] not subject to interception' and that McDade made those statements 'under circumstances justifying' his expectation that his statements would not be recorded. § 934.02(2), Fla. Stat. (2010). The recordings were made surreptitiously. McDade did not consent to the conversations being recorded ...The recordings, therefore, were prohibited. Because the recordings impermissibly intercepted oral communications, the recordings are inadmissible under section 934.06, Florida Statutes (2010)." *Id.* at 298.

The exception created by the bill will allow a parent or legal guardian of a child under the age of 18 to intercept and record an oral communication if the child is a party to the communication and:

- The parent or legal guardian has reasonable grounds to believe that recording the communication
- Will capture a statement by another party to the communication that
- The other party intends to commit, is committing, or has committed an unlawful sexual act or an unlawful act of physical force or violence against the child.

This exception differs from the similar exception in current law.⁹ The bill does not require the party who is recording the oral communication (a parent or legal guardian) be a party to the communication being intercepted and recorded.

The bill requires that a recording authorized by the bill which captures a statement by a party that the party intends to commit, is committing, or has committed an unlawful sexual act or an unlawful act of physical force or violence against a child:

- Must be provided to a law enforcement agency and
- May be used for the purpose of evidencing the intent to commit or the commission of a crime specified in the bill against a child.

Additionally, the bill requires that a recording authorized under the bill may not be otherwise disseminated or shared.

The bill is effective upon becoming a law.

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.

⁹ Section 934.03(2)(k), F.S. See also s. 934.03(2)(l), F.S.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 934.03 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

33-01612B-24

20241618__

1 A bill to be entitled
 2 An act relating to interception and disclosure of oral
 3 communications; amending s. 934.03, F.S.; authorizing
 4 the interception and recording of an oral
 5 communication by the parent or legal guardian of a
 6 child under a specified age under certain
 7 circumstances; requiring that the recording be
 8 provided to a law enforcement agency; prohibiting any
 9 further dissemination or sharing of the recording;
 10 providing an effective date.
 11
 12 Be It Enacted by the Legislature of the State of Florida:
 13
 14 Section 1. Present paragraph (1) of subsection (2) of
 15 section 934.03, Florida Statutes, is redesignated as paragraph
 16 (m), and a new paragraph (1) is added to that subsection, to
 17 read:
 18 934.03 Interception and disclosure of wire, oral, or
 19 electronic communications prohibited.—
 20 (2)
 21 (1)1. It is lawful under this section and ss. 934.04-934.09
 22 for a parent or legal guardian of a child under 18 years of age
 23 to intercept and record an oral communication if the child is a
 24 party to the communication and the parent or legal guardian has
 25 reasonable grounds to believe that recording the communication
 26 will capture a statement by another party to the communication
 27 that the other party intends to commit, is committing, or has
 28 committed an unlawful sexual act or an unlawful act of physical
 29 force or violence against the child.

Page 1 of 2

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

33-01612B-24

20241618__

30 2. A recording authorized under this paragraph which
 31 captures a statement by a party that the party intends to
 32 commit, is committing, or has committed an unlawful sexual act
 33 or an unlawful act of physical force or violence against a child
 34 must be provided to a law enforcement agency and may be used for
 35 the purpose of evidencing the intent to commit or the commission
 36 of a crime specified in subparagraph 1. against a child. A
 37 recording authorized under this paragraph may not be otherwise
 38 disseminated or shared.
 39 Section 2. This act shall take effect upon becoming a law.

Page 2 of 2

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

The Florida Senate
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 1656

INTRODUCER: Senator Martin

SUBJECT: Child Exploitation Offenses

DATE: January 29, 2024

REVISED: _____

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

I. Summary:

SB 1656 amends ss. 847.0135 and 847.0137, F.S., enhancing penalties for specific crimes relating to the exploitation of children.

The bill amends s. 921.0022, F.S., ranking offenses and revising ranking levels of certain offenses on the offense severity ranking chart (OSRC) of the Criminal Punishment Code.

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

The bill is effective October 1, 2024.

II. Present Situation:

Child Exploitation Offense

Using a Child in Sexual Performance

Section 827.071(2), F.S., prohibits a person from, knowing the character and content thereof, employing, authorizing, or inducing a child to engage in a sexual performance; or being a parent, legal guardian, or custodian of such child, consenting to the participation by such child in a sexual performance. A violation for using a child in a sexual performance is a second degree felony¹ and the offense is ranked as a Level 6 offense on the OSRC.

¹ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082, 775.083, or 775.084, F.S.

Promoting a Sexual Performance by a Child

Under s. 827.071(3), F.S., a person commits a second degree felony if, knowing the character and content thereof, he or she produces, directs, or promotes any performance which includes sexual conduct by a child. The offense is ranked as a Level 6 offense on the OSRC.

Possessing Child Pornography with Intent to Promote

Under s. 827.071(4), F.S., a person commits a second degree felony if he or she possesses with the intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, includes child pornography. The possession of three or more copies of such photograph, motion picture, representation, or presentation is prima facie evidence of an intent to promote. The offense is ranked as a Level 5 offense on the OSRC.

Possessing or Intentionally Viewing Child Pornography

Section 827.071(5), F.S., prohibits a person from knowingly possessing, controlling, or intentionally viewing a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation which, in whole or in part, he or she knows to include child pornography. A violation of the prohibition is a third degree felony and the offense is ranked as a Level 5 offense on the OSRC.

Additionally, s. 827.071(5), F.S., specifies that the possession, control, or intentional viewing of each such photograph, motion picture, exhibition, show, image, data, computer depiction, representation, or presentation is a separate offense, and if such photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation includes child pornography depicting more than one child, then each such child in each such photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation that is knowingly possessed, controlled, or intentionally viewed is a separate offense.²

Section 827.071, F.S., defines the following relevant terms:

- “Child pornography” means any image depicting a minor engaged in sexual conduct, or any image that has been created, altered, adapted, or modified by electronic, mechanical, or other means, to portray an identifiable minor engaged in sexual conduct.³
- “Sexual conduct” means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual or simulated lewd exhibition of the genitals; actual physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast, with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed.⁴

² This does not apply to any material possessed, controlled, or intentionally viewed as part of a law enforcement investigation. Section 827.071(5)(b), F.S.

³ Section 827.071(1)(b), F.S.

⁴ A mother’s breastfeeding of her baby does not under any circumstance constitute “sexual conduct.” Section 827.071(1)(l), F.S.

- “Sexual performance” means any performance or part thereof which includes sexual conduct by a child.⁵

Criminal Punishment Code and Offense Severity Ranking

- The Criminal Punishment Code⁶ is Florida’s primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (levels 1-10). Points are assigned and accrue based upon the severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates.
- 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. Currently, a felony of the third degree is ranked as a level 1 offense, and a second degree felony is ranked as a level 4 offense.⁷

Reclassification of Specified Child Exploitation Offenses

Under s. 775.0847, F.S., a violation of s. 827.071, F.S., must be reclassified to the next higher degree if the offender possesses 10 or more images of any form of child pornography regardless of content, and the content of at least one image contains one or more of the following:

- A child who is younger than the age of five;
- Sadoomasochistic abuse involving a child;
- Sexual battery involving a child;
- Sexual bestiality involving a child; or
- Any motion picture, film, video, or computer-generated motion picture, film, or video involving a child, regardless of length and regardless of whether the motion picture, film, video, or computer-generated motion picture, film, or video contains sound.

III. Effect of Proposed Changes:

The bill amends s. 847.0135, F.S., prohibiting the use of computer services or devices that are capable of electronic data storage or transmission to “[s]educe, solicit, lure, or entice, or attempt to solicit, lure, or entice, a child or another person believed by the person to be a child” to engage in unlawful sexual conduct, and providing that a person who violates this provision commits a felony of the second degree.⁸

The bill also revises penalties for certain uses of computer services or devices, providing that any 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:

⁵ “Performance” means any play, motion picture, photograph, or dance or any other visual representation exhibited before an audience. Section 827.071(1)(m) and (g), F.S.

⁶ 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.

⁷ Section 921.0023(1) and (2), F.S.

⁸ A second degree felony is punishable by a term of imprisonment not exceeding 15 years as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

- 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, ch. 800, or ch 827, 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, commits a felony of the second degree.¹⁰

The bill amends s. 847.0137, F.S., providing that any person in this state who knew or reasonably should have known that he or she was transmitting child pornography, as defined in s. 847.001, F.S., to another person in this state or in another jurisdiction commits a felony of the second degree.

The bill also provides that any person in any jurisdiction other than this state who knew or reasonably should have known that he or she was transmitting child pornography, as defined in s. 847.001, F.S., to any person in this state commits a second degree felony.

The bill amends s. 921.0022, F.S., to increase the OSRC rankings for specified child exploitation offenses as follows:¹¹

Violation	Current OSRC Ranking	New OSRC Ranking
Lewd or lascivious exhibition using computer; offender less than 18 years under s. 847.0135(5)(c), F.S.	Level 4	Unranked third degree felony
Possessing child pornography with intent to promote under s. 827.071(4), F.S.	Level 5	Level 7
Lewd or lascivious exhibition using computer; offender 18 years or older under s. 847.0135(5)(b), F.S.	Level 5	Level 6
Transmission of pornography by electronic device or equipment under s. 847.0137(2) or (3), F.S.	Level 5	Level 6
Transmission of material harmful to minors to a minor by electronic device or equipment under s. 847.0138(2) or (3), F.S.	Level 5	Level 7
Facilitates sexual conduct with a minor or the visual depiction of such conduct under, s. 847.0135(2), F.S.	Level 6	Level 7
Using a child in or promoting a child sexual performance under s. 827.071(2) or (3), F.S.	Level 6	Level 7

By increasing the offense severity ranking of specified child exploitation offenses, the bill may increase the minimum sentence to which a person convicted of such an offense may be sentenced and may increase a term of incarceration required to be imposed as part of that sentence.

⁹ Section 847.0135(3)(a), F.S.

¹⁰ Section 847.0135(3)(b), F.S.

¹¹ The bill retains the current felony levels for ss. 827.071(2), (3), (4), and (5), F.S.

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 a positive indeterminate impact on the jail and prison bed population by increasing the OSRC ranking for specified child exploitation offenses, which may result in sentences including longer terms of incarceration for persons convicted of such offenses.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 847.0135, 847.0137, and 921.0022.

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

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

None.

B. Amendments:

None.

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

By Senator Martin

33-01421-24

20241656__

A bill to be entitled

An act relating to child exploitation offenses; amending ss. 847.0135 and 847.0137, F.S.; revising penalties for specified offenses involving children; amending s. 921.0022, F.S.; ranking offenses and revising offense ranking levels for purposes of the offense severity ranking chart of the Criminal Punishment Code; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsections (2) and (3) of section 847.0135, Florida Statutes, are amended to read:

847.0135 Computer pornography; prohibited computer usage; traveling to meet minor; penalties.—

(2) COMPUTER PORNOGRAPHY.—A person who:

(a) Knowingly compiles, enters into, or transmits by use of computer;

(b) Makes, prints, publishes, or reproduces by other computerized means;

(c) Knowingly causes or allows to be entered into or transmitted by use of computer; or

(d) Buys, sells, receives, exchanges, or disseminates, any notice, statement, or advertisement of any minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for purposes of facilitating, encouraging, offering, or soliciting sexual

33-01421-24

20241656__

conduct of or with any minor, or the visual depiction of such conduct, commits a felony of the second ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, ~~or~~ s. 775.084, or s. 775.0847. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this section shall not constitute a defense to a prosecution under this section.

(3) CERTAIN USES OF COMPUTER SERVICES OR DEVICES PROHIBITED.—Any 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:

(a) 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 chapter 794, chapter 800, or chapter 827, or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child; or

(b) 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 chapter 794, chapter 800, or chapter 827, or to otherwise engage in any sexual conduct,

commits a felony of the second ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or s. 775.0847. Any person who, in violating this subsection, misrepresents his or her age, commits a felony of the second

33-01421-24 20241656__
 59 degree, punishable as provided in s. 775.082, s. 775.083, ~~or~~ s.
 60 775.084, or s. 775.0847. Each separate use of a computer online
 61 service, Internet service, local bulletin board service, or any
 62 other device capable of electronic data storage or transmission
 63 wherein an offense described in this section is committed may be
 64 charged as a separate offense.

65 Section 2. Subsections (2) and (3) of section 847.0137,
 66 Florida Statutes, are amended to read:

67 847.0137 Transmission of pornography by electronic device
 68 or equipment prohibited; penalties.—

69 (2) Notwithstanding ss. 847.012 and 847.0133, any person in
 70 this state who knew or reasonably should have known that he or
 71 she was transmitting child pornography, as defined in s.
 72 847.001, to another person in this state or in another
 73 jurisdiction commits a felony of the second ~~third~~ degree,
 74 punishable as provided in s. 775.082, s. 775.083, ~~or~~ s. 775.084,
 75 or s. 775.0847.

76 (3) Notwithstanding ss. 847.012 and 847.0133, any person in
 77 any jurisdiction other than this state who knew or reasonably
 78 should have known that he or she was transmitting child
 79 pornography, as defined in s. 847.001, to any person in this
 80 state commits a felony of the second ~~third~~ degree, punishable as
 81 provided in s. 775.082, s. 775.083, ~~or~~ s. 775.084, or s.
 82 775.0847.

83
 84 The provisions of this section do not apply to subscription-
 85 based transmissions such as list servers.

86 Section 3. Paragraphs (d), (e), (f), and (g) of subsection
 87 (3) of section 921.0022, Florida Statutes, are amended to read:

33-01421-24 20241656__
 88 921.0022 Criminal Punishment Code; offense severity ranking
 89 chart.—
 90 (3) OFFENSE SEVERITY RANKING CHART
 91 (d) LEVEL 4
 92

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.

33-01421-24 20241656__

98 784.031 3rd Battery by strangulation.

99 784.07(2)(b) 3rd Battery of law enforcement
officer, firefighter, etc.

100 784.074(1)(c) 3rd Battery of sexually violent
predators facility staff.

101 784.075 3rd Battery on detention or
commitment facility staff.

102 784.078 3rd Battery of facility employee by
throwing, tossing, or expelling
certain fluids or materials.

103 784.08(2)(c) 3rd Battery on a person 65 years of
age or older.

104 784.081(3) 3rd Battery on specified official
or employee.

105 784.082(3) 3rd Battery by detained person on
visitor or other detainee.

106 784.083(3) 3rd Battery on code inspector.

107 784.085 3rd Battery of child by throwing,
tossing, projecting, or

Page 5 of 50

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

33-01421-24 20241656__

108 expelling certain fluids or
materials.

787.03(1) 3rd Interference with custody;
wrongly takes minor from
appointed guardian.

109 787.04(2) 3rd Take, entice, or remove child
beyond state limits with
criminal intent pending custody
proceedings.

110 787.04(3) 3rd Carrying child beyond state
lines with criminal intent to
avoid producing child at
custody hearing or delivering
to designated person.

111 787.07 3rd Human smuggling.

112 790.115(1) 3rd Exhibiting firearm or weapon
within 1,000 feet of a school.

113 790.115(2)(b) 3rd Possessing electric weapon or
device, destructive device, or
other weapon on school
property.

114 790.115(2)(c) 3rd Possessing firearm on school

Page 6 of 50

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

33-01421-24

20241656__

property.

115

794.051(1)

3rd

Indecent, lewd, or lascivious
touching of certain minors.

116

800.04(7)(c)

3rd

Lewd or lascivious exhibition;
offender less than 18 years.

117

806.135

2nd

Destroying or demolishing a
memorial or historic property.

118

810.02(4)(a)

3rd

Burglary, or attempted
burglary, of an unoccupied
structure; unarmed; no assault
or battery.

119

810.02(4)(b)

3rd

Burglary, or attempted
burglary, of an unoccupied
conveyance; unarmed; no assault
or battery.

120

810.06

3rd

Burglary; possession of tools.

121

810.08(2)(c)

3rd

Trespass on property, armed
with firearm or dangerous
weapon.

122

812.014(2)(c)3.

3rd

Grand theft, 3rd degree \$10,000
or more but less than \$20,000.

Page 7 of 50

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

33-01421-24

20241656__

123

812.014

3rd

Grand theft, 3rd degree;
specified items.(2)(c)4. &
6.-10.

124

812.0195(2)

3rd

Dealing in stolen property by
use of the Internet; property
stolen \$300 or more.

125

817.505(4)(a)

3rd

Patient brokering.

126

817.563(1)

3rd

Sell or deliver substance other
than controlled substance
agreed upon, excluding s.
893.03(5) drugs.

127

817.568(2)(a)

3rd

Fraudulent use of personal
identification information.

128

817.5695(3)(c)

3rd

Exploitation of person 65 years
of age or older, value less
than \$10,000.

129

817.625(2)(a)

3rd

Fraudulent use of scanning
device, skimming device, or
reencoder.

130

817.625(2)(c)

3rd

Possess, sell, or deliver
skimming device.

Page 8 of 50

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

33-01421-24 20241656__

131 828.125(1) 2nd Kill, maim, or cause great
bodily harm or permanent
breeding disability to any
registered horse or cattle.

132 836.14(2) 3rd Person who commits theft of a
sexually explicit image with
intent to promote it.

133 836.14(3) 3rd Person who willfully possesses
a sexually explicit image with
certain knowledge, intent, and
purpose.

134 837.02(1) 3rd Perjury in official
proceedings.

135 837.021(1) 3rd Make contradictory statements
in official proceedings.

136 838.022 3rd Official misconduct.

137 839.13(2) (a) 3rd Falsifying records of an
individual in the care and
custody of a state agency.

138 839.13(2) (c) 3rd Falsifying records of the
Department of Children and

33-01421-24 20241656__

139 Families.

843.021 3rd Possession of a concealed
handcuff key by a person in
custody.

140 843.025 3rd Deprive law enforcement,
correctional, or correctional
probation officer of means of
protection or communication.

141 843.15(1) (a) 3rd Failure to appear while on bail
for felony (bond estreature or
bond jumping).

142 843.19(2) 2nd Injure, disable, or kill
police, fire, or SAR canine or
police horse.

143 ~~847.0135(5) (e)~~ ~~3rd~~ ~~Lewd or lascivious exhibition~~
~~using computer; offender less~~
~~than 18 years.~~

144 870.01(3) 2nd Aggravated rioting.

145 870.01(5) 2nd Aggravated inciting a riot.

146 874.05(1) (a) 3rd Encouraging or recruiting
another to join a criminal

33-01421-24 20241656__

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 3rd Introduction of specified contraband into certain DCF facilities.

(2)(c)1.

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)

33-01421-24 20241656__

into correctional institution.

951.22(1)(h), 3rd Intoxicating drug, instrumentality or other device to aid escape, or cellular telephone or other portable communication device introduced into county detention facility.

(j) & (k)

(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.

	33-01421-24		20241656__
164	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.
165	379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
166	379.407(5)(b)3.	3rd	Possession of 100 or more undersized spiny lobsters.
167			

	33-01421-24		20241656__
168	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
	440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
169	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
170	440.381(2)	3rd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
171	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
172	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
173	790.01(3)	3rd	Unlawful carrying of a concealed firearm.
174	790.162	2nd	Threat to throw or discharge destructive device.

33-01421-24 20241656__

175

790.163(1) 2nd False report of bomb,
explosive, weapon of mass
destruction, or use of firearms
in violent manner.

176

790.221(1) 2nd Possession of short-barreled
shotgun or machine gun.

177

790.23 2nd Felons in possession of
firearms, ammunition, or
electronic weapons or devices.

178

796.05(1) 2nd Live on earnings of a
prostitute; 1st offense.

179

800.04(6)(c) 3rd Lewd or lascivious conduct;
offender less than 18 years of
age.

180

800.04(7)(b) 2nd Lewd or lascivious exhibition;
offender 18 years of age or
older.

181

806.111(1) 3rd Possess, manufacture, or
dispense fire bomb with intent
to damage any structure or
property.

182

Page 15 of 50

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

33-01421-24 20241656__

183

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

3rd

Retail theft; property stolen
is valued at \$750 or more and
one or more specified acts.

(8)(a) & (c)-
(e)

184

812.015(8)(f) 3rd Retail theft; multiple thefts
within specified period.

185

812.019(1) 2nd Stolen property; dealing in or
trafficking in.

186

812.081(3) 2nd Trafficking in trade secrets.

187

812.131(2)(b) 3rd Robbery by sudden snatching.

188

812.16(2) 3rd Owning, operating, or
conducting a chop shop.

189

817.034(4)(a)2. 2nd Communications fraud, value
\$20,000 to \$50,000.

190

817.234(11)(b) 2nd Insurance fraud; property value
\$20,000 or more but less than
\$100,000.

191

817.2341(1), 3rd Filing false financial

Page 16 of 50

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

33-01421-24 20241656__

(2) (a) & (3) (a) 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.

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~~

Page 17 of 50

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

33-01421-24 20241656__

~~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.

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

Page 18 of 50

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

33-01421-24 20241656__

202 violence.

203 ~~847.0135(5)(b)~~ 2nd ~~Lewd or lascivious exhibition~~
~~using computer, offender 18~~
~~years or older.~~

204 ~~847.0137~~ 3rd ~~Transmission of pornography by~~
~~(2) & (3)~~ ~~electronic device or equipment.~~

205 ~~847.0138~~ 3rd ~~Transmission of material~~
~~(2) & (3)~~ ~~harmful to minors to a minor by~~
~~electronic device or equipment.~~

206 874.05(1)(b) 2nd Encouraging or recruiting
another to join a criminal
gang; second or subsequent
offense.

207 874.05(2)(a) 2nd Encouraging or recruiting
person under 13 years of age to
join a criminal gang.

208 893.13(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 deliver

33-01421-24 20241656__

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.

209 893.13(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.

210 893.13(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.

33-01421-24 20241656__

211

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.

212

893.13(4)(b) 2nd Use or hire of minor; deliver to minor other controlled substance.

213

893.1351(1) 3rd Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

214

215

(f) LEVEL 6

216

Florida Statute	Felony Degree	Description
-----------------	---------------	-------------

217

316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
---------------	-----	---

218

316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
---------------	-----	---

219

400.9935(4)(c)	2nd	Operating a clinic, or offering
----------------	-----	---------------------------------

Page 21 of 50

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

33-01421-24 20241656__

220

services requiring licensure, without a license.

499.0051(2)

2nd

Knowing forgery of transaction history, transaction information, or transaction statement.

221

499.0051(3)

2nd

Knowing purchase or receipt of prescription drug from unauthorized person.

222

499.0051(4)

2nd

Knowing sale or transfer of prescription drug to unauthorized person.

223

775.0875(1)

3rd

Taking firearm from law enforcement officer.

224

784.021(1)(a)

3rd

Aggravated assault; deadly weapon without intent to kill.

225

784.021(1)(b)

3rd

Aggravated assault; intent to commit felony.

226

784.041

3rd

Felony battery; domestic battery by strangulation.

227

784.048(3)

3rd

Aggravated stalking; credible

Page 22 of 50

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

	33-01421-24		20241656__	
			threat.	
228	784.048(5)	3rd	Aggravated stalking of person under 16.	
229	784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.	
230	784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.	
231	784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.	
232	784.081(2)	2nd	Aggravated assault on specified official or employee.	
233	784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.	
234	784.083(2)	2nd	Aggravated assault on code inspector.	
235	787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.	
236				

	33-01421-24		20241656__	
	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.	
237	790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.	
238	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.	
239	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.	
240	794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.	
241	794.05(1)	2nd	Unlawful sexual activity with specified minor.	
242	800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age;	

33-01421-24 20241656__
 offender less than 18 years.

243 800.04 (6) (b) 2nd Lewd or lascivious conduct;
 offender 18 years of age or
 older.

244 806.031 (2) 2nd Arson resulting in great bodily
 harm to firefighter or any
 other person.

245 810.02 (3) (c) 2nd Burglary of occupied structure;
 unarmed; no assault or battery.

246 810.145 (8) (b) 2nd Video voyeurism; certain minor
 victims; 2nd or subsequent
 offense.

247 812.014 (2) (b) 1. 2nd Property stolen \$20,000 or
 more, but less than \$100,000,
 grand theft in 2nd degree.

248 812.014 (2) (c) 5. 3rd Grand theft; third degree;
 firearm.

249 812.014 (6) 2nd Theft; property stolen \$3,000
 or more; coordination of
 others.

250 812.015 (9) (a) 2nd Retail theft; property stolen

Page 25 of 50

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

33-01421-24 20241656__
 \$750 or more; second or
 subsequent conviction.

251 812.015 (9) (b) 2nd Retail theft; aggregated
 property stolen within 30 days
 is \$3,000 or more; coordination
 of others.

252 812.015 (9) (d) 2nd Retail theft; multiple thefts
 within specified period.

253 812.13 (2) (c) 2nd Robbery, no firearm or other
 weapon (strong-arm robbery).

254 817.4821 (5) 2nd Possess cloning paraphernalia
 with intent to create cloned
 cellular telephones.

255 817.49 (2) (b) 2. 2nd Willful making of a false
 report of a crime resulting in
 death.

256 817.505 (4) (b) 2nd Patient brokering; 10 or more
 patients.

257 817.5695 (3) (b) 2nd Exploitation of person 65 years
 of age or older, value \$10,000
 or more, but less than \$50,000.

258

Page 26 of 50

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

33-01421-24 20241656__

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

33-01421-24 20241656__

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.

~~847.0135(2) 3rd Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.~~

847.0135(5)(b) 2nd Lewd or lascivious exhibition using computer; offender 18 years or older.

847.0137(2) & (3) 2nd Transmission of child pornography.

893.131 2nd Distribution of controlled substances resulting in overdose or serious bodily

33-01421-24 20241656__

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.

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.

33-01421-24 20241656__

(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.

	33-01421-24		20241656__
	409.920	3rd	Medicaid provider fraud;
291	(2) (b) 1.a.		\$10,000 or less.
	409.920	2nd	Medicaid provider fraud; more
292	(2) (b) 1.b.		than \$10,000, but less than
			\$50,000.
293	456.065(2)	3rd	Practicing a health care
			profession without a license.
294	456.065(2)	2nd	Practicing a health care
			profession without a license
			which results in serious bodily
			injury.
295	458.327(1)	3rd	Practicing medicine without a
			license.
296	459.013(1)	3rd	Practicing osteopathic medicine
			without a license.
297	460.411(1)	3rd	Practicing chiropractic
			medicine without a license.
298	461.012(1)	3rd	Practicing podiatric medicine
			without a license.
	462.17	3rd	Practicing naturopathy without
			a license.

	33-01421-24		20241656__
299	463.015(1)	3rd	Practicing optometry without a
			license.
300	464.016(1)	3rd	Practicing nursing without a
			license.
301	465.015(2)	3rd	Practicing pharmacy without a
			license.
302	466.026(1)	3rd	Practicing dentistry or dental
			hygiene without a license.
303	467.201	3rd	Practicing midwifery without a
			license.
304	468.366	3rd	Delivering respiratory care
			services without a license.
305	483.828(1)	3rd	Practicing as clinical
			laboratory personnel without a
306			license.
	483.901(7)	3rd	Practicing medical physics
307			without a license.
	484.013(1) (c)	3rd	Preparing or dispensing optical
308			devices without a prescription.

	33-01421-24		20241656__
309	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.
310	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.
311	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
312	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
313	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or

	33-01421-24		20241656__
			identification card; other registration violations.
314	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
315	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
316	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
317	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
318	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
319	782.072	2nd	Killing of a human being by the

33-01421-24

20241656__

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.

Page 35 of 50

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

33-01421-24

20241656__

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.

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.

Page 36 of 50

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

	33-01421-24		20241656__
336	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.
337	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
338	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
339	790.23	1st, PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
340	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.
341			

	33-01421-24		20241656__
	796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
342	796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
343	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
344	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.
345	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.
346	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
347	810.02(3)(a)	2nd	Burglary of occupied dwelling;

33-01421-24 20241656__

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.

812.014(2)(b)3. 2nd Property stolen, emergency medical equipment; 2nd degree grand theft.

33-01421-24 20241656__

812.014(2)(b)4. 2nd Property stolen, law enforcement equipment from authorized emergency vehicle.

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.

	33-01421-24		20241656__
	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
363			
	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
364			
	817.2341	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.
	(2)(b) & (3)(b)		
365			
	817.418(2)(a)	3rd	Offering for sale or advertising personal protective equipment with intent to defraud.
366			
	817.504(1)(a)	3rd	Offering or advertising a vaccine with intent to defraud.
367			
	817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
368			
	817.611(2)(b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.

	33-01421-24		20241656__
369	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
370			
	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.
371			
	827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
372			
	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
373			
	<u>827.071(2) & (3)</u>	<u>2nd</u>	<u>Use or induce a child in a sexual performance, or promote or direct such performance.</u>
374			
	<u>827.071(4)</u>	<u>2nd</u>	<u>Possess with intent to promote any photographic material, motion picture, etc., which includes child pornography.</u>
375			
	837.05(2)	3rd	Giving false information about

33-01421-24 20241656__

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 legal process.

843.0855(4) 3rd Intimidation of a public officer or employee.

847.0135(2) 2nd Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.

847.0135(3) 2nd ~~3rd~~ Solicitation of a child, via a computer service, to commit an unlawful sex act.

33-01421-24 20241656__

847.0135(4) 2nd Traveling to meet a minor to commit an unlawful sex act.

847.0138(2) & (3) 3rd Transmission of material harmful to minors to a minor by electronic device or equipment.

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

33-01421-24

20241656__

recreational facility or
community center.

391

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.

392

893.13(4)(a) 1st Use or hire of minor; deliver
to minor other controlled
substance.

393

893.135(1)(a)1. 1st Trafficking in cannabis, more
than 25 lbs., less than 2,000
lbs.

394

893.135 1st Trafficking in cocaine, more
(1)(b)1.a. than 28 grams, less than 200
grams.

395

893.135 1st Trafficking in illegal drugs,
(1)(c)1.a. more than 4 grams, less than 14
grams.

396

893.135 1st Trafficking in hydrocodone, 28

Page 45 of 50

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

33-01421-24

20241656__

(1)(c)2.a. grams or more, less than 50
grams.

397

893.135 1st Trafficking in hydrocodone, 50
(1)(c)2.b. grams or more, less than 100
grams.

398

893.135 1st Trafficking in oxycodone, 7
(1)(c)3.a. grams or more, less than 14
grams.

399

893.135 1st Trafficking in oxycodone, 14
(1)(c)3.b. grams or more, less than 25
grams.

400

893.135 1st Trafficking in fentanyl, 4
(1)(c)4.b.(I) grams or more, less than 14
grams.

401

893.135 1st Trafficking in phencyclidine,
(1)(d)1.a. 28 grams or more, less than 200
grams.

402

893.135(1)(e)1. 1st Trafficking in methaqualone,
200 grams or more, less than 5
kilograms.

403

893.135(1)(f)1. 1st Trafficking in amphetamine, 14
grams or more, less than 28

Page 46 of 50

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

33-01421-24 20241656__

grams.

404 893.135 1st Trafficking in flunitrazepam, 4
(1)(g)1.a. grams or more, less than 14
grams.

405 893.135 1st Trafficking in gamma-
(1)(h)1.a. hydroxybutyric acid (GHB), 1
kilogram or more, less than 5
kilograms.

406 893.135 1st Trafficking in 1,4-Butanediol,
(1)(j)1.a. 1 kilogram or more, less than 5
kilograms.

407 893.135 1st Trafficking in Phenethylamines,
(1)(k)2.a. 10 grams or more, less than 200
grams.

408 893.135 1st Trafficking in synthetic
(1)(m)2.a. cannabinoids, 280 grams or
more, less than 500 grams.

409 893.135 1st Trafficking in synthetic
(1)(m)2.b. cannabinoids, 500 grams or
more, less than 1,000 grams.

410 893.135 1st Trafficking in n-benzyl
(1)(n)2.a. phenethylamines, 14 grams or

33-01421-24 20241656__

more, less than 100 grams.

411 893.1351(2) 2nd Possession of place for
trafficking in or manufacturing
of controlled substance.

412 896.101(5)(a) 3rd Money laundering, financial
transactions exceeding \$300 but
less than \$20,000.

413 896.104(4)(a)1. 3rd Structuring transactions to
evade reporting or registration
requirements, financial
transactions exceeding \$300 but
less than \$20,000.

414 943.0435(4)(c) 2nd Sexual offender vacating
permanent residence; failure to
comply with reporting
requirements.

415 943.0435(8) 2nd Sexual offender; remains in
state after indicating intent
to leave; failure to comply
with reporting requirements.

416 943.0435(9)(a) 3rd Sexual offender; failure to
comply with reporting
requirements.

33-01421-24 20241656__

417

943.0435(13) 3rd Failure to report or providing
false information about a
sexual offender; harbor or
conceal a sexual offender.

418

943.0435(14) 3rd Sexual offender; failure to
report and reregister; failure
to respond to address
verification; providing false
registration information.

419

944.607(9) 3rd Sexual offender; failure to
comply with reporting
requirements.

420

944.607(10) (a) 3rd Sexual offender; failure to
submit to the taking of a
digitized photograph.

421

944.607(12) 3rd Failure to report or providing
false information about a
sexual offender; harbor or
conceal a sexual offender.

422

944.607(13) 3rd Sexual offender; failure to
report and reregister; failure
to respond to address
verification; providing false

Page 49 of 50

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

33-01421-24 20241656__

423

registration information.

985.4815(10) 3rd Sexual offender; failure to
submit to the taking of a
digitized photograph.

424

985.4815(12) 3rd Failure to report or providing
false information about a
sexual offender; harbor or
conceal a sexual offender.

425

985.4815(13) 3rd Sexual offender; failure to
report and reregister; failure
to respond to address
verification; providing false
registration information.

426

427 Section 4. This act shall take effect October 1, 2024.

Page 50 of 50

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

The Florida Senate

APPEARANCE RECORD

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

1-30-2024

Meeting Date

Criminal Justice

Committee

1656

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Sheriff Bob Gualtieri

Phone

727-582-6200

Address

10750 Ulmerton Rd.

Street

Email

rgualtieri@pcsonet.com

City

Largo

State

FL

Zip

33779

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1690

INTRODUCER: Criminal Justice Committee and Senators Yarborough and Perry

SUBJECT: Human Trafficking

DATE: January 31, 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 1690 amends s. 562.13, F.S., revising applicability of the statute by removing language that a minor may not be employed if the employment, whether as a professional entertainer or otherwise, involves nudity on the part of the minor and such nudity is intended as a form of adult entertainment.

The bill creates s. 787.30, F.S., creating the provision that an owner, manager, employee, or contractor of an adult entertainment establishment, who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work in an adult entertainment establishment, commits a first degree misdemeanor.¹

An owner, manager, employee or contractor of an adult entertainment establishment, who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work nude in an adult entertainment establishment, commits a second degree felony.²

¹ A first degree misdemeanor is punishable by a term of imprisonment not exceeding one year, as provided in s. 775.082 or s. 775.083, F.S.

² A second degree felony is punishable by a term of imprisonment of fifteen years, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

The bill provides that an owner, manager, employee, or contractor of an adult entertainment establishment, that permits a person to perform as an entertainer or work in any capacity shall carefully check the person's driver license or an identification card issued by this state or another state of the United States, a passport, or a United States Uniformed Services identification card presented by the person and act in good faith and in reliance upon the representation and appearance of the person in the belief that the person is 21 years of age or older.

The bill defines the term "Nude."

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

The bill is effective July 1, 2024.

II. Present Situation:

Victims of sex trafficking are frequently recruited to work in strip clubs across the United States. Such persons may be recruited to work in strip clubs as hostesses, servers or dancers, but are then required to perform sex acts with customers. Such strip clubs may be designed to provide the space and environment in which buyers may purchase commercial sex.³

Commercial Sexual Activity

Strip clubs are considered adult entertainment establishments under Florida law. Section 847.001, F.S., defines "adult entertainment establishment," to include adult bookstores, adult theaters, special cabaret, and unlicensed massage establishments.

- An adult bookstore is any corporation, partnership, or business of any kind which restricts or purports to restrict admission only to adults, which has as part of its stock book, magazines, other periodicals, videos, discs, or other graphic media and which offers, sells, provides, or rents for a fee any sexually oriented material.
- Adult theaters are enclosed buildings or enclosed spaces within a building used for presenting either film, live plays, dances, or other performances that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults, or any business that features a person who engages in specific sexual activities for observation by a patron, and which restricts or purports to restrict admission to only adults.
- Special cabaret is any business that features persons who engage in specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults.
- An unlicensed massage establishment is any business or enterprise that offers, sells, or provides, or that holds itself out as offering, selling, or providing, massages that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, by

³ National Human Trafficking Hotline, *Hostess/Strip Club-Based*, available at, <https://humantraffickinghotline.org/en/sex-trafficking-venuesindustries/hostessstrip-club-based> (last visited January 31, 2024).

hand or by any electrical or mechanical device, on or off the premises. This term does not include an establishment licensed under s. 480.043, F.S.

Several states have enacted laws prohibiting persons under 21 years of age from working or performing in certain adult entertainment establishments. These laws have been challenged, and courts have found that the state has a compelling interest in protecting victims from human trafficking, and that there is often a link between human trafficking and certain adult entertainment establishments. In *Jane Doe I v. Landry*, the United States Court of Appeals, Fifth Circuit upheld a Louisiana law that prohibited establishments licensed to serve alcohol from employing nearly nude entertainers younger than 21 years of age on the grounds that the law furthered the state's interests in curbing human trafficking and prostitution.⁴

The Court found that the State of Louisiana sufficiently demonstrated its reasonable belief that there was a link between Louisiana statutes that prohibited women aged 18 to 21 years old from nude erotic dancing in establishments that served alcohol and curbing the secondary effects of human trafficking and prostitution such that the statutes furthered substantial governmental interest, as required for statutes to survive intermediate scrutiny on erotic dancers' First Amendment free speech challenge.⁵

In *Valadez v. Paxton*, the United States District Court, W.D. Texas, Austin Division held that the State of Texas sufficiently demonstrated that it held reasonable belief that the law prohibiting all working relationships between persons between the ages of 18 and 20 years old and sexually-oriented businesses would serve to curb harmful secondary effects of sexually-oriented businesses, including trafficking and sexual exploitation.⁶

The United States District Court denied a motion for a preliminary injunction against the enforcement of the Texas bill prohibiting "all working relationships between 18-20 year olds and sexually-oriented businesses" because the plaintiff's failed to show that the age restrictions were not rationally related to the state's interest in curbing human trafficking.⁷

In *DC Operating, LLC v. Paxton*, the United States District Court, W.D. Texas, Austin Division, denied a motion for a preliminary injunction in part, finding that the state's recently enacted bill relating to restrictions on the age of person employed by or allowed on the premises of a sexually oriented business is rationally related to the state's interest in curbing human trafficking.⁸ The Court ruled that the plaintiff's failed to establish a likelihood of success on the merits of their claims under the First Amendment, Fourteenth Amendment Due Process and Equal Protection Clauses of the United States Constitution, and Texas Constitution's equivalent provisions.⁹

In *Wacko's Too, Inc. v. City of Jacksonville*, the United States District Court, M.D. Florida upheld age restrictions in a City of Jacksonville ordinance requiring performers at adult entertainment establishments to be at least 21 years of age based, at least in part, on evidence that

⁴ *Doe I v. Landry*, 909 F.3d 99, 109 (5th Cir. 2018).

⁵ *Id.*

⁶ *Valadez v. Paxton*, 553 F. Supp.3d 387 (W.D. Tex. 2021).

⁷ *Id.*

⁸ *Dc Operating, LLC v. Paxton*, 586 F.Supp.3d 554, 572 (W.D. Tex. 2022).

⁹ *Id.*

there was a reasonable basis to believe that the age restrictions would further the City's interest in preventing human and sex trafficking.¹⁰ The city ordinance provisions forbid anyone under age 21 from receiving the requisite license to perform at adult entertainment establishments in the city. The Eleventh Circuit upheld the requirement that adult entertainment establishments maintain rosters as a "permissible way to keep track of licensed performers, secondary to combating human trafficking."¹¹ The performer disclosure requirement under the ordinance also relates to preventing human trafficking by allowing law enforcement to keep track of performers.

Human Trafficking

The Florida Legislature recognizes human trafficking as a form of modern-day slavery whose victims include young children, teenagers, and adults who may be citizens that are trafficked domestically within the borders of the United States or smuggled across international borders worldwide.¹² While victims of human trafficking are forced to work in prostitution or sexual entertainment, trafficking also occurs in forms of labor exploitation, such as domestic servitude, restaurant work, janitorial work, factory work, and agricultural work.¹³

Florida law defines "human trafficking" as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining,¹⁴ purchasing, patronizing, procuring, or obtaining¹⁵ another person for the purpose of exploitation of that person.¹⁶

Human trafficking includes two types of exploitation: commercial sexual exploitation (CSE) and forced labor.¹⁷ In 2022, according to the Department of Children and Families, 354 youth were verified as victims of commercial sexual exploitation (CSE) in Florida. The number has decreased from 2021, when 379 youth were verified.¹⁸

Soliciting or Purchasing Prostitution

Section 796.07, F.S., defines prostitution as the giving or receiving of the body for sexual activity for hire.¹⁹

Under s. 796.07(2)(a)-(e) and (g)-(i), F.S., it is a second-degree misdemeanor.²⁰

¹⁰ *Wacko's Too Inc. v. City of Jacksonville*, 658 F.Supp.3d 1086 (11th Cir. 2023).

¹¹ *Id.* at 1127.

¹² Section 787.06, F.S.

¹³ *Id.*

¹⁴ Section 787.06(2)(f), F.S., provides "maintain" means, in relation to labor or services, to secure or make possible continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type service. Section 787.06(2)(h), F.S., defines "services" as any act committed at the behest of, under the supervision of, or for the benefit of another, including forced marriage, servitude, or the removal of organs.

¹⁵ Section 787.06(2)(g), F.S., provides "obtain" means, in relation to labor, commercial sexual activity, or services, to receive, take possession of, or take custody of another person or secure performance thereof. Section 787.06(2)(e), F.S., provides "labor" means work of economic or financial value.

¹⁶ Section 787.06(2)(d), F.S.

¹⁷ Section 787.06, F.S.

¹⁸ Office of Program Policy Analysis & Government Accountability, *Annual Report on Commercial Sexual Exploitation of Children in Florida, 2023*, available at <https://oppaga.fl.gov/Documents/Reports/23-08.pdf> (last visited December 13, 2023).

¹⁹ This definition excludes sexual activity between spouses. s. 796.07(1)(b), F.S.

²⁰ A second-degree misdemeanor is punishable by up to 60 days in county jail and a fine not exceeding \$500. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

- To own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness,²¹ assignation,²² or prostitution;
- To offer, or to offer or agree to secure, another for the purpose of prostitution or for any other lewd or indecent act;
- To receive, or to offer or agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose;
- To direct, take, or transport, or to offer or agree to direct, take, or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation;
- For a person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation;
- To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or assignation;
- To aid, abet, or participate in any of the acts or things listed above; or
- To purchase the services of any person engaged in prostitution.²³

Additionally, under s. 796.07(2)(f), F.S., a person who solicits, induces, entices, or procures another person to commit prostitution, lewdness, or assignation commits a first-degree misdemeanor for a first violation, a third-degree felony for a second violation, and a second-degree felony for a third or subsequent violation.²⁴ An offender convicted for soliciting another person to commit prostitution is also subject to additional penalties including:

- One hundred hours of community service;²⁵
- Being required to pay for and attend an educational program about the negative effects of prostitution and human trafficking, such as a sexual violence prevention education program, including such programs offered by faith-based providers, if such a program is offered in the circuit in which the offender is sentenced;²⁶
- A 10-day mandatory minimum jail sentence for a second or subsequent violation;²⁷
- Vehicle impoundment up to 60 days if the offender used a car to commit the violation;²⁸
- Inclusion of the offender's name on the Soliciting for Prostitution Public Database in certain situations;²⁹ and
- A \$5,000 civil fine.³⁰

²¹ "Lewdness" means any indecent or obscene act. Section 796.07(1)(c), F.S.

²² "Assignation" means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement. Section 796.07(1)(d), F.S.

²³ Section 796.07(2), F.S.

²⁴ Section 796.07(2)(f) and (5)(a), F.S.

²⁵ Section 796.07(5)(b)1., F.S.

²⁶ Section 796.07(5)(b)2., F.S.

²⁷ Section 796.07(5)(c), F.S.

²⁸ Section 796.07(5)(d), F.S.

²⁹ Section 796.07(5)(e), F.S.

³⁰ Section 796.07(6), F.S.

III. Effect of Proposed Changes:

The bill amends s. 562.13, F.S., by removing language that a minor may not be employed if the employment, whether as a professional entertainer or otherwise, involves nudity on the part of the minor and such nudity is intended as a form of adult entertainment.

The bill creates s. 787.30, F.S., creating the provision that an owner, manager, employee, or contractor of an adult entertainment establishment, who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work in an adult entertainment establishment, commits a first degree misdemeanor.³¹

An owner, manager, employee or contractor of an adult entertainment establishment, who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work nude in an adult entertainment establishment, commits a second degree felony.³²

The bill provides that an owner, manager, employee, or contractor of an adult entertainment establishment, that permits a person to perform as an entertainer or work in any capacity shall carefully check the person's driver license or an identification card issued by this state or another state of the United States, a passport, or a United States Uniformed Services identification card presented by the person and act in good faith and in reliance upon the representation and appearance of the person in the belief that the person is 21 years of age or older.

The bill defines the term "Nude" to mean the showing of the human male or female genitals, pubic area, or buttock with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. A mother's breastfeeding of her baby does not under any circumstance constitute nudity, irrespective of whether or not the nipple is covered during or incidental to feeding.

The bill is effective July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

³¹ A first degree misdemeanor is punishable by a term of imprisonment not exceeding one year, as provided in s. 775.082 or s. 775.083, F.S.

³² A second degree felony is punishable by a term of imprisonment of fifteen years, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The First Amendment of the U.S. Constitution prevents the government from creating laws that restrict the speech of citizens.³³ “Congress shall make no law ... abridging the freedom of speech.” The rights guaranteed by the First Amendment apply with equal force to state governments through the due process clause of the Fourteenth Amendment.

The state has a compelling interest in safeguarding the community and children from trafficking and sexual exploitation. A statute regulating conduct with incidental effects on speech can be a reasonable restriction if, among other things, it is narrowly tailored to serve substantial government interests.³⁴

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an indeterminate impact on private businesses by excluding individuals under the age of 21 from working in all adult establishments including adult bookstores.

C. Government Sector Impact:

The bill may have a positive indeterminate impact on the Department of Corrections due to the criminal penalties created in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

³³ U.S. Const., amend I.

³⁴ *Id.*

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 562.13 and 787.30.

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 30, 2024:

The committee substitute:

- Provides that an owner, manager, employee, or contractor of an adult entertainment establishment who knowingly employs or contracts to employ a person younger than 21 years of age to perform or work in an adult entertainment establishment in any capacity commits a first degree misdemeanor.
- Provides that an owner, manager, employee, or contractor of an adult entertainment establishment who knowingly employs or contracts to employ a person younger than 21 years of age to perform nude in an adult entertainment establishment commits a second degree felony.
- Requires an owner, manager, employee, or contractor to carefully check the identification card or driver's license of a person hired to perform as an entertainer or work in any capacity in an adult entertainment establishment.
- Defines the term "nude."

B. Amendments:

None.



435824

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2024	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 164 - 169

and insert:

(1) (a) Except as provided in paragraph (b), an owner, manager, employee, or contractor of an adult entertainment establishment, who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work in an adult entertainment establishment, commits a misdemeanor of the first



435824

11 degree, punishable as provided in s. 775.082, or s. 775.083.

12 (b) An owner, manager, employee, or contractor of an adult
13 entertainment establishment, who knowingly employs, contracts
14 with, contracts with another person to employ, or otherwise
15 permits a person younger than 21 years of age to perform or work
16 nude in an adult entertainment establishment, commits a felony
17 of the second degree, punishable as provided in s. 775.082, s.
18 775.083, or 775.084.

19 (2) An owner, manager, employee, or contractor of an adult
20 entertainment establishment, that permits a person to perform as
21 an entertainer or work in any capacity shall carefully check the
22 person's driver licenses or an identification card issued by
23 this state or another state of the United States, a passport, or
24 a United States Uniformed Services identification card presented
25 by the person and act in good faith and in reliance upon the
26 representation and appearance of the person in the belief that
27 the person is 21 years of age or older.

28 (3) (a) "Adult entertainment establishment" has the same
29 meaning as in s. 847.001.

30 (b) "Nude" means the showing of the human male or female
31 genitals, pubic area, or buttock with less than a fully opaque
32 covering; or the showing of the female breast with less than a
33 fully opaque covering of any portion thereof below the top of
34 the nipple; or the depiction of covered male genitals in a
35 discernibly turgid state. A mother's breastfeeding of her baby
36 does not under any circumstance constitute nudity, irrespective
37 of whether or not the nipple is covered during or incidental to
38 feeding.

By Senator Yarborough

4-00560B-24

20241690__

A bill to be entitled

An act relating to human trafficking; amending s. 562.13, F.S.; revising applicability; creating s. 787.30, F.S.; prohibiting the employment of persons younger than 21 years of age in adult entertainment establishments; providing criminal penalties; providing an effective date.

WHEREAS, Florida is ranked third nationally for reported cases of human trafficking abuses, many of which involved sex trafficking, and

WHEREAS, adult entertainment establishments are widely recognized as being a significant part of the sex trafficking network used by traffickers to coerce and facilitate men, women, and children into performing sexual acts, which places the employees of these establishments in direct and frequent contact with the victims of human trafficking, and

WHEREAS, victims of sex trafficking are frequently recruited to work as performers or employees in adult entertainment establishments, and

WHEREAS, researchers have found that sex trafficking victims are more likely to be trafficked by someone from within her or his own community, and

WHEREAS, persons younger than 21 years are more likely to still remain within and dependent on the community in which they were raised, and

WHEREAS, research studies have identified the average age at which a person in the United States enters the sex trade for the first time is age 17, and

Page 1 of 6

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

4-00560B-24

20241690__

WHEREAS, sex trade at adult entertainment establishments is a common occurrence in Florida, thereby subjecting performers at these establishments to frequent propositions and enticements to engage in sex trade actions and sex trafficking from customers, as well as strip club employees, managers, and owners, and

WHEREAS, an understanding of history and human nature reveals that there are sex criminals of various kinds who will prey on the young and vulnerable, and

WHEREAS, restricting the employment of persons younger than 21 years of age at adult entertainment establishments furthers an important state interest of protecting those vulnerable individuals from sex trafficking, drug abuse, and other harm, and

WHEREAS, many court opinions recognize that while expressive activities are entitled to some First Amendment protections at adult entertainment establishments, content neutral restrictions or regulations intended to minimize the secondary harmful effects of those businesses tend to be upheld, and

WHEREAS, on November 16, 2018, the federal Fifth Circuit Court of Appeals, in the case of *Jane Doe I v. Landry*, reported at 909 F.3d 99 (5th Cir. 2018), upheld a Louisiana law that prohibited establishments licensed to serve alcohol from employing nearly nude entertainers younger than 21 years of age on the grounds that the law furthered the state's interests in curbing human trafficking and prostitution, and

WHEREAS, the federal district court in *Valadez v. Paxton*, 553 F.Supp.3d 387 (W.D. Tex. 2021), denied a motion for a preliminary injunction against the enforcement of Texas Senate

Page 2 of 6

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

4-00560B-24 20241690__

Bill 315 prohibiting "all working relationships between 18-20-year-olds and sexually-oriented businesses" because the plaintiffs failed to show that the age restrictions were not rationally related to the state's interest in curbing human trafficking, and

WHEREAS, the federal district court in *DC Operating, LLC v. Paxton*, 586 F.Supp.3d 554 (W.D. Tex. 2022), denied a motion for a preliminary injunction against Texas Senate Bill 315, at least in part, because of the state's evidence of the correlation between raising the minimum employment age and reducing human trafficking, and

WHEREAS, the federal district court in *Wacko's Too, Inc., v. City of Jacksonville*, 658 F.Supp.3d 1086 (M.D. Fla. 2023), upheld age restrictions in a City of Jacksonville ordinance requiring performers at adult entertainment establishments to be at least 21 years of age based, at least in part, on evidence that there was a reasonable basis to believe that the age restrictions would further the City's interest in preventing human and sex trafficking, NOW, THEREFORE,

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

Section 1. Section 562.13, Florida Statutes, is amended to read:

562.13 Employment of minors or certain other persons by certain vendors prohibited; exceptions.—

(1) Unless otherwise provided in this section, it is unlawful for any vendor licensed under the Beverage Law to employ any person under 18 years of age.

4-00560B-24 20241690__

(2) This section shall not apply to:

(a) Professional entertainers 17 years of age who are not in school.

(b) Minors employed in the entertainment industry, as defined by s. 450.012(5), who have either been granted a waiver under s. 450.095 or employed under the terms of s. 450.132 or under rules adopted pursuant to either of these sections.

(c) Persons under the age of 18 years who are employed in drugstores, grocery stores, department stores, florists, specialty gift shops, or automobile service stations which have obtained licenses to sell beer or beer and wine, when such sales are made for consumption off the premises.

(d) Persons 17 years of age or over or any person furnishing evidence that he or she is a senior high school student with written permission of the principal of said senior high school or that he or she is a senior high school graduate, or any high school graduate, employed by a bona fide food service establishment where alcoholic beverages are sold, provided such persons do not participate in the sale, preparation, or service of the beverages and that their duties are of such nature as to provide them with training and knowledge as might lead to further advancement in food service establishments.

(e) Persons under the age of 18 years employed as bellhops, elevator operators, and others in hotels when such employees are engaged in work apart from the portion of the hotel property where alcoholic beverages are offered for sale for consumption on the premises.

(f) Persons under the age of 18 years employed in bowling

4-00560B-24

20241690

alleys in which alcoholic beverages are sold or consumed, so long as such minors do not participate in the sale, preparation, or service of such beverages.

(g) Persons under the age of 18 years employed by a bona fide dinner theater as defined in this paragraph, as long as their employment is limited to the services of an actor, actress, or musician. For the purposes of this paragraph, a dinner theater means a theater presenting consecutive productions playing no less than 3 weeks each in conjunction with dinner service on a regular basis. In addition, both events must occur in the same room, and the only advertised price of admission must include both the cost of the meal and the attendance at the performance.

(h) Persons under the age of 18 years who are employed in places of business licensed under s. 565.02(6), provided such persons do not participate in the sale, preparation, or service of alcoholic beverages.

~~However, a minor to whom this subsection otherwise applies may not be employed if the employment, whether as a professional entertainer or otherwise, involves nudity, as defined in s. 847.001, on the part of the minor and such nudity is intended as a form of adult entertainment.~~

(3)(a) It is unlawful for any vendor licensed under the beverage law to employ as a manager or person in charge or as a bartender any person:

1. Who has been convicted within the last past 5 years of any offense against the beverage laws of this state, the United States, or any other state.

4-00560B-24

20241690

2. Who has been convicted within the last past 5 years in this state or any other state or the United States of soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, or any felony violation of chapter 893 or the controlled substances act of any other state or the Federal Government.

3. Who has, in the last past 5 years, been convicted of any felony in this state, any other state, or the United States.

The term "conviction" shall include an adjudication of guilt on a plea of guilty or nolo contendere or forfeiture of a bond when such person is charged with a crime.

(b) This subsection shall not apply to any vendor licensed under the provisions of s. 563.02(1)(a) or s. 564.02(1)(a).

Section 2. Section 787.30, Florida Statutes, is created to read:

787.30 Employing persons under the age of 21 years in adult entertainment establishments prohibited.—

(1) A person may not knowingly employ any person younger than 21 years in any adult entertainment establishment, as defined in s. 847.001.

(2) A person who violates subsection (1) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. 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

SB 1690

Bill Number or Topic

1/30/24

Meeting Date

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Aaron DiPietro

Phone 904-608-4471

Address P.O. Box 530103

Street

Email aaron.d@ffpfamily.org

Orlando

City

FL

State

32853

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 Family Policy
Council

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date 1/30/24
Committee Criminal Justice

Name Kristin Whitaker / Warrior 321 Phone 950-566-5217

Address 3074 Permaragh Dr. Email _____
Street
City Tallahassee State FL Zip 32309

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:

Warrior 321

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

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

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

S-001 (08/10/2021)



The Florida Senate

Committee Agenda Request

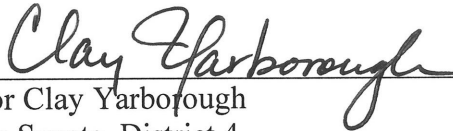
To: Senator Jonathan Martin, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: January 11, 2024

I respectfully request that **Senate Bill #1690**, relating to Human Trafficking, be placed on the:

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



Senator Clay Yarborough
Florida Senate, District 4

CourtSmart Tag Report

Room: SB 37

Case No.:

Type:

Caption: Senate Criminal Justice Committee

Judge:

Started: 1/30/2024 9:04:00 AM

Ends: 1/30/2024 11:54:01 AM

Length: 02:50:02

9:04:01 AM	Meeting called to order, roll call
9:04:21 AM	Quorum is present
9:04:25 AM	Chair Bradley makes opening remarks
9:04:43 AM	Tab 1, Confirmation Hearing for Appointment- David Wyant, Florida Commission on Offender Review
9:05:12 AM	David Wyant
9:06:17 AM	Questions:
9:06:19 AM	Senator Pizzo
9:06:27 AM	David Wyant
9:06:41 AM	Chair Bradley reads appearance cards waiving
9:06:52 AM	Questions:
9:06:53 AM	Senator Powell
9:07:53 AM	Roll call
9:08:07 AM	Chair Bradley reports the confirmation
9:08:17 AM	Tab 9, SB 1512- Controlled Substances by Senator Brodeur
9:08:27 AM	Senator Brodeur
9:09:22 AM	Question:
9:09:23 AM	Senator Polsky
9:09:42 AM	Senator Brodeur
9:10:10 AM	Senator Powell
9:10:20 AM	Senator Brodeur
9:10:43 AM	Chair Bradley reads appearance cards waiving
9:10:54 AM	Senator Brodeur closes on the bill
9:11:04 AM	Roll call on SB 1512
9:11:18 AM	Chair Bradley reports the bill
9:11:27 AM	Tab 10, SB 1590- Prostitution and Related Acts by Senator Grall
9:11:35 AM	Amendment 854338
9:11:42 AM	Senator Grall explains the amendment
9:12:35 AM	Senator Grall waives close
9:12:38 AM	Chair Bradley reports the amendment
9:12:42 AM	Back to SB 1590 as amended
9:12:44 AM	Questions:
9:12:46 AM	Senator Polsky
9:13:22 AM	Senator Grall
9:13:51 AM	Senator Polsky
9:13:57 AM	Senator Grall
9:14:04 AM	Senator Polsky
9:14:22 AM	Senator Grall
9:14:46 AM	Senator Polsky
9:14:49 AM	Senator Grall
9:15:04 AM	Senator Polsky
9:15:19 AM	Senator Grall
9:16:14 AM	Senator Polsky
9:16:37 AM	Senator Grall
9:17:08 AM	Senator Polsky
9:17:23 AM	Senator Grall
9:17:26 AM	Senator Polsky
9:17:29 AM	Senator Grall
9:18:28 AM	Senator Polsky
9:18:35 AM	Senator Grall
9:18:48 AM	Senator Ingoglia
9:19:34 AM	Senator Grall
9:20:39 AM	Senator Ingoglia

9:21:04 AM	Senator Grall
9:21:40 AM	Senator Ingoglia
9:21:55 AM	Senator Grall
9:21:59 AM	Senator Ingoglia
9:22:00 AM	Senator Grall
9:22:03 AM	Senator Ingoglia
9:22:12 AM	Senator Grall
9:22:34 AM	Senator Ingoglia
9:22:35 AM	Senator Grall
9:22:57 AM	Senator Ingoglia
9:24:11 AM	Senator Grall
9:25:06 AM	Senator Ingoglia
9:25:29 AM	Senator Grall
9:25:49 AM	Senator Powell
9:26:39 AM	Senator Grall
9:26:54 AM	Senator Powell
9:27:16 AM	Senator Grall
9:27:57 AM	Senator Powell
9:29:18 AM	Senator Grall
9:30:48 AM	Senator Powell
9:31:06 AM	Senator Grall
9:31:20 AM	Senator Pizzo
9:32:15 AM	Senator Grall
9:32:43 AM	Senator Pizzo
9:33:56 AM	Senator Grall
9:34:29 AM	Senator Pizzo
9:35:09 AM	Senator Grall
9:35:42 AM	Senator Pizzo
9:37:03 AM	Senator Grall
9:38:11 AM	Senator Ingoglia
9:39:36 AM	Senator Grall
9:40:09 AM	Senator Ingoglia
9:40:30 AM	Senator Grall
9:41:21 AM	Senator Polsky
9:41:43 AM	Senator Grall
9:42:31 AM	Public testimony:
9:43:09 AM	Nicole Whitaker
9:44:49 AM	Senator Pizzo
9:44:49 AM	Questions:
9:45:00 AM	Nicole Whitaker
9:45:17 AM	Senator Pizzo
9:45:19 AM	Nicole Whitaker
9:46:51 AM	Back to public testimony:
9:46:54 AM	Steve Harrelson, Leon County Sheriff's Office
9:47:29 AM	Chair Bradley reads appearance cards waiving
9:47:52 AM	Debate:
9:47:56 AM	Senator Ingoglia
9:49:52 AM	Senator Pizzo
9:52:11 AM	Senator Grall closes on the bill
9:54:20 AM	Roll call on SB 1590
9:54:40 AM	Chair Bradley reports the bill
9:54:45 AM	Vice Chair Bradley hands the chair to Chair Martin
9:54:49 AM	Tab 5, SB 1036- Reclassification of Criminal Penalties by Senator Ingoglia
9:54:52 AM	Senator Ingoglia explains the bill
9:55:53 AM	Amendment 535754
9:56:02 AM	Senator Ingoglia explains the amendment
9:56:20 AM	Senator Ingoglia waives close
9:56:23 AM	Chair Martin reports the amendment
9:56:27 AM	Back to SB 1036 as amended
9:56:28 AM	Questions:
9:56:29 AM	Senator Pizzo
9:57:07 AM	Senator Ingoglia

9:57:32 AM	Senator Pizzo
9:58:05 AM	Senator Ingoglia
9:58:30 AM	Senator Powell
9:58:49 AM	Senator Ingoglia
9:59:14 AM	Senator Powell
9:59:29 AM	Senator Ingoglia
10:00:00 AM	Senator Powell
10:00:19 AM	Senator Ingoglia
10:00:42 AM	Public testimony:
10:00:56 AM	Debate:
10:01:41 AM	Senator Pizzo
10:02:41 AM	Senator Powell
10:03:01 AM	Senator Ingoglia waives close
10:03:05 AM	Roll call on SB 1036
10:03:18 AM	Chair Martin reports the bill
10:03:20 AM	Tab 8, SB 1352- Juvenile Justice by Senator Bradley
10:03:27 AM	Senator Bradley explains the bill
10:03:53 AM	Public testimony:
10:04:11 AM	Quinn Diaz, Equality Florida
10:05:17 AM	Chair Martin reads appearance cards waiving
10:05:55 AM	Debate:
10:05:56 AM	Senator Pizzo
10:06:19 AM	Senator Bradley closes on the bill
10:06:59 AM	Roll call on SB 1352
10:07:10 AM	Chair Martin reports the bill
10:07:16 AM	Tab 3, SB 350- Cold Case Murders by Senator Osgood
10:07:21 AM	Amendment 592664
10:07:31 AM	Senator Osgood explains the amendment
10:10:13 AM	Senator Osgood waives close
10:10:16 AM	Chair Martin reports the amendment
10:10:19 AM	Back to SB 350 as amended
10:10:24 AM	Senator Osgood waives close
10:10:28 AM	Roll call on SB 350
10:10:41 AM	Chair Martin reports the bill
10:10:46 AM	Tab 2, SB 270- Discharging a Firearm in Residential Areas by Senator Berman
10:10:52 AM	Senator Berman explains the bill
10:11:50 AM	Amendment 134914
10:11:55 AM	Senator Berman explains the amendment
10:12:52 AM	Senator Berman waives close
10:12:56 AM	Chair Martin reports the amendment
10:12:58 AM	Questions:
10:13:00 AM	Senator Pizzo
10:13:03 AM	Senator Berman
10:13:05 AM	Senator Pizzo
10:13:09 AM	Senator Berman
10:13:09 AM	Senator Pizzo
10:13:27 AM	Public testimony:
10:13:43 AM	Luis Valdes, Gun Owners of America
10:14:38 AM	Questions:
10:14:40 AM	Senator Pizzo
10:15:31 AM	Luis Valdes
10:15:43 AM	Senator Pizzo
10:15:56 AM	Luis Valdes
10:16:36 AM	Senator Polsky
10:16:45 AM	Luis Valdes
10:16:51 AM	Senator Polsky
10:16:56 AM	Luis Valdes
10:17:14 AM	Senator Martin
10:17:52 AM	Gerald Carroll, Gun Owners of America
10:19:15 AM	Questions:
10:19:15 AM	Senator Martin
10:19:15 AM	Gerald Carroll

10:19:16 AM Senator Powell
10:19:30 AM Senator Powell
10:19:30 AM Gerald Carroll
10:19:31 AM Chair Martin reads appearance cards waiving
10:19:44 AM Debate:
10:19:45 AM Senator Polsky
10:20:54 AM Senator Ingoglia
10:22:39 AM Senator Powell
10:24:05 AM Senator Yarborough
10:24:38 AM Senator Pizzo
10:26:19 AM Senator Martin
10:27:38 AM Senator Berman closes on the bill
10:28:50 AM Roll call on SB 270
10:29:10 AM Chair Martin reports the bill
10:29:20 AM Tab 13, SB 1690- Human Trafficking by Senator Yarborough
10:29:33 AM Senator Yarborough explains the bill
10:31:15 AM Amendment 435824
10:31:30 AM Senator Yarborough explains the bill
10:32:15 AM Questions:
10:32:18 AM Senator Pizzo
10:32:22 AM Senator Yarborough
10:32:22 AM Senator Pizzo
10:32:46 AM Senator Yarborough
10:33:29 AM Senator Powell
10:34:19 AM Senator Yarborough
10:35:18 AM Senator Powell
10:36:26 AM Senator Yarborough
10:38:30 AM Senator Yarborough waives close
10:38:33 AM Chair Martin reports the amendment
10:38:37 AM Back to SB 1690 as amended
10:38:39 AM Senator Pizzo
10:38:39 AM Questions:
10:39:10 AM Senator Yarborough
10:40:26 AM Senator Pizzo
10:40:33 AM Senator Yarborough
10:40:36 AM Senator Pizzo
10:41:18 AM Senator Yarborough
10:41:20 AM Senator Pizzo
10:41:23 AM Senator Yarborough
10:41:33 AM Senator Pizzo
10:41:54 AM Senator Yarborough
10:42:00 AM Senator Pizzo
10:42:03 AM Senator Yarborough
10:42:16 AM Senator Pizzo
10:42:20 AM Senator Yarborough
10:42:33 AM Senator Powell
10:43:02 AM Senator Yarborough
10:43:43 AM Senator Powell
10:44:22 AM Senator Yarborough
10:44:58 AM Chair Martin reads appearance cards waiving
10:45:15 AM Senator Polsky
10:45:15 AM Debate:
10:47:08 AM Senator Powell
10:48:22 AM Senator Pizzo
10:49:37 AM Senator Yarborough closes on the bill
10:51:25 AM Roll call on SB 1690
10:51:42 AM Chair Martin reports the bill
10:51:54 AM Chair Martin - Under Rule 2.10(2) the President authorizes continuation of the meeting until 12:00 Noon
10:52:08 AM Chair Martin hands the chair to Vice Chair Bradley
10:52:15 AM Tab 6, SB 1238- Lewd or Lascivious Grooming by Senator Martin
10:52:22 AM Amendment 652162
10:53:47 AM Questions:

10:53:48 AM Senator Powell
10:54:18 AM Senator Martin
10:54:45 AM Senator Pizzo
10:54:59 AM Senator Martin
10:55:00 AM Senator Pizzo
10:55:09 AM Senator Martin
10:55:25 AM Senator Pizzo
10:55:53 AM Amanda Stokes, Staff Director of the Senate Criminal Justice Committee
10:56:00 AM Senator Pizzo
10:56:14 AM Senator Martin waives close
10:56:15 AM Chair Bradley reports the amendment
10:56:22 AM Back to SB 1238 as amended
10:56:25 AM Questions:
10:56:25 AM Senator Polsky
10:56:56 AM Senator Martin
10:57:48 AM Senator Polsky
10:58:24 AM Senator Martin
10:59:35 AM Senator Polsky
11:00:08 AM Senator Martin
11:01:39 AM Senator Polsky
11:02:22 AM Senator Martin
11:03:35 AM Senator Polsky
11:03:46 AM Senator Martin
11:04:10 AM Senator Bradley
11:04:51 AM Senator Martin
11:05:47 AM Senator Pizzo
11:06:17 AM Senator Martin
11:07:00 AM Senator Pizzo
11:07:38 AM Senator Martin
11:07:49 AM Senator Pizzo
11:07:52 AM Senator Martin
11:08:37 AM Public testimony:
11:08:49 AM Ron Book, Lauren's Kids
11:12:05 AM Carrie Fait
11:14:09 AM Reverend Tom Holdcraft
11:15:13 AM Questions:
11:15:14 AM Senator Pizzo
11:15:29 AM Reverend Tom Holdcraft
11:15:37 AM Back to public testimony:
11:15:50 AM Quinn Diaz, Equality Florida
11:16:24 AM Questions:
11:16:25 AM Senator Pizzo
11:16:36 AM Quinn Diaz
11:16:37 AM Sen Pizzo
11:16:54 AM Quinn Diaz
11:16:56 AM Back to public testimony:
11:17:09 AM Reverend Kari Niedermaier
11:18:25 AM John Labriola, Christian Family Coalition Florida
11:19:30 AM Questions:
11:19:33 AM Senator Pizzo
11:19:45 AM John Labriola
11:20:14 AM Senator Pizzo
11:21:08 AM John Labriola
11:21:54 AM Senator Pizzo
11:21:59 AM John Labriola
11:22:46 AM Back to public testimony:
11:22:52 AM Ryan Kennedy, Florida Citizens Alliance
11:23:59 AM Chair Bradley reads appearance cards waiving
11:25:01 AM Sharmin Smith
11:26:19 AM Quinn Swearingen
11:28:16 AM Senator Polsky
11:28:16 AM Debate:

11:30:30 AM Senator Pizzo
11:33:13 AM Senator Yarborough
11:33:45 AM Chair Bradley
11:34:07 AM Senator Martin closes on the bill
11:35:48 AM Roll call on SB 1238
11:36:04 AM Chair Bradley reports the bill
11:36:08 AM Tab 4, SB 682- Lost or Abandoned Property by Senator Martin
11:36:14 AM Senator Martin explains the bill
11:37:03 AM Chair Bradley reads appearance cards waiving
11:37:05 AM Senator Martin waives close
11:37:08 AM Roll call on SB 682
11:37:22 AM Chair Bradley reports the bill
11:37:26 AM Tab 11, SB 1618- Interception and Disclosure of Oral Communications by Senator Martin
11:37:33 AM Senator Martin explains the bill
11:38:12 AM Senator Martin waives close
11:38:17 AM Roll call on SB 1618
11:38:27 AM Chair Bradley reports the bill
11:38:31 AM Tab 12, SB 1656- Child Exploitation Offenses by Senator Martin
11:38:37 AM Senator Martin explains the bill
11:39:01 AM Chair Bradley reads appearance cards waiving
11:39:08 AM Senator Martin waives close
11:39:11 AM Roll call on SB 1656
11:39:23 AM Chair Bradley reports the bill
11:39:27 AM Tab 7, SB 1274- Juvenile Justice by Senator Martin
11:39:40 AM Amendment 563204
11:39:46 AM Senator Martin explains the amendment
11:41:09 AM Public testimony:
11:41:14 AM Charlie Cofer
11:44:10 AM Senator Martin waives close
11:44:12 AM Chair Bradley reports the amendment
11:44:17 AM Back to SB 1274 as amended
11:44:20 AM Questions:
11:44:20 AM Senator Powell
11:44:28 AM Senator Martin
11:45:01 AM Senator Powell
11:45:13 AM Senator Martin
11:46:08 AM Senator Powell
11:46:26 AM Senator Martin
11:47:19 AM Senator Powell
11:47:36 AM Senator Martin
11:48:13 AM Public testimony:
11:48:35 AM Sheriff Bob Gualtieri
11:49:12 AM Jessica Wright
11:51:32 AM Chair Bradley reads appearance cards waiving
11:51:48 AM Debate:
11:51:49 AM Senator Pizzo
11:53:09 AM Senator Martin waives close
11:53:16 AM Roll call on SB 1274
11:53:29 AM Chair Bradley reports the bill
11:53:39 AM Senator Martin moves to record missed votes
11:53:50 AM Meeting adjourned